

2018 JUN 11 PM 3:17

RECEIVED

Scituate Zoning Board of Appeals Meeting Minutes May 17, 2018

The Scituate Zoning Board of Appeals held a public hearing on May 17, 2018 at the Scituate Town Hall located at 600 Chief Justice Cushing Highway, Scituate. The meeting was called to order at 7:00 P.M.

Present: John Hallin, Chairman, Sara Trezise, Edward Tibbetts, Anthony Bucchere and Tom Cavanagh.

Also Present: Bob Vogel, Building Commissioner and ZEO.

First Application: Michelle R. Skolnick of 24 Little Harbor Road, Cohasset, MA requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 to raze and reconstruct the preexisting non-conforming dwelling at **4 Postscript Lane, Scituate, MA (Assessor's Map 72, Block 16, Parcel 13)** increasing the gross floor area by more than 20%. Representing the Applicant: Heidi Condon, of HC Architectural Design and John Cavanaro, P.E., Cavanaro Consulting.

Ms. Condon explained the application to raze the preexisting nonconforming 704 sq. ft. dwelling built in 1950 and reconstruct a 1,717 sq. ft. dwelling on 49 piers, in compliance with FEMA requirements. The proposed plan shows the new dwelling to be conforming on three sides. On the easterly side the plan shows the projection of a second floor deck. Ms. Condon reviewed the criteria under S.Z.B. Section 470 A-F while noting the proposed application exceeded each of the six points. Further, a submitted letter from an abutting neighbor in support of the project was read for the record.

Mr. Bucchere requested clarification of the Applicant's statement that the projection was thought to be an increase of the existing nonconformity and subsequently explained that a projection of a second floor deck was not, in fact, considered to be an encroachment in to the nonconforming side setback.

Mr. Vogel noted the change in setbacks as shown on the submitted site plan.

The Board stated the rear setback would remain unchanged at 19.7'.

Mr. Bucchere moved on the application for the property at 4 Postscript Lane, Scituate that the Board find that the proposal to raze and reconstruct the preexisting, nonconforming dwelling does not create any new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood as shown on the plan by Cavanaro Consulting, dated 2-7-2018

with the condition that a revised site plan be submitted which reflects the proposed rear setback as 19.7' and further condition that the finished building height not exceed that allowable by building code. Motion seconded by Mr. Tibbetts. All in favor, unanimous.

Second Application: Robert F. Hayes III of 23 Walnut Hill Drive, Scituate, MA requests a Special Permit and/or Finding pursuant to Scituate Zoning Bylaw sections 610.1, 810.2B and/or M.G.L. Chapter 40A, Section 6 and/or any other relief that the Board of Appeals may grant to allow the razing of a preexisting non-conforming single family at **3 Driftway, Scituate, MA (Assessor's Map 64, Block 6, Parcel 1)** and reconstruction of a single family dwelling thereon. Representing the Applicant: Attorney Michael Hayes and Paul Mirabito, P.E., Ross Engineering.

Mr. Mirabito explained the application to raze the existing dwelling constructed in 1909 with a detached garage on the 15,400 sq. ft. property. Preexisting nonconformities are the front setback on Driftway (6.5' where 30' are required) and the front setback on Collier Road (2.5' where 30' are required), lot width (72' on Driftway where 100' are required). The deed reflects a view easement which states, in part, that no structure or plantings may be within 6' of the line. The proposed plan to reconstruct a 5,089 sq. ft. single family home represents an increase of 113% in the gross floor area. Also shown on the submitted site plan is an in ground pool, currently shown less than 30 from the way line. Mr. Mirabito stated that at some point in time steps may be taken to expunge the public way. The Applicant proposes to change the address from Driftway to Collier and will make such request through D.P.W. engineering.

The meeting was opened for public comments.

Kate Sullivan of 5 Moreland Road stated her concern over the public access to the beach. Presently the public way is landscaped as a driveway and neighbors are highly discouraged from using the public way. Further, she is sorry to lose another home of historic significance in Scituate as well as the obstructed views as a result of the proposed plan.

John Sullivan of 12 Parker Avenue presented documents to the Board which documented the historical significance of the existing home built by George F. Welch and asked if the Board had knowledge of the 1' strip of land was owned or conveyed at the sale of the property. Under Section 820 of the Scituate Zoning bylaw, preexisting, nonconforming uses may be extended or altered provided that there is a finding by the Board that the extension or alteration shall not be substantially more detrimental to the neighborhood. Mr. Sullivan proceeded to read for the record the submitted document which set forth the historical significance of the existing structure and stated "this is the home that these people want to bulldoze" subsequently suggesting the application be considered as more detrimental to the neighborhood than the existing structure. Further, that the Historical Commission cannot stop the project from moving forward, but rather prolong it and that Mr. Sullivan would like the home to be preserved.

Abe Murray of 4 Collier Road stated his objection to the size of the proposed increase to the footprint while stating the adverse effect of the proposed plan to the neighborhood as a result of the loss of views to him and other neighbors. Further, that the land swap with the Griffin's

exacerbates the issue of extending the nonconformity which, in turn, adversely impacts the neighborhood, and that the Applicant please reconsider the proposed plan with more consideration for those neighbors around them.

Alec Graziano of 15 Lincoln Avenue reiterated the historical significance of the home. As one who also resides on a Welch colonial, he does not want to see the subject home razed, nor the existing views obstructed as a result of the proposed plan.

Francis Bailey of 9 Collier Road spoke in favor of the proposed plan.

The Board discussed the parcel peeled out of the property in January of 2018 and as such, agreed that the Applicant has no frontage on Driftway.

Mr. Tibbetts explained that the ZBA and Scituate Zoning bylaw are intended to protect all property owners. The application before the Board is conforming in all aspects. The ZBA must enforce what is allowable according to the bylaw. Further, that it is incumbent on the ZBA to allow property owners to do as they see fit with their property.

Attorney Hayes explained that the Applicants wish to raze and reconstruct the existing dwelling after consulting with engineers and concluding that the structural integrity of the home has deteriorated to such a point that razing the home and reconstructing is the most reasonable option. Subsequent hearings before the Conservation Commission, Historical Commission, Planning, etc. would still be required.

The meeting was closed to further public comments.

Mr. Tibbetts moved on the application for a Finding to raze and reconstruct the property at 3 Driftway, Scituate as proposed on the plan by Ross Engineering dated 4/9/2018 does not create any new nonconformities, and to the extent that it extends any existing nonconformities such intensification is not substantially more detrimental to the neighborhood, and to the extent that the increase in size beyond 20% likewise is consistent with the proposed use and surrounding neighborhood and is not substantially more detrimental to the neighborhood and that the Board move to grant the Applicant's request. Motion seconded by Mr. Bucchere. All in favor, unanimous.

Third Application: Doris M. Crary & Dennis A. Badore of 279 South Street, Halifax, MA request a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6 and/or Section 810.3 of the Scituate Zoning Bylaw and/or any other relief deemed necessary by the Board of Appeals to allow the razing and reconstruction of a preexisting non-conforming multi-family dwelling at **87 Glades Road, Scituate, MA (Assessor's Map 5, Block 3, Parcel 28).** Representing the Applicant: Attorney Dan MacKinnon, Gregory Morse, Registered Engineer, Morse Engineering.

Attorney MacKinnon stated the existing multifamily 5 unit dwelling in the R3 zone was constructed in 1920. According to the Assessor's card, 5 units are listed. However, in the time that the Applicant has owned the property there have been four units.

Mr. Morse reviewed the submitted site plan and explained the existing nonconformities are lot frontage (45.16' where 100' are required), lot width (40.8' where 100' are required) and lot area (3,093 sq. ft. where 10,000 sq. ft. are required), front setback (4.2' where 30' are required), right side setback (0.8' encroachment where 8' are required) as well as the use. The proposed reconstruction of the existing 2,766 sq. ft. multi-unit dwelling will increase the gross floor area by 22.4% to 3,388 sq. ft. and decrease the current units from 4 to 3, with a total of 6 bedrooms and fully comply with all FEMA regulations within the designated AE15 zone. The plan shows the nonconforming right side setback to eliminate the encroachment reducing the nonconformity with a proposed setback of 3'. Further the proposed front setback is shown at 4.3'.

Kate Conway of 89 Glades Road stated her concern with the parking plan and proposed deck location as well as the finished height of the building. Further, the close proximity would require a fire wall.

Mr. Morse explained Units 1 and 2 would have parking spaces under the building. Unit 3 would have parking spaces beneath the proposed deck in the rear. The proposed 3 story building height is proposed to be 39', under the maximum allowed under the bylaw of 40'.

Mary Tegan of 89-91 Glades Road asked about the location of decks and 2nd and 3rd floor balconies.

Mr. Morse explained the location of such on the rear side of the structure.

Ms. Tegan objected to the location of the proposed rear facing deck and balconies.

There were no further public comments.

Mr. Tibbetts moved on the application for a Special Permit at 87 Glades Road that the Board find the existing property is nonconforming with respect to lot area, lot frontage, lot width, front setback, right side setback and use; move further to find that the proposed reconstruction as shown on the plan by Morse Engineering dated 4/17/17 does not create any new nonconformities, and that in all other respects conforms to the zoning bylaw; move further to find that the proposed reconstruction is not substantially more detrimental to the neighborhood than the existing structure, and that the plan conforms with all criteria under Section 950.3 of the zoning bylaw, and that a Special Permit be granted with the condition that the final plan define finished height to be within current zoning regulations. Motion seconded by Mr. Bucchere. All in favor, unanimous.

(Continued from March 1, 2018) SEB/Herring Brook Meadow, LLC requests a Modification to the Comprehensive Permit for Herring Brook Meadow, LLC pursuant to M.G.L. Chapter 40B, Sections 20-23. The request for change is on file with the ZBA for the project located at 126 and 132 Chief Justice Cushing Highway (Assessor's Map 58, Block 1, Parcels 8A and 5), Scituate, MA.
Representing the Applicant: Geoff Engler of S.E.B.

Mr. Engler explained there would be no formal presentation. Since the previous meeting the Applicant had worked very hard to address the issues raised during the review by Woodard & Curran. The collaborative effort was highly productive in addressing points made in the memo dated April 20 and on May 4 Woodard & Curran submitted the findings to the Board for consideration. Those findings were reviewed by Dan Garson and Scott Salvucci of Woodard & Curran in lieu of a presentation.

Dan Garson, Principal and Partner at Woodard & Curran and Scott Salvucci, Engineer at Woodard & Curran met with Scitec on March 7th for a productive meeting. Revisions made by the Applicant addressed all comments. The revised stormwater plan meets 9 of the 10 criteria set forth.

Mr. Bucchere asked if the application in its current form is not worse for flooding conditions than the HAC approved application given the more stringent changes to the bylaw.

Scott Salvucci stated that the proposed project does not appear to have any greater detrimental impact on flood events than the HAC decision; dropping a pebble in to the lake will not change the elevation. The ocean will do whatever it is going to do.

Attorney Talerman replied that flooding issues were not the focus of the first application, or the HAC decision. The changes in local bylaw and FEMA mapping impact and change of the project would be open for discussion as a factor. The Board will need to determine policy and the goals for the development of an area with heightened scrutiny. Technical issues have been addressed; the Board is encouraged to collaborate with the Applicant in establishing conditions. Emergency management plan and emergency access plan are related to the technical aspects, but not expressly addressed in the review by Woodard and Curran.

Ms. Trezise asked if a waiver from Section 470 is a "must" referenced within the HAC decision.

Mr. Engler responded by asking if local concern trumps all else. It would be very disappointing after all of the time, effort and dollars directed at this project. Six months have been spent working with consultants in satisfying every technical issue presented. Without the waiver from 470 there can be no project.

Attorney Talerman stated the goal is to find the middle ground, further that waivers are typically binary.

Mr. Tibbetts stated his strong reservations over building in the flood plain using such an extensive amount of fill.

Ms. Trezise stated she has done an extensive review of all submitted documents, and has given serious time and consideration to the project. She further explained she is not in favor of building in the flood plain, nor comfortable with the environmental concerns the project raises therein.

Mr. Engler acknowledged the Board had given substantial time and consideration to the proposed project and his appreciation of that.

Attorney Talerman encouraged the Board to raise issues with regard to conditions appropriate to move the discussion forward.

Mr. Hallin stated the stormwater plan keeps the water on the Applicant's property, and post construction would not alter the conditions according to the plan.

The Board restated their concern with the emergency access and plan to relocate cars in advance of a flood event.

Attorney Talerman stated the Fire Chief was not satisfied with the plan set forth showing three sides of the building have no access in a flood event. Further review and comment by the Chief would be requested prior to the next hearing.

The meeting was opened for public comment.

Werner Boehl of 15 Martha's Lane expressed concern over the flooding of the area and asked about status of the balloon test discussed at prior hearings.

Kathy Donahue of Cushing Landing stated the HAC did not review flooding in their decision, though it was a key issue. Further, concerns remain with regard to the garage and the environmental impact of the project.

Marsha Klein of 146 CJ Cushing Hwy. stated her concern over the impact on her property and the other long time neighbors.

Sandy Kingsland of 21 Martha's Lane asked the quantity of fill anticipated for the project.

Mr. Engler replied 23,000 cubic yards of fill are estimated.

Michael Collins stated his concern with regard to the quantity of fill and the impact of such during storm events.

Russell Lannon of 133 C J Cushing Hwy. affirmed his belief that the project poses a traffic safety hazard.

Attorney Talerman explained that a construction management plan will be part of the plan, but that traffic safety is not part of this modification. Traffic studies were addressed as part of the original permitting.

The meeting was closed to additional public comment.

The Board and the Applicant agreed to continue the hearing to Thursday, June 7, 2018 at 7pm.

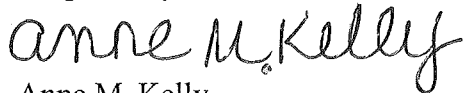
Minutes presented for approval.

Mr. Bucchere moved to accept minutes from the April 19, 2018 meeting. Motion seconded by Mr. Cavanagh. All in favor, unanimous.

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

Meeting adjourned at 10:45pm.

Respectfully Submitted,

A handwritten signature in cursive script that reads "anne M. Kelly". The signature is written in dark ink and is positioned above the printed name.

Anne M. Kelly