

Town of Scituate

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ZONING BOARD OF APPEALS

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Decision of the Scituate Zoning Board of Appeals on the application of Mary E. MacKay and Patrick H. O'Brien, Trustees, of Scituate, Massachusetts for a Special Permit pursuant to Section 610.2B of the Scituate Zoning Bylaw for the creation of three single family dwelling lots on Laurelwood Drive which will allow the construction of a single family dwelling on each of the three lots shown as Lot 1, Lot 2 and Lot 5 on the application plan by Ross Engineering Co., Inc. of Norwell, Massachusetts dated November 18, 2019, each of which lot will have frontage along Laurelwood Drive of at least fifty (50) feet at every point between Laurelwood Drive and the nearest part of the dwelling to be erected on each said lot.

The application was received, advertised and a public hearing was duly held on December 19, 2019, with the following members of the Zoning Board of Appeals hearing the application:

Anthony J. Bucchere, Chairman
Thomas J. Cavanagh
Edward C. Tibbetts

The property that is the subject matter of this application is located in the R-1 Residential District. The R-1 Residential District requires 40,000 square feet lot area, 100 feet of frontage and 175 feet of lot width through a proposed dwelling. The property does not lie in the Town of Scituate Flood Plain and Watershed Protection District, but does lie in the Town of Scituate Water Resource Protection Zoning District. The property lies in Zone X as shown on FIRM MAP COMMUNITY PANEL 250282 0108 K, dated November 4, 2016.

Scituate Zoning Bylaw Section 610.2B allows the Board of Appeals to issue a special permit to authorize the erection of dwellings on lots that only have at least fifty feet of frontage and fifty feet in lot width, provided certain criteria are met. Notably, any such fifty-foot frontage lot must (i) be at least two times the required area of upland in the zoning district, (ii) have an area of contiguous upland equal to the minimum lot size in

the district, (iii) and, if two or more such lots are created simultaneously, common driveways must be utilized such that there is a maximum of one curb cut per one hundred feet of frontage.

At the time of the application, the three Lots to be created were a portion of two undeveloped abutting parcels of land owned by Mary E. MacKay and Patrick H. O'Brien, Trustees of the David R. MacKay Revocable Trust under Indenture of Trust dated July 22, 2010 (Patrick H. O'Brien became a Disinterested Trustee upon the death of David R. MacKay), the first parcel by way of a deed dated December 21, 2015 and recorded with the Plymouth County Registry of Deeds in Book 46426 Page 145, and the second, abutting parcel by way of an Order and Judgment of the Plymouth Superior Court in Civil Action No. PLCV2013-00538-A recorded with the Plymouth County Registry of Deeds in Book 50439 Page 115.

As shown on the plan, that accompanied the application; as revised on February 12, 2020 the three Lots to be created are shown as LOT 1, comprised by Parcels 1A and Parcel 1B, which together contain 87,608 square feet, 2.01 acres (all upland); and LOT 2, comprised by Parcel 2A and Parcel 2B, which together contain 102,258 square feet, 2.34 acres (all upland); and LOT 5, comprised by Parcel 5A and Parcel 5B, which together contain 89,632 square feet, 2.06 acres (87,192 square feet of upland). Each of the three said Lots contain more than fifty (50) feet of frontage along Laurelwood Drive, and maintain a minimum of fifty (50) feet lot width from Laurelwood Drive and the nearest part of the dwelling to be constructed.

At the December 19, 2019 public hearing, the Board reviewed the plans submitted with the applicant and engineer. While there were questions asked by those in attendance at the public hearing, no one expressed opposition or support of the Application.

Based upon the evidence presented, the Board finds that LOT 1, LOT 2 and LOT 5 each separately abut Laurelwood Drive, a street or way in the Town of Scituate, for a distance of at least fifty (50) feet and each said Lot has a width of at least fifty (50) feet at every point between Laurelwood Drive and the nearest part of the single-family dwelling to be erected on said each said Lot. LOT 1, LOT 2 and LOT 5 each have more than two (2) times the required area of upland for the Zoning District, and contain an area of contiguous upland equal to the maximum lot size in the Residence R-1 Zoning District. Additionally, since LOT 1 and LOT 2 share a lot line, the applicant will be required under Zoning Bylaw Section 610.2B(2) to obtain approval for a common driveway in accordance with Section 720 thereof so that there is only one curb cut per one hundred feet of frontage.

Additionally, the Board is assured that the requirements of Section 950.3 have been met. Pursuant to Section 950.3 of the Bylaw, each said Lot is appropriate for a single-family dwelling and zoned as such. The use of each of the Lots for a dwelling will not adversely affect the neighborhood, nor create any undue nuisance or hazard to vehicles or pedestrians. The town's Board of Health and the Building Commissioner will ensure that appropriate facilities are provided to assure the proposed use of said Lots.


For the foregoing reasons, the Board unanimously voted to GRANT the Applicants' Special Permit and authorized the requested relief to allow for the creation of the three (3) single-family house Lots under Scituate Zoning Bylaw Section 610.2B shown as LOT 1, LOT 2 and LOT 5 on the aforesaid plans, subject, however, to the following:

1. A restriction shall be inserted in the recorded deed of said LOT 1, LOT 2 and LOT 5 and shown on the final recorded plan stating that each said Lot is subject to a Zoning Board Special Permit, and that each of said lots shall not be further divided nor subdivided.

ZONING BOARD OF APPEALS



Anthony J. Bucchere, Chairman



Thomas J. Cavanagh



Edward C. Tibbetts

Filed with the Town Clerk on 3/11/20

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.