

Town of Scituate

ZONING BOARD OF APPEALS

600 Chief Justice Cushing Hwy.
Scituate, Massachusetts 02066
(781)545-8716



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Decision of the Scituate Zoning Board of Appeals on the application of Joao and Rita Lopes, 34 Hawley Road, Scituate, MA 02066 ("Applicant(s)") for a Special Permit/Finding under MGL 40A § 6 and the Town of Scituate Zoning Bylaws 810.2, to raze a pre-existing non-conforming attached garage and reconstruct a two-story attached garage on a pre-existing non-conforming lot located at 34 Hawley Road, Scituate, MA, Assessor Map Parcel ID 34-26-21 ("Property"), increasing the square footage by 12%.

The application was received, advertised and a public hearing was duly held on November 19, 2020, with the following members of the Zoning Board of Appeals hearing the application:

Anthony J. Bucchere, Chairman
Thomas J. Cavanagh
George Xixis
Susan Harrison

The Applicant was represented by Paul J. Mirabito, Engineer, of Ross Engineering Company, Inc. of Norwell.

The property is owned by the applicants, as evidenced by a deed dated July 27, 1979, and registered with the Plymouth Country Registry of Deeds Land Court Division as Document No. 195466, Certificate of Title No. 62296, which is referred to in the Assessors Card submitted by the applicants. The Property is shown as Lot 243, on Sheet 3 on plan drawn by Alfred Millhouse, C.E. dated December 1921, as modified and approved by the Court, filed in the Land Registration Office, a copy of a portion of which, shown upon 4 sheet, #4226D, is filed with Certificate of Title No. 1217. Based on the Assessors Card submitted by the applicants, the single-family dwelling was constructed in 1925, and contains 3,072 square feet of gross floor area.

The Property is located in the R-3 Zoning District. The lot is non-conforming as to Lot Area (5,000 square feet where 10,000 square feet required), Lot width and Lot Frontage (50' where 100' feet required). The structure is non-conforming as to front set back (12.7' where 30' required), left set back (6.9' where 8' required), right set back (.9' where 8' required), rear set back (2.4' where 20' required). the westerly side yard setback (12.4' where 15' is required) and front yard setback (26.4' where 30' is required). However, structure was constructed, and the lot was created prior to the adoption of the current zoning bylaw and therefore is considered pre-existing nonconforming. All other characteristics of the accessory use structure comply with the current zoning bylaw.

The application seeks approval to raze the existing one story attached garage and reconstruct a two-story attached garage with proposed living space on the second floor, as is shown on the plans submitted by the applicant, prepared by Paul J. Mirabito, Professional Land Surveyor, Ross Engineering Company Inc., entitled "Plot Plan for 34 Hawley Road in Scituate, MA", dated September 10, 2020 (the "Plans"). The proposed reconstructed garage, per the Plans will increase the square footage to 3,492 square feet. The applicant is proposing to raze and reconstruct the existing garage, and build a new garage, improving the existing rear set back from 2.4' to 8.2' and the right set back from .9' to 2.0'.

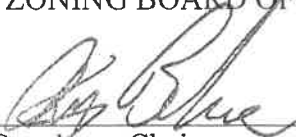
The applicant initially sought to seek approval to have the entire second floor of the new garage contain living space. After due consideration and discussions with the Board, the applicant, agreed that no living space shall be permitted in the newly constructed garage in the right side yard setback. The proposed addition in all other respects conforms with the setbacks and will not alter any of the other existing nonconforming characteristics of the site and will not create any new nonconformities.

After reviewing the application and hearing testimony from the applicant, the Board found the following:

- a. That the proposed raze and reconstruction of the garage, if constructed per the Plan and so that no living space in the garage shall be permitted within the right side yard setback, will not create any new non-conformities;
- b. That to the extent the proposed raze and reconstruction of the garage, if constructed per the plan and so that no living space in the garage shall be permitted within the right side yard setback, intensifies any of the existing nonconformities, such intensification will not be substantially more detrimental to the surrounding neighborhood.

Based on the forgoing the Board unanimously voted to GRANT the Applicant's request for a Special Permit/Finding pursuant to M.G.L. c. 40A, §6 and Section 810.2 of the Town of Scituate Zoning Bylaws, to raze and reconstruct the garage, all as shown on the Plans, with the condition that no living space in the garage shall be permitted within the right side yard setback.

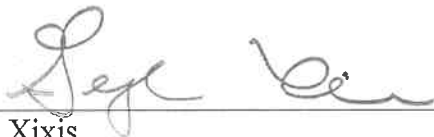
SCITUATE ZONING BOARD OF APPEALS



Anthony J. Bucchere, Chairman



Thomas J. Cavanagh



George Xixis

Filed with the Town Clerk and Planning Board on February 9, 2021

This Finding will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County Registry of Deeds after the appeal period of twenty (20) days.

Appeal of any decision of the Zoning Board of Appeals may be made pursuant to M.G.L. Ch. 40, Section 17, and shall be filed within twenty (20) days of the date of filing the decision with the Town Clerk.