

Town of Scituate

ZONING BOARD OF APPEALS

600 Chief Justice Cushing Hwy.
Scituate, Massachusetts 02066
(781) 545-8716



TOWN OF SCITUATE ZONING BOARD OF APPEALS Meeting Minutes

October 19, 2023

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TOWN CLERK

Present: George Xixis, Chair, Justin M. Marks, Christopher Carchia, Greg Fleming and Heath Fahle.

Also present: Robert Vogel, Scituate Building Commissioner

The Scituate Zoning Board of Appeals held a hybrid public hearing in the Select Board's Hearing Room in the Scituate Town Hall located at 600 Chief Justice Cushing Highway and was also accessible via Zoom on **Thursday, October 19, 2023 at 7:00 P.M.** to consider the following requests:

Mr. Xixis opened the Thursday, October 19, 2023 ZBA meeting by announcing that the Second and Third Applications would not be addressed during this meeting. The **Second Application (208 C J Cushing Way)** will be continued until the November 16, 2023 ZBA meeting and the **Third Application (330 Gannett Road)** was withdrawn from consideration.

First Application: Joanne B.C. DiNatale, 349 Hatherly Road, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 430.2 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow the expansion of the operation of a current bed and breakfast establishment to include two additional guest bedrooms. The property is located at **349 Hatherly Road, Scituate, MA 02066 (Assessor's Map 28, Block 23, Parcel 2)**.

Applicant Joanne B.C. DiNatale presented and reviewed the application status.

Ms. DiNatale stated that she has been operating a 2 bedroom B&B (Bed and Breakfast) out of her home since being approved for a Common Victualler's License and Innholder's License by the Select Board in July of 2023. Ms. DiNatale indicated that she was prompted to seek approval for the additional guest bedrooms based on inquiries/requests from family and friends.

The **Board** questioned Ms. DiNatale on the licensing she received from the Select Board, as the licensing information was not included in Ms. DiNatale's application to the ZBA. There was discussion as to the definition of a B&B vs. an Inn, which concluded with the recognition of Ms. DiNatale's current operation as a licensed B&B. Per the Town of Scituate Zoning Bylaws, a B&B is defined as "A dwelling which includes the renting of rooms at a daily rate (whether or not billed or paid daily), wherein the rental rate includes a breakfast meal in the daily rate, and wherein the owner or operator maintains a place of principal residence. Hotels, motels, inns and lodging houses (or boarding houses) are not classified as

bed and breakfast establishments.” Ms. DiNatale is in full-time residence at 349 Hatherly Road and serves breakfast to her guests.

349 Hatherly Road is located in a R-2 zoning district. The operation of a B&B is allowable in an R-2 zoning district, if no more than 2 bedrooms are to be rented. A Special Permit from the ZBA is needed should a B&B operating in an R-2 zoning district wish to let additional rooms.

Mr. Xixis asked Ms. DiNatale if any part of the property is in use for other commercial means. Ms. DiNatale responded that she has a studio in which she sees salon clients, once or twice a week. Mr. Carchia questioned the use of the property as a “salon”. Ms. DiNatale stated that she has a salon in Norwell and that she sees a few clients in the studio on her property, one or two days a week. Mr. Vogel confirmed that Ms. DiNatale’s use is a “by right” use, per the Town’s Zoning Bylaws.

Mr. Carchia indicated that the Tax Assessor’s property record shows Ms. DiNatale’s house as having 4 bedrooms. Ms. DiNatale responded that she has 5 bedrooms and that she has owned the house since 2001 and has not added any additional square footage. It was agreed that Ms. DiNatale needs to speak with the Town Tax Assessor to have the property record corrected.

Meeting was opened for public comment –

Mr. Joe Campbell (abutter @ 15 Hood Road, Scituate, MA 02066) -- asked the Board how many B&Bs are currently operating in town. Mr. Xixis deferred to Mr. Vogel, who indicated that this B&B might be the only one that fits the criteria specific to a B&B, but that there have been others. Mr. Campbell also questioned whether or not B&Bs are allowed in a R-2 zoning district.

Mr. Campbell voiced his public safety and quiet enjoyment concerns regarding the operation of a transient rental concern, in his neighborhood.

Later in the meeting, Mr. Campbell questioned whether or not the business licenses that Ms. DiNatale applied for and was approved for by the Scituate Select Board would convey with the house, should it be sold. Mr. Xixis explained that the licenses are specific to Ms. DiNatale and would not convey with the house.

Ms. Patricia Lambert (Chairman, Scituate Planning Board) – (on-line) allowed that B&Bs fall into 2 separate categories, according to MGL c.64 Section 1. The categories are defined, as follows:

“Bed and breakfast establishment”, a private owner-occupied house where not less than 4 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.

“Bed and breakfast home”, a private owner-occupied house where not more than 3 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.

It was determined that Ms. DiNatale currently operates a B&B “home”.

Ms. Lambert also expressed concern over sufficient parking and shared her experience with fielding complaints made by Scituate residents regarding AirBnBs.

Mr. Peter Miller (abutter @ 353 Hatherly Road, Scituate, MA 02066) -- expressed his full support of Ms. DiNatale’s B&B.

Ms. Jill Dishong (12 Mordecai Lincoln Road, Scituate, MA 02066) -- expressed her full support of Ms. DiNatale's B&B.

Mr. Xixis and the **Board** concluded that Ms. DiNatale's application could not be decided upon, given the discrepancy between Ms. DiNatale's count of bedrooms (5) and the Town of Scituate Tax Assessor's count of bedrooms (4).

APPROVAL OF CONTINUANCE

Mr. Xixis made a motion to continue the Board's consideration of the Application of **Joanne B.C. DiNatale, 349 Hatherly Road, Scituate, MA 02066**, requesting that Ms. DiNatale meet with the Town Tax Assessor and present her findings at the next meeting of the Board.

Motion seconded by **Mr. Carchia**, all in favor, unanimous.

APPROVAL OF MEETING MINUTES

Mr. Xixis made a motion to approve the August 17, 2023 minutes. Motion seconded by Mr. Carchia, all in favor, unanimous.

APPROVAL OF ZBA Decisions

Mr. Xixis made a motion to approve ZBA Decisions for the following Applications:

- 38 Hawley Road
- 1 Tilden Avenue
- 0 & 747 Country Way
- 22 Salt Meadow Lane

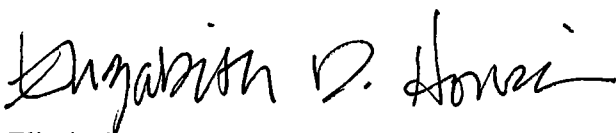
Motion seconded by Mr. Carchia, all in favor, unanimous.

ADJOURNMENT

Motion to adjourn by Mr. Xixis and seconded by Mr. Carchia, all in favor, unanimous.

Meeting adjourned at approximately 7:55 p.m.

Respectfully submitted by



Elizabeth D. Howie