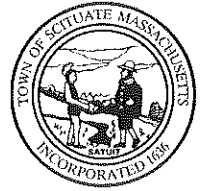


# Town of Scituate

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 Jennifer A. Duff of 41 Fay Road, Scituate, Massachusetts for a finding under M.G.L 40A § 6 and a special permit pursuant to Section 810.2 of the Scituate Zoning Bylaw to allow the construction of a second-floor addition to her pre-existing, nonconforming single-family dwelling located at 41 Fay Road, Scituate, Massachusetts.

The application was received, advertised and a public hearing was duly held on April 15, 2021 with the following members of the Zoning Board of Appeals hearing the application:

Anthony J. Bucchere, Chairman  
Edward C. Tibbetts  
George Xixis  
Susan Harrison

At the time of the application, title to the premises was in the name of Jennifer A. Duff by way of a deed dated April 19, 2012 and filed and registered with the Plymouth County Registry District of the Land Court as Document No. 690686, Certificate of Title No. 117325.

The single-family dwelling that is the subject matter of the Application is located within Scituate's R-3 Residential District. The premises consist of a lot that contains a total of 7,500 square feet lot area. The lot contains 75 feet of frontage along said Fay Road, a public way in the Town of Scituate and 75 feet of lot width.

The Town of Scituate Zoning Bylaw requires property located in the R-3 Residential District to consist of 10,000 square feet lot area, 100 feet of lot width, and 100 feet of frontage. The Bylaw also requires single family dwellings to meet 8 feet side yard setbacks, 30 feet front yard setback and 20 feet rear yard setback for a dwelling (8 feet for a one story detached accessory structure).

The lot was created by a plan dated Dec., 1921 and the single-family dwelling thereon, pursuant to the Scituate Assessor's records, was constructed in 1951. The dwelling meets rear and northerly and westerly side yard setbacks but does not meet the front yard setback as the dwelling sits 28.6 feet from Fay Road. The Lot does not meet current lot area, frontage and lot width requirements of the Bylaw. Both the dwelling and the lot are therefore pre-existing and nonconforming to said provisions of the Town of Scituate Zoning Bylaw.

At the April 15, 2021 public hearing, the Board reviewed with the owner and her representative a copy of a plan drawn by Des Lalirics & Associates, Inc. showing both existing conditions, and also reviewed the Scituate Assessor's card and the deed to the property.

The plans call for the construction of a second story addition to the existing dwelling which will be completely within the existing dwelling. The proposal will increase the total gross floor area of the dwelling from 1,051 square feet to 1,675 square feet, an increase of 60%.

To allow Applicant's proposal, located on a pre-existing nonconforming lot which contains a pre-existing nonconforming dwelling that does not meet setback requirements of the Scituate By-Law and which will increase the gross floor area of the dwelling by more than 20%, Section 810.2 of the Scituate Bylaw requires a Board of Appeals finding under General Laws Chapter 40A, Section 6.

One abutter in attendance at the public hearing spoke neither in opposition to nor in favor of the project but questioned whether the Bylaw controlled the proximity of chimneys between abutting dwellings. At the conclusion of the discussion, all parties agreed that the Building Commissioner and Zoning Enforcement Officer would ensure that the project complied with the Scituate Bylaw and state building code.

Based upon the evidence presented, the Board finds that both the lot and the single-family dwelling are pre-existing and nonconforming to the Bylaw, by way of deficient lot area, lot width, frontage, and the dwelling's front side yard setback. The Applicant's proposal is therefore entitled to review pursuant to the terms of MGL c. 40A § 6. The Board specifically finds that the second-floor addition proposed will not create any new nonconformities and if any existing nonconformities are intensified, the addition will not substantially increase the non-conforming nature and use of the property to persons, property and improvements in the neighborhood. The Board further specifically finds that said addition is not substantially more detrimental than the existing nonconforming nature and use of the property to persons, property and improvements in the neighborhood.

Pursuant to Section 950.3 of the Bylaw, the lot is appropriate for a single-family dwelling. The use of the dwelling as proposed 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

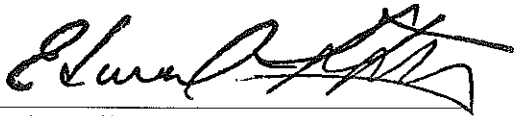
facilities are provided to assure the proper operation of the single-family dwelling. The proposed use of the dwelling will not have a significant impact on any public or private water supply. In addition, the Board finds that the use reflects the nature and purpose of the use prevailing when the Bylaw 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 proposed addition, extension or structural change to the single-family dwelling at 41 Fay Road.

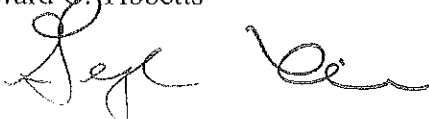
SCITUATE ZONING BOARD OF APPEALS



Anthony J. Bucchere, Chairman



Edward C. Tibbetts



George Xixis

Filed with the Town Clerk on May 25, 2021

This Finding and Special Permit 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. Chapter 40A, Section 17, and shall be filed within twenty (20) days of the date of the filing of the decision with the Town Clerk.