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Decision of the Scituate Zoning Board of Appeals on the application of Darryn Campbell of 57 Acorn Street Scituate, Massachusetts (hereinafter, the "Applicant") for a finding in accordance with Scituate Zoning Bylaw (hereinafter, the "Bylaw") Section 810.2A, 950.2.B and D, and/or G.L. Ch 40A, Section 6, and/or any other relief that the board of Appeals may grant, that the change, extension, or alteration to the pre-existing nonconforming lot, at 57 Acorn Street, Scituate, MA (Assessor's Parcel 32-09-12) (hereinafter, the "Property"), will not be substantially more detrimental or injurious to the neighborhood, than the existing structure or use (hereinafter, collectively, the "Requested Relief").

The application was received, advertised, and a public hearing was held on January 17, 2019. The following members were present and voted at the public hearing:

Anthony J. Bucchere, Chairman
Edward Tibbets
Thomas Cavanagh
Brian Sullivan

The Applicant, Mr. Darryn Campbell was present at the public hearing and was represented by Brendan Sullivan, P.E., P.L.S. of Cavanaro Consulting, Incorporated of 687 Main Street, Norwell, MA.

The Property is owned by the Applicant by deed filed with the Plymouth County Registry of Deeds at Book 38655, Page 167. The Applicant provided the Board with a site plan entitled "PROPOSED ADDITION PLAN, 57 ACORN STREET – SCITUATE" dated December, 12, 2018, Scale 1" = 20', prepared by Cavanaro Consulting, Incorporated (hereinafter, the "Site Plan"). According to the Site Plan, the Property is located in the Residence R-2 Zoning District, contains 20,296 S.F. of lot area (greater the required 20,000 S.F. minimum). Although the existing dwelling lies where the lot width is less than 125 feet, by virtue of a variance granted by

the Town of Scituate Zoning Board of Appeals on August 28, 1964, the dwelling conforms to the 125 lot width for a dwelling. Therefore, based on the Site Plan submitted by the applicant and said variance, the existing and proposed structures conform to all setback requirements. However, the Property currently does not conform with the Bylaw frontage requirement. In Residential District R-2, the Bylaw requires a minimum frontage of 100 ft. (60 ft. in a cul-de-sac). The Property, which is located on a cul-de-sac, has a frontage of 52.3 ft. According to the records of the Scituate Assessor, the dwelling was constructed in 1962. The lot was created through subdivision control and approved by the Town of Scituate Planning Board on September 19, 1958. Therefore, the dwelling is pre-existing and conforms to setback requirements and is located on a pre-existing, non-conforming lot.

The Applicant proposes to construct an addition to the dwelling as follows: (1) an approximately 32' x 30' two-story attached garage and entryway with a master suite on the east side of the dwelling; and (2) a covered porch spanning approximately 34' along the north face of the existing dwelling. All proposed modifications conform in all respects to the dimensional yard setbacks, height requirements, and structural requirements of the Bylaw. According to the Application, the increase in total gross floor area is proposed to be 63.6%.

Section 810.2 of the Bylaw allows the building inspector to issue a building permit without requiring zoning relief for a repair, alteration, reconstruction, extension or structural change of a lawful, dimensionally nonconforming single-family dwelling that does not increase the floor area by more than 20% in two scenarios: (i) in the case of a building which is nonconforming solely because of insufficient lot frontage or area, and (ii) in the case of a dimensionally nonconforming building with sufficient frontage and lot area. Per section 810.2, in all other instances of alteration, reconstruction, extension and structural change to a single-family dwelling, a G.L. Ch 40A, Section 6 finding is necessary. In this case, since the lot is nonconforming and the structures are conforming but are proposed to increase by more than 20%, the Applicant has requested a finding.

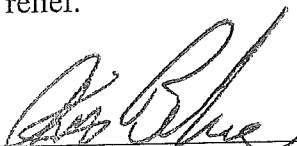
G.L. Ch 40A, Section 6 provides, in relevant part, that zoning ordinances or bylaws shall not apply to lawful pre-existing nonconforming structures or uses, but shall apply to any reconstruction, extension or structural change to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent "except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure". Said Section 6 further provides that "pre-existing nonconforming structures and uses may be extended or altered, provided, that no such extension or alteration be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designed by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming [structure or] use to the neighborhood." Regarding

lot area, section 6 provides that "any increase in area, frontage, width, yard, or depth requirements of a zoning ordinance or by-law shall not apply to a lot for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage."


The Board of Appeals specifically voted to find (i) that the Property is dimensionally nonconforming to the frontage requirement, (ii) that the proposed addition to the single-family dwelling does not create any new nonconformities, and (iii) that the addition will not be substantially more detrimental to the neighborhood than the existing dwelling.

Based upon the application materials, the information provided at the public hearing, and the foregoing, the board of Appeals finds that the Applicant has demonstrated that he is entitled to the requested relief.


For the foregoing reasons, the Board unanimously voted to GRANT the finding and the requested relief.



Anthony J. Bucchere, Chairman



Edward Tibbetts



Thomas Cavanagh

Filed with the Town Clerk and Planning Board:

2/26/19

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.