

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

Member Absent: Charles Higginson

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

Board Business

Minutes – Chairman Chittick moved to approve January 5, 2010 minutes as amended. Mr. Benjamin Lacy seconded the motion and the vote was unanimous.

HEARINGS

Special Permit – Filed by Can Tiryaki of Tiryaki Designs on behalf of land owners Robert Leggat & Sara D’Eathe. Seeks to relocate the garage away from the lot line and add a second story to the garage at 21 Deep Run. §8.7 File# 09.12.11a.

This is a continued hearing. Chairman Chittick appointed Mr. Lacy as Chairman and then recused himself from the proceedings and left the room. Mr. Robert Leggat addressed the Board and reviewed the background of the previous hearing in January (they requested a continuance in February). Mr. Leggat stated that he hired John Cavanaro of Cavanaro consulting to complete engineering work requested by the Board. Mr. Leggat stated that due to findings in the engineering, his architect, Can Tiryaki made changes to the plans. Mr. Tiryaki addressed the Board and reviewed the revised area of regulations section of the application that was filed with the Board on February 18, 2010. Mr. Tiryaki stated that the original application stated that the side yard setback was at 8.1 feet (20 feet required) however according to the survey the side yard set back is actually at 10.7 feet. Therefore the existing structure is less nonconforming than what was originally thought, thus making the proposed structure less nonconforming as well with a side setback of 14.4 feet. Mr. Tiryaki stated that most of the homes in the neighborhood do have two story garages. Mr. Tiryaki then addressed an additional diagram he filed with the Board on February 18, 2010 entitled “3D Diagram and Volumetric Analysis of Non-Conforming Building Mass”. He stated that in total, the nonconforming volume is 98.2 cubic feet. He stated that by moving the garage back, they reduce the volume and massing in the nonconforming area. Mr. Tiryaki then asked Mr. Cavanaro to address his survey of the Leggat property. Mr. Cavanaro stated that he was asked to establish permanent boundaries and also to create a more accurate building setback; both of which have been submitted to the Board. Mr. Cavanaro stated that he was fortunate to have surveyed several properties in the neighborhood, and therefore he felt very confident with the work completed. In addition to the survey and setback work, it was also his charge to review the topography of the property and understand the drainage in the area. Mr. Cavanaro reviewed what research they did in this area, looking at the infrastructure of the road, working with Iaria Brothers, Carl Sestito of the Department of Public Works, as well as Mark Brennan of the Greenbush Engineering Office. They decided that the point in the front yard was a feasible point to hook up to the catch basin and then run a drainage pipe to the back of the lot. He reviewed the proposed drainage plain, which would include sub pumps that would gather the run off, drain into the proposed pipe (a French Drain) and then discharge it into the catch basin. Mr. Cavanaro stated they presented this plan to the Town’s Stormwater Agent to

see if a permit would be required. A letter was submitted to the Conservation Commission from the Stormwater Agent (Norfolk Ram) on February 26, 2010. Mr. Cavanaro read the letter aloud (on file). The letter stated that the Cohasset Stormwater Bylaw “does not apply” but that the project did fall under Administrative Review and the agent therefore made suggestions to the proposed drainage plan. Mr. Cavanaro addressed those suggestions. There was then a lengthy discussion regarding the history of the water flow in the back yard of the property. Mr. Lacy asked if Mr. Cavanaro had an opinion on the water flow off the existing garage versus the proposed. Mr. Cavanaro stated that they had run some numbers and that the new building does increase the impervious coverage slightly, and therefore causing a slight increase in the water flow off of the roof.

Attorney Peter Eeley, along with Engineer John Chessia, representing the Sears’ of 17 Deep Run addressed the Board. Attorney Eeley stated that he felt he needed to clarify the use of the term of “historical” water issue as used by Mr. Cavanaro. Attorney Eeley feels the water moved after the installation of the septic system (2004) to the low part of the yard. He states that the water issue immediately appeared after its installation. He stated that there was no as built plan on file of the septic system, but one did show up this week. He states that the as built shows the system and the slope are too close to the property line. Mr. Chessia then reviewed what he feels are problems with the existing system for the Board. Mr. Lacy asked how this issue is related to the proposed garage. Mr. Chessia stated that it has to do with the adverse impact on the neighborhood. Attorney Eeley stated that the applicants are seeking relief from the zoning code to build a garage because the garage does not comply, and they have injured the Sears property over the years. Mr. Lacy stated that he can see that the Sears have a grievance [regarding water damage to their property] but he asked what it had to do with a building permit for a new garage. Attorney Eeley stated that for an applicant to receive relief, it should be an applicant that shows they are a good neighbor and deserve the relief they are requesting. Mr. Lacy asked where that section was in the zoning bylaws. Mr. Eeley read the provisions of §8.7.2 where it says, “it will not be more detrimental to the neighborhood”. Mr. Lacy pointed out that ‘it’ would mean the garage and asked how the garage would be more detrimental to the neighborhood. Attorney Eeley stated that the garage is building back into the septic system. The Board looked at the plans. After further discussion, Mr. Goedecke stated that how the septic system really works does not matter other than the Board has to make sure the garage is not making anything more detrimental or injurious. He feels the applicants have attempted to make the proposed less injurious and detrimental. Attorney Eeley says that there may have been attempt, but that he does not feel the Board has the necessary data to address the septic system. Mr. Lacy stated that they have just had testimony that there will be a pipe gathering the water off of the garage into a pipe and taken off the property. He feels that this is an improvement of the existing system. The Board can condition that the drainage needs to work. Ms. Kathleen Hunter asked if Mr. Chessia was able to determine that the reports from Mr. Cavanaro were wrong. Attorney Eeley stated that Mr. Chessia had reviewed the plans, but that he did not have enough data to determine the problems. Mr. Chessia stated that he concurs with Norfolk Ram, and that they appreciate the Leggats putting in a drain, but he feels more data is necessary to determine if the drainage plan will work properly. Attorney Eeley asked if the Board will be requesting additional calculations from Mr. Cavanaro and if so, would he have access to them prior to the hearing being closed. Mr. Lacy said that he did not know as they have to determine if they feel it is relevant to the application.

Mr. Cavanaro stated that he feels the neighbor’s concerns with the septic system should be addressed directly with the Board of Health. He would like to know what the Board will be asking him for in regard to the Special Permit application. The Leggats are looking to address the issue, he would like

clarification on how much detail is he supposed to provide on the abutting property. **Mr. Goedecke moved to continue the hearing. Mr. Lacy seconded the motion and the vote was unanimous.**

APPEAL – Filed by Samuel P. Hassan of 61 Hull Street, of the Building Commissioner’s denial of enforcement action at 59 Hull Street (property owner Mr. James V. Rosano. File #10.02.08a.

This is a continued hearing. Chairman Chittick stated that the Board had received additional submissions that seemed self explanatory and asked the applicant if they had anything further. Attorney Kelley, Mr. Samuel Hassan and Engineer Neil Murphy addressed the Board. Attorney Kelley reviewed the submission from Mr. Murphy which essentially states that the plan submitted by the Rosanos is not stamped by an engineer and does not meet the test of reliability. He feels that Mr. Murphy has demonstrated where the lot line is. He stated that he and his client maintain that there is a zoning violation and that Mr. Rosano failed to comply with zoning by pulling a demolition permit when he then built [on the end of the building]. He stated that you can’t have it both ways; you can’t demolish to rebuild. By building, Attorney Kelley feels that this began a new time frame and therefore it should comply with zoning, which it clearly doesn’t. The other zoning issue he feels that exists is the excessive amount of commercial activity. He stated there are a substantial amount of bays and materials all over the property which he feels should be a “red flag” for the Board.

Attorney Charles Humphreys addressed the Board on behalf o Mr. James Rosano. Mr. Humphreys presented to the Board an original bill for the installation of the doors to the garage as installed in 1995. Attorney Humphreys also provided the Board with a copy of the original building permit for the original two bay garage from 1986. Attorney Humphreys states that the doors were installed in September of 1995. He also submitted an affidavit from the builder of the garage confirming the dates he worked on constructing the garage. Attorney Humphreys stated that he feels a lot line dispute should go to Land Court. As for the building, he feels the building as it exists does not cross over either proposed lot line. He does not feel there is an encroachment and does feel the building has been protected since September of 2005. In regard to the plans that he has provided on behalf of the Rosanos, Attorney Humphreys states that it is a stamped plan. He added that both Neil Murphy and Peter Hale are highly regarded surveyors, but they disagree. He stated the Board does not have to determine the lot line as it is the job of Land Court. As for the demolition permit, he stated that the Building Inspector gave testimony that he expected the applicant to rebuild the end of the building. Chairman Chittick asked if Attorney Humphreys would like to speak to the issue of home occupation. Attorney Humphreys stated that Mr. Rosano does all of his work off site, but does store materials and concrete in his garage. Ms. Kent asked Attorney Humphreys if, looking at either interpretation of where the lot line is, he is saying that the building is not encroaching. Attorney Humphreys said that is correct and that at the most adverse point, the building is 3 feet from the property line. Ms. Kent then asked Mr. Hassan what his interpretation was. He stated that the footing that the building was built on is still on his property and that there is a five foot wall on his property that supports the existing structure. He stated the actual structure is 6 inches from his property line. He added that if he were to excavate near his line, the footing would crumble and the building would fall down.

Mr. Hassan addressed the issue of home occupation stating that Mr. Rosano has always stored materials in the yard. He added that Mr. Rosano has his material crushed at Iaria Brothers in Hingham which ads to the nonconformity. He also stated that he contests that the extension to the garage was built in 1995, he feels it was 2001. He feels that it destroys the value of his property. Mr. Hassan then reviewed a site plan he has showing how he hopes to build a single family home on his lot.

Mr. James Rosano, Jr. stated that he works for his father and that his father is essentially retired. He stated the business is extremely scaled back.

After further discussion regarding the age of the building and clarification of storage of goods on the property, **Mr. Goedecke moved to close the hearing. Chairman Chittick seconded the motion and the vote was unanimous**

Special Permit – Filed by John C. Cavanaro, P.E. of Cavanaro Consulting, on behalf of landowners, Edward and Julie of Rodgers of 26 Isabella Street, Boston, MA. They seek to reconstruct a single family home at 68A Nichols Road. §8.7. File #10.02.08a.

Chairman Chittick opened the hearing. Mr. John Cavanaro of Cavanaro Consulting and civil engineer for the project addressed the Board and reviewed the site plan of the proposed structure. Mr. Cavanaro explained that it is a pre-existing nonconforming lot that has direct frontage on Nichols Road. The lot itself is in the 60,000 zone, but is about 45,000 feet in size. The frontage is also insufficient. They are seeking relief for lot size, as well as the rear setback and one side setback is also nonconforming. Mr. Cavanaro explained that the net increase of coverage is basically zero. They are moving closer on the sideline, but not into the setback. The rear of the main building is staying in the same location. There was a discussion regarding a cantilevered deck. The proposed house is shorter than the existing, so the deck does not go any further in the rear setback. They will be going to the Planning Board for a large home review as well as the Conservation Commission. Mr. Cavanaro confirmed that they will be filling in the front of the house, but will not be filling anything in the back. There will be new grading in the front, but no grading is changing in the back on the Little Harbor side. Mr. Cavanaro explained how they measured the height to the Board. The Architect for the project, Mr. Patrick Ahearn of Ahearn Schopfer & Associates addressed the Board. Mr. Ahearn reviewed how they reconfigured the house from the ground floor up. Mr. Lacy pointed out that they are increasing the height considerably. Mr. Ahearn stated they are going up a total of 6 feet 2 inches over the ridge of the existing house. Mr. Ahearn stated that they had originally planned on going higher, but they met with the abutters and reduced the height. They have a letter of support from Stacy Weaver and John Beck of 44 Nichols Road. Chairman Chittick stated that according to the way they measure it, the building height will be 31 feet 5 inches from the existing mean grade. Mr. Ahearn concurs. Mr. Goedecke asked Mr. Cavanaro to review how they measured the mean grade at the back of the structure. Mr. Cavanaro explained that they use an average around the entire perimeter of the structure. Mr. Ahearn stated that the topography on the back (facing the harbor) of the building and the back of the wall stays the same as it is in terms of line. Mr. Ahearn further reviewed the plans for the Board. He then reviewed the square footage, stating that the first floor's square footage is reduced by 117 square feet. He then reviewed the existing conditions of the house stating that by filling in the grade they will be able to put in underground drainage systems and gravel, they can re-pitch the house so the water does not run into it. Mr. Ahearn also reviewed the design and look of the proposed structure for the Board. They were able to reduce the size of the gambrel as per the request of one of the abutters. Mr. Lacy asked what would be happening with the existing garage. Mr. Ahearn stated that the existing would be razed and the owners may come back in the future. **Mr. Lacy moved to close the hearing. Mr. Goedecke seconded the motion and the vote was unanimous.**

Special Permit – Filed by Attorney Charles Humphreys, on behalf of landowner Ellen Gibbons of 749 CJC Highway, #343. They seek to raze the existing dwelling and replace it with a new dwelling in a new location at 379 Atlantic Avenue. §8.7.2. File #10.02.08b.

Chairman Chittick opened the hearing. Attorney Humphreys addressed the Board on behalf of his client Ms. Ellen Gibbons. Chairman Chittick stated that the Board is familiar with the property, and asked that they keep the testimony focused on anything new in the application. Attorney Humphreys stated that nothing has changed with the proposed plans to raze and rebuild a new single family home. Mr. John Cavanaro addressed the Board. He stated that the lot is nonconforming by 3,000 square feet. The existing building will be enlarged toward the street and slightly toward the west, the existing footprint is presently about 27 feet off the sideline, the rear of the building is being reconfigured, the driveway will be the same. The orientation of the structure on the lot will stay about the same. Essentially the structure is coming towards the street and shifting to the left, and adding a covered porch on the westerly side. There will be minimum grading on the site. This project has previously gone through the Planning Board for a large home review. With the filing of this Special Permit, the Planning Board was also given an application to review and they have recommended the project be approved. They have also gone before Conservation and will go through again with the filing for this Special Permit. They have also had a Stormwater Bylaw review and that went through during the first process. Attorney Humphreys stated that he had to show to the Board that this project was not more detrimental to the neighborhood. They completed an analysis of the properties in the neighborhood and their dimensional requirements and filed it with the Board (on file). Attorney Humphreys reviewed the analysis for the Board. He stated that the structure that is proposed on the lot is comparable to what exists presently in the neighborhood. They are able to show this by calculating the main building's finished area. Attorney Humphreys also gave a detailed graph showing examples of Special Permits to many properties in the neighborhood (on file). Chairman Chittick stated that the test under §8.7.2 is to see if the proposed structure is more detrimental to the neighborhood and asked what the increase was on the proposed structure. Attorney Humphreys stated that the increase would be 35%. Attorney Humphreys cited a Special Permit that was granted to 373 Atlantic Avenue and that building went from 3,302 square feet to 6,852 square feet on a lot that is 28,255. Attorney Humphreys addressed the affect this proposed home will have on the neighborhood. He stated that it will be a beautiful home and that it will be a positive impact on the surrounding homes. He does not feel the structure will cause any material adverse affect.

Chairman Chittick asked if anyone would like to speak. Mr. Alex Koines of 380 Atlantic Avenue lives across the street. He stated that he is very fond of his neighbors and wants everyone to get along. He stated that the way the structure is proposed that it will be an improvement, but he would like everyone to maintain the view they presently have. He would like to avoid the house moving any further over then proposed. Chairman Chittick stated that the owners of 379 Atlantic Avenue would have to come back before the Board for any changes. Ms. Susan Sturdy of 374 Atlantic Avenue addressed the Board and filed a written submission to the Board. Ms. Sturdy reviewed the reasons why she is opposed to the application which are outlined in her submission. She does feel that the proposed project is more detrimental to the neighborhood due to its size; she feels there are some modest homes in the area and that this will look like a hotel. She stated that in her submission there is a letter from an appraiser stating that the proposed negatively effects the values of the home in the neighborhood (submission on file in Zoning office). Mr. George Alex of 373 Atlantic Avenue asked to see the submission from Attorney Humphreys that shows measurements of his property as he thinks there are some errors. Attorney Humphreys briefly rebutted, adding that the Sturdy property was subject to a building permit that allowed the structure to be expanded on a nonconforming lot. After a lengthy discussion, the Board decided to close the hearing. **Chairman Chittick moved to close the hearing. Mr. Lacy seconded the motion and the vote was unanimous.**

DELIBERATIONS

SPECIAL PERMIT – Filed by Architect Steven J. Meyers, on behalf of land owner Paul Tedeschi. Seeks to demolish and reconstruct a single family home at 21 Sheldon Road. File #09.12.11b.

After a brief discussion, **Chairman Chittick moved that the Board grant the request for a Special Permit. Mr. Lacy seconded the motion and the vote was unanimous.**

SPECIAL PERMIT – Filed by Heidi C. Condon, of HC Designs, on behalf of land owners, Martin M. and Maria L. Osborne. Seek to build an addition at 22 Spring Street.

After a brief discussion, **Chairman Chittick moved that the Board grant the request for a Special Permit. Mr. Goedecke seconded the motion and the vote was unanimous.**

Chairman Chittick moved to adjourn the meeting. Mr. Lacy seconded the motion and the vote was unanimous. Meeting adjourned at 11:40PM.

Respectfully submitted,
Jennifer Brennan Oram
Assistant Clerk, Zoning Board of Appeals