

TOWN OF MATTAPOISETT

BOARD OF APPEALS

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Appeal of )  
William Halmkin, et al )  
10 Ocean View Avenue )  
Mattapoisett, MA 02739 ) BOA CASE #1178  
relating to property located )  
at 8 Ocean View Avenue )

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RECORD OF PROCEEDINGS

The public hearing in BOA Case #1178 was called to order by Chairperson Chase on August 19, 2010. Chairperson Chase explained the practice and procedures of the Board. Chairperson Chase stated that the members of the panel to hear and determine this case were Chase, Brogan, Akin, Milott and Pacheco. Board member Akin read the application as filed with the Town Clerk on May 26,, 2010.

The appellants were represented at the hearing by attorney Barbara M. Huggins from Attorney Jonathan Witten's office in Duxbury, MA. This Appeal is before the Board due to the fact that the Building Inspector will not revoke the Building Permit issued to Thomas Simonson at 8 Ocean View Avenue Mattapoisett, MA. The appellants contend that a Special Permit should have been applied for and granted before the Building Inspector could issue the Building Permit to the Simonson's.

At the beginning of the hearing, Attorney Huggins stated again that a Special Permit should have been applied for and granted before the Building Permit could have been issued by Mr. Bobola. Attorney Huggins contends that this is a pre-existing, nonconforming structure and by constructing

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an addition, the non-conformity will be increased thus the need for a Special Permit.

Attorney Daniel Perry was again present at the hearing representing the Simonson's. He stated that the appellants, other neighbors and abutters have added additions to their existing homes as a matter of right, this has been common practice. This is the exact thing that the Simonson's have applied for and been granted a Building Permit to use the grandfathered setbacks since their existing dwelling existed prior to 1973. The appellants are before you to stop his clients from doing the exact thing that they themselves have done without obtaining a Special Permit stated Attorney Perry.

Attorney Joel Bard from Kopelman and Paige, representing the Building Inspector addressed the Board and stated that the Building Inspector issued the Building Permit correctly and this practice is the same scenario that has existed and has been applied to other owners of surrounding properties and elsewhere within the Town. At the prior meeting in Board of Appeals Case #1172, Attorney Jonathan Silverstein with Kopelman and Paige represented Mr. Bobola and stated the same as above.

There was much discussion between the Board, Attorney Barbara Huggins, Attorney Joel Bard and Attorney Daniel Perry in regards to this appeal. Please refer to the prior Record of Proceedings in Board of Appeals Case #1172 for further information and discussion as to case laws etc.

Daniel Hulsebosch was present at the hearing and addressed the Board stating that Section 6.6 does not apply in this case and gave the Board a letter which was entered into the

record as an exhibit. Mr. Hulsebosch is adamant that the addition to the Simonson's present dwelling will definitely increase the nonconformity of this structure and in his opinion requires a Special Permit.

The following Exhibits were entered into the record during the public participation phase of

HALMKIN/BOA CASE #1178

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Board of Appeals Case #1178.

Exhibit "A" – Copy of Building Permit #10694

Exhibit "B" – Copy of a letter dated 4/14/10 from Attorney Jonathan Witten to Andrew J. Bobola requesting revocation of Building Permit #10694

Exhibit "C" – Copy of letter dated 4/28/10 from Andrew J. Bobola to Attorney Jonathan Witten denying the revocation of Building Permit #10694

Exhibit "D" – Note from Joan & Steve Brown and Richard Burke in favor of the proposal

Exhibit "E" – Letter signed by Daniel Hulsebosch in opposition to the proposal

Exhibit "F" – Westlaw Case Law Decision

Exhibit "G" – Copy of Land Court Decision Halmkin v. Simonson & Andrew Bobola

The public participation phase of Board of Appeals Case #1178 closed to testimony at 6:30 P.M.

The deliberation phase of Board of Appeals Case #1178 opened at 7:04 P.M. and after discussion and upon motion duly made and seconded, the Board voted unanimously to AFFIRM the Building Inspector's Decision not to revoke the Building Permit to the Simonson's.

Chairperson Chase stated that Board of Appeals Case #1178 would be continued to Thursday, September 2, 2010 for the sole purpose of signing a written Decision.

On Thursday, September 2, 2010 Chairperson Chase called to order BOA Case #1178 and all members being present they proceeded to sign the written decision in the form presented.

The hearing adjourned at 6:30 P.M.

Chairperson/Jeffrey R. Chase