

- Members Present:** S. Woodworth Chittick, Chairman
Benjamin Lacy, Vice Chairman
Charles Higginson
Peter Goedecke
Kathleen Hunter
- Member Absent:** Barbara Power, Clerk
- Others Present:** Jennifer Oram, Recording Secretary
Attorney William J. Clary, Scituate, MA
Wendy and Steve Oleksiak, 235 Cedar Street
J. Patrick and Diane Kennedy, 59 Jerusalem Road Drive
Stephen Jensen, Beverly, MA
Stephen Bjorkland, Scituate, MA

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

HEARINGS

59 Jerusalem Road Drive (J. Patrick and Diane Kennedy) - §8.7.2 (second story addition above existing garage) - #06-10-16 – Sitting – wc bl ch pg kh – SP

The Kennedy's came before the Board to seek relief under §8.7.2 to allow them to build a second story addition over their existing garage. At the hearing, the Kennedy's presented updated plans that had additional scale drawings, elevations, and a to-be-built plan. The Engineering firm of Neal Murphy & Associates stamped the plans. Upon further review, and a brief discussion, Mr. Lacy stated that he felt the applicants had a conforming lot; the Board also concluded that the existing home is a conforming structure. Therefore, as a conforming structure, section 8.7 is not applicable and to build further into the setback would actually require a Variance. The Board explained that under §5.3.1, District R-B, there is an asterisked (*) portion of the Bylaw that states that the "Portion of a main building less than 15 feet in height (may extend no closer than 15 feet to side lines of its lot)". The Kennedy's present home fits criterion, and therefore is conforming. The Board suggested that the Kennedys' go back to their architect and re-design the second-floor addition so that it does not come closer than 20 feet from the lot line (wherever it is more than 15 feet high), thereby maintaining its conforming nature. With such a change, they would not have to come before the Zoning Board again. **The Kennedy's talked with their architect and then asked to withdraw their application without prejudice. Mr. Lacy moved to accept their withdrawal without prejudice, Chairman Chittick seconded the motion and the vote was unanimous.**

235 Cedar Street (Monomoy Realty Trust/Oleksiak) - §8.7 (add a two story addition) - #06-10-16a – Sitting – wc bl ch kh pg – SP

Attorney William Clary of North Scituate addressed the Board on behalf of his clients, Wendy and Steve Oleksiak. Attorney Clary explained that they were seeking relief under

§8.7 as they want to expand the dog kennel structure and add more dog runs. Mr. Lacy asked about the size of the lots. Mr. Lacy stated that the lot looked like it had been greatly enlarged. At this point of the hearing, the architect, Mr. Steve Jensen, addressed the Board. Mr. Jensen explained that the applicants' plan was to combine the four lots to make it three. This would make the lot containing the present kennel conforming as well as meet all of the dimensional requirements. Chairman Chittick then asked why they would be before the Board if their lot would be conforming. Attorney Clary explained that the applicants want to add more dog runs and that the Building Commissioner, Robert Egan, told the applicants to file with the Zoning Board under §8.7.2. Mr. Lacy then responded saying that §8.7.2 is a structural Bylaw and what the applicants are seeking relief for is use. Mr. Lacy stated that the relevant sections of the Bylaw are §12.6.1. a & 12.6.2 which state that a building permit will not be issued by the Building Inspector "where the building or structure is nonconforming by virtue of its use except where the construction...would neither increase nor change the nonconforming use..." [12.6.1.a] ; and where expansion of use is the result, "The planning board shall review preliminary site plans and shall issue site plan approval..." if plans satisfy 6 conditions [12.6.2]. Mr. Jensen then asked why the Board was not looking under §8.7.2. After some discussion, the Board suggested that relief under 8.7.2 would also be required because the kennel does not conform to section 4.2 which requires setbacks for a kennel "of at least two hundred feet from any lot line." In summary, Mr. Lacy explained that Bylaws require planning board approval for any expansion of a non-conforming use, and that only if such approval is granted can the Zoning Board act upon setback relief required (a special permit) per section 8.7.2.

Attorney Clary then asked the Board to withdraw the application without prejudice, so that application could be made to the planning board. Chairman Chittick moved to approve the request for withdrawal, Mr. Goedecke seconded the motion, and the vote was unanimous.

DELIBERATIONS

150 North Main Street (Kuolos and McGowan) - §12.2.3 (Appeal of the Building Inspector's Letter) – Sitting wc bl ch kh pg.

Kathleen Hunter reviewed her draft decision and also detailed how she came to her decision to deny the appeal. The Board agreed with Ms. Hunter's decision. **Mr. Lacy moved to approve the decision to deny the appeal, Mr. Goedecke seconded the motion, and the vote was unanimous.**

OTHER BUSINESS

September Minutes – Chairman Chittick moved to approve the minutes for September 2006, the motion was seconded by Mr. Lacy, and the vote was unanimous.

The next meeting of the Zoning Board of Appeals will be held on Tuesday, December 5, 2006 at 7:30 PM.

Chairman Chittick moved to close the meeting, Mr. Goedecke seconded the motion, and the vote was unanimous.

Meeting adjourned at 9:10PM.

Respectfully submitted,

Barbara Power
Clerk