

**TOWN OF SCITUATE  
ZONING BOARD OF APPEALS  
Meeting Minutes**

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ZONING BOARD**

**January 16, 2020**

**2020 DEC 23 AM 11:43**

**The Scituate Zoning Board of Appeals** will hold a public hearing in the Selectmen's Hearing Room in the Scituate Town Hall located at 600 Chief Justice Cushing Highway on **Thursday, January 16, 2020 at 7:00 P.M.** to consider the following requests:

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**Present: Anthony Bucchere, Chairman, Ed Tibbetts, Tom Cavanagh, Brian Sullivan and George Xixis**  
**Also present: Robert Vogel, Scituate Building Commissioner**

**First Application: (Continued from December 20, 2019) SLV/WW Scituate, LLC of 257 Hillside Ave, Needham, MA** request a Special Permit pursuant to Section 710.2 of the Scituate Zoning Bylaw to allow the installation of signage at 126-132 Chief Justice Cushing Highway, Scituate, MA for the project known as Herring Brook Meadow (**Assessor's Map 58, Block 1, Parcels 8A & 5**).

**Mr. Bucchere- Announced the application would be continued to the next scheduled meeting. In order to gather more information that was requested of them at the last meeting.**

**Mr. Sullivan - Move to Continue the hearing on Herring Brook Meadow's request for signage on route 3A to our next regularly scheduled meeting in February.**

**Mr. Tibbetts - Second**

**All in Favor - Unanimous**

**Mr. Vogel-** presented a matrix of proposed changes to section 830 and section 810 of the Scituate Zoning Bylaw. There are several properties that have been abandoned by their owners. The house then deteriorates and the complaints come to the building department from the neighbors of these abandoned homes. There are several safety issues regarding this including the possibility of fire, vermin and vandalism. Mr. Vogel continued to explain the way section 830 is currently written and presented the changes he is proposing. The first being the distinction between residential and nonresidential properties, and would like to clear up the language. He stated he would also like to distinguish between the time of the damage and destruction and the ability to reclaim the property and restore it and leave them open-ended at least for residential properties. For commercial properties and for properties that do not conform in their use to the district where they are, he would not like to take the restriction away but incentivize the owners of those properties to make repairs and restore the properties to good condition in a manner that has a time limit to it. For residential there could be several reasons that the three year time limit does not seem sufficient and with it imposed he believes there are some who have just walked away from the properties. He also stated that he does not want it retroactive he would like to see it applied to existing damaged or deteriorated properties. Moving forward this could possibly prevent the kind of blight we see with these properties.

**Mr. Cavanagh - Asked for clarity on houses that may have been damaged 10 or 15 yrs ago.**

**Mr. Vogel - Confirmed that they would not fall under the new rules.**

**Mr. Sullivan - Expressed concern for the next Building Commissioner/ZEO if he/she will be as judicious as Mr. Vogel?**

**Mr. Bucchere - Asked Mr. Sullivan for a more clear explanation of his concern.**

**Mr. Sullivan - Clarified that he is concerned that houses that are damaged will sit too long and that it would be better to encourage owners to repair as soon as possible to avoid having these blighted homes. He also stated that if they do not enact this change that the land could be developed in the future by coming before the Board and seeking relief.**

**Mr. Tibbetts - Suggested taking the authority to enforce the 2 year rule away from the Building Commissioner and give it to the Board.**

Mr. Cavanagh - Questioned as to whether or not after the three year period they would be required to go to the Board to request relief?

Mr. Vogel - Stated that if the Board wanted to take on that responsibility after a certain time period elapsed it would "not be a bad idea".

Mr. Cavanagh - Stated he would be in favor of going out longer than the three years and then making the special permit a part of the requirement.

Mr. Vogel - Stated if there is a consensus of simply inserting a provision that if after the time period expires coming before the Board and a reasonable decision being made by the Board as to whether or not to allow you to rebuild or use the property over again, it's an easy change to just insert that.

Mr. Bucchere - There should be something contained in that section as to what the Board is considering.

Mr. Cavanagh - Stated it should be Special Permit criteria.

Mr. Vogel -I would like to change it to say that it cannot be more nonconforming.

Mr. Cavanagh - Asked what other towns do in these situations?

Mr. Vogel - Did not have that information, but did say he was aware that Hingham, Hull and Cohasset do have something on the books regarding this type of situation. He also stated that if this was something they could not decide in the next few weeks it can be brought to the next year's town meeting.

Mr. Bucchere - Stated he would try to have something for Mr. Vogel within a week adding "that unless a special permit is sought and given due to our consideration of reasoning for providing an extension". Or (to Mr. Vogel) that he could "take a insert a clause into the second paragraph.

Mr. Tibbetts - Complimented Mr. Vogel on what he had written thus far.

Mr. Bucchere - Make a motion that the Board asks the Building Commissioner to attempt to utilize the current section with the addition of a provision that allows the Board to grant a Special Permit for an extension of the time frames already in 830.

Mr. Sullivan - Second.

All in favor - Unanimous.

**Second Application: Benjamin Bornstein and Zarla Ludin of 99 First Parish Road, Scituate, 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 to repair and add a second story to a pre-existing, non-conforming structure on a pre-existing, non-conforming lot. The property is located at 99 First Parish Road, Scituate, MA. (Assessor's Map 49, Block 3, Parcel 2).**

**Present: Benjamin Bornstein and Zarla Ludin, Applicants**

Mr. Bornstein - Reviewed the project description and the history of the existing structure.

Mr. Cavanagh - Asked when it was constructed.

Mr. Bornstein - Stated the assessor's records said 1962. He explained the non-conformities and stated that the changes they would be making would be making the building conforming except for the southwest side of the building. He stated that they are trying to create a small home office and studio as well as a small garage.

Mr. Sullivan - Asked if the the roof was flat.

Mr. Bornstein - Confirmed. He stated that it is a cinder block construction with steel beams, a flat rubber roof and a concrete slab.

Mr. Cavanagh - Asked if it was going to be for personal use.

Mr. Bornstein - Stated yes it would be for personal use as they are both self-employed. Part of it would be for a home office and the other section would be for a home gym and a music studio type space. Our intent is not to have a recording studio.

Mr. Tibbetts - Asked if there is septic and/or water?

Mr. Bornstein - Stated there is an existing water line from the house, it has been capped off as there are no plumbing fixtures currently in the building. There is an electrical and gas service all pre-existing. There is also a pipe that he thinks goes to a relic septic system but currently the house is on town sewer. They are exploring options to tie into the town sewer with the house connections if adding bathrooms.

Mr. Xixis - Asked they intended on changing any of what looks like an existing driveway?

Mr. Bornstein - Confirmed that there would be no changes to the existing driveway layout.

Mr. Sullivan - Asked them to confirm that it had nothing to do with the primary residence? That it is 100% the accessory structure in the rear of the property. He also asked if it was going to be just office space and not an accessory dwelling.

Mr. Bornstein - Confirmed that it would be used for office and personal space as their home is small and they need space for music equipment etc.

Open to the Public - No public comments.

Mr. Cavanagh - Make a motion on the application of Benjamin Bornstein and Zarla Ludin of 99 1st Parish Road in Scituate on their request for a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6, and/or Section 810.3 of the Scituate Zoning Bylaw find that the addition to a pre-existing, non-conforming structure on a pre-existing, non-conforming lot as shown on the plan from Ross Engineering dated July 29, 2019 is not more substantially detrimental to the neighborhood.

Mr. Tibbetts - Second.

All in favor - Unanimous.

**Third Application: Kerylynn Krahforst of 96 Turner Road, Scituate, MA** requests a Special Permit/Finding pursuant to Section 810.2 of the Scituate Zoning Bylaw and/or M.G.L. Chapter 40A, Section 6 to allow the extension of a pre-existing, non-conforming single family dwelling increasing the gross floor area by more than 20%. The property is located at **96 Turner Road, Scituate, MA. (Assessor's Map 40, Block 6, Parcel 4).**

**Representing the Applicant - Greg Morse of Morse Engineering. Also Present - Kerylnn Krahforst, Applicant.**

Mr. Morse - Described the property and the proposed project to the Board. He also described the nonconformities of the lot and the existing home. They are proposing to add a two story addition to the back of the house. The applicant went around to the abutters and received 7 signatures from the abutters stating they had no opposition to the project.

Mr. Bucchere - Confirmed that the addition would only be to the back of the house.

Open to the Public - No public comments.

Mr. Tibbetts - Move to find that the application of Kerylynn Krahforst of 96 Turner Road for the extension on a pre-existing, non-conforming single family dwelling increasing the gross floor area by more than 20% is not substantially detrimental to the neighborhood is granted and as in compliance with the plan by Morse Engineering dated 12-19-19 entitled proposed addition at 96 Turner Road.

Mr Cavanagh - Second.

All in favor - Unanimous.

**Fourth Application: Brian O'Neill, Sr., Esq. of 35 Gannett Road, Scituate, MA** requests a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6, and/or Section 810.2 of the Scituate Zoning Bylaw to raze and reconstruct a pre-existing, non-conforming accessory structure increasing the gross floor area by more than 20%. The property is located at **35 Gannett Road, Scituate, MA. (Assessor's Map 15, Block 4, Parcel 7).**

Representing the Applicant - Brendan Sullivan of Cavanarro Consulting

Mr. Brendan Sullivan - Described the property and the proposed raze and reconstruction of the garage. The home is conforming the garage is non-conforming (in setbacks) and he stated that they would maintain the current setbacks.

Mr. Brian Sullivan - Proposed that because the structure is being razed that it be moved to bring it to conforming as there is plenty of room to do so.

Mr. Tibbetts - Asked for confirmation that it is going to be completely razed and that they would not be maintaining any of the existing structure.

Mr. Sullivan - Read from the Bylaw regarding rear setback in the R3 zone. He interpreted that accessory structures are exempt from the setback requirement.

Mr. Bucchere - Asked Mr. Sullivan to confirm the size increase.

Mr. Brendan Sullivan - Stated that it is currently a 20x20 and would be increasing to a 24x24.

Mr. Bucchere - Questioned whether or not the increase would make it more detrimental?

Mr. Tibbetts - Stated that it would not be if they were just adding to it but they are razing and reconstructing.

Mr. Cavanagh - Asked to confirm if there was an existing driveway.

Mr. Brendan Sullivan - Confirmed.

Mr. Tibbetts - Asked why he would not want to make it conforming.

Mr. Brendan Sullivan - Stated that the applicant wanted to leave it in the same footprint as it has been there since 1910.

Mr. Brian Sullivan - Stated that it is an opportunity to eliminate a nonconformity or at least significantly reduce an existing one. Also, in terms of fire safety it is better to have more room around to the back of the building than less.

Mr. Brendan Sullivan - Asked the Board if he could set it back in a manner so that the area of the nonconformity remains the same.

Mr. Tibbetts - Asked if there was a compelling reason not to make it more conforming, ie ledge or trees?

Mr. Brendan Sullivan- Stated there was not tree or ledge.

Mr. Tibbetts - Stated that he would like to have a more compelling reason to grant the relief.

Mr. Brendan Sullivan - Will talk with the applicant to see if there is a compelling reason to keep it in the same footprint. Also, will continue to the next meeting and resubmit if they still want to increase the size and if not will withdraw.

Open to the Public - No public comment.

Mr. Brian Sullivan - Move to continue the hearing of Brian O'Neill, Sr., Esq. of 35 Gannett Road, Scituate, MA to the February hearing.

Mr. Cavanagh - Second.

All in favor - Unanimous.

**Fifth Application: Natalie A. O'Connell of 94 Lawson Road, Winchester, MA** requests Special Permit/Finding pursuant Scituate Zoning Bylaw to allow the extension of a pre-existing, nonconforming single family dwelling increasing the gross floor area by more than 20%. The property is located at **31 Eleventh Avenue, Scituate, MA. (Assessor's Map 39, Block 5, Parcel 30).**

Representing the Applicant - Attorney Jeff DeLisi, Greg Morse of Morse Engineering and Paul Townsend, Builder.

Attorney DeLisi - Described the project and listed the non-conformities and how the project would eliminate the front and right setback nonconformities.

Mr. Tibbetts - Stated that the project would make the structure conforming and that you cannot change the nonconformity of a lot because you cannot make the lot bigger.

Open to the Public - No Public Comment.

Mr. Sullivan - Move to grant the applicants request Special Permit/Finding pursuant to the Scituate Zoning Bylaw section 810.2 and under 40A Section 6 that the proposed razing and reconstructing of the dwelling at 31 Eleventh Avenue will not be more substantially detrimental to persons and property in the neighborhood and move to grant the requested floodplain special permit to the extent that it applies to this project.

Mr. Tibbetts - Second.

All in favor - Unanimous.

**Lawson Green SLR, Limited Partnership c/o the Grantham Group, LLC** requests a **Modification to the Comprehensive Permit** for Lawson Green Apartments that the departure for LEED certification in favor of Energy Star efficiency design standards does not constitute a substantial change from the requirements imposed by the Comprehensive Permit issued February 2018. The request for insubstantial administrative changes is on file with the ZBA for the project located at **0 Central Park Drive, Scituate, MA (Assessor's Map 38, Block 1, Parcel 16).**

**Present - Michael Cucchiara of the Grantham Group.**

**Mr. Cucchiara** - Explained the request to change from LEED certification to Energy Star and seeks a finding that this change does not constitute a substantial one from the requirements imposed by the Comprehensive Permit dated February 2018.

Mr. Bucchere - Asked for an explanation for the change.

Mr. Cucchiara - Explained the reason for the change and that the Energy Star Standard would deliver a higher performing building from an energy consumption perspective. Also, other items; the building and site plans are acceptable as submitted, that the town is assigning an official address to the property, and there is no need to create easements(something that was in the comprehensive permit) and that we haven't created any easements.

Mr. Bucchere - Asked for clarity regarding the easements and what easements they were approving.

Mr. Cucchiara - It was just a reservation of authority to approve under the comprehensive permit to the Board.

Mr. Cavanagh - Stated that prior to entering into any easements they would have to propose the easements to the Board., subsequently they would have to be put on the plan.

Mr. Tibbetts - Stated that there were not any easements on "it" and that they did not put any on "it".

Mr. Cucchiara - Confirmed. There is an easement in the ground lease they have with the Housing Authority which is not a recorded easement, if they change from those they would have to come before the Board to ask for permission to do that,

Mr. Bucchere - Expressed concern that they were asking to eliminate what was a specific condition in the already approved comprehensive permit especially when doing so when that's not really what was listed in the hearing feels like that should be two separate things at the very least and it does not sound like you are modifying any easements now. So maybe if and when you were or maybe if we were going to change this to that condition that was contained in the comprehensive permit the Board acknowledges that that shall not apply to utility easements. That makes sense to me but just insubstantial change into insubstantial in for throwing in a complete deletion of what was in the permit in three sort of jumps out at me.

Mr. Sullivan – Stated that he felt they were reading too much into what was a benign sentence. He did not disagree with them asking to review this, but based on the property what easements could or would they be able to do?

Mr. Bucchere – Stated that he was unsure if the applicant even had the right to grant easements other than easements for the purposes of constructing this development.

Mr. Cucchiara – Stated that this request came from extending the sidewalk from the town owned parcel next door and the investor attorney wants him to execute a lease agreement and an easement or a crop for that, but he also stated that they would not do that but would create a use agreement.

Open to the Public – No Public Comment.

Mr. Bucchere – Make a motion with the addition of the word pedestrian or utility to the Finding and Decision statements in the proposed Decision regarding the changes or approval of easements that the Board vote to find that the three proposed provisions regarding changes to easements, the address and the change from Leed Certification to Energy Star certification are not substantial.

Mr. Sullivan – Second.

All in Favor – Unanimous.

#### **IV. APPROVAL OF MINUTES**

Mr. Sullivan – Move to accept minutes for September, 2019.

Mr. Tibbetts – Second.

All in Favor – Unanimous.

Mr. Cavanagh – Move to adjourn.

Mr. Sullivan – Second.

All in Favor – Unanimous.

Meeting adjourned at 8:20 pm.

Respectfully submitted by,

Beth Heneghan