



# Town of Dartmouth

400 Slocum Road - Room 318  
Dartmouth, Massachusetts 02747

OFFICE OF THE ZONING  
BOARD OF APPEALS

Tel: (508) 910-1866  
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2013 SEP 25 A 10:41  
DARTMOUTH TOWN CLERK

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## MINUTES

**August 13, 2013**

**Case # 2013-26**

Petitioner: Ricardo Corporation  
Property: 611 State Road, Dartmouth MA 02748  
MAP: 165 LOT: 143  
General Business and Aquifer Protection Districts

### PRESENT

The Board: Chairman, Jacqueline Figueiredo, Clerk, Halim Choubah, Robert Gardner  
Also Present: Alternate Board Members, Jay Peabody, David D. Dore, Kevin A. Melo  
Also Present: Principal Clerk, Tina Cabral

*7:10 P.M. Chairman Figueiredo opened the hearing*

### LEGAL AD

Notice is hereby given of a public hearing to be held on Tuesday, August 13, 2013 at 6:45 p.m. in Meeting Room #304, Town Office Building, 400 Slocum Road, Dartmouth, MA on the petition of SITEC, Inc. and Ricardo Corporation who is seeking a Special Permit and Variance to construct a 50' X 40' farm stand style building addition and rearrange the existing graveled outdoor display area. The property is located at 611 State Road, Dartmouth, MA and identified on Assessor's Map 165 as Lot 143 in the General Business District. Information is on file in the office of the Zoning Board of Appeals and may be seen upon request during regular business hours.

(Section 20.601(a) to allow the expansion or modification of a non-conforming use)

(Section 16.101 Off Street Parking Plan Regulations)

(Section 16.203E Surfacing, Drainage and Curbing)

### ADVERTISED

The Notice for public hearing was published in The Standard Times Newspaper on Wednesday, July 31, 2013 and Wednesday, August 7, 2013.

### ABUTTER'S LIST

Halim Choubah motioned to waive the reading of the abutter's list into the record, which was seconded by Robert Gardner and made unanimous by Chairman Figueiredo.

Unanimous vote. Motion passed. A certified abutter's list is available for review in the office of the Zoning Board of Appeals.

## DOCUMENTS ON FILE

- Special Permit application time-stamped with the Town Clerk on July 25, 2013
- Variance application time-stamped with the Town Clerk on July 25, 2013
- Architectural Site Plans and photos
- Letter from Planning Director, Donald Perry, dated August 7, 2013
- Notes from Environmental Affairs Coordinator and Board of Health Director
- Quitclaim Deed for 611 & 615 State Road, Dartmouth, MA
- Quitclaim Deed for 619 State Road, Dartmouth, MA
- "Exhibit A" document from Registry of Deeds Book 10624, Page 207

*Chairman Figueiredo read into the record a letter from Planning Director, Donald Perry, dated August 7, 2013.*

Chairman Figueiredo had a lengthy summary regarding the Quitclaim Deeds for the subject property. She stated that the Planning Board had endorsed an ANR Plan which combined all three parcels into one large parcel which is now deemed to be the subject property of 611 State Road, Dartmouth, MA. Through research with the Registry of Deeds, the Chairman discovered a document entitled "Exhibit "A" dated December 21, 2012 and recorded in the Bristol County S.D. Registry of Deeds in Book 10624, Page 207 for 611 State Road and has made this document part of the records. This document stated the parcel now 77,568 square feet and it is registered in Plan Book 169, Page 87 and includes the titles from the two prior parcels which has become now as one large parcel.

*Chairman Figueiredo invited the Petitioner or representative to present the case.*

Present: John Keegan of SITEC, Inc., Representative for Petitioner  
Also present: Michael W. Ricardo of Ricardo Corporation

### John Keegan, SITEC, Inc.,

For the record Mr. Keegan is the project manager and engineer with SITEC Engineering at 449 Faunce Corner Road, Dartmouth, MA. Mr. Keegan filed the applications and prepared the Site Plans. The lot coverage is currently 81% on the site property and will remain at 81%. The addition that is proposed for the building will have its own recharge system which is similar to the system on the existing building. The proposed addition will match the existing building, and will include additional landscaping and porous paver sidewalks, which will help infiltration on the site. There is also a proposed modification in the arrangement of the landscaping materials on the site. Variances were also requested to preclude the submittal of a parking plan to the Planning Board, and to continue the use of graveled areas that existed for the prior approval of the special permit and variances. The graveled area will reduce the site's ground water run-off as opposed to paving the areas with asphalt. The graveled area is such a configuration that it does allow a great amount of natural infiltration on the site towards the wetlands on the property. There is a 100 foot buffer zone on the site. As a result of that 100 foot buffer

zone on the site, the Conservation Commission has asked Petitioner to file a Request for Determination with the Conservation Commission, and that request is being heard tonight at the Commission's scheduled meeting.

Chairman Figueiredo asked Petitioner to clarify where the two new parking spaces will be on the site.

Mr. Keegan visually showed on the site plan that the two new parking spaces will be located near the material storage bin, and they will parallel parking spaces.

Chairman Figueiredo questioned the Petitioner as to why the site plan refers to the parcel area as 73,209 square feet which in fact it currently is 77,568 square feet. The Chairman and Board Members had a lengthy discussion relative to what the correct square footage for the parcel area should be. The Chairman requested that the Petitioner submit a revised site layout plan to reflect the correct square footage of the parcel area as 77,568.

The Chairman addressed and discussed the proposed parking plan with the Petitioner. Eighteen spaces are required per engineer's calculations. The submitted site plan reflects that the existing parking is 15 spaces and a proposal of two (2) additional spaces would bring the total number of spaces to 17. However, the Chairman noted that there are two (2) existing spaces at the site's garage for a total of 17 existing spaces. The Chairman requested that the revised site layout plan show correct parking space figures that is 17 existing and two (2) proposed for a total of 19 spaces. The 19 spaces meet the requirements of the bylaw (Section 16).

Mr. Keegan confirmed that he will correct the summary section on the revised site layout plan and resubmit the same.

*Chairman Figueiredo invited any board members to ask questions.*

Halim Choubah

Mr. Choubah questioned the Petitioner if the infiltration report will be submitted to the Board of Health.

Mr. John Keegan, SITEC, Inc.

He has conferred with the Board of Health and that they have signed off relative to the infiltration report. The Petitioner explained that there is a maintenance schedule for the rooftop that the gutters have to be inspected and cleaned as required twice a year.

*Chairman Figueiredo invited any board members to ask further questions.*

No further questions by board members.

*Chairman Figueiredo invited public comment regarding this project or public comment.*

No public comment.

*Chairman Figueiredo entertained a motion with the following findings:*

**GENERAL FINDINGS:**

The locus property is identified on Map 165 as Lot 143 and located in a General Business and Aquifer Protection Districts, and these Districts allow retail uses by right.

The Petitioner is the operator of an existing landscaping materials business located at 611 State Road. As a result of purchasing two lots that abut the original lot on State Road, the Petitioner was able to increase his lot size. The quitclaim deeds are on file with the Bristol County S.D. Registry of Deeds in Book 9651, Page 1 and Book 10510, Page 138. Petitioner filed a Form A plan with the Planning Board on October 17, 2012 and on November 5, 2012 the Planning Board endorsed the plan. Subsequently, a new parcel area of 77,568 square feet was recorded at the Bristol County S.D. Registry of Deeds in Plan Book 169, Page 87 for the property at 611 State Road. A copy of the Exhibit "A" dated December 21, 2012 and recorded in the Bristol County S.D. Registry of Deeds in Book 10624, Page 207 is on file in the office of the Zoning Board of Appeals for verification purposes.

The Petitioner was granted permission to increase lot size and filed a Plan A dated October 17, 2012 which was approved on November 5, 2012 and filed in the Bristol County S.D. Registry of Deeds on November 7, 2012 in Book 169, Page 87. Subsequently, a new parcel area description labeled Exhibit "A" was filed and recorded on December 21, 2012 in the Bristol County S.D. Registry of Deeds in Book 10624, Page 207. A copy of said Exhibit "A" is on file with the Zoning Board of Appeals office.

A Special Permit case and Variances, Case#2012-26, were approved for this property on September 25, 2012. Presently, the Petitioner seeks a new Special Permit and new Variances, Case#2013-26, for the new parcel of 77,568 square feet at 611 State Road, to construct a 50' X 40' addition on the existing farm stand style building, to rearrange the outdoor display area, and again preclude a parking plan approval by the Planning Board.

The existing lot coverage is 81% and the proposed lot coverage is also 81%.

**SPECIAL PERMIT FINDINGS:**

A Special Permit pursuant to Section 20.601(a) is required to allow the expansion or modification of a non-conforming use. The existing lot coverage is the non-conforming use.

The wetlands on the property have been flagged and will require a Request for Determination from Conservation as recommended by the Environmental Affairs Coordinator.

As determined by the Planning Director, and pursuant to Section 20.510, the proposed addition does not increase lot coverage since it is proposed in an area already utilized for coverage, therefore, lot coverage remains at 81%.

On site infiltration will be increased with the installation of a new infiltration system on the proposed addition.

The project as proposed has changed, landscaping, storage areas, and includes the use of products to promote natural recharge including woodchips, graveled drive areas, and permeable paved walkways.

An operation and maintenance plan has also been submitted for both the existing and new infiltration systems.

Pursuant to Section 20.602, the proposed project meets the conditions for granting the Special Permit.

**VARIANCES FINDINGS:**

The business at 611 State Road presently operates under Variances granted on 9/25/12, Case#2012-26 (which were modifications of variances granted under Case#2010-28)

The Petitioner seeks Variances to preclude a parking plan approval from the Planning Board (Section 16.101-Off Street Parking Plan Regulation and Section 16.203(e) Parking, Curbing and Drainage).

The proposed addition triggers a parking plan review because it exceeds 10% of the existing building.

Since the proposed project includes the addition of two parking spaces it meets the required number of spaces for retail business.

The Board found that the requested variances meet the statutory requirements for granting a variance pursuant to Massachusetts General Laws Chapter 40A §10.

*Halim Choubah motioned to close the public hearing which motion was seconded by Robert Gardner and carried unanimously. Motion passed.*

*Chairman entertained a motion with the following conditions:*

**CONDITIONS-SPECIAL PERMIT:**

1. The Petitioner and/or any subsequent owner will secure all of the necessary permits and approvals from all applicable Boards and Agencies prior to the issuance of a building permit.
2. The engineer shall submit a revised plan which shall include a revised summary site section which shall include a revised number for parcel area square footage and corrected number of parking spaces before the issuance of a building permit.

3. The Special Permit Case #2013-26 will supersede all prior Special Permit Decisions and Conditions.
4. Prior to the issuance of a building permit, a Request for Determination shall be filed with the Conservation Commission as required by the Environmental Affairs Coordinator since wetlands on the property have been flagged.
5. The Petitioner and/or any subsequent owner shall file a yearly Aquifer Protection Report in accordance with Section 20 of the Zoning ByLaws.
6. The Board approved plans of record by SITEC, INC which will include the revised Site Layout Plan and the July 16, 2013 Site Layout Plan including Grading Plan, Existing Conditions and Detail Sheet.

**CONDITIONS-VARIANCE:**

1. The Petitioner and/or any subsequent owner will secure all of the necessary permits and approvals from all applicable Boards and Agencies prior to the issuance of a building permit.
2. The engineer shall submit a revised plan which shall include a revised summary site section which shall include a revised number for parcel area square footage and corrected number of parking spaces before the issuance of a building permit.
3. The Variance Case#2013-26 will supersede all prior Variance Decisions and Conditions.
4. The Board approved plans of record by SITEC, INC which will include the revised Site Layout Plan and the July 16, 2013 Site Layout Plan including Grading Plan, Existing Conditions and Detail Sheet.

*Halim Choubah makes the motion to grant the SPECIAL PERMIT and VARIANCES based upon the findings and conditions as stated.*

*Motion was seconded by Robert Gardner and carried unanimously. Motion passed.*

**8:15 P.M. Hearing adjourned**

Respectfully submitted,



Tina Cabral, Principal Clerk  
For the Zoning Board of Appeals

**APPROVED**

9-24-13



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DARTMOUTH TOWN CLERK

2013 SEP 23 A 10:41

RECEIVED

## MINUTES

**August 13, 2013**

**Case # 2013-25**

Property: 573 Potomska Road, Dartmouth MA 02748

MAP: 19 LOT: 40

Single Residence B District

### PRESENT

The Board: Chairman, Jacqueline Figueiredo, Clerk, Halim Choubah, Robert Gardner  
Also Present: Alternate Board Members, Jay Peabody, David D. Dore, Kevin A. Melo  
Principal Clerk, Tina Cabral, Attorney George J. Leontire

**6:45 P.M. Chairman Figueiredo opened the hearing**

### LEGAL AD

Notice is hereby given of a public hearing to be held on Tuesday, August 13, 2013 at 6:45 p.m. in Meeting Room #304, Town Office Building, 400 Slocum Road, Dartmouth, MA on the petition of George J. Leontire who is seeking a Special Permit to allow an existing accessory building to have a bathroom with shower and an additional sink installed. The property is located at 573 Potomska Road, Dartmouth, MA and identified on Assessor's Map 19 as Lot 40 in the Single Residence B District. Information is on file in the office of the Zoning Board of Appeals and may be seen upon request during regular business hours.

(Section 4B.302 Accessory Buildings or Structures with Kitchen or Bathroom Facilities)

### ADVERTISED

The Notice for public hearing was published in The Chronicle Newspaper on Wednesday, July 24, 2013 and Wednesday, July 31, 2013.

### ABUTTER'S LIST

Halim Choubah motioned to waive reading of the abutter's list and it was seconded by Robert Gardner. Motion passed by unanimous vote. A certified abutter's list is available for review in the office of the Zoning Board of Appeals.

### DOCUMENTS ON FILE

- Application time-stamped with the Town Clerk on June 26, 2013
- Photos of outbuilding and main house

- Architectural Plan for outbuilding dated June 26, 2013
- Letter from Planning Director, Donald Perry, dated July 19, 2013
- Dartmouth Conservation Commission Wetland Site Inspection page by Environmental Affairs Coordinator, Michael O'Reilly

*Chairman Figueiredo read into the record a letter from Planning Director, Donald Perry, dated July 19, 2013.*

*Chairman Figueiredo invited the Petitioner or representative to present the case.*

**George J. Leontire**

Attorney Leontire is the brother of the property owner, Amelia Leontire. This property is a five (5) acre parcel and the main house consists of a one (1) bedroom and is a very small structure. The outbuilding is very close to the main house, and it is 354 s.f. He filed for a new septic plan that would service both the outbuilding and the main house, and the plan was approved. Permits for the outbuilding were sought for both plumbing and electricity, then upon inspection, the plumber stated that a building permit was also needed. Per his discussions with the building commissioner, he learned that he was to file a Special Permit for bathroom facilities and a sink in the alcove. He pointed out that there is no intent to make this outbuilding into a housing unit. There is no stove planned for this outbuilding. It really is for the purposes of a studio. He also stated in the application that since there is one bedroom in the house, the extra bedroom in the outbuilding may be used as a guest bedroom. The outbuilding does not constitute a separate housing unit or apartment.

*Chairman Figueiredo invited board members to ask questions.*

**Robert Gardner**

Stated he had visited the property and that the Petitioner had done a very good job in rehabbing the outbuilding. He asked what was underneath the sink in the smaller of the two rooms.

**George J. Leontire**

Identifies that a wet bar is located under the sink. It can be either a wine cooler or drink cooler. It is not a freezer.

Chairman Figueiredo questioned if this proposed plan will include work in the 100 foot buffer zone. She states that it does not look like it as it is the existing footprint.

**George J. Leontire**

When the Conservation Coordinator wrote his comment, (on the signature sheet attached to the application) he thought the building in question was the garage rather than the outbuilding, and the garage is in the buffer zone.



**Halim Choubah**

Clarifies that the outbuilding is an existing building and all the work is to be performed inside.

**Chairman Figueiredo**

Briefed the Board that some questions and concerns were raised about the outbuilding being a potential residential unit since the larger room is listed on the drawing as a bedroom. She proposes to specify that it is a guest bedroom because a residential unit would be defined as someone living there whether or not they have a kitchen, a stove or bathroom. She also inquired of the Petitioner if this building would be used as an office space for him.

**George J. Leontire**

States it will not be used by him as an office. As this property is owned by his sister, and given that the main house consists of only one (1) bedroom, this building would be used by visiting guests.

**Chairman Figueiredo**

Points out that this outbuilding was once used as a home occupation as listed on the assessor's card. Since it will no longer be used as a home occupation, it will be stated in the conditions.

**Halim Choubah**

States that the outbuilding will be an accessory structure connected to the main house.

**George J. Leontire**

Questioned whether or not someone could tutor two (2) students in the outbuilding.

**Jay Peabody**

Questioned why the Board would prohibit any activity that is permitted by right.

**Halim Choubah**

Explained that the decision should state home occupation/guest room as long as the outbuilding is associated with the main residence and meets the by-laws. The decision should also clarify that the outbuilding is not a separate rental unit.

*Chairman Figueiredo invited public comment.*

*No public comment.*

**The Board made findings:**

- Property locus
- Current owner, Amelia Leontire since April 20, 2013
- Special Permit 4B.302 to add bathroom and extra sink to 340 s.f. accessory building
- Accessory building not to be used/converted to residential unit

- Home occupation on property in 2008
- Plans for new septic system approved by Board of Health
- Wetlands on property, but accessory building not within 100' buffer zone
- No Request for Determination needed from Conservation Commission

**The Board discussed the following conditions:**

- Subject to standard Town Board/Agencies' approvals and conditions
- Plan of record to be the submitted drawing with revisions: stamped as received on 4/26/2013, main room redefined as office/guest bedroom, bathroom fixtures to be reversed, and changes to be initialed by Petitioner
- Outbuilding not be used or converted to a residential unit

*Halim Choubah motioned to close the public hearing which was seconded by Robert Gardner. Motion passed unanimously.*

*Halim Choubah motioned to approve the Special Permit with the specified findings and conditions. Motion seconded by Robert Gardner. Motion passed unanimously.*

**7:10 P.M. Hearing adjourned**

Respectfully submitted,



Tina Cabral, Principal Clerk  
For the Zoning Board of Appeals

**APPROVED** 9-24-13