



Town of Scituate
Planning Board

**Flood Plain & Watershed Protection District Special Permit – Determination of Suitability
156 First Parish Rd.**

Decision: **APPROVED with Conditions**
Date: March 18, 2008
Owner/Applicant: 156 First Parish Road LLC
Location: Assessor's Parcels 49-2-1
Plans: Plan of Land for 156 First Parish Rd. in Scituate, Mass. by Ross Engineering Company, Inc., dated February 7, 2008

Members Hearing Special Permit: Donald Walter, Chairman; William Limbacher, Donna Chisholm, Mary Patricia Brennan, and Mark Fenton

Background: The property contains approximately 2.03 acres. It is located in the Residential A-2 and A-3 Zoning Districts and the Flood Plain and Watershed Protection Zoning District. The site is a vacant, wooded lot adjacent to the commuter rail train track.

A large portion of the property is located in the Flood Plain and Watershed Protection District, but only a small portion is in the FEMA flood plain. The applicant's surveyor has defined the boundary of the FEMA flood plain on the ground. The site is within the FEMA AE flood zone, with a base flood elevation of 23' NGVD 29. The 23' contour was located on the ground by field survey. The applicant requested a Flood Plain Special Permit confirming a finding under Section 470.9 of the Scituate Zoning Bylaw that the land is not subject to flooding.

Section 470.9 of the Zoning Bylaw, Determination of Suitability, states that if land in the Flood Plain and Watershed Protection District is proven to the Planning Board as being not subject to flooding and not unsuitable because of drainage conditions for a permitted use, the Planning Board may issue a Special Permit for the proposed use.

Procedural Summary: This request for a Special Permit was filed with the Town Clerk and the Planning Board on December 28, 2007. A Public Hearing before the Planning Board was duly advertised and notices sent to all abutters in accordance with MGL Chapter 40A. The hearing was opened February 14, 2008, and immediately continued to March 13, 2008, at which time the hearing was closed and the Special Permit was approved.

Hearing Summary: Atty. Greg Harris and Paul Mirabito, PLS, represented the applicant before the Planning Board. Mr. Mirabito explained that the boundary of the Flood Plain and Watershed Protection District was created without a field survey or any engineering studies. Mr. Mirabito explained the difference between the boundary of the Flood Plain and Watershed Protection District and the FEMA flood zone. The applicant was interested in building one house on this lot.

The Planning Board asked about the location of wetlands and if there was a foundation on the property.

Public Comment: A property owner at 150 First Parish Rd. said she got water in her basement. Robert Gosnell of 148 First Parish Rd. had concerns about flooding. He had groundwater come into his basement after major storms. He questioned whether the property was “not subject to flooding.” Mr. Mirabito said the flooding in question was surface flooding, not flooding from groundwater.

Decision: Based upon the information presented to the Board, a motion was duly made and seconded to approve the Special Permit with the following terms and conditions:

1. All improvements must be consistent with the requirements of the National Flood Insurance Program and the provisions of the Flood Insurance District.
2. All improvements must be consistent with those provisions of the State Building Code (780 Code of Massachusetts Regulations) pertaining to flood resistant construction, as interpreted through consultation with the Building Commissioner.
3. Any improvements shall not affect the natural drainage patterns of the watercourse.
4. The proposed construction shall comply with all requirements of the Board of Health, Conservation Commission, Department of Public Works, Fire Department, Water Department and Building Department.
5. There will be a maximum of one dwelling unit on Lot 2.

The Vote was as follows: All members voted in favor of granting the Special Permit with conditions.

The Planning Board certifies that it has complied with all statutory requirements of MGL Chapter 40A, Sections 9 and 11, and will file copies of this decision with the Town Clerk. The Planning Board further certifies that it has taken into consideration all testimony rendered at the Public Hearing, the comments and suggestions of other boards which have reviewed and made comments on the plans, and all plans and documents submitted by the applicant.

cc: 156 First Parish Rd. LLC
Paul Mirabito, Ross Engineering Co., Inc.
Neil Duggan, Building Commissioner
Paul Scott, Acting Director, DPW
Vincent Kalishes III, Conservation Agent