

ADMINISTRATIVE MINUTES



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

Board Members

Jacqueline Figueiredo, Chairman
Halim Choubah, Clerk
Robert Gardner

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2013 DEC -4 A 9:07
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ADMINISTRATIVE MINUTES FOR DATE OF HEARING: NOVEMBER 19, 2013

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

ABSENT: Robert Gardner and Jay Peabody

6:15 P.M. Chairman Figueiredo opened the meeting

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The Board unanimously voted and approved the following Minutes:

- Administrative Minutes of 10/29/13 Meeting
- Administrative Minutes of 11/4/13 Joint Meeting with Select Board
- Amendment Case 2013-33, 570 Hawthorn St.
- Use Variance Case 2013-34, 384 Elm St.

DISCUSSION

- The Board reviewed further revisions to the Rules and Regulations of the Board of Appeals and made the following changes:
 - ❖ Under Section 4: Vacancies/Resignations, strike the word "regular". Add the following paragraph: "An unexpired member's turn may be filled temporarily by an associate member until the Select Board appoints a new member. Appointees to member/associate unexpired terms may serve for the remainder of the vacated term, then reappointment may be made for three succeeding years."
 - ❖ Under Article II Section 1.3 Hearings, at the end of first sentence add: "in accordance with the Open Meeting Law"; Then add: "Dates and times for Board meetings and appointment times for case hearings will be set at the discretion of the Chairman." Add a modification of the last sentence next: "Requests for approval of final site plans or other items required in fulfillment of conditions for decisions may only be heard and acted on as an administrative item at a regular public meeting of the Board. The second sentence plus an addition sentence will now be the last sentences in the paragraph and will state: "Requests for a modification or change in any conditions of a previous decision or site plan attached thereto shall be heard at a public hearing where such modification or change constitutes an amendment

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to the original decision.” After this second sentence add: “However, if such a request is made within 2 years of the original decision, then pursuant to M.G.L. Chapter 40A, Section 16, the Planning Board must give consent before the Board of Appeals can file the amended decision with the Town Clerk. To acquire Planning Board consent, the applicant must file an application with that Board for a “Repetitive Petition” which requires a public hearing and notification to abutters.

The Board unanimously voted to continue the discussion and review of the Rules and Regulations Governing the Procedures of the Board of Appeals to December 3, 2013.

6:30 P.M. Adjournment

Tina Cabral

Tina Cabral, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 12/3/13

APPROVED

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Halim Choubah, Clerk

Robert Gardner

MINUTES

DATE OF HEARING: NOVEMBER 19, 2013

CASE: SPECIAL PERMIT
CASE NO: 2013-38
Petitioner/Applicant: Kevin P. Medeiros, Esq.
Property Owners: Kevin P. Medeiros, Esq.
Subject Property: 23 Clark's Cove Drive, Dartmouth, MA 02748
MAP: 123 LOT: 152-8 BOOK: 10222 PAGE: 2
District: General Residence

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

ABSENT: Robert Gardner and Jay Peabody

Also Present: Kevin P. Medeiros, Esq.

8:20 P.M. Chairman Figueiredo opened the hearing

LEGAL AD: Notice is hereby given of a public hearing to be held on Tuesday, November 19, 2013 at 7:30 p.m. in Meeting Room #304, Town Office Building, 400 Slocum Road, Dartmouth, MA on the petition of Kevin P. Medeiros who is seeking a SPECIAL PERMIT to allow the construction of a two-car garage and a proposed 28' x 38' pool house with a kitchen and bathroom. The property is located at 23 Clark's Cove Drive, Dartmouth, MA in the General Residence District and identified on Assessor's Map 123 as Lot 152-8. Information is on file in the office of the Zoning Board of Appeals and may be seen upon request. (Section 5.302-Accessory Buildings or Structures with Kitchen or Bathroom Facilities)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, November 6, 2013 and Wednesday, November 13, 2013.

ABUTTER'S LIST: Halim Choubah motioned to waive the reading of the abutter's list into the record, which was seconded by Kevin Melo. Motion passed unanimously. 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 11/4/13
- Certified Abutter's List

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- Legal Ad
- Vision appraisal parcel card
- GIS Map
- Letter from Planning Director, Donald Perry, dated 11/12/13
- Plan To Accompany Special Permit dated 10/12/13
- Proposed Pool House/Garage Plan Sheets A1-A10 dated 10/24/13

Chairman Figueiredo read into the record a letter from Planning Director, Donald Perry, dated November 12, 2013 as well as comments from Director of Public Health, Wendy Henderson and the Environmental Affairs Coordinator, Mike O'Reilly.

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

Kevin P. Medeiros

Petitioner stated he recently moved into the newly constructed home on the subject property four months ago and has begun the construction of an in-ground pool and would like to construct a two-car garage with attached pool house which would include a kitchen and bathroom. The pool house will not be used a residential unit.

Chairman Figueiredo invited any board members to ask questions.

No questions by board members.

Chairman Figueiredo invited public comments regarding this project.

No public comments.

The Board made findings:

- Locus property
- Description of Special Permit
- Size of subject property and existence of wetlands
- Order of Conditions by the Conservation Commission on 12/28/11
- Garage/pool design confirms non-residential use
- Garage/pool house to be heated
- Project meets conditions for granting Special Permit

The Board made the following conditions:

- Permits subject to standard Town Board/Agencies' approvals and conditions needed
- No conversion of garage/pool house to residential unit
- Allowance of a yearly inspection by the Building Dept. to ensure compliance with a non-residential use
- Submitted "Plan To Accompany Special Permit" to be plans of record

Halim Choubah motioned to close the public hearing which motion was seconded by Kevin Melo. Motion passed unanimously.

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Halim Choubah motioned to GRANT the SPECIAL PERMIT based upon the findings and conditions as stated. Motion was seconded by Kevin Melo. Motion passed unanimously.

8:30 P.M. Hearing adjourned

Tina Cabral

Tina Cabral, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 12/3/13

APPROVED

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Office of the Zoning Board of Appeals
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Board Members

Jacqueline Figueiredo, Chairman
Halim Choubah, Clerk
Robert Gardner

MINUTES

DATE OF HEARING: NOVEMBER 19, 2013

CASE: SPECIAL PERMIT
CASE NO: 2013-35
Petitioner/Applicant: Susan Sargent and Thomas Peters
Representative: Marc R. Deshaies, Esq.
Property Owners: Susan Sargent and Thomas Peters
Subject Property: 90 Allen's Neck Rd, Dartmouth, MA 02748
MAP: 9 LOT: 37-2 BOOK: 10794 PAGE: 199
District: Single Residence B

PRESENT: Chairman Jacqueline Figueiredo, Halim Choubah, Associate Members, Kevin Melo, David Dore and Principal Clerk Assistant Tina Cabral

ABSENT: Robert Gardner and Jay Peabody

Also Present: Marc R. Deshaies, Esq.

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

LEGAL AD: Notice is hereby given of a public hearing to be held on **Tuesday, November 19, 2013 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of Susan Sargent and Thomas Peters who are seeking a SPECIAL PERMIT to allow the construction of a two-story, 980 s.f. accessory building on the property with water and septic connection. The property is located at 90 Allen's Neck Rd, Dartmouth, MA and identified on Assessor's Map 9 as Lot 37-2 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 Dartmouth Chronicle on Wednesday, October 30, 2013 and Wednesday, November 6, 2013.

ABUTTER'S LIST: David Dore 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

- Special Permit application time-stamped with the Town Clerk on 10/23/13

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- Certified Abutter's List
- Legal Ad
- Vision appraisal parcel card
- GIS Map
- Letter from Planning Director, Donald Perry, dated 11/12/13
- Photos and Site Plan for Proposed Studio dated 10/15/13

Chairman Figueiredo read into the record a letter from Planning Director, Donald Perry, dated November 12, 2013. The Chairman also read comments from the Director of Public Health, Wendy Henderson and the Environmental Affairs Coordinator, Mike O'Reilly.

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

Marc R. Deshaies, Esq.

The Petitioners currently reside in Vermont and are in the process of transitioning a move to their 90 Allen's Neck Road property. Mrs. Sargent is a graphic tapestry artist and would like to construct a two-story 980 s.f. accessory with water and septic connection which will become her art studio. The accessory building will have a bathroom with sink and toilet on the first floor and a studio utility sink on the second floor. The building will not be a residential unit.

Chairman Figueiredo

Questioned what the height of the structure will be and also stated that on page 2 of the Special Permit Application it cites "to occasionally meet prospective clients" and questioned should this, therefore, be deemed a home occupation?

Marc R. Deshaies, Esq.

Answered that the structure will not be more than 35 feet in height and that Petitioner may meet with prospective clients or customers, but there will be no commercial selling or purchases made at the studio.

Chairman Figueiredo

Asked if the property is designated in a flood zone.

Halim Choubah

Commented that the accessory building is outside of the flood zone with a 19 foot elevation

David Dore

Questioned if there will be any loud noise or any type of noise coming from the studio.

Marc R. Deshaies, Esq.

Stated that Petitioner uses a hand loom machine and not any heavy machine equipment and the accessory building will be set back 1,500 feet from the street.

Chairman Figueiredo invited any board members to ask questions.

No further questions by board members.

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Acting Chairman Choubah invited public comments regarding this project.

No public comments.

The Board made findings:

- Locus property
- Special Permit
- Portion of property within flood zone AE; proposed structure outside of the flood zone
- A limit of wetland delineated on the property
- Limits of Natural Heritage & Endangered Species issued by the NHESP
- Installation of a 1,000 gallon pump chamber and a 1,500 gallon septic tank that will connect to the existing septic system distribution box
- The two-story 980 s.f. art studio will be situated to the rear of the existing residence
- Bathroom to be installed on the first floor of the studio and utility sink on the second floor
- Structure design confirms non-residential use
- Project meets conditions for granting Special Permit

The Board made the following conditions:

- Permits subject to standard Town Board/Agencies' approvals and conditions needed
- Future conversion of the accessory building into a residential unit prohibited
- Allowance of a yearly inspection by the Building Dept. to ensure compliance with a non-residential use
- "Site Plans Showing Proposed Studio" to be plan of record

Halim Choubah motioned to close the public hearing which motion was seconded by David Dore. Motion passed unanimously.

David Dore motioned to GRANT the SPECIAL PERMIT based upon the findings and conditions as stated. Motion was seconded by Halim Choubah. Motion passed unanimously.

6:50 P.M. Hearing adjourned

Tina Cabral

Tina Cabral, Principal Clerk
For the Zoning Board of Appeals
Date of Approval: 12/3/13

APPROVED