



Decision of the Scituate Zoning Board of Appeals on the application of Kenneth James Sparaco of 561 Country Way, Scituate, Massachusetts 02066 for a finding under MGL 40A § 6 and a special permit to allow the construction of an addition to his pre-existing nonconforming single family dwelling located at 561 Country Way, Scituate Massachusetts.

The application was received, advertised and a public hearing was duly held on May 16, 2013 with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin, Chairman
Edward C. Tibbetts
Sara J. Trezise

At the time of the application, title to the premises was in the name of Kathleen K. Sparaco and Kenneth James Sparaco, Wife and Husband, Tenants by the Entirety, by way of a deed dated January 15, 2013, and recorded with the Plymouth County Registry of Deeds in Book 42547 Page 23.

The single family dwelling that is the subject matter of the Application is located within Scituate's R-2 Residential District. The premises consists of a lot that contains a total of 21,260 square feet, more or less. The lot contains 110.00 feet of frontage along said Country Way, a public way in the Town of Scituate.

Property located in the R-2 Residential District requires 20,000 square feet lot area, 125 feet of lot width, 100 feet of frontage, 15 feet side yard set backs, and 30 feet front and rear yard setback for a dwelling (8 feet for a one story detached accessory structure).

The lot was created by a plan dated June, 1946 and the dwelling, pursuant to the Scituate Assessor's records, was constructed in 1947. The dwelling meets front, rear and side yard setbacks. The Lot meets lot area and frontage requirements; but, having only 105.3 feet lot width through the dwelling, does not meet the lot width requirements of the Bylaw. The lot is therefore pre-existing and nonconforming to the Scituate Zoning Bylaw.

At the May 16, 2013 public hearing, the Board reviewed with the Applicant a plan entitled "Plan Showing Existing House Location and Proposed Addition" dated March 13, 2013 prepared by Morse Engineering Co., Inc., Scituate, Massachusetts, showing both existing and proposed conditions. The Board also reviewed the Scituate Assessor's card, deed to the property, and a rendering of the proposed addition.

The plans call for an addition to the existing garage with an addition between the existing dwelling and garage and the construction of a farmer's porch to the front of the dwelling. The proposal will increase the total floor area of the dwelling from 1,620 square feet to approximately 2,664.50 square feet (the living area will be increased from 1,232 square feet to approximately 1,949.50 square feet.)

To allow Applicant's proposal, 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 40, Section 6.

No one in attendance at the public hearing spoke in opposition to or in favor of the project.

Based upon the evidence presented, the Board finds that both the lot is pre-existing and nonconforming to the Bylaw, by way of deficient lot width. The Applicants' proposal is therefore entitled to review pursuant to the terms of MGL c. 40A § 6. The Board specifically finds that the addition proposed, which will meet all setback requirements of the Bylaw, will not 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 561 Country Way.

ZONING BOARD OF APPEALS

A handwritten signature in black ink, appearing to read "Peter Morin", is written over a horizontal line.

Peter Morin, Chairman



Edward C. Tibbetts



Sara J. Trezise

Filed with the Town Clerk on: May 21, 2013

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 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.