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Zoning Board of Appeals

Decision of the Scituate Zoning Board of Appeals on the application of Dennis Balog and Robert Demers of 39 Bayberry Road, Scituate, Massachusetts (hereinafter referred to as the "Applicant") for a finding under MGL 40A § 6 and a special permit to allow the reconstruction of the pre-existing nonconforming detached garage on property known as and numbered 39 Bayberry Road, Scituate Massachusetts.

The application was received, advertised and a public hearing was duly held on December 18, 2014 with the following members of the Zoning Board of Appeals hearing the application:

Sara J. Trezise, Chair
Edward C. Tibbetts
John Hallin

The property that is the subject matter of this application is located in the R-2 Residential District. The property does lie in the Town of Scituate Flood Plain and Watershed Protection District. The property does not lie within the Town of Scituate Water Resource Protection Zoning District. The property lies in ZONE AE as shown on FIRM Community Map Panel #250282, dated October 16, 2003.

At the time of the application, title to the property was owned in the name of Dennis J. Balog by way of deed dated January 13, 1999 registered with the Plymouth County Registry District of the Land Court as Document No. 442922; see Certificate of Title No. 94931 in Land Court Registration Book 474. Page 131.

The property contains 14,600 square feet of land and contains 101.49 feet of frontage along Bayberry Road, a public way in the Town of Scituate. The R-2 Residential District requires 20,000 square feet lot area and 100 feet of frontage. The setback requirements in the R-2 Residential District require thirty (30) feet front setback, fifteen (15) feet side setbacks and rear setback of thirty (30) feet for a dwelling.

The Assessor's field card states that the single family dwelling located upon the premises and appurtenances were built in 1928. The existing detached garage on the premises sits on the westerly lot line.

The existing detached garage does not meet the setback requirements of Section 620.3 or 620.4 of the Bylaw. The garage is therefore nonconforming to the Scituate Bylaw.

The applicant proposes to reconstruct the garage to add a second floor storage/work area.

No one present at the Public Hearing spoke in opposition of the proposal.

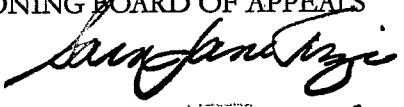
Based upon the evidence presented, including a plan titled "Existing Conditions Plan, 39 Bayberry Road, Scituate, MA, prepared for Robert Demers, 39 Bayberry Road, Scituate, MA" Scale: 1 in. = 10 ft., Dated December 1, 2000 by Cavanaro Consulting, 687 Main Street, P.O. Box 5175, Norwell, Massachusetts 02061. The Board finds that the garage pre-exists the adoption of subdivision control in Scituate and is nonconforming to the bylaw. The Applicant's proposed reconstruction is a reconstruction pursuant to the provisions of MGL c. 40A § 6. The Board further finds that the proposal does not increase the nonconforming nature of the existing single family dwelling. The Board further finds the proposal is not substantially more detrimental to the neighborhood than the existing nonconformity.

Pursuant to Section 950.3 of the Bylaw, the lot is appropriate for a single family dwelling. The use of the reconstructed garage should not adversely affect the neighborhood, nor create any undue nuisance or hazard to vehicles or pedestrians. The town's Board of Health and the Building Commissioner will ensure that appropriate facilities are provided to assure the proper operation of the single family dwelling. The proposed use of dwelling will not have a significant impact on any public or private water supply, and the property is not located within the Water Resource Protection District. There will not be any significant or cumulative impact upon municipal water supplies as there are no known potable wells within 100 feet of the property. In addition, the Board finds that the use reflects the nature and purpose of the use prevailing when the bylaw took effect, that there is no difference in the quality or character, as well as the degree of use, and the proposed use is not different in kind in its effect on the neighborhood.

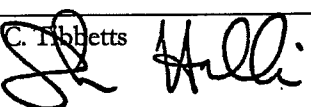
For the foregoing reasons, the Board unanimously voted to GRANT the Applicant's request for a finding under MGL Chapter 40A § 6 and for a Special Permit to allow the reconstruction of the garage with the following conditions:

1. The garage shall not be used as living space now or in the future other than as allowed as accessory use under the by-laws.
2. The Applicant shall provide a stamped plot plan showing the location of the reconstructed garage prior to the issuance of a building permit.

ZONING BOARD OF APPEALS


Sara J. Trezise


Edward C. Thibbetts


John Hallin

*Filed with Town Clerk and Planning Board on January 21, 2015.

This Special Permit/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, Sec 17, and shall be filed within twenty (20) days of the date of filing the decision with the Town Clerk.