

Members Present: S. Woodworth Chittick, Chairman
Benjamin H. Lacy, Vice-Chairman
Charles Higginson
Peter Goedecke
Susan Kent

Member Absent: David McMorris

Others Present: Jennifer Brennan Oram, Assistant Zoning Clerk

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

Board Business

Minutes – Chairman Chittick moved to approve the minutes of April 4, 2011 and May 9, 2011 as amended. Mr. Charles Higginson seconded the motion and the vote was unanimous.

Chairman Chittick moved that the Board go in to Executive Session for the purposes of discussing pending litigation and that such discussion, if held in open session, could compromise the ZBA’s strategic position with respect to litigation. The Board will come out for open session. Mr. Benjamin Lacy seconded the motion.

Mr. Higginson – Aye
Ms. Kent Aye
Chairman Chittick – Aye
Mr. Lacy – Aye
Mr. Goedecke

The Board came out of Executive Session at 7:45PM.

Order or Remand of the application for a COMPREHENSIVE PERMIT / CHAPTER 40B – Filed by Wilmarc Charles seeking to build 7 (seven) residential units in the existing single family residence of 25 Ripley Road. Chapter 40B sections 20-23, SP §5.3. File #10.06.23.

The Board had a brief discussion regarding the property at 25 Ripley Road and what would happen if the property should sell. There are presently signs indicating the property is for sale. Members of the audience asked questions regarding the process if the permit were to be granted and if the property were to be sold. Chairman Chittick stated that there is a lot of speculation, but that the Board was not aware of any more information than the abutters. He stated that the Board would be continuing the hearing. Ms. Kathy O’Malley of 53 Sohler Street stated that she did not understand why the Board would continue the hearing. Chairman Chittick stated that he could not discuss strategy, but said the Board is expecting a new site plan because the project has changed. **Mr. Lacy moved to continue the hearing. Chairman Chittick seconded the motion and the vote was unanimous.**

SPECIAL PERMIT – Filed by Peter Dennigan who seeks to build an addition to 92 Atlantic Avenue.
§8.7.2. File #11.01.07.

Chairman Chittick opened this continued hearing. He stated that several submissions had come in to the Board since the last hearing and reviewed them for the Board. Applicant, Peter Dennigan, stated that he was not an engineer, but that he disagreed with the letter from Attorney De Lisi dated May 5, 2011, that reviews the drainage history of the property. Mr. Dennigan stated that he has lived at the property for ten months and that a great deal of the water that flows down on to his property comes from the Macklin property located behind him. He stated that he had issues not only with water run off, but also silt etc. that flows down off of the Macklin property and down the right of way. Mr. Dennigan's Engineer, Mr. Gregory Morse, addressed the Board and said that he had spoken to John McCallister of Norfolk RAM Engineering (the Town's Stormwater Agent) and discussed with him whether or not the application triggers the need for a stormwater permit. Mr. McCallister stated that the proposed project would not trigger the need for a stormwater permit as they are not disturbing more than the required amount of soil. Mr. Morse then reviewed the project for the Board. The proposal is for an addition and a new driveway. They will be removing an impervious patio and a concrete slab, so overall they will be having a reduction in impervious material. Mr. Dennigan stated that he understands the concerns of the neighbors across the street in regard to run off and feels that they are addressing those concerns in their plans. In the letter of May 5, 2011, the Macklin's are asking Mr. Dennigan to make significant changes to the parking area and right of way to address the water that is running off of their and everyone else's property and he does not think that is fair. Mr. Dennigan reviewed other requests in the May 5th letter. Request number 1 requiring him to plant additional screening; Mr. Dennigan stated that there is enough screening there already. Number two, he does have an entrance proposed, but none of the others, patios, decking etc. will be put in. As for number 3, there is no request for discharge points and Mr. Dennigan stated that the Macklin property is above his property. Number 4 requiring an as built plan to be filed is not a problem, nor is request number 5. Mr. Morse addressed the Board and stated that they are seeking a Special Permit for §8.7 and reviewed what conditions they have to meet. Mr. Morse stated that he was fairly confident that they can show that this project is not a detriment to the community. The new driveway would be safer for the applicant as the current surface becomes very icy. In addition, they are putting in a crushed stone leaching system and a recharge system to address the water concerns. Mr. Dennigan stated that he felt that he is being fair with additional items they are implementing to address a problem that is not his own. Mr. Lacy asked about the driveway. He stated that according to Cavanaro Consulting's calculations, the driveway of crushed stone would still produce more run off than grass would. On the other hand, they are putting in a 40 foot French drain. Mr. Lacy asked if they had figures that would show whether or not this would more than compensate for the water run off. Mr. Morse reviewed the calculations and showed the Board how he arrived to them. He then explained how the trench would work to intercept the water run off. Mr. Morse then reviewed the letter from Mr. Cavanaro that addressed his drainage calculations. Mr. Morse stated that there is more than one way to design a drainage system. Mr. Higginson then asked about the overhang on the back of the house and what the percentage of increase of structure would be within the setback. The applicant stated it was 600 square feet within the setback and that it would be essentially doubling what is currently in the setback.

Chairman Chittick asked to hear from the Macklin family; the rear abutters to the property. Attorney Jeffrey A. De Lisi addressed the Board on behalf of Steve and Marie Macklin and stated that he was here this evening with Carmen Hudson of Cavanaro Consulting. Attorney De Lisi stated that he was trying to point out in the letters of May 5th and 25th is that there is a lot going on this property. He added that the Macklin family is very familiar with the property as they owned it for six years. He stated that Carmen

Hudson would be addressing the drainage. He feels the issues are with the lot coverage and that seems to have been addressed. Attorney De Lisi said that his clients are pleased that through this hearing process, this has become a better project. There was then a lengthy discussion about whether §9.7.8 would apply and if the property was subject to tidal action. After some discussion, Chairman Chittick stated that he did not feel the property was subject to tidal action. Attorney De Lisi stated that the point he was trying to make was that the applicant was exceeding the allowable amount of impervious material and that the applicant needs to provide those calculations to the Board. Attorney De Lisi also feels the applicant has to demonstrate that the property is a pre-existing non-conformity. He also feels that is not a necessity for the applicant to have a garage; it is convenient. Attorney De Lisi then asked Carmen Hudson to address the Board. Ms. Hudson stated that the area in question is afflicted by the existing condition of stormwater issues. She stated that it is an existing condition that afflicts all of the properties and that is why they have been reviewing the stormwater run off on this property. Ms. Hudson stated that Mr. Morse had contacted John McCallister of Norfolk Ram and Mr. McCallister has determined that this project will not trigger the need for an application under the Stormwater Bylaw and that the Conservation Commission will only be looking at the application in regard to Wetlands. Ms. Hudson then went over the calculations provided to her by Mr. Morse in great detail for the Board. She states that her calculations do not match Mr. Morse's. Chairman Chittick told Ms. Hudson that she has made some good points and that perhaps Mr. Morse could provide some clarifications. He stated that she could compare her calculations to Mr. Morse's and show the Board if they come out to a different place than his and how significant the differences are. Ms. Kent asked Ms. Hudson if what they are proposing is better than what exists now, and if the proposed driveway were to be installed, would that be a plus or minus [of water run off]. Ms. Carmen stated that without running the calculations, her guess would be that it would not be [less run off].

Mr. Steve Macklin of 86 Atlantic Avenue stated that he is not against the applicant, but he and his mother feel there are safety and water run off issues that need to be looked at. He said that he accesses the driveway every day and has concerns about the existing right of way and the proposed driveway. Mr. Goedecke stated that he did not feel there was merit to the argument that the proposed driveway would increase the danger to the area. Mr. Dennigan would be moving his cars from the right to the left of the house and it would be the same amount of cars. Mr. Macklin stated that through all of this process, their real concern is the 950 square foot addition. Ms. Leila Hill of 40 Atlantic Avenue stated that she was concerned about the direction of the meetings and that they may be prohibiting a landowner to choose how he wishes to access his property. She stated she agrees that there is water problem, but other neighbors contribute to that. She does see Mr. Macklin's concern regarding the new location of the driveway.

Chairman Chittick moved to continue the hearing and that Cavanaro Consulting provide an analysis of the calculations. Mr. Goedecke seconded the motion and the vote was unanimous.

SPECIAL PERMIT – Filed by James Kelliher of Axiom Architects, on behalf of landowners Hugh and Pamela Kelly, seeks to extend the existing building along the non-conforming rear setback of the existing guest house at 15 Border Street, §8.7. File #11.05.13.

Architect, James Kelliher of Axiom Architects, and landowners Hugh and Pamela Kelly addressed the Board. Mr. Kelliher gave the history of the structure. It was originally a barn and in 2003 it was rebuilt in to the existing guest house/garage. They want to extend the garage to allow them to have two cars instead of the existing space that only allows 1.5 spaces. They are asking to extend the existing one foot nonconformance and increase it by 15 feet to allow for new space. He is also putting on a hip roof

around the West side, but it will not be any closer than the existing overhang. The applicants also asked that for the record the advertisement be expunged or corrected as this was not to raze and reconstruct, but just an extension of the existing building*. After no further discussion, **Chairman Chittick moved to close the hearing. Mr. Geodecke seconded the motion and the vote was unanimous.**

***Advertisement language was a clerical error.**

Mr. Lacy moved to adjourn the meeting. Mr. Higginson seconded the motion and the vote was unanimous. Meeting adjourned at 10:24PM.

Respectfully submitted,

Jennifer Brennan Oram
Assistant Clerk, Zoning Board of Appeals

Documents:

92 Atlantic Avenue

Letter from Attorney Jeff De Lisi dated May 5, 2011

Packet from applicant's Engineer, Gregory Morse dated May 25, 2011

Letter from Attorney Jeffrey A. De Lisi, dated May 25, 2011, received by the ZBA on May 27, 2011 with attached letter from Cavanaro Consulting, dated May 17, 2011.