

# Town of Scituate

ZONING BOARD OF APPEALS

600 CHIEF JUSTICE CUSHING WAY  
SCITUATE, MASSACHUSETTS 02066  
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RE: 9 Driftway, Scituate, MA

Decision of the Scituate Zoning Board of Appeals on the application of Joyce Mahn of 5 Cynthia Road, Canton, MA under Scituate Zoning By-law 810.2 and ch. 40A, section 6 to allow the razing and reconstruction of the pre-existing non-conforming structure located at 9 Driftway in Scituate and to increase the gross floor area of the structure by more than 20%.

The application was received, advertised, and a public hearing was duly held on October 15, 2015 with the following members of the Zoning Board of Appeals hearing the application:

Sara Trezise, Chairman  
Ed Tibbets  
Frank Lynch  
Anthony Bucchere

The property is located at 9 Driftway. The building that is on the property is a single family home which according to Town Assessors records was constructed in 1920. The application seeks approval to raze and reconstruct the existing dwelling with a new dwelling having a larger gross floor area (GFA) than currently exists. The existing structure has a GFA of approximately 1,847 square feet. The proposed GFA is 3,163 square feet or approximately 72% greater than that of the existing dwelling.

The property is located in the residential “R3” zoning district. It does not lie in the Scituate Flood Plain, Watershed Protection District or in the Scituate Water Resource Protection Zoning District.

Pursuant to *Gale v ZBA of Gloucester*, 80 Mass App 331 (2011), the Board identified the particular respects in which the existing structure does not conform to the present by-law. The existing lot frontage, lot width, front yard setback and westerly side yard setback are the non-conformities and pre-exist current zoning requirements, the structure having been built in 1920. The following table illustrates the existing and proposed non-conformities relative to current applicable dimensional requirements contained in Section 600 – Dimensional Regulations.

|                 | Lot Area (sq. ft.) | Lot Width | Frontage | Property Line Front Setbacks | Property Line Side Setbacks | Property Line Rear Setbacks |
|-----------------|--------------------|-----------|----------|------------------------------|-----------------------------|-----------------------------|
| <b>Required</b> | 10,000             | 100'      | 100'     | 30'                          | 8'                          | 20'                         |
| <b>Existing</b> | 10,000             | 64.52'    | 64.52'   | .3'                          | 6.2' / 19.8                 | >108.3'                     |
| <b>Proposed</b> | 10,000             | 64.52'    | 64.52    | 3'                           | 7' / 19.8                   | 108.3                       |

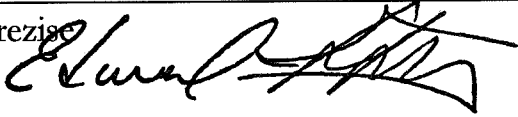
The Applicant intends to raze the existing structure and replace it with a structure 72% larger. The lot width and frontage would stay the same. Whereas, the new dwelling will decrease the front yard setback nonconformity from .3' to 3' and the westerly side yard setback would increase from 6.2' to 7'. The rear and easterly side yard setback would meet the current setback requirements. This proposed alteration would neither intensify the existing nonconformities nor would it result in additional ones. Therefore, the Board determined that pursuant to *Gale*, the applicant is entitled to the Special Permit.

For the foregoing reasons, the Board unanimously voted to GRANT the application to permit the razing and reconstruction of the current dwelling and permit construction of a new larger single family dwelling as proposed on the site plan for 9 Driftway submitted by the applicant with its application and dated July 29, 2015 by Paul Mirabito of Ross Engineering Company.


SCITUATE ZONING BOARD OF APPEALS



Sara Trezise



Ed Tibbets



Frank Lynch

Filed with the Town Clerk and the Planning Board on: December 8, 2015

This Special Permit/Finding will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County 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.