

# Town of Scituate

## ZONING BOARD OF APPEALS

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Decision of the Scituate Zoning Board of Appeals on the application of Richard H. Spence for a finding under M.G.L., c. 40A § 6 and a special permit in accordance with Section 810.2 of the Scituate Zoning Bylaw to allow the extension of the pre-existing non-conforming single family dwelling at 54 Dreamwold Road, Scituate, Massachusetts.

The application was received, advertised and a public hearing was duly held on January 21, 2016 with the following members of the Zoning Board of Appeals hearing the application:

Sara J. Trezise  
John Hallin  
Francis M. Lynch

The property that is the subject matter of this application is located in the R-2 Residential District. The property does not lie in the Town of Scituate Flood Plain and Watershed Protection District, nor does the property lie in the Town of Scituate Water Resource Protection Zoning District.

At the time of the application, title to the premises was in the name of Richard H. Spence and Jeanne M. Spence, Trustees of Grove Street Realty Trust by way of a deed dated December 28, 2015 and recorded with the Plymouth County Registry of Deeds in Book 46443 Page 292.

The premises contain 19,406, more or less, square feet of land and contain 115 feet of frontage and lot width along Dreamwold Road, a public way. The R-2 Residential District requires 20,000 square feet lot area and 100 feet of frontage and 125 feet of lot width. In addition, the R-2 Residential District requires a 30 feet front setback, 15 feet side yard setbacks, 8 feet rear yard setback for detached accessory structures and 30 feet rear yard setback for all other buildings.

The lot was created by a plan dated June 10, 1924, as revised to June, 1925, which plan is recorded with the Plymouth County Registry of Deeds in Plan Book 3 Page 781.

The existing dwelling located upon the lot was constructed in 1931. The existing dwelling currently meets all set back requirements of the Town of Scituate Zoning Bylaw; however, the lot upon which the dwelling sits is nonconforming as to lot area and lot width. Both the lot and the existing dwelling therefore, are pre-existing and non-conforming to the bylaw as to its lot area and lot width.

At the January 21, 2016 public hearing, the Board reviewed with the Applicant a plan drawn by Morse Engineering Company, Inc. of Scituate, Massachusetts dated January, 21, 2016 ( hereinafter "the Application Plan"). The proposal calls for the addition of a garage and two story addition on the northerly side of the dwelling that will meet both the front yard and side yard setback requirements of the bylaw.

At the public hearing, no one spoke in favor or in opposition to the Application.

The case of Gale v. Zoning Board of Appeals of Gloucester (2012), allows the addition to a pre-existing non-conforming single family dwelling if the Board first identifies the particular respect or respects in which the existing structure does not conform to the present Bylaw and then determine whether the proposed reconstruction, alteration or addition would intensify the existing nonconformities or result in additional ones. If the answer to that inquiry is in the negative a finding under Chapter 40A § 6 and Special Permit would be required.

Based upon the evidence presented, the Board finds that the both the lot and existing single family dwelling located at 54 Dreamwold Road are pre-existing and nonconforming to the bylaw as to lot area and lot width. The Board further finds that the existing dwelling meets all dimensional requirements of the Bylaw. The Applicant's proposal to construct a garage and two story addition to the single family dwelling is entitled to be reviewed by the Board pursuant to the terms of MGL c. 40A § 6, paragraph one.

The existing floor area of the dwelling is 1,533 square feet, and the proposed floor area of the renovated dwelling is 2,762 square feet, an 80.2% increase. Under Section 810.2 of the Scituate Bylaw, the alteration, reconstruction, extension or structural change to a nonconforming single or two family dwelling that increases the gross floor area by more than 20% requires a Board of Appeals finding under General Laws Chapter 40A, Section 6.

The Board found that the lot and single family dwelling located thereon is preexisting and nonconforming to the Scituate Zoning Bylaw as to lot area and lot width. The Board further found that the proposed addition meets all set back requirements of the bylaw and does not intensify existing nonconformities or result in additional ones.

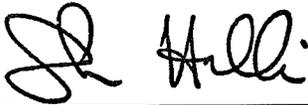
Pursuant to Section 950.3 of the Bylaw, the lot is appropriate for a single family dwelling. The use of the dwelling should not adversely affect the neighborhood, nor create any undue nuisance or hazard to vehicles or pedestrians. The town's Board of Health and the Building Commissioner will ensure that appropriate facilities are provided to assure the proper operation of the single family dwelling. The proposed use of dwelling will not have a significant impact on any public or private water supply, and the lot is not located within the Water Resource Protection District. In addition, the Board finds that the use reflects the nature and purpose of the use prevailing when the bylaw took effect, that there is no difference in the quality or character, as well as the degree of use, and the proposed use is not different in kind in its effect on the neighborhood.

For the foregoing reasons, the Board unanimously voted to GRANT the Applicant's request for a finding under MGL Chapter 40A § 6 and for a Special Permit to construct an addition to the single family dwelling by adding a garage and two story addition that meet all setback requirements of the Bylaw as shown on the Application Plan.

ZONING BOARD OF APPEALS



Sara J. Trezise



John Hallin



Francis M. Lynch

Filed with the Town Clerk and Planning Board on February 23, 2016

This Special Permit 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. Chapter 40A, Section 17, and shall be filed within twenty (20) days of the date of the filing of the decision with the Town Clerk.