

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

Member Absent: Susan Kent

Others Present: Jennifer Oram, Assistant Clerk

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

Zoning Board Business

The Board will vote on minutes at the meeting of March 3, 2009.

HEARING

8 Highland Court (Carr, Lynch and Sandell on behalf of land owner, Rebecca H. Behenna). Seeks to build an addition. §§8.1 and 8.7.2. File #08.12.15a.

This is a continued hearing. Mr. Sandell addressed the Board and reviewed the four letters of support that have been filed with the Board. All four letters are from neighbors who would be directly impacted by the proposed addition (letters are from Dennis and Nancy Roth, 7 Highland Avenue, Erin and Stephen O’Duggan, 10 Highland Court, David and Paula Buick, 3 Highland Court and Roger Q. Hill of 19A Highland Avenue). Mr. Sandell stated that the Behenna’s want to stay in the neighborhood and the only way they can do so is if they expand the house. Mr. Sandell then reviewed similar projects that he has brought before the Board in the past which he feels had similar increases in height and mass as this application. The examples were, 38 Atlantic Avenue, 224 South Main Street and an uncompleted project at 417 Jerusalem Road. Ms. Hunter asked how much square footage would be added with this addition. Mr. Sandell stated they would be adding 1,270 square feet. Chairman Chittick stated that the Board had previously voted against large increases in mass in other cases, for example in the case of 7 Parker Avenue. However, he does feel that each case is different. Mr. Lacy stated that he was very impressed by the letter of support from Mr. Roth as he is not only the most severely impacted by the proposed, but he is also an architect. Mr. Higginson stated that he agreed with Mr. Lacy. **Mr. Higginson moved to close the hearing. Mr. Lacy seconded the motion and the vote was unanimous.**

438 Beechwood Street (Herbert L. Marsh). Seeks to build a single family home. VARIANCE §5.3.1. File #08.11.10.

This hearing has been continued each month since November 2008. **Chairman Chittick moved to deny the application without prejudice. Mr. Lacy seconded the motion and the vote was unanimous (Chairman Chittick, Mr. Lacy and Mr. Higginson).**

790 Chief Justice Cushing Highway (Barlo Signs Co., on behalf of land owner TRT Cohasset LLC). Seeks to replace the pylon sign. §§6.5.2 and 6.5.4.

Mr. Tim Sullivan of Barlo Signs and Ms. Alicia C. Bouthillette, of Keypoint Partners (Property Management Company of 790 CJCH) were present on behalf of this application. Chairman Chittick read aloud the Planning Board's recommendation. The Planning Board voted unanimously to recommend that the ZBA approve this application with two conditions 1) require a redesigned and re-engineered foundation and structural steel support and 2) clearly define the signage area so additional signs cannot be added in the future. Ms. Bouthillette addressed the Board and stated that the building is located far off the road, so it is imperative they have the sign where it is to draw attention for the tenants. The building presently has eight tenants and this proposed sign would accommodate two additional tenants, for a possible 10 tenants in total, if needed in the future. Ms. Hunter asked what the square footage of the existing sign is compared to the proposed. Mr. Sullivan stated that the existing signage area is 227 square feet and the proposed is 197.

The Board had a brief discussion about the Planning Board recommendations. Mr. Sullivan stated that they would be doing a pre-structural analysis of the sign before making any changes. They will be reusing most of the steel framework that is there presently. Chairman Chittick stated that he had been concerned about the size of the sign and the illumination, but after further discussion, the applicant stated the illumination would be the same as it is presently and will look like the other signs in the area. The overall size of the sign will only be increasing eight inches on either side. Mr. Rick Curtis of Curtis Liquors, a tenant at 790 CJCH, stated his support for the proposed sign. **Mr. Higginson moved to close the hearing. Ms. Goedecke seconded the motion and the vote was unanimous.**

DELIBERATION

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.

The Board reviewed their thoughts on this decision. **After a lengthy conversation, Chairman Chittick moved to grant the Special Permit under §8.7.2 and §9.7.8 with conditions. Mr. Lacy seconded the motion and the vote was unanimous (Chairman Chittick, Mr. Lacy and Mr. Higginson).**

HEARING

17 Sohier Street (filed by Diarmuid and Elizabeth O'Connell of 25 Sohier Street). Appeal of the "Building Inspector's failure to grant enforcement" per the applicants request File #08.12.22.

Attorney Peter L. Eleey and Mr. Diarmuid O'Connell addressed the Board. Attorney Eleey reviewed why the applicants feel aggrieved about the lack of enforcement they requested of the Building Inspector. The applicants feel that the owners of 17 Sohier Street, Jerome and Tracey Vainisi, have violated the Town of Cohasset Zoning Bylaws under §5.3.1, as well as the conditions of a Special Permit granted to the Vainisis' in the decision filed by the ZBA on January 11, 2005. Attorney Eleey stated that in the original site plan, there is no retaining wall or outside shower. He states that the retaining wall is only within feet of the O'Connells' property line, which is in violation §5.3.1. They feel the wall is over the allowable 6 feet, and on top of the wall, they have built a fence. In addition, the parking area is within less than 5 feet of his client's lot line which is also a violation §5.3.1. Attorney Eleey stated that the original plans of the house, on the first floor, where a window is supposed to be there is now a door.

Chairman Chittick stated that the parking issue will need to be addressed by the land owner, and that the issue regarding the retaining wall raised his interest. Chairman Chittick asked to hear from the property owner and her attorney.

Attorney Bruce Issadore and Mrs. Tracey Vainisi addressed the Board. Attorney Issadore submitted a letter of opposition in response to the appeal. He apologized for submitting the letter the day of the hearing, but he and his clients had been trying to settle this issue with the O'Connells without involving the Board. He stated that the Vainisis did not violate the Special Permit granted under §8.7.2 by the Board. The Special Permit only deals with the extension of a nonconforming structure (their home), and the only changes that occurred were the size of the windows on the second floor and the replacement of a window by a door. These were field changes and both were approved by Robert Egan, the Building Inspector. The windows that were changed on the second floor were reduced in size at the request of the O'Connells. Attorney Issadore stated that the area where there is a photo of the car parked, or "the parking area", is really a "red herring" as the owners don't normally park there. He stated that if the Board would want to make it a condition that the area can't be used for parking at all, they would be fine with that. Attorney Issadore does not feel the wall that was built is actually a retaining wall by definition, but instead is more of a fence. The Vainisis also put the fence on the top of the wall to follow a separate condition of the building code. He stated that if the O'Connell's want the fencing removed, it will show a view they probably would not be happy with as it will decrease their privacy and show waste barrels, bikes etc. He stated that all of these claims about the height of the fence, the wall, the sideline etc. have been made without any proof, no certified engineering drawings etc. He feels that the appeal has no standing and that the burden of proof falls on the appellants. Attorney Issadore and Mrs. Vainisi both reviewed the many accommodations that have been made by the Vainisis' for the O'Connells (smaller windows, screening, drainage systems etc.). Mrs. Vainisi stated that she knew whatever she did, they would end up back before the Board because all of the changes they have done thus far have not been enough for Mr. O'Connell. The Board asked if there was anyone in the audience that wished to speak. Marjorie Charles of 85 Linden Drive, Kathleen O'Malley of 56 Sohier Street and Melinda Evans of 36 Sohier Street all spoke negatively about the black chain link fence that Mr. O'Connell views from his window. After a brief discussion of the Board, they asked the applicants to work with the land owner's to get actual measurements to present to the Board. They also asked if Attorney Eleey planned drafting a response to Attorney Issadore's submission, he needs to have it filed with the Board and Attorney Issadore no later than 10 days prior to the March 3, 2009 hearing. Chairman Chittick also asked Mr. Egan to draft a memo addressing what qualifies a wall as a retaining wall. **Chairman Chittick moved to continue the hearing. Mr. Lacy seconded the motion and the vote was unanimous.**

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

Meeting adjourned at 10:20PM.

Respectfully submitted,

Jennifer Oram

Assistant Clerk, Zoning Board of Appeals