

Town of Scituate

ZONING BOARD OF APPEALS

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Scituate, Massachusetts 02066
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Decision of the Scituate Zoning Board of Appeals on the application of Michael E. Bernier and Ellen L. Bernier for a finding under MGL 40A § 6 in accordance with Section 810.2 of the Scituate Zoning Bylaw and to construct an addition to their pre-existing, non-conforming single- family dwelling located at 91 Elm Street, Scituate, Massachusetts.

The application was received, advertised and a public hearing was duly held on May 19, 2022 with the following members of the Zoning Board of Appeals hearing the application:

Anthony J. Bucchere, Chair
Susan Harrison
George Xixis

The property that is the subject matter of this application is located in the R-2 Residential District. The property does not lie in the Town of Scituate Flood Plain and Watershed Protection District, and does not lie in the Town of Scituate Water Resource Protection Zoning District. The property is located within FEMA ZONE X as shown on FIRM Community Panel 250282 0128L dated July 6, 2016.

At the time of the application, title to the premises was in the name of Michael E. Bernier and Ellen L. Bernier, Husband and Wife, Tenants by the Entirety by way of a deed dated April 17, 2015 and recorded with the Plymouth County Registry of Deeds in Book 45464 Page 153, and is shown on the Scituate Assessors Map 44 Block 2 Parcel 16-0.

The premises contain 22,627 square feet of land and contains 88.52 feet of frontage and 79.6 feet lot width along Elm Street, a public way in The Town of Scituate. The R-2 Residential District requires 20,000 square feet lot area and 100 feet of frontage and 125 feet of lot width. In addition, the R-2 Residential District requires a 30 feet front setback, 15 feet side yard setbacks, 8 feet rear yard setback for detached accessory structures and 30 feet rear yard setback for all other buildings.

The existing single-family dwelling located upon the lot was constructed in 1900. The existing dwelling is confirming as to lot area, but does not meet lot frontage and lot width requirements of the Town of Scituate Zoning Bylaw; the dwelling is conforming as to its front yard, rear yard setback and height requirements.

At the May 19, 2022 public hearing, the Board reviewed with the Applicant a plan drawn by Ross Engineering Company, Inc. of Norwell, Massachusetts dated March 30, 2022. The proposal calls for the construction of a 22 x 20-foot second floor addition above the first floor on the Westerly side of the dwelling. The addition as proposed will meet all front, rear, and side setback requirements of the By-Law as well as height requirements.

The existing square footage of the dwelling contains 1,288 square feet, and the dwelling with the proposed addition will contain 2,128 square feet, an increase of 26.1%. At the public hearing, no one spoke in favor or in opposition to the Application.

Based upon the evidence presented, the Board finds that the lot and existing single-family dwelling known as and numbered 91 Elm Street are pre-existing and nonconforming to the bylaw as to lot frontage and lot width. The Applicant's proposal to raze and reconstruct the existing single-family dwelling is entitled to be reviewed by the Board pursuant to the terms of MGL c. 40A § 6, paragraph one.

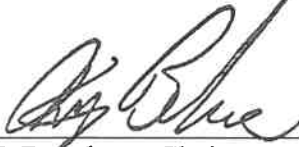
The existing floor area of the dwelling is 1,688 square feet, and the proposed floor area of the dwelling with the proposed addition is 2,128 square feet, a 26.1% increase. Under Section 810.2 of the Scituate Bylaw, the alteration, reconstruction, extension or structural change to a nonconforming single- or two-family dwelling that increases the gross floor area by more than 20% requires a Board of Appeals finding under General Laws Chapter 40A, Section 6.

The Board found that the lot and single-family dwelling located thereon is preexisting and nonconforming to the Scituate Zoning Bylaw as to lot width and lot frontage. The Board further found that the proposed second floor addition is conforming as to front, rear and side yard setback requirements, and height requirements, but that the proposed second floor addition will increase the floor area of the dwelling from 1,688 square feet to 2,128 square feet, a 26.1% increase.

The Board also found that proposed second floor addition to the dwelling does not create any new nonconformities and to the extent it intensifies any existing nonconformities such intensification is not substantially detrimental to the surrounding neighborhood.

For the foregoing reasons, the Board unanimously voted to GRANT the Applicants' request for the allowance of a second story addition located at 91 Elm Street, Scituate, MA shown on a plan drawn by Ross Engineering Company dated April 2, 2022.

SCITUATE ZONING BOARD OF APPEALS



Anthony J. Bucchere, Chairman



Susan Harrison



George Xixis

Filed with the Town Clerk on: July 1, 2022

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.