

# Town of Scituate

ZONING BOARD OF APPEALS

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Decision of the Scituate Zoning Board of Appeals on the application of Benjamin Bornstein and Zarla Ludin, 99 First Parish Road, Scituate, MA 02060 ("Applicant(s)") for a Special Permit/Finding under MGL 40A § 6 and the Town of Scituate Zoning Bylaws 810.3, to allow an addition to a pre-existing non-conforming accessory use structure on a pre-existing non-confirming lot located at 99 First Parish Road, Scituate, MA, Assessor Map 49, Block 03, Parcel 02 ("Property"), increasing the square footage by greater than 20%.

The application was received, advertised and a public hearing was duly held on January 16, 2020, with the following members of the Zoning Board of Appeals hearing the application:

Anthony J. Bucchere, Chairman  
Edward C. Tibbetts  
Thomas J. Cavanagh  
Brian B. Sullivan  
George Xixis

The Applicants were present at the hearing and represented themselves. There were no abutters or parties at the hearing to speak for or against the application.

The property is owned by the applicants, as evidenced by a deed dated August 4, 2015 and recorded in the Plymouth Country Registry of Deeds in Book 45979, Page 31, a copy of which was submitted with the Applicants application. The Property is shown as Lot 1A, on a Plan entitled "Plan of Land in the Town of Scituate, Mass." dated August 30, 1975, drawn by E.E.T., Inc., and recorded in the Plymouth Country Registry of Deeds as Plan No. 632 of 1975 in Book 4102, Page 673. According to the testimony of the applicant, based on records on file with the Town of Scituate, the accessory use structure

located upon the lot was constructed in 1962, and contains 1,213 square feet of gross floor area.

The Property is located in the R-3 Zoning District. The lot is non-conforming as to Lot Width (49' where 100' is required), Lot Frontage (49' where 100' is required). The existing accessory use structure is non-conforming as to westerly side yard setback (3.2' where 8' is required). However, the accessory use structure was constructed prior to the adoption of the current zoning bylaw and therefore is considered pre-existing nonconforming. All other characteristics of the accessory use structure comply with the current zoning bylaw.

The application seeks approval to add an addition to the accessory use structure, by adding a second floor, as is shown on the plans submitted by the applicant, prepared by Paul Joseph Mirabito, Registered Land Surveyor, Ross Engineering Company Inc., entitled "Site Plan for 99 First Parish Road in Scituate, Mass.", dated July 29, 2019 (the "Plan"). The proposed addition to the accessory use structure, per the Plan will increase the square footage to 1,805 square feet, an increase of 48.8%. The applicant is proposing to raze a greenhouse and other area on the westerly side yard setback, which will improve said set back from 3.2' to 7.4'. The proposed addition in all other respects conforms with the setbacks and will not alter any of the other existing nonconforming characteristics of the site and will not create any new nonconformities.

After reviewing the application and hearing testimony from the applicant, the Board found the following:

- a. That the proposed addition to the existing accessory structure, if constructed per the Plan will not create any new non-conformities;
- b. That to the extent the proposed addition to the existing accessory structure, if constructed per the plan intensifies any of the existing nonconformities; such intensification will not be substantially more detrimental to the surrounding neighborhood.

Based on the forgoing the Board unanimously voted to GRANT the Applicant's request for a Special Permit/Finding pursuant to M.G.L. c. 40A, §6 and Section 810.2 of the Town of Scituate Zoning Bylaws, to construct the proposed addition to the existing structure as well as the razing of the shed, all as shown on the Plans.

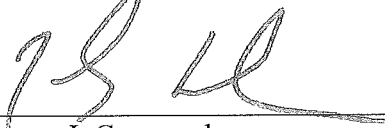
SCITUATE ZONING BOARD OF APPEALS



Anthony J. Bucchere, Chairman



Edward C. Tibbetts



Thomas J. Cavanagh

Filed with the Town Clerk and Planning Board on 2/4/20

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.