



OFFICE OF THE ZONING
BOARD OF APPEALS

Town of Dartmouth

400 Slocum Road - Room 317
Dartmouth, Massachusetts 02747

Tel: (508) 910-1868
Fax: (508) 910-1833

MINUTES – May 28, 2013 ADMINISTRATIVE

Present: Chairman Michael Travers, Jacqueline Figueiredo, and Peter Smola

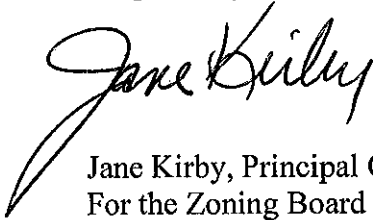
Also Present: Alternate Board Members Robert Gardner and Jay Peabody

Approval of Minutes

The Board unanimously approved the following minutes:

- Administrative minutes of May 7, 2013
- Case #2013-14 – 93 Sharp Street
- Case #2013-16 – BlueWave Capital

Respectfully submitted,


Jane Kirby, Principal Clerk
For the Zoning Board of Appeals

APPROVED
6-11-13

RECEIVED
2013 JUN 12 11:36
DARTMOUTH TOWN CLERK



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Dartmouth, Massachusetts 02747

Tel: (508) 910-1868
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MINUTES – May 28, 2013

Case #2013-18

Kyle McConnell
20 Lincroft Street

MAP: 174 LOT: 9

DARTMOUTH TOWN CLERK

2013 JUN 12 A 11:37

RECEIVED

PRESENT

The Board: Chairman Michael Travers, Jacqueline Figueiredo, Jay Peabody

Also Present

Alternate Board Member Robert Gardner

Kyle McConnell

Walter P. Kalisz, Jr., Esq. – Representing Kyle McConnell

7:15 P.M. Chairman opened the hearing

LEGAL AD

Notice is hereby given of a public hearing to be held on Tuesday, May 21, 2013 at 7:15 P.M. in Meeting Room #304, Town Office Building, 400 Slocum Road, Dartmouth, MA on the petition of Kyle McConnell who is seeking a Use Variance to convert an existing warehouse into a single family residence. The subject property is located at 20 Lincroft Street, Dartmouth, MA and identified on Assessor's Map 174 as Lot 9. The subject property is located in the General Business and Aquifer Protection Districts. Information is on file in the office of the Zoning Board of Appeals and may be seen upon request during regular business hours.

(Section 11.200 – Allowed Uses; Section 36 – Board of Appeals)

ADVERTISED

This hearing was advertised in the Chronicle on May 8, 2013 and May 15, 2013.

ABUTTER'S LIST

A certified abutter's list is available for review.

Jacqueline Figueiredo motioned to waive reading the list into the record, which was seconded by Jay Peabody, and made unanimous by Chairman Travers.

Unanimous vote. Motion passed.

CORRESPONDENCE RECEIVED

- Application time-stamped with the Town Clerk on April 10, 2013
- Water and Sewer Connection Plan dated 2/19/2013
- Proposed floor plan
- Letter from Donald Perry, Planning Director, dated May 9, 2013

Chairman Travers read into the record:

- Letter from Donald Perry, Planning Director, dated May 9, 2013

Chairman Travers invited the Petitioner or representative to present the case.

Walter P. Kalisz, Jr., Esq.

Reviewed the existing site for the Board, noting the lot area for the subject property is 10,000 square feet (100' x 100') with an existing warehouse structure that occupies 29% of the land. Stated that his client would like to convert the existing warehouse into a residential unit but the area is zoned General Business, requiring this Use Variance.

Noted that the entire neighborhood consists of single-family dwellings, and that this warehouse is the only commercial building in the neighborhood.

- Submitted abutter signature support sheets

Explained that the size and location of the existing structure on this undersized lot prohibit the general business use due to the Town's parking regulations, and a business in this location does not conform to the general residential use of the neighborhood.

Reviewed the proposed cosmetic changes to the warehouse, which would not change the existing footprint of the structure – except for a deck addition.

Jacqueline Figueiredo

Pointed out the proposed reduction in pavement on the lot is beneficial because the subject property is also located in the Aquifer Protection District.

Chairman Travers

Stated that the residential conversion would fit in better with the neighborhood.

The Board made the following findings:

- General locus/application information
- Frontage, lot size, setbacks
- 11.200 – Use Variance
- Cosmetic changes with new construction limited to deck and new driveway
- Reduction in impervious area

- Structure will tie in to Town sewer and water
- Existing warehouse only business in this residential neighborhood
- No impact to aquifer other than improvement
- Not detrimental to the neighborhood
- Location of existing structure and size of lot does not conform with business use
- Cannot conform to parking regulations for business use
- General Business use does not conform with the general use of the neighborhood
- Conversion to residential use preserves the residential character of the neighborhood (not detrimental)
- Improvement to structure in poor condition
- Proposal will enhance neighborhood

Conditions:

- Petitioner will secure all of the necessary permits and approvals from applicable boards and agencies prior to building permit
- Conversion of structure and deck as shown on submitted floor plan
- Water and sewer connection
- No expansion in elevation or to existing footprint, except deck addition
- Storm water management system will be added if determined necessary by the Director of Inspectional Services
- Plans of record

Jay Peabody motioned to approve the Use Variance with the findings and conditions, which was seconded by Jacqueline Figueiredo, and made unanimous by Chairman Travers. Unanimous vote. Motion passed.

8:40 P.M. Hearing adjourned

Respectfully submitted,

Jane Kirby
 Jane Kirby, Principal Clerk
 For the Zoning Board of Appeals

APPROVED
 6-11-13



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MINUTES – May 28, 2013

Case #2013-17

Jarrold Carney
712 Elm Street

MAP: 127 LOT: 69

DARTMOUTH TOWN CLERK

2013 JUN 12 11:37

RECEIVED

PRESENT

The Board: Chairman Michael Travers, Jacqueline Figueiredo, and Jay Peabody

Also Present

Alternate Board Member Robert Gardner
Jarrod Carney
Manuel Garcia, P.E.

7:40 P.M. Chairman opened the hearing

LEGAL AD

Notice is hereby given of a public hearing to be held on Tuesday, May 21, 2013 at 7:30 P.M. in Meeting Room #304, Town Office Building, 400 Slocum Road, Dartmouth, MA on the petition of Jarrod Carney who is seeking a Variance to allow the construction of a 39' x 39' addition closer to the property line than allowed by zoning. The subject property is located at 712 Elm Street, Dartmouth, MA and identified on Assessor's Map 127 as Lot 69. This property is located in the General Residence and Aquifer Protection Districts. Information is on file in the office of the Zoning Board of Appeals and may be seen upon request during regular business hours.
(Section 5.404 – Setbacks; Section 36 – Board of Appeals)

ADVERTISED

This hearing was advertised in the Chronicle on May 8, 2012 and May 15, 2013

ABUTTER'S LIST

A certified abutter's list is available for review.
Jay Peabody motioned to waive reading the list into the record, which was seconded by Jacqueline Figueiredo, and made unanimous by Chairman Travers.
Unanimous vote. Motion passed.

CORRESPONDENCE RECEIVED

- Application time-stamped with the Town Clerk on April 2, 2013
- Site Plan dated 11/10/2012
- Architectural plans dated December 14, 2013
- Letter from Donald Perry, Planning Director, dated May 9, 2013

Chairman Travers read into the record:

- Letter from Donald Perry, Planning Director, dated May 9, 2013

Chairman Travers invited the Petitioner or representative to present the case.

Manuel Garcia

Submitted an aerial photo of the subject property. Reviewed the site plan and subject property locus with the Board, pointing out the 20 foot driveway easement, which provides access to a 5 lot clustered subdivision. Stated that the Petitioner is seeking relief from the 20 foot side yard setback to allow the construction of an addition with a side yard setback of 10.5 feet. Explained that the driveway easement requires the garage to be moved closer to the side yard. Noted that the request is in harmony with the neighborhood.

Jay Peabody

Questioned the lot coverage, noting that relief for lot coverage was not requested.

Manuel Garcia

The subject property is a 15,005 square foot lot and the proposal will result in 52% lot coverage, which would exceed the 50% allowed by the by-law. Explained that the reality is that the area of common driveway is unusable by the petitioner, and if you apply the net usable area of the proposal, the lot coverage would actually be at 46%.

Jarrold Carney

Corrected the size of the addition. The application proposed a 39' x 39' garage addition, and the correct size is 39' x 36' 2-story addition.

The Board made the following findings:

- Application info/locus
- Seeking variance – 5.404
 - Proposed setback 10.5 feet where 20 feet required
- Addendum for lot coverage relief to allow 52.1% (max. allowed 50%)
 - Easement removed from equation results in 46% lot coverage
- Proposed construction not in the aquifer
- Corrected addition size is 39' x 36'
- Plans of record

- Shape and size of lot due to easement create hardship
 - loss of 2,280 square feet of usable lot area
- Similar to set backs in the neighborhood
 - Setbacks of 10 feet or less range

Conditions:

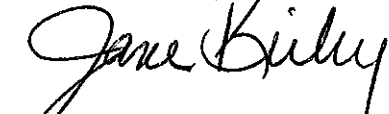
- The Petitioner will secure all of the necessary permits and approvals from applicable boards and agencies
- Correct sheet A-03 of submitted architectural plan of record
- Plans of record
- Petitioner must comply with 5.204 by-law if seeking accessory apartment
- Stormwater management as determined by Director of Inspectional Services/Zoning Enforcement Officer

Jacqueline Figueiredo motioned to close the public portion of the hearing, which was seconded by Chairman Travers, and made unanimous by Chairman Travers. Unanimous vote. Motion passed.

Jacqueline Figueiredo motioned to approve the variance with conditions, which was seconded by Jay Peabody, and made unanimous by Chairman Travers. Unanimous vote. Motion passed.

8:15 P.M. Hearing adjourned

Respectfully submitted,


Jane Kirby, Principal Clerk
For the Zoning Board of Appeals

APPROVED
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MINUTES – May 28, 2013

Case #2013-09

Not Your Average Joe's, Inc.
61 State Road, Dartmouth, MA
MAP: 169 LOT: 245 & 246

DARTMOUTH TOWN CLERK

2013 JUN 12 / A 11: 37

RECEIVED

PRESENT

The Board: Chairman Michael Travers, Jacqueline Figueiredo, and Peter Smola

Also Present

Robert Gardner, Alternate
Jay Peabody, Alternate

6:55 P.M. Chairman Travers opened the hearing

LEGAL AD

Notice is hereby given of a public hearing to be held on Tuesday, May 21, 2013 at 6:55 P.M. in Meeting Room #304, Town Office Building, 400 Slocum Road, Dartmouth, MA on the petition of Not Your Average Joe's, Inc. who was seeking a Variance from Section 16.202B of the Town's Zoning By-laws to authorize a submitted parking lot expansion proposal. The Petitioner has requested the Variance application be withdrawn without prejudice. The property is located at 61 State Road, Dartmouth, MA and identified on Assessor's Map 169 as Lots 245 and 246.
(Section 16.202B – Parking in Required Setbacks)

ADVERTISED

This hearing was advertised in the Standard Times on May 7, 2013 and May 14, 2013

ABUTTER'S LIST

A certified abutter's list is available for review.
Jacqueline Figueiredo motioned to waive reading the list into the record, which was seconded by Peter Smola, and made unanimous by Chairman Travers.
Unanimous vote. Motion passed.

CORRESPONDENCE RECEIVED

- Letter from Daniel C. Perry, Esq. dated May 2, 2013 requesting permission to withdraw the variance application without prejudice

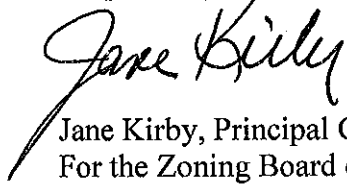
Chairman Travers read into the record:

- Letter from Daniel C. Perry, Esq. dated May 2, 2013 requesting permission to withdraw the variance application without prejudice

Jacqueline Figueiredo motioned to grant the withdrawal without prejudice, which was seconded by Peter Smola, and made unanimous by Chairman Travers. Unanimous vote. Motion passed.

7:00 P.M. Hearing adjourned

Respectfully submitted,



Jane Kirby, Principal Clerk
For the Zoning Board of Appeals

APPROVED
6-11-13