

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

Others Present: Jennifer Oram – Recording Secretary
Bob Egan – Building Inspector
Richard Henderson – Attorney
Daniel McKinnon – Attorney
Mary Ford – Cohasset Mariner
Wayne Sawchuk – 432 Beechwood Street
Barbara Hiltz – 9 Cushing Road
Susan Kecskemety – 2 Cushing Road
Linda Keller – 2 Cushing Road
Steve Hadfield – 8 Cushing Road
Sean Doherty – 130 Linden Drive

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

HEARINGS

2 Smith Place –(Brown) - §9.7 (construct a commercial building) - #05-08-24 -SP

This was a continued hearing from December. Chairman S. Woodworth Chittick recused himself from the hearing and it was Chaired by Mr. Charles Higginson. Attorney Richard Henderson addressed the Board on what he believed to be the final issues facing his client’s application. Attorney Henderson reviewed the extensive drainage work that has been conducted in the area of 2 Smith Place. He handed out maps of the area and reviewed various additions to the drainage system that had been implemented from 1996 to 2004. Mr. Benjamin Lacy raised his concern of absorption on the property. He stated that when he recently went up to look at the property he saw water collecting. Mr. Lacy asked Mr. Henderson why he thought paving on this site would not cause additional absorption problems. Mr. Henderson reminded the Board that there are plans to incorporate an extensive drainage system on the site when the commercial building is constructed. Mr. Henderson stated that the Town has put a lot of money into the drainage in this area, and that with the addition of the rail in the area, even more drainage will be put in.

Attorney Henderson then moved onto the issue of parking. Mr. Henderson stated that the Planning Board’s Site Plan conditions (not yet approved) that were in Mr. Chittick’s memo cannot be addressed by the Planning Board until decisions are made by the ZBA. He agreed that parking was a large issue, but he felt that the ZBA is looking at the wrong bylaw definition. He suggested the Board look at 7.1.L. Under this bylaw definition, the

only standard is that there be a “sufficient” amount of spaces. With the type of business that Mr. Brown plans on putting into the building, Mr. Henderson does not feel the Board would want to encourage the 1 space per every 100 square feet parking bylaw as required under 7.1.G, since this would create a large paved parking area that would not be fully used. In addition, Mr. Henderson stated that everyone is aware that the train is coming and that the streets in the area are going to be changed. He stated that to try to use the 500 feet requirement “post train”, as he feels the Board is doing, is not fair. Mr. Henderson said that he had walked from the rear lot line of 2 Smith Place (from the closest point to the public lot) and that by using the MBTA parking lot and other public ways to get to the public parking lot, he came up with 361.1 feet. Mr. Lacy reminded Attorney Henderson that measurement must begin at “the main pedestrian entrance to the building..” Mr. Henderson then stated that the Planning Board would like Mr. Brown to seek alternative access to 2 Smith Place using the MBTA owned property. Mr. Lacy said that if Attorney Henderson and Mr. Brown could gain access through an alternative route, that this would solve many of the big issues, in particular the extra traffic running through the neighborhood areas. Mr. Lacy asked Mr. Henderson if his client would be willing to say that he would not change the usage from the building to stores in the future. Attorney Henderson felt that if this language should be incorporated into the decision, his client would honor it. Board member Peter Goedecke expressed concern over the enforcement of this in the future.

Mr. Higginson then asked if there was any public comment with parking or drainage. Mr. S. Woodworth Chittick of 98 South Main Street stated that there were a number of issues with the parking that the Board needed to consider. He reminded the Board that the MBTA is already in a deficit with the Town with parking spots and that the chances of the Town giving up critically needed spaces so that an access road can be built to 2 Smith Place, he feels, is slim to none. If the Town did decide to give up the spaces, it would require a 2/3 Town Meeting vote. In addition, Mr. Chittick did not agree that public parking lot could be reached from 2 Smith Place in less than 500 feet, when starting at the entrance on 2 Smith Place and ending at the Town parking lot once it is reconfigured.. He also didn’t agree with the applicant’s interpretation of the appropriate usage definition under Section 7.1: He felt that the only definitions G or H could apply, and the latter use is prohibited in the DB district. He felt that the applicant should not be asking the Board to figure out which type of use would require the least number of parking spaces, and then apply that definition to this project. Mr. Chittick felt that Mr. Higginson had brought up a good point earlier when he stated if the economics of the proposed building should change, and if the building is changed to stores, more parking would be needed than that provided by this lot’s size.

Mr. Higginson then stated that he would like to close the case, but felt that the Board and Attorney Henderson should look at the MBTA plans to see if other access would be possible.

Mr. Benjamin Lacy moved that they close the hearing with these conditions, it was seconded by Mr. Peter Goedecke and the vote was unanimous.

355 Atlantic Ave (McNary) - §8.7.2 – (extend/alter garage) - #05-09-02 - SP

Mr. McNary, via a telephone call to Mr. Chittick, requested to withdraw his application so that he could come before the Board in the future. **Mr. Lacy moved to dismiss without prejudice, it was seconded by Mrs. Power and the vote was unanimous.**

45R South Main St., 35-39 South Main Street (Cohasset Village Partners) §5.3.1 expand existing business and residential use) #05-12-19 – SP and Variance

Mr. Chittick began the hearing by asking the Board if they should decide if the applicant should be seeking relief under a Special Permit or a Variance. He also alerted the Board that they had received a letter of support for the proposed project from the Atlantic Bagel Company. The Board decided to hear the presentation before it decided if the applicant was looking for relief under a Special Permit or a Variance.

Mr. Wayne Sawchuk, applicant, asked his Civil Engineer of Cubellis Saivetz and Associates to give the presentation, after which they would review the architectural plans. The engineer explained that the plans were to expand the existing building (containing Bia's Restaurant) back and up. The building would be a mixed use, and would hold retail on the first floor and apartments on the 2nd and 3rd floor. The new footprint of this existing building would be expanded by an additional 6,000 square feet. The engineer went on to say that the existing building has front setbacks ranging between 0 and 2.7 feet. They are seeking relief to extend the non-conforming northerly side of the building. The rear of this building would be set back 4.4 feet, from the back property line which would require a variance, being less than the 15 feet requirements of Section 5.3.1. There would also be a second smaller building that has yet to be built. This building would be approximately 70 feet long, containing interior garage spaces. The rear setback of this building would be less than the 15 feet required. The applicant felt he could apply section 5.4.3 of the bylaws. Both of the buildings require relief as they are violating the required 15-foot setback from the back property line whether this be deemed a rear or front yard setback requirement. The frontage of the second "to be built" building is on the Town Way and is Town owned. Mr. Sawchuk felt that there would be an exception if you interpret the bylaw to say "adjoining a second lot" and he felt that there was a bylaw that would allow this type of construction on the books already for the Village district. Mr. Chittick explained to Mr. Sawchuk that there is no such provision, per se, the maximum setback is the lesser of 15 feet per 5.3.1 or the average from the existing cobbler building to the existing filling station per 5.4.3 and that his plan in it's current form does not meet these requirements. Mr. Chittick explained that to get this, Mr. Sawchuk would have to request a variance. There was then a lengthy conversation amongst the Board and Mr. Sawchuk about the existing bylaws and how, in their current form, they would now allow a project of this nature. Mr. Chittick suggested that Mr. Sawchuk work with the Planning Board and get the bylaw re-written. Mr. Sawchuk requested to withdraw his application without prejudice. **Mr. Charles Higginson moved to accept the withdrawal, it was seconded by Mr Benjamin Lacy and the vote was unanimous.**

DELIBERATIONS**19 Atlantic Avenue (Barker) - §8.7 (construct new dwelling) - #05-08-23**

This hearing was closed with conditions. Mrs. Barbara Power recused herself. The Board reviewed a brief that Mr. Benjamin Lacy had composed showing the various issues that he feels face this case. There was a lengthy conversation amongst the Board, and the Attorneys for both sides. In the end, Mr. Lacy feels that there needs to be proof of intent to abandon the property or intent to build on the property. Where the hearing had been closed with conditions, the Board was not sure they could accept any further information from the applicants that would show that they always intended to build. At the same time, the Board did not want to make any quick decisions, as they have not had a case like this in front of them before. After much thought, it was decided to continue the deliberations until the next hearing, while at the same time, the Board would consult Town Counsel. **Mr. Benjamin Lacy moved to continue the deliberation, it was seconded by Mr. Peter Goedecke, and the vote was unanimous.**

66-68 Spring Street (St. Peter) - §8.7.2 – SP and Variance §5.3.1 (construct a covered porch) #05-11-17

Ms. Kathleen Hunter reviewed her written decision granting relief to the applicant under §8.7.2 to build a covered porch. **Chairman S. Woodworth Chittick moved to accept the decision, it was seconded by Mr. Charles Higginson, and the vote was unanimous.**

49 Margin Street (Roy) - §9.7 – (construct a reflecting pool and barbeque in flood plain) #05-10-24

Mrs. Barbara Powers will write the decision and a vote will be held at the next hearing on February 13, 2006.

7 Parker Avenue (Naples) - §8.7.2 – (construct a two story addition) - #05-11-14

Mr. Peter Goedecke reviewed his written decision to grant relief so the applicant could build a two-story addition. **Mr. Benjamin Lacy moved to accept the decision, it was seconded by Mr. Chittick, and the vote was unanimous.**

Mr. Chittick asked the Board to designate one primary member and one alternate member to the Zoning Advisory Committee (ZAC). **Mr. Higginson moved to appoint Mr. Benjamin Lacy as the primary member, Mrs. Barbara Power seconded it, and the vote was unanimous. Mrs. Barbara Power moved to appoint Mr. Higginson as the alternate member, Ms. Hunter seconded it and the vote was unanimous.**

Mr. Chittick moved to adjourn the meeting, Mr. Higginson seconded it, and the vote was unanimous.

Meeting adjourned at 10:45PM

Reminder – the next meeting of the ZBA will be held on Monday, February 13, 2006.
Respectfully Submitted,

Barbara M. Power
Clerk