

Members Present: S. Woodworth Chittick, Chairman
Benjamin Lacy
Charles Higginson
Barbara Power
Peter Goedecke
Kathleen Hunter

Others Present: Jennifer Oram, Recording Secretary
Nancy White, Cohasset Mariner
Wayne Sawchuck, 432 Beechwood Street
John Tedeschi, Scituate, MA
Peter Brown, 38 Atlantic Ave.
Molly Pierson, 123 Atlantic Ave.
Chris Ford, 575 Jerusalem Road
John Cavanaro, 687 Main St. Norwell, MA
Marty Nee, 109 Atlantic Ave.
Dave Calhoun, 2 Sheldon Road
Tracey Merrill, 53 Highland, Ave.

Chairman S. Woodworth Chittick called the meeting to order at 7:30PM.

20-22 Lamberts Lane – (Kimberly and Angeline Luker) – seek to demolish an existing home, and construct a new home within the side setbacks. SP §8.7.2 - #07-04-10 – Sitting wc bl ch bp gp kh.

This application was withdrawn without prejudice.

40 South Main Street (Cohasset Hardware) (Nominee Trust, Inc.) – seeks to expand the existing building and add four apartments. SP §4.2 - #07-04-16. ALSO, a Variance – under §5.3 - #07-05-15 – Sitting wc bl ch bp pg kh.

This is a continued hearing from the month of May. The Board suggested the applicant file a Variance to address the 40,000 square foot requirement under §5.3. Attorney Charles Humphreys addressed the Board on behalf of his clients, along with Designer, Douglas Freisen, of Duxborough Designs. Mr. Freisen reminded the Board that they were in receipt of updated plans that now showed a room/space on the second floor that led up to the third floor dwelling unit. The space on the second floor exceeds the 72 square feet required by Massachusetts building code for a, and, according to Mr. Freisen, also met the requirement of Building Commissioner, Robert Egan. Chairman Chittick asked Attorney Humphreys to explain §5.4.6, and how the Board should apply it to this application. Attorney Humphreys stated that he felt this was an old Bylaw and that its original intent was to discourage third floor/attic apartments. He stated that nowadays, there are better fire trucks and rules in regard to fire safety. He stated that the apartment the applicant is hoping to build on the third floor of the building would not be substandard. Attorney Humphreys then addressed the Variance his clients applied for and reviewed for the Board his responses to the five conditions required to be met before a Variance is granted. Condition (a) – Attorney Humphreys stated that the lot is unique, being that the building covers 90% of it. In addition, the building is nearly 200 years old, and this building, in its present form, has been home to some form of business for nearly 120 years. Also, Attorney Humphreys stated that the lot is also uniquely shaped. Condition (b) – Attorney Humphreys stated that should the applicants not be able to

put dwelling units on the second and third floors, they would be deprived of the same use that their neighbor, and the majority of the other buildings in the Downtown Village District, have the advantage of. In addition to this test, the Bylaw also catches the applicant in that the restriction of the 40,000 square foot building in that area deprives them of even having two dwelling units on the second floor. Condition (c) – Attorney Humphreys stated that he does not feel there has been any change in the lot or the building since 1955. Condition (d) – Attorney Humphreys believes that the building is in substantial need of upgrading and a tremendous amount of work and attention would only be a benefit to the Village area. He also stated that he did not think that by granting the Variance it would go against the intent of the Bylaw. He stated that the intent of the Bylaw is for allowable uses, and the Town has spoken on how it wants to do that, and he feels this application meets that. Condition (e) – Attorney Humphreys stated that he did not feel that by granting this Variance the applicants would be receiving special privileges. He stated that the building needs renovation and work done now, and therefore the applicants are presently requesting relief now so everything can be done all at once.

Peter Brown, Chairman of the Economic Development Committee and a resident living at 38 Atlantic Ave., addressed the Board stating that it was no secret that the 40,000 square foot requirement is flawed, and that there are plans to change it in the coming Fall meeting. He said that he found the merits of what the applicants are proposing to be very positive from an Economic standpoint.

The Board asked the applicants to submit the plans with elevations, as well as the number of dwelling units that exist in the Village Business District within a week so the Board could use these items to draft the decision. In addition, the Board will be including language in regard to sprinklers at the request of the Fire Department. **Chairman Chittick moved to close the hearing with submissions forthcoming. Mr. Lacy seconded the motion, and the vote was unanimous. Barbara Power and Charles Higginson will draft the decision.**

251 King Street – (Joanne and Fred Higgins) – seek to build a screen porch in the setback. SP §8.7.2 - #07-04-30 – Sitting – wc bl ch bp pg kh

Mr. Higgins addressed the Board and reviewed his application stating that he was seeking relief so that he may build a screen porch on the right side of his home. He explained that the plans make it appear that there is 30 feet of frontage on his property, but it is actually 20 feet as a good portion of that land is Town owned. He stated that the trees that exist currently will remain, and that the neighbors most likely would not be able to even see the porch. **Chairman Chittick moved to close the hearing. Mr. Peter Goedecke seconded the motion, and the vote was unanimous. Ms. Kathleen Hunter will draft the decision.**

123 Atlantic Ave. (Wigmore and Molly Pierson) – seek to remove a failing septic system and grading to facilitate improved drainage. §9.7 - #07-05-14a – Sitting wc bl ch bp pg kh

Mr. John Cavanaro of Cavanaro Engineering in Norwell, MA, and Mrs. Molly Pierson of 123 Atlantic, addressed the Board. Mr. Cavanaro explained to the Board that they were there before them seeking relief under §9.7.4, which covers drainage improvements. He stated that they also seek relief under §9.7.6 as they are removing a failing septic system, and temporarily replacing it with another system. Mr. Cavanaro explained that instead of putting in a conventional type system, they are instead putting in a tight tank to protect the soil with the thought that sewer is pending in this area of Town. It is their hope that while doing this, they would take advantage of the situation and take this opportunity to

remediate some of the drainage issues in the back lot. Mr. Cavanaro then went into great detail in regard to the plans. He stated that currently, the property is suffering due to the lack of drainage. His plan is to elevate the back yard to elevation 10. He stated that this would still leave this yard at 2-3 feet below the neighbors on either side. They will also be removing the existing septic system, which is in about 4-5 parts, spread throughout the lot. He stated that the back yard borders a clam pit, and that the dunes keep getting higher, and because of this, they cannot send the water that accumulates in the back yard back to the ocean. Instead, he is proposing to raise the elevation, build swales and drainage that will ultimately send the excess water to Sandy Cove. Mr. Lacy asked why they had requested a Special Permit, to which Mr. Cavanaro explained it was so they could work within the floodplain, fill it and then make drainage improvements. Mr. Charlie Higginson asked what the height of the dunes were. Mr. Cavanaro stated that he did not have that data yet, but that their hope was to bring the elevation up, and actually extend the dune. Mr. Goedecke pointed out that the applicants would be before the Conservation Commission the next night, and that any decision should be contingent upon their approval. Chairman Chittick then asked if anyone in the audience wished to speak in favor or against the application. Mr. and Mrs. Ralph Dormitzer of 111 Atlantic Ave. stated that they were very much in favor of this plan, and had also submitted a letter in support. Mr. Peter Brown of 38 Atlantic Ave. stated that he too was in favor as the property and the applicants were clearly in need of relief. Mr. Marty Nee, a direct abutter who lives at 109 Atlantic Ave., stated that he was in very strong support of this plan. He stated that the Piersons had gone to great lengths to do the most environmentally friendly plan that would least impact the area. Mr. Nee strongly urged the Board to approve this application. Mr. Higginson asked what the height was of the pipe at Sandy Cove. Mr. Cavanaro stated 8.9 feet. Mr. Higginson asked what the height was at Atlantic Ave., and Mr. Cavanaro stated it was 7.5 feet. Mr. Chittick then asked Mr. Cavanaro to submit the TOPO information to the Board for use in drafting the decision. **Chairman Chittick moved to close the hearing with the pending submission. Ms. Kathleen Hunter seconded the motion, and the vote was unanimous. Mr. Charles Higginson will draft the decision.**

16-22 Depot Court – (Richard H. Brown, Jr. and Gina M. Brown) – seek to re-build a building that was destroyed by fire. SP §8.7.2 - #07-05-04 – Sitting wc bl ch bp pg kh.

Applicant and landowner, Richard H. Brown, and Attorney Tom Callahan, addressed the Board. They informed the Board that they had just closed the hearing with the Planning Board that evening. Mr. Callahan explained that the original building's footprint was tucked in to the corner of the lot, and that the closest it got to the rear lot line was 1.79 feet. Their new plans would be extending the existing nonconforming front setback by about 10 feet or so. Mr. Callahan explained that this was actually two lots and that gave them approximately 10,000 square feet of land. He went on to explain that at the rear portion of the building, they would be maintaining the footprint and not getting any closer than the existing 2 feet. The proposed height of the building is 34.5 feet. Mr. Lacy expressed concern with how close the proposed building would be to the building to the east of the proposed structure. He stated that even if the new building were 12 feet away from the existing building, it would still be considered very close. The Board asked the owner of the abutting property what he thought of the proposed plans. He stated that he felt that it was in the right of the land owner to do what he/she wanted with their property; but that he was very glad the Board was looking at the application closely. Chairman Chittick informed the applicants that the Board would be adding a condition regarding sprinkler systems at the request of the Cohasset Fire Department. Mr. Higginson asked that the applicants submit plans that showed the addition of the 10 feet in the front. He asked that the applicants to submit these plans to the Board before they draft the decision. **Chairman Chittick moved to close the hearing with the**

condition of an additional submission be given to the Board prior to drafting the decision. Mr. Goedecke seconded the motion, and the vote was unanimous. Mr. Benjamin Lacy will draft the decision.

53 Highland Ave. – (Tracy Merrill and Eric Wellmann) - seek to construct a second story addition to the existing garage – SP §8.7.2 - #07-05-14b

Ms. Tracy Wellman, and her Contractor, Mr. Jerry Terrio, addressed the Board. Ms. Wellman explained that her existing garage has a very short second story on it, and that the structure sits 14.5 feet within the setback. She stated that this part of the house is grandfathered in at the 14.5 feet. Additionally, Ms. Wellman has been before the Cohasset Common Historic District Commission and they have approved and signed off on her proposed plans. After a lengthy discussion, it was decided that Ms. Wellman did not need to rely on grandfathering on the existing garage setback. Chairman Chittick explained that you could be within 15 feet of the lot line, as long as you are not taller than 15 feet. To show this, he asked that they submit plans showing side elevations for the records. They agreed to do so. The applicants then went on to seek relief for the plan to go up one story above the garage. Mr. Terrio explained that currently, the ridge of the garage roof is 2 feet below that of the house, and that the height of the remodelled garage will still remain below the main roof. To show this, Mr. Terrio stated he would submit additional plans. Chairman Chittick stated that there were many reasons to say that this proposed construction would not be more detrimental to the neighborhood. However, in order to draft the decision, and to prove this, the Board would need the additional plans showing elevations and actual numbers for the proposed second story addition. The applicants agreed to submit those within the week. **Chairman Chittick moved to close the hearing with the condition that these additional submissions would be given to the Board prior to drafting the decision. Mr. Higginson seconded the motion, and the vote was unanimous. Chairman Chittick will draft the decision.**

2 Sheldon Road – (Kelli Calhoun) – Appeal of the Building Inspector’s Decision – Appeal - §5.3 - #07-05-17. Sitting – wc bl ch bp pg kh.

Attorney Walter Sullivan, and Surveyor, Douglas L. Aaberg, both of Norwell, MA, addressed the Board on behalf of the applicant, Kelli Calhoun. Attorney Sullivan stated that if you look at the definition of the Bylaw, and the deed, as Mr. Aaberg has done, you will see that the lot line of the property at 2 Sheldon Road is in the middle of the right of way. Mr. Sullivan went on to say that Mr. Aaberg has done a substantial amount of work on all of the lots that came from the same subdivision using a series of deeds that date back to 1870. Attorney Sullivan stated that if you take this outcome into affect, the location where the applicant proposed to build her garage is 30 feet from the lot line. He stated that the one common denominator is that the Bylaw refers to street, and Sheldon Road is a ‘right of way’ that serves six lots. Attorney Sullivan stated that with this information before the Board, he submits that the proposed construction satisfies the 30 foot set back requirement. Chairman Chittick stated that he did not agree with Attorney Sullivan, and that if you go down a private way, which happens to be a street, the location of the front lot line does not matter. Chairman Chittick went on to say that §5.2.6 does not talk about private ways and that the front setback distance does refer to “street”. Attorney Sullivan stated that he felt the definition of “street” was much more restrictive than the definition of “right of way”. There was then a lengthy conversation about whether Sheldon Road actually is a street or a actually a right of way. Attorney Sullivan feels that Sheldon Road is a right of way. Chairman Chittick asked what this would mean for the other people who lived on Sheldon Road. If this were the case, then they would not have frontage. And, if a neighbor should want to build something on their

property, they won't be able to because you have to have frontage to build. He stated that it would be one thing if Mr. Sullivan's point was that if Mr. Calhoun's property was unique, but the fact is that this sort of definition would affect many people in town on other right of ways, as well as Mr. Calhoun's neighbors and direct abutters. Attorney Sullivan stated that he was saying that all of the properties were unique. There was then another lengthy conversation, after which Attorney Sullivan stated that he would get further documentation and interview the abutters to see what their interpretation of Sheldon Road is. **Chairman Chittick then moved to continue the hearing. Mr. Lacy seconded the motion, and the vote was unanimous.**

Other Business

The Board then read aloud the Deutsch/Williams response to Mr. Robert Egan's request for clarification on the meaning of height and where it should be measured from.

The next Zoning Board of Appeals Meeting will be held on Tuesday, July 10, 2007 at 7:30PM.

Chairman Chittick moved to close the hearing. Mr. Goedecke seconded the motion, and the vote was unanimous.

Meeting adjourned at 11:45PM.

Respectfully submitted,

Barbara M. Power
Clerk