

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

APPROVED

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2014 FEB 26 AM 10:39
DARTMOUTH TOWN CLERK

**ADMINISTRATIVE MINUTES
FOR DATE OF HEARING: January 28, 2014**

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

ABSENT: Robert Gardner

6:00 P.M. *Chairman Figueiredo opened the meeting*

ADMINISTRATIVE

- Chairman Figueiredo announced Associate Member Jay Peabody's resignation from the Board of Appeals and commented that a vacant position is available on the Board and any interested applicants may apply with a "Letter of Interest".
- Chairman Figueiredo discussed the Board's Annual Budget. The main concern is requesting an increase for the postage fund and for office supplies.
- Chairman Figueiredo stated it took two years to obtain a full-time position for the Principal Clerk of the Board. It had not been supported by the Finance Committee or by the Select Board and then voted down the first year by Town Meeting. Last year it was recommended by both the Fin Com and Select Board, then and voted yes by Town Meeting.

The Board unanimously voted and approved the following Minutes:

- Variance Case: 2013-36, November 19, 2013 and January 7, 2014
- Special Permit Case: 2013-37, November 19, 2013 and January 7, 2014
- Use Variance Case: 2014-1, January 7, 2014
- Amendment Case: 2013-41, December 3, 2013 and January 7, 2014
- The Board unanimously voted and approved the Administrative Minutes of January 7, 2014 as amended in the Rules and Regulations Section:

---Under Section 1.7, after the third paragraph: "and will include the *enumerations* of any conditions

---Rewrite of Section 1.9: "In accordance with M.G.L. Chapter 40A, Section 15, the petitioner and Board may extend the required time limits imposed for a public hearing and action on a petition by written agreement. A unanimous vote of the Board is required for an extension, and a copy of the written agreement shall be filed with the Town Clerk.

ADMINISTRATIVE MINUTES

Discussion: The Board had made further revisions to the Rules and Regulations of the Board of Appeals:

- Section 1.10 Filing and Recording- Delete second sentence. next sentence to read: "Decisions become effective once it is filed with the Registry of Deeds and bears a certification from the Town Clerk.", followed by, "Such certification is indicative that twenty days have elapsed since the decision has been filed and that there has been no filing in Court of an appeal to the decision or that a filed appeal was dismissed or denied." Delete last sentence. In second paragraph, first sentence add the word "petitioner/applicant" and add after the word recording, "a decision". Delete the phrase "on any decision granted by the Board". Last sentence should read "Proof of recording (book and page number) is submitted to the Zoning Board office where it will be filed as part of the record.
- Section 1.11-Reconsideration- in subparagraph (1) replace the word "meeting" with "hearing".
- Section 1.12-Withdrawal-in first sentence replace the words "zoning staff assistant" with "Board's Principal Clerk". Add after the words "prior to", "the newspaper publication of the application's legal notice". Second sentence should read: "Requests to withdraw *after* publication, requires approval by unanimous vote of the Board at a public hearing. Such request may be made in writing or orally at the hearing. Delete remainder of the paragraph.

The Board unanimously voted to continue the discussion and review of the Rules and Regulations Governing the Procedures of the Board of Appeals to February 25, 2014 at 6:00 p.m. Discussion will begin with "Section 2: Public Meetings"

6:30 P.M. Adjournment

Tina Cabral

Tina Cabral, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 2/25/14

MINUTES



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

Board of Appeals Members
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MINUTES

DATE OF HEARING: January 28, 2014
CASE: VARIANCE
CASE NO: 2014-5
Petitioner/Applicant: Michael J. Gagne
Property Owner: Lorraine Gagne (Estate of)
Subject Property: 718 Russells Mills Road
District: Single Residence B **MAP:** 34 **LOT:** 10 **BOOK:** 01642 **PAGE:** 409

PRESENT: The Board: Chairman Jacqueline Figueiredo, Halim Choubah, Kevin Melo, David Dore and Principal Clerk Assistant, Tina Cabral
Also Present: Michael J. Gagne and Other Interested Parties

6:45 P.M. Chairman Figueiredo opened the hearing. Chairman Figueiredo commented that this matter was continued from January 21, 2014 to January 28, 2014 due to the snow storm.

LEGAL AD: Notice is hereby given of a public hearing to be held on Tuesday, January 21, 2014 at 6:45 P.M. in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of Michael J. Gagne, who is seeking a VARIANCE to allow the subject property located at 718 Russells Mills Rd and identified on Assessor's Map 34 as Lot 10 and located in the Single Residence B District to remain a two-family dwelling as shown on Assessor's Property Card since 1972. The owner of the property is Lorraine Gagne. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 3B.103-Discontinuance of Non-Conforming Use)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, January 8, 2014 and Wednesday, January 15, 2014.

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

- Variance application time-stamped with the Town Clerk on 1/2/14 with brief
- Legal Ad
- Certified Abutter's List
- Vision Appraisal Card
- GIS and Google Maps of Subject Property
- Letter from Paul Murphy, Director of Inspectional Services, dated 7/24/12

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- Letter from Planning Director, Donald Perry, dated 1/13/14
- Letter and photos received from Frank Gordon, abutter, dated 1/20/14

Chairman Figueiredo read into the record a letter from Planning Director, Donald Perry, dated 1/13/14.

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

Michael J. Gagne: Petitioner stated that his parents bought the home in 1972 as a two-family residence. Mr. Gagne stated that the Assessor's Parcel Card lists the home as a two-family. The home sits on a 7.86 acre parcel of land and most of the land is wetlands and non-buildable. Mr. Gagne says that his family, consisting of seven in all, occupied both floor units of the home. Each unit consists of a bathroom, kitchen and bedrooms. The home has separate outside entrances to each unit. The second floor was used throughout the years for extended family when visiting Massachusetts. His mother, Lorraine Gagne, passed away in September 2012 and the property is now listed for sale. There is a prospective buyer and Petitioner and his family would like to re-establish the use of the existing dwelling as a two-family residence.

Chairman Figueiredo invited any board members to ask questions.

Halim Choubah: Asked if either unit/floor was ever rented out.

Michael J. Gagne: Answered that the home was never rented to anyone. Only family and extended family members would occupy the home when visiting from out of state.

Kevin Melo: Commented that the residence located at 753/754 Russells Mills Road is also a two-family residence.

Chairman Figueiredo invited public comments regarding this project.

Abutters Present Opposed to the Proposal:

Frank Gordon, 720 Russells Mills Road: Lives at one of the properties which abuts the subject property. His concern is that he does not feel the house falls under that of a two-family status. He is concerned who buys the house and subsequently rents one or both of the floors out to young adults or individuals who will create a nuisance for the neighborhood. He wants his privacy and is very adamant that he does not want his dirt driveway that runs along the side of the subject property's line used by new owners/tenants who will be occupying the subject property. He feels that house on the subject property is in a terrible condition and needs major renovations. It should be converted to a single family residence as the appearance of the house is that of a single farm-style home, and the present zoning is for single family homes.

Ronald Medeiros, 712 Russells Mills Road: Mr. Medeiros is concerned that parties have been taken place at the house and at neighboring properties with college-aged kids and those parties have created a nuisance to the neighborhood.

Henry Belliveau, 727 Russells Mills Road: Expressed his concern about the septic system problem at the subject property which should be addressed.

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Doris Medeiros, 712 Russells Mills Road: Ms. Medeiros also expressed her concern about the house being rented out to young individuals who will create a nuisance for the neighborhood.

Halim Choubah: Questioned the Petitioner if there is sewer tie-in available, a problem with the septic system and if a Title V Inspection had been done.

Michael J. Gagne: Answered that there is no sewer line available. A Title V Inspection had been completed, and a new septic system will be installed at the property for the prospective new owners. The new septic system will be paid for by the Petitioner and his family as part of the sale agreement.

A lengthy discussion ensued between the abutters and Board members relative to their concerns to allow the subject property to be re-established as a two-family home.

No further questions by board members.

The Board made findings:

- Locus property
- Property owned by Lorraine Gagne since 1972. Ms. Gagne passed away in September 2012 and property is now listed for sale through her Estate.
- Variance pursuant to Section 3B.103
- When Gagne family purchased property in 1972, two families, one on each floor, occupied the dwelling as two separate residential units
- From 1972 to the present, Assessor's records listed and appraised the dwelling as that of a two-family residence.
- Each of the two floors/units in the dwelling is constructed to be separate residential units with a kitchen, bathroom, bedrooms, etc.
- The Gagne family occupied both floors of the dwelling when raising their family of seven.
- Second floor/unit was used as a separate residential unit when extended family and extended family members would visit for extended periods of time.
- Although two separate families did not continuously occupy each floor/unit until after 1972, the two units have existed continuously.
- Neither of the units has been rented from 1972 to the present.
- Property is situated on a 7.86 acre parcel and could accommodate three families in accordance with current Single Residence B District Zoning By-laws. However, much of the land is non-buildable due to a large area being wetlands.
- There is no sewer tie-in available at the property.
- Title V Inspection completed and Petitioner is paying for all costs relative for new septic system.
- Existing dwelling cannot meet the zoning requirements for that of a one-family with an accessory apartment because each floor has approximately 1,300 s.f. of living space.
- The requested Variance meets the statutory requirements for granting a Variance pursuant to Massachusetts General Laws Chapter 40A §10.

The Board made conditions:

- Permits subject to standard Town Board/Agencies' approvals and conditions needed

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- Should lot be sub-divided in the future, then the lot ^{that} has that has the two-family dwelling must meet zoning standards for a two-family residence in either Single Residence B or a subsequent Zoning District that is applicable at the time of the lot's division.

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

Halim Choubah makes the motion to GRANT the VARIANCE based upon the findings and conditions as stated. Motion was seconded by Kevin Melo and motion passed unanimously.

7:55 P.M. Hearing adjourned

Tina Cabral

Tina Cabral, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 2/25/14

MINUTES



Board Members

Jacqueline Figueiredo, Chairman
Halim Choubah, Clerk
Robert Gardner

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RECEIVED
JAN 28 2014
DARTMOUTH TOWN CLERK

APPROVED

DATE OF HEARING: January 28, 2014
CASE: SPECIAL PERMIT
CASE NO: 2014-3
Representative: Daniel C. Perry, Esq. for Petitioner/Applicant: David Bradford
Representative: Peter Bullard, Esq. for Petitioner/Applicant: Nicholas & Majorie Greville
Property Owners: David Bradford, 10 Mattarest Lane, Map: 95 Lots: 17, 18
Property Owners: Nicholas & Marjorie Greville, 10A Mattarest Lane, Map: 95 Lot: 15
Subject Property: 10 Mattarest Lane and 10A Mattarest Lane
District: Single Residence B District
MAP: 95 LOT: 15 BOOK: 4811 PAGE: 49
MAP: 95 LOTS: 17, 18 BOOK: 6905 PAGE: 61

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

ABSENT: Robert Gardner

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

LEGAL AD: Notice is hereby given of a public hearing to be held on Tuesday, January 21, 2014 at 6:30 P.M. in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of David Bradford and Nicholas & Marjorie Greville, who are seeking a SPECIAL PERMIT to allow the relocation of existing driveway situated on 10 Mattarest Lane, servicing 10A Mattarest Lane, to the south side of garage on 10 Mattarest Lane. The subject properties are located at 10 and 10A Mattarest Lane and identified on Assessor's Map 95 as Lots 15, 17 and 18. (Section 3B.302-Expansion of Non-Conforming One or Two Family Structures)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, January 8, 2014 and Wednesday, January 15, 2014.

Chairman Figueiredo read into the record a letter from Daniel C. Perry, Esq. requesting that the case be continued to February 25, 2014 as well as a letter from Peter C. Bullard, Esq. also requesting that the case be continued to February 25, 2014

Halim Choubah motioned to continue the hearing to February 25, 2014 at 6:30 p.m. which motion was seconded by David Dore. Motion passed unanimously.

6:35 P.M. Hearing adjourned

Tina Cabral

For the Zoning Board of Appeals

Date of Approval: 2/25/14