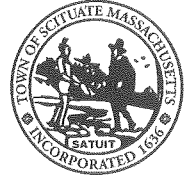


Town of Scituate

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 Tim and Carol Clinton, 7 Fay Road, Scituate, MA 02066 ("Applicants") for a Finding under MGL 40A § 6 and the Town of Scituate Zoning Bylaws 810.2 and 950.2D, to allow an addition to a pre-existing non-conforming dwelling on a conforming lot at 7 Fay Road, Scituate, Massachusetts (Assessor's Parcel ID# 34-23-4-0) ("Property"), increasing the gross floor area of the structure by more than 20%.

The application was received, advertised and a public hearing was duly held on June 21, 2018 with the following members of the Zoning Board of Appeals hearing the application:

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

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 Flood Plain and Watershed Protection District, nor does the property lie in the Town of Scituate Water Resource Protection Zoning District. The existing structure has a gross floor area of approximately 2,732 square feet. The proposed reconstructed structure will have a gross floor area of 3,518 square feet, an increase of 28.77%.

At the time of the application, title to the premises was in the name of Timothy Clinton and Carol J. Clinton as evidenced by Certificate of Title No. 81709 in the Plymouth County Registry of Deeds Land Court Division. The Property consists of two Lots, Lot 201 and Lot 202, which are identified on sheet 2 of Plan No. 4226D, which is filed with Certificate of Title No. 1217 in the Plymouth County Registry of Deeds Land Court Division.

The property contains 10,000 square feet of land, more or less, with 100 feet of frontage along Fay Road, a public way, and a lot width of 100 feet. The R-3 Residential District

requires 10,000 square feet lot area and 100 feet of frontage and 100 feet of lot width. In addition, the R-3 Residential District requires a 30 feet front setback, 8 feet side yard setbacks, 20 feet rear yard setback.

According to the Certificate of Title, Lot 201 and Lot 202, which are identified on sheet 2 of Plan No. 4226D, which is filed with Certificate of Title No. 1217, were created by a plan dated December 1921. According to the Town of Scituate Assessors Card, submitted by the applicant, the existing dwelling located upon the lot was constructed in 1925.

The Board reviewed with the Applicant's plans drawn by Robert C. Crawford, P.E., of Environmental Engineering Technologies, of Marshfield, Massachusetts, dated May 17, 2018 and revised June 12, 2018 ("Plan"). The Board also reviewed the Zoning Chart submitted by the applicant, along with the photographs of the property. According to the material submitted to the Board, the dwelling is pre-existing non-conforming as to the Front Set Back (12.77 feet where 30 feet is required) and Right Side Set Back (5.88 feet where 8 feet is required). The proposal calls for the construction of an addition on the easterly side (left side) of the dwelling resulting in a 19.10 foot front yard setback, and thus will be no closer than the existing front yard setback of 12.77 feet. The proposed addition will no way affect the right-side yard setback, which is pre-existing non-conforming, as the proposed addition is located on the left side of the dwelling. However, due to the pre-existing non-conformities, and 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 case of Gale v. Zoning Board of Appeals of Gloucester (2012), allows the addition to a pre-existing non-conforming single-family dwelling if the Board first identifies the particular respect or respects in which the existing structure does not conform to the present Bylaw and then determine whether the proposed reconstruction, alteration or addition would intensify the existing nonconformities or result in additional ones. If the answer to that inquiry is in the negative a finding under Chapter 40A, § 6 and Special Permit would be required.

Based upon the evidence presented, the Board finds that the existing dwelling located at 7 Fay Road is pre-existing and nonconforming with respect to the front yard setback and right-side yard setback. The Applicant's proposal to construct an addition is entitled to be reviewed by the Board pursuant to the terms of MGL c. 40A § 6.

The Board FOUND that the dwelling located thereon is preexisting and nonconforming to the Scituate Zoning Bylaw as to the front yard setback and right-side yard setback. The Board further FINDS that the proposed addition will not create any new nonconformity and to the extent that it may intensify any existing nonconformities such intensifications are not significantly more detrimental to the neighborhood. The Board further FINDS that the increase in GFA is not significantly detrimental to the neighborhood.

For the foregoing reasons, the Board unanimously voted to GRANT the Applicant's request for a Finding to construct an addition to the existing dwelling as shown on the plans provided.

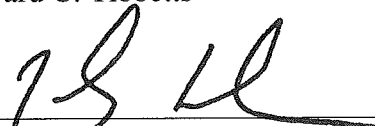
ZONING BOARD OF APPEALS



John Hallin, Chairman



Edward C. Tibbetts



Thomas J. Cavanagh

Filed with the Town Clerk and Planning Board on July 13, 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.

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.