

# Town of Scituate

## ZONING BOARD OF APPEALS

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SCITUATE, MASSACHUSETTS 02066  
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TOWN OF SCITUATE

Decision of the Scituate Zoning Board of Appeals on the application of Karen A. Monaco of 6 Brookline Road, Scituate, Massachusetts (hereinafter, the "Applicant") 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 alteration, extension, or structural change in the form of an addition of a garage to the pre-existing nonconforming single-family residential dwelling, on a pre-existing nonconforming lot at 6 Brookline Road, Scituate, MA (Assessor's Parcel 46-7-8) (hereinafter, the "Property"), will not be substantially more detrimental or injurious to the neighborhood, than the existing structure (hereinafter, collectively, the "Requested Relief").

The application was received, advertised, and a public hearing was held on June 21, 2018. The following members were present and voted at the public hearing:

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

The Applicant was present at the public hearing and was represented by attorney Jeffrey A. De Lisi of Ohrenberger, De Lisi & Harris, LLP of 28 New Driftway, Scituate, Massachusetts.

The Property is owned by the Applicant as Trustee of Pamet Monaco Realty Trust u/d/t dated April 4, 2012, filed with the Plymouth Country Registry District of the Land Court as Certificate of Title No. 117288. The Property consists of two parcels that have been merged for zoning purposes, and which two parcels are identified as Lot 19 on Land Court Plan No. 3302C filed with Certificate of Title No. 795, and Lot 21B on Land Court Plan No. 3302V filed with Certificate of Title No. 12214. Along with the application for public hearing, the said certificate of title and record plans, the Applicant filed the following:

1. A copy of an Assessor's Field Card for fiscal year 2018 from the Scituate Assessor showing that the dwelling on the Property was constructed in 1950;

2. Photographs of the existing single-family dwelling;
3. Zoning Chart dated May 16, 2018 (hereinafter, the “**Initial Zoning Chart**”);
4. Plot plan showing the footprints of the existing dwelling and the proposed garage addition entitled “BUILDING LOCATION & PROPOSED ADDITION PLAN #6 BROOKLINE ROAD PLOT 46-7-8 SCITUATE, MASS.” dated March 5, 2018, and revised through April 12, 2018 (hereinafter, the “**Initial Plot Plan**”).
5. A supplemental submission containing the following:
  - a. A plot plan containing revisions to the Initial Plot Plan through June 12, 2018 (hereinafter, the “**Revised Plot Plan**”);
  - b. A Zoning Chart dated June 8, 2018 containing revisions to the Initial Zoning Chart to calculate more precisely the percentage increase in Gross Floor Area (hereinafter, the “**Revised Zoning Chart**”).

According to the Revised Plot Plan, the Property is located in the Residence R-3 zoning district, and contains a total of 9,000 square feet. The Property is pre-existing, nonconforming to the Scituate Zoning Bylaw’s present requirements of lot area, frontage, and lot width. The existing two-story, single-family dwelling on the Property is 2,789 square feet and was constructed in 1950. It is dimensionally pre-existing, nonconforming in the front yard (it is setback 26.01 feet in a 30-foot zone).

The Applicant proposes to construct an addition on the westerly (left) sideline of the existing dwelling. The addition will be two-stories, have a footprint of 551 square feet, and will contain a garage on the first floor (551 SF) and a storage area on the second floor (551 SF) (hereinafter, collectively, the “**Addition**”). Assuming that the Addition is considered habitable space, then the proposed percentage increase in gross floor area is more than 20%, requiring a finding in accordance with Section 810.2 of the Scituate Zoning Bylaw. The Addition will have a front yard setback of 26.12 feet from Brookline Road, and therefore will be no closer to the frontage road than is the existing single-family dwelling. In all other respects the Addition will be conforming to the dimensional requirements of the Scituate Zoning Bylaw.

The Applicant also provided two letters of support from direct abutters. The first letter of support was from William M. McAdams of 10 Brookline Road, who is the closest neighbor to the proposed Addition. The second letter of support was from Robert Spence of 75 Jericho Road, which is the parcel on the opposite side of Brookline Road.

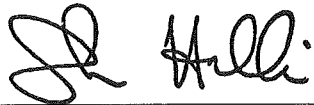
G.L. Ch. 40A, Section 6 provides, in relevant part, that zoning ordinances or bylaws shall not apply to lawful pre-existing nonconforming structures or uses, but shall apply to any reconstruction, extension or structural change to provide for its use for a substantially different purpose or for the same 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.”<sup>1</sup>

The Board of Appeals specifically voted to find (i) that the lot area, lot width, lot frontage, and front yard setback of the existing single-family dwelling are nonconforming, (ii) that the proposed two-story Addition to the single-family dwelling does not create any new nonconformities or intensify any existing nonconformities, and (iii) that the Addition will not be substantially more detrimental to the neighborhood than the existing dwelling.

Based upon the application materials, including the Revised Plot Plan, the information provided at the public hearing, and the foregoing, the Board of Appeals finds that the Applicant has demonstrated that she is entitled to the Requested Relief.

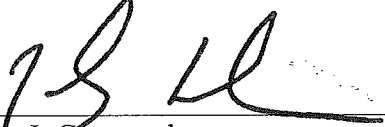
For the foregoing reasons, the Board unanimously voted to GRANT the findings and the Requested Relief upon the condition that the Applicant submit a revised plot plan correcting the zoning chart on the Revised Plot Plan.



John Hallin, Chairman



Edward C. Tibbetts



Thomas J. Cavanagh

Filed with the Town Clerk and Planning Board: June 27, 2018

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.

<sup>1</sup> 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).

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.