

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

Others Present: Jennifer Oram, Assistant Clerk

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

Zoning Business

Minutes – Chairman Chittick moved to approve the minutes of September 9, 2008 as amended. Ms. Susan Kent seconded the motion and the vote was unanimous.

357 Atlantic Avenue (Applicant Carr, Lynch and Sandell, Land owner Janice Reiter). Seek to build a guest house. SP §9.6, §9.11 and §8.7.2. File #08.09.12.

Mr. Jim Sandell addressed the Board. Mr. Sandell reviewed the extensive architectural history of the house. The house was designed by a famous German Architect, Walter Gropius in 1938. 357 Atlantic Avenue was the first house Mr. Gropius built in the United States. When he built it, he did not take into account the location and how it would be affected by storms. Mr. Sandell stated that the house floods a few times a year, and when it does, the owner, Janice Reiter, has to leave the home. It is for this reason Ms. Reiter would like to build a guest house on her property, above the area that floods, so that she has a place to go. Mr. Sandell then asked Engineer John Cavanaro to talk about the lot and how it is affected by the flood plain and FEMA regulations. Mr. Cavanaro reviewed the flood plain elevations of the property. He stated that the lot is ¾ of an acre on Atlantic Avenue. The top of the lot is at 25 feet above sea level, and then goes down and opens up to the Atlantic Ocean. The house is located at about 10 feet above sea level. Under the FEMA Velocity Zone measurements, this home is at Velocity Zone 2. Mr. Cavanaro stated that the proposed guest house would be located closer to Atlantic Avenue and that only a small portion of the proposed structure would be inside the flood plain. He stated that the guest house meets the accessory building requirements: being less than 15 feet in height, with a 100-foot front setback, and a side setback of at least six feet. The FEMA flood plain regulations require that the structure be 2 feet above the flood plain.

Ms. Kent asked for justification of the building’s 20-foot height relative to the Bylaw’s 15-foot maximum height for an accessory structure this close to the lot line. Mr. Sandell explained that in an effort to let in light into the interior of the building, he had added a five foot high clerestory with a glass wall. The wall facing the neighbors is blank, so he wanted to get the light in there somehow. He stated that he would lower the height if need be. Mr. Cavanaro asked to make one more point in regard to the Velocity Zone.

Mr. Lacy asked what the footprint of the guest house would be. Mr. Sandell stated it was 700 square feet, although only 145 square feet touches the ground.

Mr. Cavanaro stated that the original plan showed two lot widths, but in reality there is only one lot width and that is measured parallel to the right of way. Mr. Higginson asked if the application should be considered under §9.11. Mr. Lacy stated that he did not think so because the guest house is a new structure, and hence must meet the requirements of Section §9.7.8. Mr. Goedecke agreed that Section §9.11 did not apply. Mr. Lacy stated that the Board's main concern is whether the proposed structure would reduce the natural flood flow and storage capacity. He noted, however, that Section §9.7.8 requires five affirmative findings. He asked what was known about the flood flow on the parcel; it did not seem that the project would be changing the contours of the land. Mr. Goedecke stated that he did not see much of a foundation that would divert the flow of water and that is why the 145 square foot coverage is important. There was then a lengthy conversation about FEMA regulations and what measures are put into place to protect the building. Mr. Goedecke asked if that portion of the proposed building within the Flood Plain could have a foundation that breaks away. Mr. Sandell stated that it would and added that anything mechanical as it pertains to house would be above the crawl space.

There was then further conversation about how Mr. Cavanaro calculated lot coverage. Mr. Cavanaro explained that he excluded the beach and brought the lot calculations to the sea wall to be conservative; he also assumed that the driveway was completely impervious, even though it is not. He also calculated that the proposed structure was impervious and calculated in the entire size of the roof, even though only 145 square feet actually covers the ground. This was all done to make the calculations conservative. Even doing so, Mr. Cavanaro stated, they are way below the allowed thresholds.

Chairman Chittick then asked if anyone would like to speak for or against the application. Attorney William Ohrenberger addressed the Board along with his colleague Attorney Jeff De Lisi and Architect Heidi Condon. Attorney Ohrenberger represents Mr. John McNary, a direct abutter, located at 355 Atlantic Avenue. Attorney Ohrenberger reviewed the many concerns he had in regard to the application and to the proposed structure. He is concerned about the surveys done by Cavanaro Associates and the methodology used to calculate the lot coverage. He stated that his client is also concerned about the height of the building. Attorney Ohrenberger stated that the application was also filed under §8.7 and he has not heard anything from the applicants on this. Mr. Lacy asked why the Applicant had applied under §8.7. Mr. Cavanaro stated she did so to be safe as they felt they were altering a preexisting nonconforming lot. Mr. Lacy stated he was not sure they would need relief under this section; Attorney Ohrenberger stated that he felt the applicant did need to seek relief under §8.7.2 as he were triggering a nonconforming extension of land. He cited Bjorkland v. the Town of Norwell. He stated that this case shows that the applicant should be filing for a Variance, as well as a Special Permit under §8.7.2. Attorney Ohrenberger stated that he feels that the proposed project is more of a single family use. Both Mr. Lacy and Mr. Goedecke disagreed and pointed out that under §4.2 a guest house is listed specifically as an accessory residential building and that Section 5.3.1 permits accessory buildings appurtenant to single family dwellings in an R-C. zone. Attorney Ohrenberger stated that if the lot were conforming, he would agree but the lot is not conforming. Mr. Lacy asked Attorney Ohrenberger to provide a copy of the Bjorkland case to the Board and they will review it. Attorney Ohrenberger stated that his client is also very concerned about wave action. He feels that the structure is more detrimental to the neighborhood. There was further discussion about §9.7.

Architect, Heidi Condon, stated that she is concerned about the ground area coverage and what is pervious and impervious. Attorney De Lisi reviewed the definition for the ground area coverage. Mr. Lacy asked if they (Attorney Ohrenberger etc.) would want to provide an argument and testimony that the building would cause flooding and flood action. Ms. Condon stated that as the building is presently being proposed, it would not meet the building code requirements in a Velocity Zone and that at this

point she does not feel it is a buildable project. Mr. Lacy noted that the Board always incorporates language in their decisions that states that the applicant must meet all applicable laws, rules and regulations. Ms. Condon stated that they would need the foundation plans of the project to review. Attorney Ohrenberger also expressed concern about the lighting of the structure and how it would glare onto his client's property, and he was also concerned about screening. He added that he feels it would be best if nothing were built in the velocity zone. The Applicant and Attorney Ohrenberger will make arrangements to exchange the requested documents. Each asked that enough time be given to each party to respond prior to the next hearing. It was decided to postpone to the December hearing. **Chairman Chittick moved to continue the hearing. Mr. Higginson seconded the motion and the vote was unanimous.**

DELIBERATIONS

609 Jerusalem Road (Applicant Heidi Condon for land owner Ladd McQuade) – seek to demolish the existing barn and re-construct a new barn on the same footprint in the flood plain. AP §5.3. File #08.08.18c.

Mr. Goedecke reviewed his draft decision with the Board. After a brief discussion, Mr. Lacy asked if the relief should be granted under §9.11 instead of §9.7. Mr. Goedecke accepted this suggestion. He will also make amendments in regard to the allowed height of the cupola. The decision will be drafted and voted on at the November hearing.

380-400 Chief Justice Cushing Highway (Applicant Agnoli Sign Co. for land owner Cohasset Realty Trust, Donald Staszko as Trustee). VARIANCE §6.5. File #08.08.18b.

Ms. Kent drafted this decision. After the Board reviewed the amendments, **Chairman Chittick moved to grant the relief sought with conditions. Ms. Hunter seconded the motion, and the vote was unanimous (Chairman Chittick, Ms. Hunter and Ms. Kent).**

Chairman Chittick moved to adjourn the meeting. Mr. Lacy seconded the motion and the vote was unanimous.

Meeting adjourned at 9:36PM
Respectfully submitted,

Jennifer Brennan Oram
Assistant Clerk, Zoning Board of Appeal