

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

Members Absent: Benjamin H. Lacy, Vice Chairman
Susan Kent

Others Present: Jennifer Oram, Assistant Clerk

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

Board Business

Minutes - Mr. Peter Goedecke moved to approve the minutes of January 6, 2009 as amended. Mr. Charles Higginson seconded the motion and the vote was unanimous.

HEARINGS

17 Sohier Street (filed by Diarmuid and Elizabeth O’Connell of 25 Sohier Street). Appeal of the “Building Inspectors failure to grant enforcement” per the applicants request. File #08.12.22. Continued.

Chairman Chittick asked Attorney Eleey, the applicant’s attorney, to review the letter he submitted to the Board on February 24, 2009. The letter describes what they feel to be the zoning infractions at 17 Sohier Street. Attorney Eleey explained why he feels the stone wall in question is a retaining wall as opposed to a perimeter wall. Attorney Eleey feels that the wall supports a use, i.e. the parking area and that neither the wall nor the parking area was a part of the original approved plan/Special Permit. Chairman Chittick pointed out that at a previous hearing, the land owner’s Attorney, Bruce Issadore, stated that they would not use the “parking area” in the future. In regard to the wall, Chairman Chittick added that he feels that a retaining wall could also be a perimeter wall and that after going through town and looking at over two hundred (200) properties in Town, he feels that it could be considered common practice. Attorney Eleey then reviewed his other issues. The window that was made into a door, but that is not reflected on the original plans. In addition, feels the shower enclosure should be removed not only because it was not on the original plans, but he feels it also violates two zoning issues; height and it is built within the setback. They also feel the filling in of the land against the wall is not in compliance with the permit that was granted. Finally, he states that the main structure is built within the sideline setback at 13.98 feet and it is required to be at 15 feet. He added that they were hoping to gain access to the property to obtain measurements, but that they were denied.

Chairman Chittick stated that he felt the burden of proof lies with the appellant. He then asked Attorney Bruce Issadore to address the Board. Attorney Issadore was joined by Jerry Vainisi, owner of 17 Sohier Street. Attorney Issadore addressed issues from his letter submitted to the Board on February 27, 2009. He also rebutted many points made by Attorney Eleey. Attorney Issadore stated that the Vainisis hired Engineer Neil Murphy to shoot the wall and take other measurements. While taking the measurement, Mr. O’Connell came out while it was they were there and therefore was aware it was being done. Attorney Eleey then left a message during the week of February 16th asking for access to the property to take additional measurements. Attorney Issadore stated that the Vainisis were

away, and that it was too late to make the request and that the professional measurements taken by Neil Murphy Associates should suffice. Attorney Issadore then reviewed the measurement that had been submitted to the Board and the options his thoughts on what that the Board could give his clients. He stated that once the Board determines if the wall is a retaining wall, which he stated he is not conceding that it is, then the fence could come down and the screening provided will be removed. The height of the wall would be addressed as well. He feels if the fence was taken down, a railing may need to be installed as he feels there may be a building code issue. He maintains the window being changed to a door was a field change; something that the Building Inspector was fully aware of. In regard to the shower enclosure, he feels they had a right to built it as a matter of zoning, but if they need to take measurements or lower the height they will do so. In regard to the parking area, they will not park in there any longer. As for the side yard set back issue mentioned in Attorney Eleeey's letter of the 24th of February, he stated that he feels that issue is not properly before the Board as it is not in the appeal that has been filed, and therefore they will not address that issue. Building Inspector, Bob Egan, reviewed his position on retaining wall v. perimeter, field changes etc. He stated that he did not feel that the landscaping or the field changes violated the Special Permit.

After further discussion, Mr. Vainisi stated that Mr. O'Connell could measure the stone wall from his own property. The Board decided that it would be best to continue the hearing to allow any further measurements or information to be filed with the Board. **Chairman Chittick moved to continue the hearing. Mr. Higginson seconded the motion and the vote was unanimous (Chairman Chittick, Mr. Higginson and Ms. Hunter).**

DELIBERATIONS

8 Highland Court (Carr, Lynch and Sandell on behalf of land owner, Rebecca H. Behenna). Seeks to build and addition. SP under §§8.1 and 8.72. File #08.12.15a.

After a lengthy review of the facts, **Chairman Chittick moved to grant a special permit under section 8.7.2 for the proposed addition, not including the friendship staircase or an extension of the front nonconformity further into the front setback with conditions. Mr. Higginson seconded and the vote was unanimous (Chairman Chittick, Mr. Higginson and Ms. Hunter). Chairman Chittick then moved to deny, without prejudice, a special permit under 8.7.2 for the proposed addition of a friendship staircase or any further extension into the front setback. The applicant is encouraged to present additional information at a new hearing which addresses on-site parking and safety issues. Mr. Higginson seconded the motion and the vote was unanimous (Chairman Chittick, Mr. Higginson and Ms. Hunter).**

790 Chief Justice Cushing Highway (Barlo Signs, Co., on behalf of land owner TRT Cohasset LLC). Seeks to replace the pylon sign. Variance under §§6.5.2 and 6.5.4. File #08.12.18.

After a brief discussion, **Chairman Chittick moved to approve the decision as amended, granting the relief sought with conditions. Mr. Goedecke seconded the motion and the vote was unanimous (Chairman Chittick, Mr. Higginson and Mr. Goedecke).**

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

Meeting adjourned at 10:45PM.

Respectfully submitted,

Jennifer Brennan Oram

Assistant Clerk, Zoning Board of Appeal