

Town of Scituate

ZONING BOARD OF APPEALS

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TOWN OF SCITUATE
ZONING BOARD

At a regular monthly meeting of the Scituate Zoning Board of Appeals on September 19, 2019, the Board heard the Application of Paul M. Rodrigues, of 20 Gate Street Carver, MA, and President of KAMP Construction, on behalf of the property owner at 36 Barker Road Scituate, for a VARIANCE allowing for an encroachment into the front yard setback for their accessory structure, a garage, for the home at 36 Barker Road. The application, for relief under M.G.L Chapter 40 A, Section 10, and Scituate Zoning Bylaw, Section 620.3, was to retroactively permit an encroachment of 1.8 feet into the required 30 foot setback in the R-3 district. The property is known and numbered as 36 Barker Road, in Scituate Massachusetts, and was subject to a previous decision of this Board which permitted the pre-existing, non-conforming dwelling to be razed and reconstructed. During the course of this reconstruction, a pre-existing garage was razed. When the garage was reconstructed, it was found to be too small to accommodate the homeowner's boat. The builder, and Applicant, Mr. Rodrigues, then re-poured the foundation to enlarge the garage to accommodate the homeowner's boat. The re-poured foundation created the encroachment into the front yard setback, for which the applicant seeks relief.

The following members of the Board were present, and conducted the hearing;

Brian Sullivan, Acting Chairman

Edward Tibbetts

Thomas Cavanaugh

At the hearing, the Board recited the requirements for the relief sought by the applicant under MGL Chapter 40A, Section 10. By the Applicant's own admission, they did not come close to meeting the high threshold for the granting of a variance. The Building Commissioner,

Mr. Robert Vogel, also agreed that the Applicant did not meet the standard for the granting of a Variance.

The Board found that there was nothing unique about the property shape, topography or geology that would warrant the granting of a variance, and that having a garage which cannot accommodate the property owner's boat, does not rise to the level of hardship contemplated by the Massachusetts' courts in the lineage of cases on variances, or the Legislature when drafting Section 10.

Several neighbors in attendance spoke against the granting of a Variance.

For the foregoing reasons, the Board voted unanimously to DENY the Applicant's request for a Variance.

SCITUATE ZONING BOARD OF APPEALS



Brian B. Sullivan, Acting Chairman



Edward C. Tibbetts



Thomas J. Cavanagh

Filed with the Town Clerk and Planning Board on

12/18/19

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.