

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

Member Absent: David McMorris

Others Present: Attorney Jan Gould, Town Counsel’s Office
Jennifer Brennan Oram, Selectmen’s Clerk

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

Board Business

The Board confirmed that their next meeting will be held September 12, 2011.

Mr. Charles Higginson 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. Chairman Chittick seconded the motion.

**Mr. Mc Higginson - Aye
Ms. Kent - Aye
Chairman Chittick – Aye
Mr. Lacy – Aye
Mr. Goedecke - Aye**

The Board came out of Executive Session at 7:56PM.

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

Chairman Chittick asked if everyone had received the letter from dated July 21, 2011 from Mark Bartlett of Norfolk RAM. Attorney Creed, representing the applicant, stated that they had not received it. Chairman Chittick suggested they take a recess to read the document but that the Board did not expect them to fully address it as they had just received it. He stated that there are issues that need to be addressed by the applicant one being the fact that the property is in the Town’s Water Resource District (WRD). The applicant will need to either receive a Special Permit from the ZBA under §14.3.2 or request a waiver. In the letter, Mr. Bartlett states that conditions requiring a special permit could apply to this property including the storage of home heating fuels on-site. Attorney Creed and his client took a recess to review the letter.

Attorney Creed and his client returned from the recess. He sated that they could answer one of the question right away and that is that the property is served by natural gas and hence does not store any home heating fuels on site.. He stated that the issue of the WRD is an entirely new issue and not part of the remand order and that he was stunned that after expenditure of \$500 dollars this is the information

they receive: that they are all of a sudden in the Water Resource District. He stated that at best this is a repair to an existing structure and that saying they are in the WRD is a stretch. Attorney Jan Gould of Town Counsel's Office stated that the reason that this issue has not come before the Board before is that the applicant had not submitted the funds to allow for this type of review. Attorney Gould stated that for Attorney Creed to state that they do not have to address this issue is ludicrous. Mr. Higginson stated that if the review comes up with something, the Board can ask the questions. Attorney Creed stated that the order from Ms. Ellman-Pearl at the HAC was to review drainage; everything else is way beyond that and on the face it does not apply. Attorney Gould asked to clarify that the applicant did not want to request a waiver of the requirement of a special permit under Section 14.2.3. Attorney Creed stated that they had just received this letter tonight and that he would like, from this point forward that someone confirm he receives all reports. Chairman Chittick stated that they have answered one question tonight and that is that the property will be serviced by gas. He stated that the applicant will need to clarify if they are going to try to qualify for a special permit or request a waiver. Chairman Chittick then asked for clarification on the newest set of plans and Mr. Creed confirmed that the page 3 of 3 should be referred to going forward as the "Utility Plan". The applicant requested a continuance to the September 12, 2011 meeting.

Chairman Chittick asked if anyone wished to speak. Attorney Daniel Hill addressed the Board on behalf of neighbors and abutters. Attorney Creed stated that he would like a list of the people Attorney Hill represents. Attorney Hill stated that it is on the letter he submitted to the Board on December 10, 2010 and that he cc's: Attorney Creed on all of his documentation. Attorney Hill asked who the additional representative was sitting with Attorney Creed and Mr. Charles. Mr. Peter Longley of 12 Rustic Drive introduced himself as a Licensed Architect and a friend of Mr. Charles. Attorney Hill (?)asked if he was the Architect on this project. He stated he was not. Attorney Hill then stated that the applicant had withdrawn his request for the wavier of the requirement of a special permit under Section 14.2.3 on February 7, 2011 and therefore they do not need to go back. In regard to the Stormwater, Attorney Hill stated that they are thoroughly disappointed in the review by Norfolk RAM. He said that the presenting officer at the HAC instructed the developer to submit the lot coverage calculations and how the project complies. He stated that what has been submitted thus far does not provide any stormwater utility and that the materials being used should be looked at more closely. Attorney Hill stated that this was not what the HAC asked to happen. He requests that Mark Bartlett of Norfolk RAM be present September 12th to answer these questions directly.

There being no further discussion, Ms. Kent moved to continue the hearing until September 12th. Mr. 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. Lacy seconded the motion.

**Mr. Mc Higginson - Aye
Ms. Kent - Aye
Chairman Chittick – Aye
Mr. Lacy – Aye
Mr. Goedecke – Aye**

The board came out of executive session at 8:50PM.

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

Mr. Lacy moved to continue the hearing until September 12, 2011. Mr. Goedecke seconded the motion and the vote was unanimous.

Modification to an existing SPECIAL PERMIT – Modification request filed by McKenzie Engineering Group, Inc. as the representative of Thomas Sullivan, the landowner. The Board had granted a Special Permit with conditions under §§8.7.2 and 9.11.2 to raze and reconstruct the dwelling at 82 Whitehead Road, according to the application and decision on file in the Town Clerk’s Office. File #10.11.10.

Mr. Al Loomis of McKenzie Engineering addressed the Board along with builder, David Drake. They are reducing the approved footprint of the structure by 200 square feet. They are also moving the structure back from the beach 11 (eleven) feet from the previous location. They are doing this to address a concern for the coastal dunes that arose during their Conservation Commission hearings. Mr. Higginson asked if the Southwest corner of the project has changed. Mr. Loomis stated that it is roughly the same after the land swap occurs. Mr. Higginson reminded the applicant that the right of way has to be agreed to and approved by all of the abutters. Mr. Loomis stated that they will have to prepare a plan for the Planning Board to show the land transfer and when they do so, they can show the right of way on the plan and have it recorded. They plan on recording it in the very near future. **Chairman Chittick moved to close the hearing and approve the modification. Ms. Kent seconded the motion and the vote was unanimous.**

Chairman Chittick will draft a modification to the existing decision and will have it filed.

Mr. Lacy moved to adjourn the meeting. Ms. Kent seconded the motion and the vote was unanimous.
Meeting adjourned at 9:24PM.

Respectfully submitted,
Jennifer Brennan Oram

Documents:

Letter from Mark S. Bartlett of Norfolk RAM, dated July 21, 2011
December 10, 2010 letter from Attorney Daniel Hill