

TOWN OF MATTAPOISETT

BOARD OF APPEALS

\_\_\_\_\_) )  
Application of ) )  
Susan A. & Alan Fine ) )  
7220 Winding Bay Lane ) )  
West Palm Beach, FL 33412 ) BOA CASE #1187  
relating to property located ) )  
at 1 Waterman Street ) )  
\_\_\_\_\_)

RECORD OF PROCEEDINGS

The public hearing in BOA Case #1187 was called to order by Acting Chairperson Akin on October 21, 2010. Acting Chairperson Akin explained the practice and procedures of the Board. Acting Chairperson Akin stated that the members of the panel to hear and determine this case were Akin, Milott, Lyonnais, Pacheco and Rottler. Board member Milott read the application as filed with the Town Clerk on September 29, 2010.

The applicants were represented at the hearing by Rich Charon of Charon Engineering out of Rochester, MA in their request for a Special Permit and Variance. Mr. Charon stated that his clients would like to demolish their existing structure and rebuild a new, single family dwelling that will exceed the 35 foot height restriction in accordance with the Towns Zoning By-Laws. Further, the applicants are asking the Board to use the grandfathered setbacks in the reconstruction of their new dwelling. The grandfathered setbacks for the old Waterfront 7.5 (W-7.5) are 15 feet from the street, 25 feet from the rear and 10 feet from the sides.

The applicant's property is shown on Plot 5A, Lot 218 on the Assessors Map. It contains approximately 6,313 square feet in area with frontage of 55 feet. The lot and dwelling are located in the Waterfront 30 (W-30) Zoning District and are lawfully non-conforming. It is further recorded in

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the Plymouth Registry of Deeds Book 32122, Page 261.

Mr. Charon stated that the proposed dwelling will be a 28 x 54 dwelling with cantilevered decks and will have a Waterman Street setback of 20 feet, sideline setbacks of 11 feet and 30 feet on Crescent Avenue and as further shown on exhibit "A" of the file which is the site plan. Acting Chairman Akin stated at the hearing that she has issues with the height Variance and this sentiment was echoed by Board member Lyonnois and Millot. Board member Milott asked Mr. Charon if his clients are able to reduce the ceiling height from 8 foot ceilings to 7'6" which he believed is in accordance with the Building Code.

The new proposed structure will be built in compliance with the Building Code and FEMA requirements for construction in a V Flood Zone. Mr. Charon further stated that the applicants have received approval from the Conservation Commission for the construction of their dwelling.

During the hearing, a direct abutter, Carol McIntire stated that when they rebuilt their home they had to meet the 35 foot height restriction as well as the existing footprint. At this point Mr. Charon commented that the people that went through Hurricane Bob rebuilds were held to the exact existing footprint by the State and not the Town of Mattapoiset. At this point Mr. McIntire who was also present at the hearing asked to see the construction plans for this proposal.

Another abutter, Mr. Francis Mahady who had sent in a letter of opposition which was entered into the record as an exhibit also spoke and stated that same rules and regulations should

apply to everyone in regards to the height restriction. In addition, Mr. Mahady stated that he is also in opposition to the extension of the footprint. It is noted that at this time Board member Pacheco also stated that the height restriction should be met by all applicants.

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At this time of the public participation phase of the hearing, Mr. Charon asked the Board if he could withdraw the Variance part of the application without prejudice and the Board voted unanimously to allow the withdrawal. Having voted on the withdrawal of the Variance, the Board was now able to discuss and vote on the Special Permit part of the application only.

Mr. Charon, the Board, and Andrew J. Bobola, Building Inspector discussed lot coverage. Mr. Charon stated that the lot coverage for this project was approximately 24% not including decks and approximately 34% inclusive of decks. It is noted that the Board has applied only 25 percent lot coverage in the demolition and reconstruction of dwellings.

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

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Exhibit "A" – Site Plan

Exhibit "B" – Assessors Map

Exhibit "C" – Assessors Field Card

Exhibit "D" – Conservation Commission Approval

Exhibit "E" – Construction Plans

Exhibit "F" – Photographs

Exhibit "G" – Letter from Francis Mahady in opposition to the proposal

The public participation phase of Board of Appeals Case #1187 closed to testimony at 6:36 P.M. The deliberation phase of Board of Appeals Case #1187 opened at 7:43 P.M. and after discussion and upon motion duly made and seconded, the Board voted unanimously to GRANT the Special Permit to the applicants with the stipulation that only twenty-five percent (25%) of the lot

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may be covered inclusive of decks.

The Board members found that this proposal will not be detrimental to the neighborhood nor the Town and will be in keeping with the intent of the Zoning By-Laws. Further it will have no adverse effects on the social, economic or community needs in accordance with Sections 7.2.2.2.1 through 7.2.2.2.7 of the Zoning By-Laws. In addition, the Board stated that there have been other cases before them asking for permission to use the grandfathered setbacks after demolition which have been granted.

Acting Chairperson Akin stated that Board of Appeals Case #1187 would be continued to Wednesday, October 27, 2010 for the sole purpose of signing a written Decision.

On Wednesday, October 27, 2010 Acting Chairperson Akin called to order BOA Case #1187 and all members being present they proceeded to sign the written decision in the form presented.

The hearing adjourned at 6:00 P.M.

Acting Chairperson

Susan Akin