

**Scituate Zoning Board of Appeals
Meeting Minutes
February 16, 2017**

PRESENT: John Hallin, Chairman, Sara Trezise, Ed Tibbetts, Anthony Bucchere and Frank Lynch.

The Scituate Zoning Board of Appeals held a public hearing on February 16, 2017 at the Scituate Town Hall located at 600 Chief Justice Cushing Highway, Scituate. The meeting was called to order at 7:05 P.M.

The order of the agenda was shifted to accommodate the schedule conflict of an Applicant.

First Application: Robert Terrell of 129 W. Summit Avenue, Haddonfield, NJ 08033 requests a Special Permit under Section 610.2B of the Scituate Zoning Bylaws to allow for the creation of two adjacent lots with at least 50' of frontage at **0 Mann Hill Road (Assessor's Map 27, Block 7, Parcel 9A)**.

Representing the Applicant: Paul Mirabito, Registered Engineer, Ross Engineering.

Mr. Mirabito explained the application for two (2) adjacent fifty foot frontage lots on the subject property which has a total area of the 2.4 acres in total with a barn on Lot 1. The property, located in the R2 residential zone has 104,277 sq. ft. of upland. More than 50' but less than 100' of frontage

Perc testing and soil evaluations were conducted in the presence of the Board of Health Agent in December 2016.

DPW's Sean McCarthy suggested the utilities be accessed prior to the road paving which is planned for this spring or the Applicant would have to wait 5 years. Mr. Mirabito then reviewed the criteria for Special Permits and confirmed there could be no further subdivision of the lots should the Board grant the Special Permit. Both lots will be accessed through a common driveway to be approved by the Planning Board.

Mr. Lynch noted a scrivener's error within the "notes" on the plan referencing Lots 2 and 3. In fact Lot 1, which has 51.58' of frontage and Lot 2, with 98.42' of frontage, cannot be further subdivided. Lot 3 was not the subject of the application.

Mr. Mirabito agreed to submit a revised plan reflecting the correction in advance of the draft decision and apologized to the Board for the oversight.

Mr. Hallin opened the meeting for public comment.

Attorney Maureen Hurley, representing Shari and Alan Wasserman of 12 Mann Hill Road, questioned the Assessor's Card submitted with the application which states the lot is "vacant

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unbuildable" and taxed as such though the lot is, in fact, buildable. Ms. Hurley also asked who determined the upland on the lots.

Mr. Mirabito replied it was his firm. There were no vernal pools, no wetlands within 600-700' of the property.

Ms. Hurley asked when Mr. Mirabito last walked the lot.

Mr. Mirabito stated he walked the lot in December of 2016 when perc. testing was done.

Rich Minier of 29 Christopher Lane expressed his concerns over drainage having installed two drainage pipes in an effort to address significant water flowing towards his property. Further, he questioned three houses over just 2.

Mr. Hallin explained Lot 1 is allowable with the frontage. Lots 2 and 3 will have only one home.

Mr. Tibbetts explained the options with a larger piece of property in a 20,000 sq. ft. zone.

Maria Minier of 29 Christopher Lane asked where the houses would be located.

Mr. Hallin explained the septic systems would have to be designed prior to making that determination.

Alan Wasserman of 12 Mann Hill Road asked about the process for perc testing and if the homes need to fall within the dotted lines on the plan.

Mr. Hallin replied the applicant must meet all setbacks.

Mr. Tibbetts further added the Applicant must first obtain a Special Permit from the ZBA in advance of moving forward with the Planning Board for a Common Driveway, ANR and Storm Water permitting. Abutters will be noticed by the Planning Board for the Storm Water and Common Driveway permits.

Tony Donofrio of 25 Mann Hill Road believes several test pits were done.

Mr. Mirabito explained 4 suitable holes are needed for perc. testing.

Margaret Donofrio of 25 Mann Hill Road asked for clarification on the number of houses to be constructed on the lots.

Mr. Mirabito explained two lots require ZBA relief for 50' frontage lots.

Ms. Hurley asked if the application was reviewed by other Boards for review and if there were any comments from the Conservation Commission.

Mr. Hallin stated the application was reviewed by other Boards. Only the DPW had comments which were submitted for the ZBA board members review and consideration.

Mr. Lynch moved on the application of Robert Terrell for a Special Permit to allow the creation of two adjacent lots with at least 50' of frontage on 0 Mann Hill Road. He moved that the Board find that the requirements of bylaw section 950.3A-E have been satisfied as set forth in the application and plan submitted by Ross Engineering dated 1-6-2017 and further moved to grant the Special Permit with the condition that there shall be no further subdivision of the two lots being approved, further that for purposes of identification one lot has 98.42' of frontage and the second lot has frontage of 51.58'. Motion seconded by Mr. Tibbetts. All in favor, unanimous.

Second Application: Michael Rocino of 37 Derby Street, Hingham, MA 02043 requests a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaws to raze and reconstruct the preexisting, nonconforming single family dwelling at **15 Buttonwood Lane, Scituate (Assessor's Map 5, Block 2, Parcel 5)** staying within the existing footprint and increasing the gross floor area by more than 20%. Representing the Applicant: Michael Rocino, Principal/ Owner EMBR Architects.

Mr. Rocino reviewed the application and explained the foundation was reconstructed approximately 10 years ago. The foundation is a modern and robust concrete foundation reinforced with steel jacking beams. The proposed plan would use the existing foundation and add a second level to the structure. There would be no increase in the footprint. Existing side decks would be removed. First floor elevation would be 18' or higher. The proposed addition would be in keeping with the neighborhood, though more modest in size. Mr. Rocino measured the floor area and calculated it to be 1600 sq. ft. including the covered porches. Mr. Rocino acknowledged the discrepancy in the square footage listed on the Assessor's card and that which he measured.

Mr. Bucchere stated the square footage is inconsistent in the submitted plan, the assessor's card as well as that which is stated on the application. This discrepancy must be resolved in order for the Board to make and write a decision.

Mr. Tibbetts explained the Assessor's Card reflects square footage of 1203. The submitted plan shows square footage of 1446 which represents the square footage of the existing foundation, not total gross living area. He further noted the enclosed porch is included in the gross floor area measurement and that the existing structure has two bedrooms on the second floor.

Mr. Hallin asked if there would be any living space in the basement.

Mr. Rocino stated there would be no changes.

Mr. Lynch stated the nonconformities are lot width, frontage and front yard setback. The proposed plan shows no increase and no intensification of any nonconformities.

The Board discussed how to address the matter and agreed the existing square footage of 1200 would be the most conservative point of reference of which to refer to in the decision. Further, the Board agreed to 2800 as a maximum of which the Applicant could increase the gross floor area of the proposed plan. This maximum figure represents an increase from that which is stated

in the application, but is more modest than most homes in the neighborhood. These figures enabled the Board to act on the application and write the decision should the Special Permit be granted.

Mr. Hallin informed the Applicant a revised plan must be submitted for accurate references in the decision. The revised plan must include the lot frontage; correct the reference of square footage of "house" to "net living area".

Ms. Trezise clarified the proposed plan would not exceed the footprint.

Mr. Rocino confirmed the footprint would not change.

There were no public comments.

Mr. Lynch moved on the application of Michael Rocino of 37 Derby Street, Hingham for a Special Permit/Finding to raze and reconstruct a preexisting, nonconforming single family dwelling at 15 Buttonwood Lane, Scituate. He moved that the Board find the existing lot is nonconforming with respect to lot area, lot width and frontage; he further moved that the Board find the existing structure is nonconforming with respect to front setback and width, further that the Board find, in accordance with the plan by Stenbeck and Taylor dated 2-13-17 and to be updated, that the proposed new structure does not create any new nonconformities or increase any existing nonconformities and that the proposed structure does not intensify any existing nonconformities; further he moved the Board find the proposed structure is not a substantially more detrimental to the neighborhood in comparison to the existing structure and that the Board therefore grant the Finding/ Special Permit with the condition that the maximum amount of square footage not exceed 2800 sq. ft. to be reflected on an amended plan stamped by a certified engineer, and that the proposed structure will be constructed on the existing foundation with no addition to the footprint. Motion seconded by Mr. Bucchere. All in favor, unanimous.

Third Application: Liam and Virginia Vickers of 7 Jericho Road, Scituate, MA request a Special Permit/Finding under M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaws to construct an addition to their preexisting, nonconforming single family dwelling adding more than 20% gross floor area. The property is located at 7 Jericho Road, Scituate, MA (Assessor's Map 45, Block 2, Parcel 59).

Representing the Applicant: Attorney Steve Guard. Also present: Liam Vickers.

Attorney Guard reviewed the application explain the preexisting, nonconforming home was built in 1850 and has 1863 sq. ft. The front setback of 17' is the only nonconformity of the property located in the R3 zone, where 30' are required). The proposed addition would be located off the rear of the home increasing the square footage to 3863, an increase of 107%. Mr. Guard explained because the proposed addition is off the rear it would not be visible from the street, enabling the home to maintain the existing antique character, as well as that of the neighborhood. The existing driveway off Jericho Road will remain in place.

Mr. Lynch asked if the porch in the front of the home is a covered structure.

Attorney Guard stated it is not covered.

There were no public comments.

Mr. Bucchere motioned that the Board approve the application of Liam and Virginia Vickers of 7 Jericho Road for the request for a Finding/Special Permit and the Board find that the application for a proposed addition as shown on the submitted plan dated December 26, 2017 and stamped by Edward T. Eisenhaure complies with the provisions of Section 950, subsections A-E, also that the Board find the site is nonconforming with respect to front setback, and that all other characteristics of the site comply with current zoning. Mr. Bucchere further moved that the Board find the proposed addition would present no new nonconformities and, to the extent that the proposed addition constitutes an intensification, that said intensification would not be substantially more detrimental to the surrounding neighborhood than the existing structure. Motion seconded by Mr. Tibbetts. All in favor, unanimous.

Minutes presented for approval.

Mr. Tibbetts moved to approve December 15, 2016 minutes as emailed January 24, 2017. Motion seconded by Ms. Trezise. All in favor, unanimous. Mr. Lynch abstained due to absence.

Mr. Lynch moved to approve January 19, 2017 minutes as emailed January 31, 2017. Motion seconded by Mr. Tibbetts. All in favor, unanimous. Mr. Bucchere abstained due to absence.

Ms. Trezise moved to adjourn. Motion seconded by Mr. Tibbetts. All in favor, unanimous.

Meeting adjourned at 8:30pm.

Respectfully Submitted,


Anne M. Kelly