

Town of Scituate

ZONING BOARD OF APPEALS

600 Chief Justice Cushing Hwy.
Scituate, Massachusetts 02066
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Decision of the Scituate Zoning Board of Appeals on the application of William Pappastratis, Trustee of Janwills Realty Trust of 632 Summer Street, Marshfield, MA (hereinafter, the "**Applicant**") for a Special Permit in accordance with Sections 470.6.A and 950.2.B.1 of the Scituate Zoning Bylaw, and/or any other relief that the Board of Appeals may grant, to allow for the construction and use of an elevated footbridge and dock for recreational purposes of Assessor Parcels Map 69, Block 2, Lots 11 & 12, at A&B and B&C Streets, off Central Avenue, Scituate (hereinafter, collectively, the "**Requested Relief**").

The application was received, advertised, and a public hearing was held on May 18, 2023. The following members were present and voted at the public hearing:

Anthony J. Bucchere, Chairman
George Xixis
Susan Harrison

The Applicant was present and was represented at the public hearing by his attorney, Jeffrey A. De Lisi, of Ohrenberger, De Lisi & Harris, LLP of 28 New Driftway, Scituate, MA, and by his engineer, Kevin Maguire, of Land Survey Company, LLC of 200 Forest Street, Rockland, MA 02370.

The subject property is owned by the Applicant as appears in Certificate of Title No. 70852 filed with Plymouth County Registry District of the Land Court. The subject property was laid out and shown as Lots 359 through 422 on Sheet 3 of Plan No 12049-B (collectively, the "**Property**"), which plan was filed in 1940 at said Land Court registry prior to the adoption of residential zoning, saltmarsh & tideland zoning, and floodplain & watershed protection zoning in Scituate.

In addition to the required application and zoning chart, the Applicant filed with the Board the said Certificate of Title & Land Court Plan, aerial imagery of the Property, a certified and stamped plot plan entitled "Zoning Plan for an Elevated Walkway and Dock on the South River, Central Avenue, Humarock" dated April, 2023 (the "**Plot Plan**"), and the applicable Assessor Field Cards. At the hearing, the Applicant's attorney also filed with the Board various photographs of the Property and also depicting various docks in the immediate vicinity extending westerly of Central Avenue into the South River.

The Property is located in three zoning districts: (i) the upland portion is located in the Residence R-3 zoning district, (ii) the portion lying below saltmarsh and tidelands is located in the Saltmarsh & Tideland Zoning District, and (iii) the entire property is located in the Town of Scituate's Floodplain & Watershed Protection overlay zoning district. The Property is a vacant parcel, and the owner does not presently own any adjacent parcels on either side of Central Avenue. The Land Court Plan indicates that B Street, which is a paper street, extends westerly of Central Avenue to the Low Water Line of the South River, and the Applicants owns all of the land on both sides of B Street for its entire length. The Plot Plan depicts a footbridge and dock facility constructed upon piers extending generally from the upland area over the salt marsh and into the South River to a series of nine proposed docks.

Section 460 of the Scituate Zoning Bylaw provides that in this zoning district "no structure shall be erected except non-commercial docks, cat walks, wharves or floats", and further that public parking, recreation, or water supply uses are permitted as of right. The Applicant's representative indicated that he intended to modify the Plot Plan to reduce the number of docks from nine in number to five in number, as well as to remove all portions of the dock facility that the Plot Plan proposes to be constructed within the layout of B Street, even though he owns entirely all of the real property on both sides of B Street.

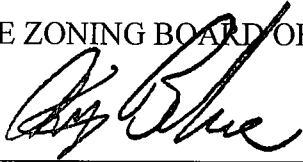
Section 470.6A requires that the Board issue a special permit for footbridges and duckwalks to be constructed and used in the Flood Plain and Watershed Protection District. Specifically, Section 470.6 provides that "Upon issuance of a special permit by the Board of Appeals and subject to such special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purposes of this section, the following uses and structures are permitted: A. Footbridges and duckwalks."

The Board considered the purposes of the Flood Plain and Watershed Protection District, which can be summarized as (i) the protection of health and safety from the hazards of structures in the flood plain, (ii) the conservation of land and buildings in the flood plain, (iii) the protection of water supply, (iv) the protection of environmental resources for the betterment of marine life, (v) the encouragement of suitable uses of land, and (vi) the preservation and increasing of town amenities. The Board considered the application materials and specifically finds the proposed elevated footbridge onto piers above the coastal wetland areas, and the installation and use of a dock, is consistent with the uses in the flood plain and does not undermine any of the purposes of Flood Plain and Watershed Protection District. The Board was further assured that the Applicant's proposal satisfied the criteria set forth in Section 950 of the Bylaw. The Board discussed the issue of motor vehicle access to the site, and determined that, from a zoning perspective, the site should

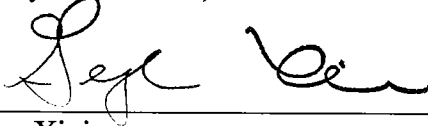
have adequate space to allow for one vehicle per boat slip, subject to Conservation Commission input and requirements. The Applicant did inform the Board that the Town of Scituate had recently altered the upland area by creating a wide berm that promotes drainage, but also allows vehicle access, and that the Applicant may look at utilizing that altered area to satisfy this requirement. The Board informed the Applicant that it will consider a modification to this so-called parking requirement if necessary.

Accordingly, for the foregoing reasons, and in consideration of the testimony at the public hearing by the Applicant and the public, as well as in consideration of the application materials, the Board voted to grant the Applicant a special permit and the Requested Relief, upon the following conditions: (i) that a modified plan be submitted to the Board prior to the start of construction (a) reducing the number of slips to no more than five in total, and (b) removing any portion of the boat slips from the layout of B Street, and (ii) that there be sufficient space provided on the upland portion of the site to accommodate one vehicle per boat slip, however positioned.


SCITUATE ZONING BOARD OF APPEALS



Anthony J. Bucchere, Chairman



George Xixis



Susan Harrison

Filed with the Town Clerk and Planning Board: June 14, 2023

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 or Land Court Registry 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.