

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

Others Present: Jennifer Oram, Recording Secretary
Attorney Richard Henderson

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

HEARINGS

34 Bancroft Road (Vincent and Tracy Longo and Typhoon Realty Trust, LLC). Order of remand from the Massachusetts Land Court. File #07-08-13. Sitting wc bl ch bp ph kh.

Attorney Richard Henderson reviewed this case that had been before the Board in December of 2006 and January of 2007 (File #06-10-26). The applicants filed for an Appeal of the Building Inspector's Denial of a building permit. The application was originally filed as an Appeal, but was then amended and the applicants then sought a Special Permit. In the Board's decision that was filed on March 12, 2007, the Board voted unanimously for the following: 1.) Denied the proposed construction of a single family dwelling on Lot #1. 2.) Approved the proposed construction of a single-family dwelling and garage on Lot #2 and 3) Ordered that the use of the existing building at 34 Bancroft Road as a 2-family house must cease within six months unless said lot is enlarged enough to qualify it for a 2-family dwelling per Section 5.3.1. The applicants appealed the decision to the Massachusetts Land Court. The Board's opinion was upheld, however at the case management conference held on July 18, 2007, the Judge 'remanded to the Defendants for a new hearing on the issue of the legal status of the house located at 34 Bancroft Road'. Attorney Henderson submitted a lengthy document at the hearing entitled, 'Chronology of Important Dates' (document on file in the office of the Zoning Board of Appeals). After reviewing it for the Board, Chairman Chittick asked if what he was saying was that even if a family member occupied the other side of the two-family, it would not matter; all that matters is that it was occupied in 1985 because that is when the nonconforming rights were established. Attorney Henderson stated that the clients want the property to be reestablished as a valid pre-existing nonconforming structure just as it was when they purchased it in 2003. Chairman Chittick asked if there was anyone in the audience that wished to speak for or against the application. Mr. Henry Rattenbury of 7 Briarwood Lane stated that he has talked with Mr. Longo and that he is fine with whatever the Longos plan to do with their lots; he just asked that they respect their neighbor's privacy. **Mr. Benjamin Lacy moved to close the hearing. Mr. Goedecke seconded the motion, and the vote was unanimous (Chairman Chittick – Aye, Mr. Lacy – Aye and Mr. Charles Higginson – Aye).**

DELIBERATIONS

187 Beechwood Street (Merope Dayos) – seeks to raze existing single-family dwelling and construct a new two bedroom home. SP §8.7.2 and §12.4 - #07-05-13 – Sitting wc bl ch bp pg kh – Ms. Hunter

Kathleen Hunter reviewed her draft decision with the Board. Ms. Hunter asked the other members of the Board if it was crucial that there be proof of State curb cut at the driveway entrance located on 3A.

Members of the Board stated that it was important in that it relates to safety, and if the property owners have a legal write to access 3A from their property. This hearing was closed in August with the condition that Attorney Humphreys would submit proof of this curb cut. Attorney Humphreys submitted a plan that was used in the design of the Shaw's parking lot, as well as a letter from the State. The letter from the Executive Office of Transportation (submitted at the hearing on September 4, 2007) stated that they feel that although not depicted on any of their plans; there is a curb cut on the property. The Board agreed. There was then a lengthy conversation about the issues of abandonment, and whether this application should have been a Special Permit or Variance. There was concern about the issue of encroachment on the rear lot line, and whether or not this plan would be either extending or increasing nonconformity. In the end, when looking at the application in its entirety, it was decided that the proposed changes were not more detrimental to the neighborhood, but in fact would be an improvement. **Mr. Lacy moved to approve the draft decision as amended. Mrs. Barbara Power seconded the motion, and the vote was unanimous (Chairman Chittick - Aye, Mr. Lacy - Aye and Mr. Higginson - Aye).**

42 Atlantic Ave. (Peter A. Cundall and Ann C. Stenbeck) – An Appeal of the Building Commissioner's decision that the lot of 42 Atlantic Ave. does not have frontage. #07-06-14b. Sitting wc bl ch bp pg kh – Deliberation Continued from August – Decision drafted by Mr. Higginson and Mr. Lacy.

Mr. Lacy reviewed the draft decision. He stated that there had been a great deal of evidence presented showing that Newtonville Road was in fact a street. He stated that many abutters and neighbors presented evidence saying the street was overused etc. thinking that this would give the Board the right to refuse the application based on frontage. Mr. Lacy said that this was simply untrue. He went on to say that when it comes to the issue of frontage, it has to do with the road being a street. The question is then raised if in fact this lot has enough frontage to be built on. He stated that the plans submitted were not detailed enough for the Board to be able to determine this. He stated that because of this fact, the Board feels they need to deny it without prejudice, allowing the applicant to come back and present a more accurate and detailed plan. **Chairman Chittick moved to grant the decision as drafted by Mr. Lacy and Mr. Higginson. Mr. Higginson seconded the motion, and the vote was unanimous (Chairman Chittick – Aye, Mr. Lacy – Aye, Mr. Higginson – Aye).**

Minutes – Chairman Chittick moved to approve the minutes of April, May, June, July and August as amended. Mr. Lacy seconded the motion, and the vote was unanimous (Chairman Chittick – Aye, Mr. Lacy – Aye and Mr. Higginson – Aye).

The next meeting of the Zoning Board of Appeals will be held on October 2, 2007.

Chairman Chittick moved to adjourn the meeting. Mr. Lacy seconded the motion, and the vote was unanimous (Chairman Chittick – Aye, Mr. Lacy – Aye and Mr. Higginson – Aye).

Meeting adjourned at 10:15PM.
Respectfully submitted,
Barbara M. Power
Clerk