

Town of Scituate

ZONING BOARD OF APPEALS

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Decision of the Scituate Zoning Board of Appeals on the request of Benjamin Goulston, Trustee (the "Applicant") for a Special Permit to allow the construction of a single family dwelling on a lot containing 50 feet of frontage, 50 feet lot width and at least two times the required area of upland for the zoning district, all in conformance with Section 610.2B of the Scituate Zoning Bylaw or for any other relief the Board of Appeals deems appropriate.

The request by received by the Board and discussed at the Board's scheduled public hearing on April 16, 2015 with the following members of the Zoning Board of Appeals hearing the request:

Edward C. Tibbetts, Acting Chairman
Francis M. Lynch
John Hallin
Anthony Bucchere

Attorney Michael C. Hayes represented the Applicant before the Board and explained to the Board that on December 15, 2010 the Board granted a Special Permit for this property, which decision was filed with the Town Clerk on March 14, 2011. Part of the 2010 application and decision was a plan drawn by Ross Engineering Co., Inc. dated November 8, 2010 showing the Lot as a subdivision of Lots 396, 397 and 398 referencing Land Court Plan No. 4226D (the "2010 plan"), and described in Certificate of Title No. 74403 and 76704. Mr. Goulston owned the land in two separate Trusts, hence the different Certificates of Title. Mr. Goulston sold the land to Marvell Homes, LLC after this Application was filed, but prior to the public hearing.

Marvell Homes, LLC, in anticipation of applying for a building permit to construct a single family dwelling, filed the 2010 decision with a Certificate of No Appeal with the Land Court on March 2, 2015 as Document No. 729491 without the 2010 plan, and again on March 23, 2015 as Document No. 730095 with the 2010 plan attached as an exhibit.

The issue brought before the Board was that while the Special Permit was approved with the 2010 plan, the Land Court Engineering Department in Boston required a new plan with new lot numbers be prepared and filed before the deeds conveying the property to Marvell Homes, LLC could be approved and filed and registered. A new plan, dated July 16, 2014 was approved by the Land Court on March 24, 2015 and numbered Plan 4226-5 and showed the Special Permit Lot as Lot 434 (the "2015 plan").

The Board then discussed whether to grant an entire new Special Permit referencing the 2015 plan numbered 4226-5 or amend the 2010 decision referencing the new plan. The Board decided that the better course was to modify the 2010 decision referencing the new plan.

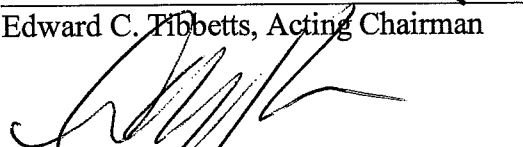
No one in attendance at the public hearing spoke in favor or in opposition to granting the Applicant relief.

Mr. Bucchere moved to amend the 2010 Special Permit by deleting all references therein to the 2010 plan and substituting therefore the plan dated July 16, 2014 approved by the Land Court on March 24, 2015, numbered plan 4226-5 and showing the Special Permit Lot as Lot 434; and further deleting the language regarding the effective date of the Board's 2010 decision and substituting therein that the effective date shall be two years from the date of filing with the Land Court this decision with the plan dated July 16, 2014 approved by the Land Court on March 24, 2015, numbered 4226-5 and showing the Special Permit Lot as Lot 434 attached as an exhibit. The motion was seconded and approved unanimously.

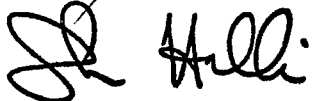
ZONING BOARD OF APPEALS



Edward C. Tibbetts, Acting Chairman



Francis M. Lynch



John Hallin

Filed with the Town Clerk and Planning Board on MAY 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 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. 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.