

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

Member Absent: Kathleen Hunter

Others Present: Jennifer Oram, Recording Secretary
John Cavanaro, 687 Main Street
Attorney Charles Humphreys
Attorney Richard Henderson
Attorney Daniel McKinnon
Janet Delehany, 812 Avala Drive, Hull, MA
Jeff Barker, 126 Westford St., Dedham, MA
Susan Kecskemety, 7 Cushing Road
Barbara Hiltz, 9 Cushing Road
Gary Barrow, 51 Smith Place

Chairman Chittick called the meeting to order at 7:35PM.

HEARINGS

14 Pleasant Street (Campbell) - §8.7 (construct an addition in excess of lot coverage) - #06-03-21a.

This was a continued hearing from April. Chairman Chittick recused himself, and Mr. Benjamin Lacy chaired the hearing. Attorney Charles Humphreys represented the applicants, Mr. and Mrs. Campbell. Also before the Board was Mr. John Cavanaro, the engineer who had been hired by the applicants shortly after having filed for a building permit. The applicants hired Mr. Cavanaro to do a site plan and survey of part of the property as they were concerned about the side-yard setbacks. Mr. Cavanaro explained that after the foundation had been poured, he put together an “as built” plan to ensure that the side-yard setbacks had been met. The “as built” included the area that had been surveyed. What was discovered is that the plan was slightly different than the information they had received from the Assessor’s Office. The new plan stated that the lot was approximately 8,870 square feet, whereas the Assessor’s Office had on record that the lot was 9,400 square feet. At this time, it was realized that in addition to concerns with the setbacks, the applicants were now also faced with exceeding the allowed lot coverage in their area of Town. The Building Commissioner told the applicants that there were concerns regarding this, and that they may need to seek relief from the Zoning Board. This was in January. The foundation had been poured, and the building had been vertically framed. The applicants chose to continue with construction, understanding that they were not compliant. There was then a lengthy conversation amongst the Board and Attorney Humphreys to determine what the applicants could do to

make the home conforming. Mr. Humphrey's stated that he felt his clients could be granted a Special Permit (SP) under §8.7. He felt that his clients had the right to seek a SP that would allow the intensification of use and either the extension of a previously existing non-conforming use, or relief from the creation of a new one, under a non-conforming lot. Attorney Humphrey's also stated that although a SP was their ultimate goal, he and his clients would agree to a SP with conditions (i.e. removing a front porch and removing the driveway). However, even with these conditions, it was pointed out that the applicants needed to remove 414 square feet to comply, and even with the proposed "conditions", the applicants did not reach that number. The Board then accepted the letters of support from the neighbors. **Mr. Peter Goedecke moved to close the hearing, Mrs. Power seconded it, and the vote was unanimous. Mr. Goedecke will draft the decision.**

2 Sheldon Road (Calhoun) §8.7.2 (construct a garage/mudroom in setbacks) – #06-04-07

This hearing was once again in front of the Board after being denied without prejudice at the February hearing. The applicants, Mr. and Mrs. David Calhoun, wish to construct a garage and mudroom in the setbacks of their home on Sheldon Road. Mr. Calhoun presented his revised set of plans to the Board that showed the proposed structure and stated that the new plans "pushed" the building back as far as possible. Mr. Calhoun cited §5.4.3, using the Assessor's photos, Mr. Calhoun argued that using the average of the setbacks of the houses on either side of his home, would get him under the setback requirement. However after further calculation and discussion amongst the Board, it seemed that Mr. Calhoun would actually be at 17 feet, not the required 15 feet. Mr. Calhoun stated that he could reduce it by the two feet to make it compliant. Chairman Chittick pointed out that it would be possible to move the proposed structure, and actually build within the setbacks. Mr. Calhoun explained that he could, but that his neighbors were more in favor of the original plan. The Board agreed that Mr. Calhoun had made his argument, and that the Board would need to deliberate further, while also considering the oddities of Mr. Calhoun's lot. Prior to closing the hearing, Chairman Chittick alerted Mr. Calhoun to a complaint the Board had received in regard to his stone wall/fence. Mr. Chittick explained that the stone fence that runs in front of Mr. Calhoun's home is over the 6-foot height that is required in the bylaws. Mr. Calhoun explained that since the wall/fence has been built, the soil had not been backfilled. He stated that once that is done, which he expects to occur at anytime, the wall/fence would then be compliant. **Mr. Goedecke moved to close the hearing, Mr. Lacy seconded it, and the vote was unanimous. Mr. Chittick will draft the decision.**

19 Atlantic Avenue (Barker) – (Appeal of the Building Inspector's letter) #06-04-18

This hearing has been before the Board before, but was withdrawn so that Attorney Henderson could gather more evidence on behalf of his clients. Mr. Henderson reviewed the history of the case before covering issues including title and utilities (sewer). Attorney Henderson presented the Board with a memo and several documents that he stated would prove that this parcel of land has been under single ownership since at least

1953, and thus proving that the land has not been abandoned. Attorney Henderson went on, in great detail, to review several pieces of correspondence from members of the Barker family thus proving their constant interest in developing the property. The family consistently showed this interest in their inquiries regarding the area being put on Town Sewer. This batch of correspondence spanned from the years 1977-2000. Even after 2000, interest in the property continued as the family decided what members would buy the parcel and develop it. In past hearings, Attorney Daniel McKinnon had represented the abutters of the property. It was discovered that on the day of this hearing, the new neighbors, the Westcotts, had also retained Mr. McKinnon's services. To be fair, the Board offered to continue the hearing so that Attorney McKinnon could review the newly presented documents, and so he could submit additional materials on his client's behalf. **Mr. Chittick moved to continue the hearing, Mr. Goedecke seconded it, and the vote was unanimous.**

2 Smith Place (Brown) – (Appeal of the Building Inspector's Decision) or SP #06-04-18b

This hearing was to address the revised plan for 2 Smith Place. Mr. Chittick recused himself from this hearing. Mr. Lacy chaired the hearing. Attorney Henderson reviewed the changes to the plans on behalf of his client, Mr. Richard Brown. The original plan called for an 8 bay building, the new plan calls for 6. The original building was 10,000 square feet, whereas the new building would now be 7,500 square feet. The original length of the building was 200 feet, but with the elimination of a utility room on each end, plus making it 6 bays, instead of 8, the length of the building was now proposed to be 150 feet in length. The applicant also increased the parking from 16 spots to 8 bays, up to 24 spots to 6 bays. Attorney Henderson also pointed out that when the MBTA finishes construction, the new Town Parking lot would abut the site, thus providing additional parking. He also stated that it may be possible to ask the Selectmen to grant them access on to lot directly from Pleasant Street by building a road there, thus cutting down on the use of Cushing Street dramatically. The Board agreed that if the access to the building could be re-routed, this would make a significant difference in traffic and safety concerns brought on by this proposal. There was then a lengthy conversation amongst Attorney Henderson and the Board, during which they tried to narrow down what uses the building would fall under, and what amount of parking would be enough. Mr. Lacy then reminded Attorney Henderson that the Board had to decide if the new application before the Board was a repetitive petition, or if there was a significant difference. With all of the changes in parking, and building size, Mr. Lacy stated that he did feel that the petition was materially different. Mr. Chittick then addressed the Board and voiced his concerns in regard to building use, parking and the impact a building like this would have on the small neighborhood that surrounds the area. Mr. Chittick asked that the language used in the draft decision be very specific so that if the building should change owners in the future, the parking and use of the structure would still be adequate. **Mr. Lacy then moved to close the hearing, Mr. Goedecke seconded it, and the vote was unanimous. Mr. Lacy will draft the decision.**

DELIBERATIONS

190 Pond Street (Ricchio) §9.6 and 9.7.8 (construct a garage in a flood plain) – #06-06-10

The Board reviewed the decision drafted by Ms. Kathleen Hunter. **Mr. Chittick moved to grant relief under §9.7.8 with conditions, Mr. Goedecke seconded, and the vote was unanimous.**

37 Parker Avenue (Cohasset Harbor Mar. Inc.) §12.3 (seeking to amend SP #00-09-12)

The Board reviewed the draft of the amended Special Permit drafted by Mr. Lacy. **Mr. Chittick moved to grant the amendment, Mr. Lacy seconded it, and the vote was unanimous.**

MEETING DATE

The next meeting for the Zoning Board of Appeals will be held on **Tuesday, June 6, 2006** at 7:30PM.

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

Meeting adjourned at 10:50PM

Respectfully submitted,

Barbara M. Power
Clerk