

# Town of Scituate

## ZONING BOARD OF APPEALS

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Decision of the Scituate Zoning Board of Appeals on the application of Robert and Christina Counihan of 55 Common Street, Scituate, Massachusetts (hereinafter, the “**Applicant**”) for a Special Permit under Section 610.2 B of the Zoning By-laws of the Town of Scituate to erect a single-family residential dwelling on one (1) fifty (50) foot frontage lot created by the division of an existing conforming lot upon which there exists a single-family residential dwelling (hereinafter, the “**Requested Relief**”).

The application was received, advertised, and a public hearing was duly held on March 17, 2022, with the following members of the Zoning Board of Appeals hearing the application:

George Xixis, Acting Chairman  
Susan Harrison  
Justin M. Marks

The subject property, located at 93 Elm Street, is in the R-2 residential district and is owned by the applicant pursuant to a Deed recorded with the Plymouth County Registry of Deeds in Book 54250 at Page 116 and a portion of the adjacent land owned by Mark Richardson pursuant to a Deed recorded with said Deeds in Book 52168 at Page 1 (hereinafter, the “**Property**”). The applicants were present and with them was surveyor and project engineer, Gregory Morse of Morse Engineering, Inc., 10 New Driftway, Suite 303, Scituate, MA 02066.

Submitted with application and received by the board were the following:

1. Plan dated February 7, 2022 revised February 28, 2022 by Morse Engineering, Inc. (hereinafter, the “**Plot Plan**”); and
2. Photographs of the subject premises and access thereto.

The existing structures and uses conform with the current zoning bylaw requirements for the district in all respects. The existing Lot, prior to division has 157.86 feet of frontage on Elm Street, a public way, and contains approximately 60,378 square feet of land according to the submitted survey with 60,072 square feet of such land being upland. There exists upon the subject premises various stone walls, a single-family residential dwelling. Access to the existing dwelling is over its frontage on Elm Street.

The applicant proposes to divide the property into two lots, one of which is to be a so called Fifty Foot Frontage lot (LOT 6) consistent with Section 610.2 B of the Scituate Zoning By-Law. The other, LOT 5, will be for the existing residential dwelling and shall conform to the bylaw for all purposes. LOT 6 shall not be buildable unless and until a common driveway is approved pursuant to Bylaw Section 720, which common driveway shall serve lots 5 and 6. The applicant proposes to erect a new detached single-family residential dwelling on LOT 6. LOT 6 will have a minimum of 50 feet of frontage on Elm Street and will contain more than twice the required square footage of upland area for the district. LOT 6 will also meet or exceed the other dimensional requirements of Fifty Foot Frontage Lots.


After a public hearing which was duly noticed and well attended by members of the community, the Board made the following findings, based upon the applicant's representations:

**a.** The use of the premises and the structures thereon are conforming; **b.** The proposed division of the premises meets or exceeds the minimum requirements for the creation of two adjoining Fifty Foot Frontage lots consistent with Section 610.2 B of the By-Laws and the erection of a single-family detached residential dwelling; **c.** The proposed reduction in size of the existing conforming lot is allowed by Section 610.4 of the By-laws whereby such lot shall not be reduced in size so that the area remaining has less than the area and dimensions required by this section, in this case, namely Section 610.2 B; **d.** The existing access to the premises is sufficient and as there is already only one curb cut.

The Board approves the application based on the plans as submitted, and finds that the Applicant has met the standard for the issuance of a Special Permit under Section 610.2 B for a Fifty Foot Frontage lot and to erect a detached single-family residential dwelling thereon. Therefore, the Board did vote unanimously to issue a Special Permit subject to the following conditions:

1. There shall be no further subdivision of LOT 6;
2. There shall be no new curb cut;
3. LOT 6 shall not be a building lot unless and until a common driveway serving lots 5 and 6 is approved pursuant to Bylaw Section 720.

SCITUATE ZONING BOARD OF APPEALS

  
George Xixis, Acting Chairman

  
Susan Harrison

  
Justin M. Marks

Filed with the Town Clerk and Planning Board: June 8, 2022

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 an 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. 40A, Section 17, and shall be filed within twenty (20) days of the date of filing the decision with the Town Clerk.