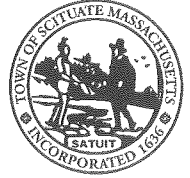


# Town of Scituate

## ZONING BOARD OF APPEALS

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



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ZONING BOARD  
OCT 19 2018  
SCITUATE, MASSACHUSETTS

Decision of the Scituate Zoning Board of Appeals on the application of C & M Realty Trust, of Scituate, Massachusetts for a finding under MGL 40A § 6 and/or a Special Permit pursuant to Section 810.2 of the Scituate Zoning Bylaw to allow the construction of an addition to the pre-existing nonconforming single family dwelling at 55 Collier Road, Scituate, Massachusetts.

The application was received, advertised and a public hearing was duly held on October 18, 2018 with the following members of the Zoning Board of Appeals hearing the application:

John Hallin, Chairman  
Thomas J. Cavanagh  
Edward C. Tibbetts  
Brian B. Sullivan

The property that is the subject matter of this application is located in the R-3 Residential District. The property does not lie in the Town of Scituate Water Resource Protection District, but does lie within the FEMA Flood Zone in Zone X and AE as shown on FIRM MAP COMMUNITY PANEL #25023C 137K, dated November 4, 2016. Zone AE is described as an area within the 100 year Flood Plain.

At the time of the application, title to the premises was in the name of Lenord G. Cubellis a/k/a Leonard G. Cubellis and Virginia Cubellis, of Scituate, Massachusetts as Trustees of C and M Realty Trust by way of a deed dated December 30, 2016 and recorded with the Plymouth County Registry of Deeds in Book 48044 Page 344.

The premises contain 7,500 square feet of land area and 75.00 feet of frontage along Collier Road, a public way in the Town of Scituate, and contains a pre-existing nonconforming single-family dwelling, constructed, pursuant to the current Assessor's field card, in 1928. The Lot does not comply with the lot frontage, lot area and lot width dimensional requirements of the Scituate Bylaw. The existing single family dwelling is located 3.6 feet from Collier Road, and the existing attached one story garage on the Northeasterly side of the premises is located 3.6 feet from that side yard. The premises conforms with rear yard and the Southwesterly side yard setback requirements of the Bylaw.

At the October 18, 2018 public hearing, the Board reviewed with the Applicant a plan drawn by Morse Engineering Co., Inc., of Scituate, Massachusetts dated September 9, 2018, revised October 18, 2018. The plan shows the existing single family dwelling and the two story proposed addition which is located where the existing attached one story garage currently sits. The proposed addition does not create any new nonconformities as to rear, side or front yard setbacks. The existing gross floor area of the dwelling is 3,021 square feet, and with the addition, the gross floor area increases to 3,405 square feet of floor area, a 12.7% increase.

At the public hearing, the Board reviewed the Application and discussed Massachusetts General Law Chapter 40A, and the Scituate Zoning Bylaw Section 810.2. One abutter was present and spoke in favor of the application.

Based upon the evidence presented, the Board finds that the lot and the existing single-family dwelling located at 55 Collier Road are pre-existing and nonconforming to the Scituate Zoning Bylaw. The Applicant's proposed edition to the single-family dwelling is entitled to be reviewed by the Board pursuant to the terms of MGL c. 40A § 6, paragraph one.

The Board further finds that since the existing lot and dwelling are pre-existing and nonconforming, and pursuant to Section 810.2 of the Scituate Zoning Bylaw, the Applicant may petition the Board of Appeals for a finding under General Laws Chapter 40A, Section 6 to allow the proposed alteration.

The Board therefore finds that the lot and dwelling located thereon are pre-existing nonconforming to the Bylaw. The Applicant's proposal will not create any new nonconformities; and to the extent the proposed addition intensifies any of the existing nonconformities, such intensification will not be substantially more detrimental to the surrounding neighborhood

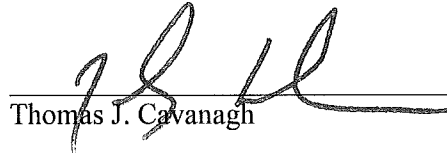
Pursuant to Section 950.3 of the Bylaw, the lot is appropriate for a single-family dwelling. The use of the dwelling should not adversely affect the neighborhood, nor create any undue nuisance or hazard to vehicles or pedestrians. The town's Board of Health and the Building Commissioner will ensure that 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 lot is not located within the Water Resource Protection District. 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 under Section 810.2 of the Scituate Zoning Bylaw to construct a two story addition to the existing pre-existing nonconforming single-family dwelling at 55 Collier Road as proposed in the Applicant's application and Application Plan.

ZONING BOARD OF APPEALS



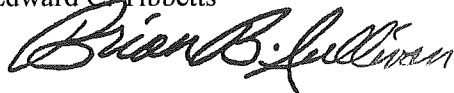
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John Hallin, Chairman



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Thomas J. Cavanagh



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Edward C. Tibbetts



\_\_\_\_\_  
Brian B. Sullivan

Filed with the Town Clerk on \_\_\_\_\_

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