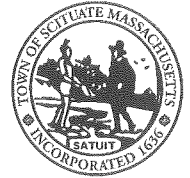


Town of Scituate

ZONING BOARD OF APPEALS

600 CHIEF JUSTICE CUSHING WAY
SCITUATE, MASSACHUSETTS 02066
(781) 545-8716



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Decision of the Scituate Zoning Board of Appeals on the application of Patrick Reynolds and Elizabeth Reynolds of 47 Brook Street, Scituate, Massachusetts (hereinafter, collectively, the "**Applicants**") 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, that the change, extension, or alteration to the pre-existing nonconforming single-family residential dwelling, on a pre-existing nonconforming lot, at 47 Brook Street, Scituate, MA (Assessor's Parcel 50 - 06 - 13) (hereinafter, the "**Property**"), will not be substantially more detrimental or injurious to the neighborhood, than the existing structure or use. (hereinafter, collectively, the "**Requested Relief**").

The application was received, advertised, and a public hearing was held on November 15, 2018. The following members were present and voted at the public hearing:

John Hallin, Chairman
Edward C. Tibbetts
Thomas J. Cavanagh

The Applicants were present at the public hearing and were represented by attorney Jeffrey A. De Lisi of Ohrenberger, De Lisi & Harris, LLP of 28 New Driftway, Scituate, MA, and by Brendan Sullivan, P.E., P.L.S., of Cavanaro Consulting, Incorporated of 687 Main Street, PO Box 5175, Norwell, MA.

The Property is owned by the Applicants by deed filed with the Plymouth Country Registry of Deeds at Book 50379, Page 198. The Applicant provided the Board with a site plan entitled "SITE PLAN 47 BROOK STREET - SCITUATE" dated October 17, 2018, Scale 1" = 20', prepared by Cavanaro Consulting, Incorporated (hereinafter, the "**Site Plan**"). According to the Site Plan, the Property is located in the Residence R-3 Zoning District, contains 25,400 Sq. Ft. of lot area (almost 2½ times the required 10,00 Sq. Ft. minimum in the zoning district), and 176 Ft. of lot frontage (100 Ft. of lot frontage is required in the zoning district.) The Property is improved by a single-family dwelling having a gross floor area of 1,483 Sq. Ft. The dwelling conforms to all dimensional yard setback requirements in the zoning district with the exception of the front yard setback, which is 19.6 Ft. in a 30 Ft. zone. According to the records of the Scituate Assessor, the

dwelling was constructed in 1927. Therefore, the dwelling is dimensionally pre-existing nonconforming as to the front yard setback on a lot more than double the required lot area.

The Applicant proposes to construct an addition to the dwelling as follows: (i) an approximately 26' x 24' two-story attached garage with a room above on the east side of the dwelling which will conform in all respects to the dimensional yard setback requirements of the Scituate Zoning Bylaw; (ii) the extension of the existing covered porch in the front of the house within the front yard setback for a linear distance of approximately 17' toward the westerly sideline, which addition will be no closer to Brook Street than is the existing front porch and will otherwise comply with all other dimensional yard setbacks; and (iii) the addition of an attached three-season porch with a master bedroom above toward the westerly sideline, which porch and second floor room will entirely comply with the required dimensional zoning setbacks (hereinafter, collectively, the "**Addition**"). Essentially, the front porch will be the only aspect of the Addition that is dimensionally nonconforming, and that front yard setback will not be lessened when compared to the existing front yard setback (i.e. the extended portion of the covered porch will be no closer to Brook Street than is the existing covered porch). According to the Site Plan, the increase of total gross floor area is proposed to be approximately 35%.

Section 810.2 of the Zoning Bylaw allows the building inspector to issue a building permit without requiring zoning relief for a repair, alteration, reconstruction, extension or structural change of a lawful, dimensionally nonconforming single-family dwelling that does not increase the gross floor area by more than 20% in two scenarios: (i) in the case of a building which is nonconforming solely because of insufficient lot frontage or area, and (ii) in the case of a dimensionally nonconforming building with sufficient lot frontage and lot area. Per Section 810.2, in all other instances of alteration, reconstruction, extension or structural change to a single-family dwelling, a G.L. Ch. 40A, Section 6 finding is necessary. In this case, since the building is dimensionally nonconforming but is being proposed to be increased by more than 20%, the Applicant has requested a finding.

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 purpose or for the same purpose in a substantially different manner or to a substantially greater extent "except where alteration, reconstruction, extension or structural change to a single or two-family residential structure 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

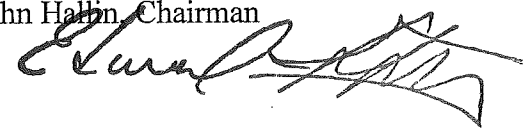
The Board of Appeals specifically voted to find (i) that the existing dwelling is dimensionally nonconforming to the front yard setback (19.6 Ft. in a 30 Ft. zone), (ii) that the proposed Addition to the single-family dwelling does not create any new nonconformities, and (iii) that the Addition will not be substantially more detrimental to the neighborhood than the existing dwelling.

Based upon the application materials, the information provided at the public hearing, and the foregoing, the Board of Appeals finds that the Applicants have demonstrated that they are entitled to the Requested Relief.

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



John Hallin, Chairman



Edward C. Tibbetts



Thomas J. Cavanagh

Filed with the Town Clerk and Planning Board: 12/28/18

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.

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).