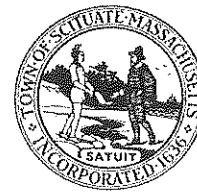


Town of Scituate

ZONING BOARD OF APPEALS

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



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TOWN OF SCITUATE
TOWN CLERK

Decision of the Scituate Zoning Board of Appeals on the application of John Ison of 38 Revere Street, Humarock, Massachusetts (hereinafter, the "**Applicant**") for a finding in accordance with Scituate Zoning Bylaw Sections 810.2, 950.2D, and/or G.L Ch. 40A, Section 6, and/or any other relief that the Board of Appeals may grant, to construct a dimensionally conforming building accessory to, and thereby alter, extend, or structurally change a pre-existing, non-conforming single-family dwelling on a pre-existing, nonconforming lot at 38 Revere Street, Scituate, MA (Assessor's Parcel 72-4-2), and that such accessory building will not be substantially more detrimental or injurious to the neighborhood, then the existing structure (hereinafter, the "**Requested Relief**").

The application was received, advertised, and a public hearing was held on January 21, 2021. The following members were present and voted at the public hearing:

Anthony J. Bucchere, Chairman

Edward C. Tibbetts

George Xixis

The Applicant was represented at the hearing by Attorney Jeffrey A. De Lisi of Ohrenberger, De Lisi & Harris, LLP of 28 New Driftway, Scituate, MA, and by Gregory J. Morse, P.E. of Morse Engineering Company, Incorporated, of 10 New Driftway, Suite 303, Scituate MA 02066.

The subject property is owned by John Ison pursuant to deed dated May 14, 2004, and filed with the Plymouth County Registry of Deeds on Book 28211, Page 244 (hereinafter, the "**Property**"). The Property contains 7,500 square feet of lot area, is laid out as Lot 71 on a plan dated August 1898 entitled "Supplementary Plan Southern Section of Section No. 3 as Plan of Fourth Cliff Land Company Now Owned by Humarock & North River Land Association" recorded with said Registry at Plan Book 1, Page 219.

Along with the said application, deed, and record plan, the Applicant filed the following materials with the Board of Appeals:

1. A copy of the current Assessor's Field Card from the Scituate Assessor showing that the dwelling on the Property was constructed in 1899 prior to the adoption of dimensional zoning in the Town of Scituate;
2. Aerial Photograph of the Property; and
3. Plot plan showing the existing and proposed Property, the existing dwelling, and the proposed detached residential structure entitled "Proposed Location Plan" dated December 7, 2020 prepared by Morse Engineering Company, Inc. (hereinafter, the "**Plot Plan**").

The Property is located in the Residence R-3 zoning district, contains a single-family dwelling thereon, and is pre-existing, nonconforming to lot area, (7,500 Sq. Ft. in a 10,000 Sq. Ft. zone), lot frontage (50 Ft. in a 100 Ft. zone), and lot width (50 Ft. in a 100 Ft. Zone). The 1899 single-family dwelling contains approximately 1,129 Sq. Ft. of gross floor area according to the Assessor records, and is dimensionally conforming with all setback requirements other than the setback from Revere Street (1.3 Ft) and the east side setback (2.5 Ft in an 8 Ft. zone).

The Applicant proposes to construct a detached residential accessory structure to be used as an enclosed two car garage with an approximately 832 Sq. Ft. room containing a bathroom above. The Applicant does not propose a second dwelling or an accessory dwelling. The proposed structure will comply with all dimensional setback requirements.

The Applicant does not propose to introduce any new nonconformities, and the proposed increase to gross floor area will be such that the pre-existing nonconforming nature of the existing single-family dwelling is not increased. According to the Plot Plan, the existing gross floor area will be increased by 832 Sq. Ft., representing a percentage increase of approximately 74%. The neighborhood consists of mostly nonconforming lots with nonconforming structures. The Property is a larger lot in comparison with other lots in the neighborhood, and the use of the proposed structure is allowed as of right in the neighborhood.

The Applicant demonstrated pre-existing nonconforming status, and Board of Appeals considered the Requested Relief pursuant to the last paragraph of Zoning Bylaw Section 810.2 that provides as follows:

"In all other instances of alteration, reconstruction, extension or structural change to single or two family dwellings, the Applicant may petition the Board of Appeals for a finding under General Laws 40A, Section 6 to allow the proposed repair, alteration, reconstruction, extension or structural change."

G.L. Ch. 40A, Section 6 provides, in relevant part, that zoning ordinances or bylaws shall not apply to lawful pre-existing nonconforming structures or uses, but shall apply to any reconstruction, extension or structural change to provide for its use for a substantially different manner or to a substantially greater extent "except where alteration, reconstruction, extension or structural change to a single or two-family home does not increase the nonconforming nature of said structure" Said Section 6 further provides that "pre-existing nonconforming structures and uses may be extended or altered, provided that no such extension or alteration be permitted unless there is a finding by the permit granting authority or by the special permit granting

authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming [structure or] use to the neighborhood.”¹

Based upon the application materials, including the Plot Plan, the information provided at the public hearing, and the foregoing, the Board of Appeals finds that the Applicant has demonstrated that he is entitled to the Requested Relief. The board specifically finds that the proposed residential accessory use and structure will not be substantially more detrimental than the current pre-existing nonconforming dwelling or use to the neighborhood.

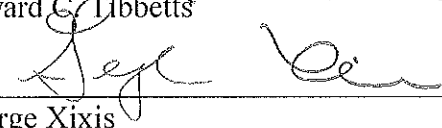
For the foregoing reasons, the Board unanimously voted to GRANT the finding and the Requested Relief.



Anthony J. Bucchere, Chairman



Edward G. Tibbetts



George Xixis

Filed with the Town Clerk and Planning Board: February 23, 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 an 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. 40A, Section 17, and shall be filed within twenty (20) days of the date of filing the decision with the Town Clerk.

¹ The words “structure or” appearing in the brackets in the quoted sentence were supplied by Willard v. Board of Appeals of Orleans, 25 Mass. App. Ct. 15, 21, 514 N.E.2d 369 (1987), and later noted and applied in Rockwood v. Snow Inn Corp., 409 Mass. 361, 363 n.4, 364, 566 N.E.2d 608 (1991).