

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

**Others Present:** Jennifer Brennan Oram, Assistant Clerk

Chairman S. Woodworth Chittick called the meeting to order at 7:15PM.

**Board Business**

**Informal Discussion, Vince Longo, Manager, South Shore Music Circus** – Mr. Longo addressed the Board. He is planning on filing for a modification of the existing Special Permit. The Board briefly discussed what Mr. Longo should include in his filing. He will file for the December hearing.

**Avalon Discussion** – The Board discussed the request of Attorney Steven Schwartz of Goulston & Storrs, who represents Avalon Cohasset. Attorney Schwartz requested that the Board issue confirmation that the lapse date for their Comprehensive Permit is March 18, 2012. On behalf of the Board, Attorney Mark Bobrowski reviewed Attorney Schwartz’s letter of October 19, 2009. It is Attorney Bobrowski’s opinion that the date of lapse is actually November 18, 2011. **Chairman Chittick moved that the Board confirms the lapse date of “Avalon Cohasset” Comprehensive Permit to be November 18, 2011. Mr. Benjamin Lacy seconded the motion and the vote was unanimous.** A letter stating as such will be sent to Attorney Schwartz.

**Minutes** – Mr. Charles Higginson moved approval of the minutes of September 8, 2009 as amended. Mr. Lacy seconded the motion and the vote was unanimous. Mr. Lacy moved approval of the minutes of October 7, 2009 as amended. Mr. Higginson seconded the motion and the vote was unanimous.

**Letter from Paula Buick, 3 Highland Avenue** – Ms. Buick wrote a letter to the Board expressing her disappointment in the Board’s approval of the Special Permit for 8 Highland Court. Mr. Goedecke stated that he would have loved to have heard from Ms. Buick during the hearing process, but she did not attend. The Board received positive input from a few neighbors, including those most directly affected. Mr. Dennis Roth, of 7 Highland Ave and an architect, wrote a letter in favor of the project. The Board considered Mr. Roth’s property the one most directly impacted by the project. There were two hearings, both advertized and noticed and Ms. Buick was mailed notices of both. The Board received no negative comments at either hearing. Ms. Buick’s letter dated October 11, 2009 and received on October 14, 2009 after the 20 day appeal period had expired.

**APPEAL – Filed by Susan Sturdy of 374 Atlantic Avenue, appeal of the Building Commissioner’s Decision to not rescind the building permit issued to the owners of 379 Atlantic Avenue. File #09.10.09a.**

This is a continued hearing. Attorney De Lisi addressed the Board and reviewed his submission dated October 27, 2009. He addressed several points on which he did not agree with in Attorney Humphrey’s brief filed on October 20, 2009. Attorney De Lisi stated that Ms. Sturdy does not feel that the Gibbons can reap the benefits of §5.3.2b as Attorney Humphrey has stated because the lot does not meet certain

minimum requirements required as of January 1, 1985. There was further discussion regarding the shed and the fence. Attorney De Lisi and his client also feel that there is a discrepancy in the lot size and they used an older plan they had found on file in the Building Office to support their claim. Chairman Chittick asked if they had plans from a certified engineer showing this. Attorney De Lisi stated they did not as they have not been granted access to the property. Chairman Chittick stated once again that the burden of proof is on them as they are appealing the building permit.

Attorney Humphreys then addressed the Board. Attorney Humphreys stated that the fence, shed and the pool are all “red herrings”. He stated that the building permit for the house is what has been challenged and that the lot requirements of the bylaw have nothing to do with the permit. He added that in his opinion, if the shed was the subject of an application, the Building Commissioner would send it to Zoning as it would require a Special Permit. He went on to say that the only thing before the Board is the single family home and that the house conforms. He then read the definition of lot for the Board. Attorney Humphreys stated that zoning exists to protect the land owners and to allow them to use their land as they see fit. It is his opinion that the shed is not relevant and the [building] permit of a single family home is what is being appealed. In regard to the fence and its height, he asks the Board consider that the panels are a stock six foot height.

Chairman Chittick asked if anyone in the audience wished to speak. They did not. The Board requested an extension to late January for the filing of the decision. Attorney De Lisi agreed. **Mr. Lacy moved to close the hearing. Chairman Chittick seconded the motion and the vote was unanimous (Mr. Lacy, Chairman Chittick and Mr. Higginson).**

**Special Permit Filed by HC Design/Heidi Condon on behalf of landowners Robert C. Jordan, Jr. and Letitia Jordan of the Jordan Family Realty Trust, seeks to build an addition at 47 Lothrop Lane. File #09.10.09a.**

Heidi Condon of HC Design and Mr. Robert C. Jordan addressed the Board. Ms. Condon had requested a withdrawal of this application based on new information she obtained from a survey of the proposed addition and its sideline. The Board still feels however, that the project does need a Special Permit under §8.7.2. Ms. Condon read two letters of support from abutting neighbors, Dr. and Mrs. Shapur Naimi of 55 Lothrop Lane and Steven and Betty Andrus of 37 Lothrop Lane, both in favor of the proposed addition. Building Inspector, Robert Egan, then read §8.7.1 aloud for the Board. He feels the proposed addition falls under this provision. There was discussion about how in other communities if a proposed project complies in this manner, some communities give the right to the Building Inspector to not send the project to the ZBA and to give the project a building permit. There was also discussion about various cases and how they apply to possible applications that go before the Board. Chairman Chittick asked if there was anyone in the audience that wished to speak, there was not. **Mr. Lacy moved to close the hearing. Mr. Goedecke seconded the motion and the vote was unanimous (Mr. Lacy, Chairman Chittick and Mr. Higginson).**

**Special Permit Filed by HC Design/Heidi Condon on behalf of land owners Christopher and Molly Kerr, seeks to build an addition and renovate the existing home located at 30 Parker Avenue. File #09.10.09b.**

Heidi Condon of HC Designs and Land Owner, Christopher Kerr, addressed the Board. Ms. Condon stated that work they are presently doing is staying within the original footprint. They have pulled a demo permit and a building permit for the work that is being done inside. They are before the Board this evening to seek relief for the proposed decks, driveway and perimeter wall. She stated that the proposal is to not build the decks any more nonconforming than they already are. They are also seeking relief for the driveway which is in the flood plain. The applicant has been before the Planning Board as well. The Planning Board asked that the applicant work with the neighbors to make the driveway and the wall more acceptable to them. Ms. Condon stated that they have worked with all of the neighbors and that they have lessened the height of the wall from over 5 feet to 3.7 feet and they have pulled the wall and the driveway seven more feet from the floodplain. Ms. Condon stated that the landowners have met with the neighbors several times. Ms. Condon submitted 8 letters (a form letter provided to the neighbors) of support. They are from: James Ward of 36 Parker Ave., Elizabeth J. Maree of 31 Parker Ave., James Graham of 22 Parker Ave, Mr. Russell Bonetti and Ann Fogarty of 20 Parker Ave., Mr. Robert Pattison Jr. of 19 Parker Ave., Mr. Christopher Julian, Ms. Laura Coletta of 15 Parker Ave. and Mr. John Naples of 7 Parker Ave. The Board discussed the proposed height of the addition. Ms. Condon explained that they are taking a lofted third floor and making a full third floor. Mr. Goedecke stated that this seemed to be a vertical expansion within the setback. Mr. Lacy stated that the Board has had a lot of issues with this [large vertical extensions in side yards]. However, Ms. Condon said the house is conforming on the side where it is proposed and therefore the expansion is allowed. Ms. Condon then reviewed the relief they are seeking. She stated that they are trying to rebuild the existing nonconforming decks to get the landowners outside space that is not within the floodplain. They need relief for those. They are also seeking relief for the third deck that they are expanding 4 feet into the floodplain. Members of the audience then spoke. Mr. Ward, Mr. Bonetti and Mrs. Lisa Hewitt Dick of 27 Parker Ave all spoke in favor of the project. Chairman Chittick then reviewed the Planning Board recommendations regarding this application. He mentioned that Planning Board member Clark Brewer had suggested using an iron railing instead of a wall. Ms. Condon stated that neither the neighbors nor the applicant want a steel rail. Mr. Lacy asked for clarification on the location of the wall. Presently the wall sits two feet from the sideline. Mr. Lacy stated that the bylaws state that a structure cannot be within two feet of the sideline. Engineer John Cavanaro stated that under§5.3.1 they could move the wall to 3 feet away. Chairman Chittick asked that the applicants file the flood plain calculations, a new plan showing the perimeter wall's new location and rear elevations prior to the next hearing. The hearing will be kept open for those documents to be filed. **Chairman Chittick moved to continue the hearing. Mr. Lacy seconded the motion and the vote was unanimous (Chairman Chittick, Mr. Lacy and Mr. Higginson).**

**Chairman Chittick moved to adjourn the meeting. Mr. Lacy seconded the motion and the vote was unanimous. Meeting adjourned at 10:45PM.**

Respectfully submitted,

Jennifer Oram  
Assistant Clerk, Zoning Board of Appeals