

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

Others Present: Attorney Richard Hucksam, Town Counsel
Jennifer Oram, Assistant Clerk

Chairman S. Woodworth Chittick called the meeting to order at 7:00PM.

Zoning Board Business

February Minutes – Mr. Benjamin Lacy moved to approve the minutes of February 3, 2009 as amended. Chairman Chittick seconded the motion and the vote was unanimous.

Avalon Discussion – the Board moved this discussion to a future agenda.

Heidi Condon/Building Height Determination – Heidi Condon and Attorney Richard Henderson addressed the Board. They reviewed their interpretation of building height and questioned the methodology the Board has been following. Ms. Condon states that she feels the Board is too rigid in their interpretation of building height. She gave an example of a project that she is presently working on. She stated that measuring from the plate height of a dormer could give you different height measurements based on the type of dormer that is used. She said that mass should be considered in the calculations and perhaps a percentage of roof coverage. Attorney Henderson suggested that building height be determined on a case by case basis. Ms. Hunter asked if they could legally convince the Board has been interpreting it incorrectly. Attorney Henderson stated that he could not, but that he did feel definition could be interpreted differently. Mr. Lacy stated that he thinks the Board should continue to read the Bylaw as they have been. The Board thanked them for their presentation.

HEARINGS

17 Sohier Street (filed by Diarmuid and Eizabeth O’Connell of 25 Sohier Street). Appeal of the “Building Inspector’s failure to grant enforcement” per the applicant’s request. File #08.12.22.

This is a continued hearing. Attorney Eleey, the Attorney for the O’Connells addressed the Board. He stated that they have been unable to gain access to the property to obtain the measurements requested by the Board. He asked the Board to go back to the original petition he filed with the Board. He would like the issues listed in that petition, including the side-line setback issue, be addressed by the Board. Chairman Chittick asked if the Board needed any further information. Mr. Lacy suggested the Board ask the Building Inspector to obtain the measurements. After a brief discussion, Mr. Goedecke stated that the Board will need to address the zoning issues in deliberation and that the Board has already requested the measurements and did not receive them. Attorney Eleey re-read his letter of November 6, 2008 that he submitted along with the appeal application to the Board. Attorney Eleey feels this letter does address the side-yard setback issue and therefore the Board should consider it under this appeal. Chairman Chittick stated that the zoning issues, measurements and the side-yard question were for the Board to deliberate.

Attorney Issadore, representing the owners of 17 Sohier Street, Jerome and Tracey Vainisi, addressed the Board. Attorney Issadore stated that the Board already has the requested measurement that his clients submitted at the last hearing. They were taken by registered engineer, Neil Murphy. He stated that no further access would be given to the O'Connells as outlined in his letter dated March 10, 2009 RE: Trespass of Diarmuid O'Connell. Attorney Issadore went on to review the various issues discussed in the previous hearings. He stated that his clients will address the fence on the wall, and that they have already conceded that at some points the stone wall is over 6 feet tall. They will comply with whatever ruling the Board makes. He added that in regard to the sideline issue, the Board already approved that plan in its 2004 decision. He added that his clients are laypeople and they relied on the experts they hired to follow the guidelines. He said that the sideline issue is not properly before the Board and therefore he would not address it.

Chairman Chittick asked if Mr. Egan had any comments regarding the building code in regard to the white fence being removed and safety issues. Mr. Egan stated that he felt a planter would have the same affect if the white fence was removed. After a brief discussion, **Mr. Lacy moved to close the hearing. Mr. Higginson seconded the motion and the vote was unanimous.**

25 Ripley Road (Wilmarc Charles). Seeks to construct seven condominium units in the existing single family home. Comprehensive Permit, pursuant to Chapter 40B, sections 20-23, as well as a Special Permit under §5.3. File #09.03.13.

Chairman Chittick opened the hearing. Town Counsel, Attorney Richard Hucksam joined the Board. Applicant Wilmarc Charles and his representatives, Attorney Robert Barrett and Engineer, Neil Murphy addressed the Board. Attorney Barrett reviewed the background of Mr. Charles' ownership of the property. He stated that Mr. Charles would like to develop the site into 7 units ranging in floor area of 800-1400 square feet. Attorney Barrett said that there are 12 similar homes in Cohasset, with the same density as 25 Ripley Road. Attorney Barrett submitted this to the Board. The Board asked Mr. Barrett to review the elevations of the project side by side to make it easier for the Board to follow along [many of the plans received by the Board were not up to date or complete]. The site-plan was then reviewed floor by floor determining where the units were located. Attorney Barrett stated that this is a for sale project, with two affordable components. Mr. Lacy asked if the units that would be affordable have been designated. Attorney Barrett stated that they had not. Ms. Hunter asked Mr. Charles how many parking spots are presently at the location. Mr. Charles stated 16. Mr. Lacy asked the applicants to look at the parking plan that they had submitted. He pointed out that where "parking space number 9" is proposed, on another plan, there is actually an addition to the building. After a lengthy review of the plans, it was determined that this was the case and that "parking space number 9" would have to be relocated. The Applicant's Engineer, Neil Murphy then reviewed the preliminary site plan and proposed drainage detention area. He stated that the drainage system will be an improvement to what is there presently. Mr. Murphy then addressed the parking plans. Chairman Chittick pointed out that the present parking spaces do not meet the Bylaw requirements. Mr. Murphy stated that they did not have to comply to the local zoning regulations and that the proposed parking spots meet State Code. Chairman Chittick asked Mr. Murphy to submit the State Code to the Board and he agreed to do so. Chairman Chittick asked if the application triggers the Stormwater Bylaw with the proposed construction, surface coverage etc. Mr. Murphy stated that he would submit his drainage calculations to the Board. Chairman Chittick also reminded the applicant that they will need to file with the Board of Health. Mr. Murphy addressed the letter written to the Board from Health Agent, Joseph R. Godzik, VMD. The letter states that the project (although not yet filed with the BOH) Under Title 5 could only

have 11 bedrooms, not 14 as proposed. Mr. Murphy reviewed the many reasons he does not agree with Dr. Godzik. Chairman Chittick stated that they need to file with the Board of Health to address Title 5 and this is not something that can be waived. Chairman Chittick asked the applicants if they had any issues with the requests the Water Department has made. They stated they did not.

Chairman Chittick then addressed the many setback issues the project faces. The proposed farmer's porch causes them to encroach further into the setback. He asked how the applicant could justify that. Attorney Barrett stated that the porch was purely aesthetic. Ms. Hunter asked the applicant to provide the calculations requested on the application. The applicant did not provide them on this version of the application instead they stated they were not required to as the application was for a Comprehensive Permit. Ms. Hunter pointed out that in their first application [withdrawn without prejudice in January 2009], they did provide those numbers. The Board agreed that the calculations would be needed to review the project. Mr. Murphy once again stated that they did not have to comply to these requests because the application is for a 40B. Attorney Hucksam addressed the Board and stated that the applicant is required to provide to the Board a list of waivers they are requesting from local law requirements. The Board can then review each request and determine how each impacts local concerns, if the project will have a good impact, if local safety issues have been addressed, design etc. The Board can then make substantive determinations.

There was further discussion about the additional activity the seven units would bring to the neighborhood. Mr. Murphy stated that there was a traffic study that was done when the library was built which he could provide to the Board. Chairman Chittick also asked the applicant to provide a landscape plan (fences and screening), a lighting plan, height elevations, sideline calculations, rear calculations and coverage calculations (showing permeable and impermeable surfaces). Ms. Hunter asked for the dimensions of the "walk outs"/balconies. Ms. Kent stated that they [the applicants] really should focus on the visual impact that this property would have on the neighbors. Chairman Chittick added that the Board would be hiring the Town Engineer to review the present set of plans.

Chairman Chittick opened the discussion to the audience. Captain Trask of the Cohasset Fire Department stated that he had submitted a letter to the Board listing items he would like addressed by the applicant. Captain Trask quickly reviewed the requirements under CMR780, NFPA 13 and CMR 527 S31. He asked the Board to consider requiring angled parking, "mountable curbing", that a specific telephone pole be relocated, the installation of standpipes in the stairwells to each unit and that proper signage be affixed to identify each unit. As far as access to the building, police and fire will need to meet to discuss the best route of access and what requirements will be mandated. Mr. Steve Lucitt of the Housing Trust then addressed the Board. He stated that they are in support of the project in either configuration (11 or 14 bedrooms) based on the hardship with finding affordable housing units in Town.

There were many neighbors and residents present at the hearing. The following all spoke against the project, Paul Hart, 63 Sohier Street, Chris McGowen of 154 North Main Street, Mr. Gregory Wipf of 3 Ripley Road and Mr. Thomas Tesauro of 40 Ripley Road. Mr. Roger Krafts of 156 North Main Street submitted a letter with possible financial scenarios of the project and expressed his concern about the financial viability of the project. Ms. Hunter asked Attorney Hucksam if the Board could consider financials. Attorney Hucksam stated that the Board could review financial information if, during the hearing, the Board proposes a condition that the applicant feels would render the project uneconomic. The Board can then require the applicant to provide the Board with a pro forma for their review to support the applicant's allegation that the proposed condition would render the project uneconomic. Mindy Evans of 36 Sohier Street suggested that when the safety issues are reviewed with the police,

that Mr. Yaeger of 79 Sohler Street [direct abutter] be in attendance. Mr. Yaeger also expressed concerns about the proximity to his property and asked who would be monitoring the financials. Mr. James Campbell of 44 Ripley Road will be submitting a letter to the Board.

Chairman Chittick reviewed the list of submissions that have requested by the Board. The applicant will receive the requests in writing within a week of the hearing. **Chairman Chittick moved to continue the hearing. 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 11PM.

Respectfully submitted,

Jennifer Brennan Oram

Assistant Clerk, Zoning Board of Appeals