

# MINUTES



**TOWN OF DARTMOUTH**  
**Office of the Zoning Board of Appeals**  
400 Slocum Road, Dartmouth, Massachusetts 02747  
(508) 910-1868

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**DATE OF HEARING: OCTOBER 29, 2013**

**CASE:** AMENDMENT TO DECISION CASE: ~~1991-30~~  
**CASE NO:** 2013-33  
**Representative:** Thomas J. Mathieu, Esq.  
**Petitioner/Applicant:** Mills and Ghenta, DDS, PC  
**Property Owners:** Shalom Realty, L.L.C.  
**Subject Property:** 570 Hawthorn St, Dartmouth, MA 02747  
**District:** Single Residence A MAP: 154 LOT: 61

**PRESENT:** The Board: Chairman, Jacqueline Figueiredo, Halim Choubah, and Robert Gardner, Associate Board Members, Jay Peabody, Kevin Melo, David Dore and Principal Clerk Assistant, Tina Cabral

**Also Present:** Thomas J. Mathieu, and Other Interested Parties

*6:30 P.M. Chairman Figueiredo opened the hearing*

**LEGAL AD:** Notice is hereby given of a public hearing to be held on **Tuesday, October 29, 2013 at 6:30 P.M.** in Meeting Room #304, Town Hall, 400 Slocum Rd, Dartmouth, MA on the petition of Mills and Ghenta, DDS, PC who is seeking an Amendment to Special Permit and Variance Case#1991-30 to allow Petitioner to utilize upper level of building as a dental office; to lease lower level to future professional services and installation of a sign. The property is located at 570 Hawthorn St, Dartmouth, MA in Single Residence A District and identified on Assessor's Map 154 as Lot 61. Information is on file in the office of the Zoning Board of Appeals and seen upon request during regular business hours. (Section 3B.200-Non-Conforming Uses; Section 4C.405-Percentage of Lot Coverage; Section 4C.407-Signs)

**ADVERTISED:** The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, October 9, 2013 and Wednesday, October 16, 2013.

**ABUTTER'S LIST:** Robert Gardner motioned to waive the reading of the abutter's list into the record, which was seconded by Halim Choubah. Motion passed unanimously. A certified abutter's list is available for review in the office of the Zoning Board of Appeals.

## **DOCUMENTS ON FILE**

- Amendment application time-stamped with the Town Clerk on September 24, 2013 with attached brief
- Assessor's parcel card for Map 154 Lot 61
- Certified Abutter's List dated August 14, 2013

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- Letter from Planning Director, Donald Perry, dated October 23, 2013
- A-1 Preliminary Floor Plan
- S-1 Preliminary Parking Plan
- 1991 Special Permit and Variance Decision Case: 1991-30
- 1991 Extension hearing Decision Case: 1991-30E
- Quitclaim Deed for subject property dated 12/29/97

*Chairman Figueiredo read into the record a letter from Planning Director, Donald Perry, dated October 23, 2013.*

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

Thomas J. Mathieu, Esq.

Mills and Ghenta have a dental office at 516 Hawthorn Street and have outgrown their current office space. Their employee staff currently consists of 20 employees and they are interested in purchasing the subject property located at 570 Hawthorn Street in order to utilize the upper floor of the building as a dental office with approximately 1 million dollars of investment into renovations and dental equipment in order to accommodate the rapidly growing dental business. Petitioner is seeking to amend the variance and special permit decision case: 1991-30 to allow the following:

- to utilize the upper level of the building for a dental practice
- to lease the lower level of the building to future professional services
- to allow the facility open until 9:00 p.m. two nights per week with a maximum of three physicians present on one (1) night per week for patient care
- to have no surgical procedures performed at said site other than for laboratory tests
- to have no third party contractors, sub-contractors or independent parties working out of or at said facility
- to have the existing facility to remain a private doctors' office and not become a walk-in center

Chairman Figueiredo

Commented that pursuant to Section 3B.103-Discontinuance of Non-Conforming Use, it states when a non-conforming use or portion thereof has been discontinued for a period of two or more years, said use shall not be re-established and future use of the property shall be in conformity with these by-laws. In speaking with Town Counsel, he confirmed that the 1991 Use Variance had lapsed. Chairman gave the Petitioner the option of withdrawing the amendment without prejudice and re-filing a new Variance should Petitioner still be interested in purchasing the subject property.

*The hearing recessed at 6:40 p.m.*

*The hearing reopened at 6:50 p.m.*

Thomas J. Mathieu

Stated that Petitioner would like to withdraw the amendment without prejudice.

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

*No further questions by board members.*

*Chairman Figueiredo invited public comments regarding this project.*

*No public comments.*

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

*Robert Gardner made the motion to **WITHDRAW WITHOUT PREJUDICE** the **AMENDMENT** based upon the findings as stated. Motion was seconded by Halim Choubah and motion passed unanimously.*

**6:55 P.M. Hearing adjourned**

*Tina Cabral*

Tina Cabral, Principal Clerk  
For the Zoning Board of Appeals

Date of Approval: 11-19-13

**APPROVED**