



MINUTES

DATE OF CONTINUED HEARING: **April 8, 2014**
 (original hearing date January 28, 2014, continued to February 25, 2014)

SPECIAL PERMIT

Case Number: 2014-3

Petitioner/Applicant: David A. Bradford/10A Mattarest Lane
 Representative: Daniel C. Perry, Esq.

Petitioner/Applicant: Nicholas & Marjorie Greville/10 Mattarest Lane
 Representative: Peter Bullard, Esq.

SUBJECT PROPERTY: 10 Mattarest Lane and 10A Mattarest Lane
 MAP 95 as LOT 15 MAP 95 as LOTS 17 and 18

PRESENT:

The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Alternate Board Member Kevin Melo

ABSENT:

Board Member Robert Gardner
 Alternate Board Member David Dore

ALSO PRESENT:

Daniel C. Perry, Esq.

Chairman Figueiredo opened the hearing at 6:30 p.m.

Chairman Figueiredo gave a brief description of the proposed Special Permit request to allow the relocation of an existing driveway situated on 10 Mattarest Lane.

New documentation received:

- Letter from David A. Bradford, Marjorie D. Greville, and Nicholas Greville dated April 3, 2014
- Memorandum of Opposition from Attorney Robert Feingold, representing Mr. and Mrs. William and Lucile Hicks of 13 Mattarest Lane (with attached exhibits A through K)
- Letter from Janet and Jim Fitzgibbons dated April 3, 2014
- Letter from Anthony C. Savastano, Esq. (Town Counsel) dated April 7, 2014
- Email from Attorney Peter Bullard requesting to withdraw the Special Permit application

Chairman Figueiredo invited Attorney Perry to speak.

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Attorney Perry requested that the Special Permit application be withdrawn without prejudice since Attorney Savastano concluded in his letter that the applicants should have submitted a Variance application.

Chairman Figueiredo asked if anyone wished to comment on the request. No public comment was received.

Halim Choubah motioned to close the public portion of the hearing, which was seconded by Kevin Melo, and unanimously voted.

Halim Choubah motioned to allow the application to be withdrawn without prejudice, which was seconded by Kevin Melo, and unanimously voted.

6:35 P.M. Hearing adjourned

Jane Kirby

Jane Kirby, Temporary Clerk
For the Zoning Board of Appeals

Date of approval: 4-29-14



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

MINUTES

DATE OF CONTINUED HEARING: **April 8, 2014**
(original hearing date February 25, 2014)

SPECIAL PERMIT

Case Number: 2014-7

Petitioner/Applicant: Institute of Advanced Sciences, Inc.
Representative: Daniel C. Perry, Esq.

Subject Property: 166 Chase Road
Map 45 as Lot 29

Zoning District: Single Residence B
Aquifer Protection Overlay District

PRESENT:

The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Alternate Board Member Kevin Melo

ABSENT:

Board Member Robert Gardner
Alternate Board Member David Dore

Chairman Figueiredo opened the hearing at 6:36 p.m.

Correspondence received:

- Letter from Daniel C. Perry to the Zoning Board of Appeals dated April 3, 2014 requesting to withdraw the Special Permit application for the Institute of Advanced Sciences, Inc.

Chairman Figueiredo read the above-referenced correspondence into the record.

A motion was made by Kevin Melo to allow the Special Permit application for ZBA Case #2013-7 to be withdrawn, which was seconded by Halim Choubah, and made unanimous by Chairman Figueiredo. Unanimous vote. Motion passed.

6:40 P.M. Hearing adjourned

Jane Kirby

Jane Kirby, Temporary Clerk
For the Zoning Board of Appeals

Date of approval: 4-29-14



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Office of the Zoning Board of Appeals
400 Slocum Road, Dartmouth, MA 02747
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MINUTES

DATE OF CONTINUED HEARING: **April 8, 2014**
(Original hearing date March 4, 2014)

VARIANCE

Case Number: 2014-8

Petitioner/Applicant: PRC1, Inc.
Representative: Christopher T. Saunders, Esq.
Property Owner: Margaret A. Tomkiewicz, TR of
Margaret A. Tomkiewicz Revocable Trust

SUBJECT PROPERTY: 581 Faunce Corner Road
MAP 68 as LOTS 28 & 29

Zoning District: Office Industrial District

PRESENT:

The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Associate Board Member Kevin Melo

ABSENT:

Board Member Robert Gardner
Associate Board Member David Dore

ALSO PRESENT:

Associate Board Member Michael Medeiros, Esq.
Christopher T. Saunders, Esq.
Todd Wieringa, Principal – Stengel Hill Architecture
Brad Lupsey, Principal – Littlejohn Engineering
Byron Ford, Jr., Realtor
James Pimental, Somerset Resident, Bricklayers Union, S.E. Ma Building Trade Council
Ron Rheaume, Bricklayers Union

Chairman Figueiredo opened the hearing at 6:50 P.M.

Chairman Figueiredo stated that the applicant is seeking a variance in order to construct an 87,000 s.f. Behavioral Health Care Center with 144 beds to be operated by Acadia Health Care, and is seeking to reduce the number of required parking spaces from 435 spaces to 151 parking spaces. She noted that the applicant has added additional parking to the revised site plan for a total parking count of 218 and stated that the applicant is seeking to amend the original petition previously submitted.

Motion and vote

Halim Choubah motioned to amend the application and petition to reflect the request to increase the parking to 218 parking spaces, which was seconded by Kevin Melo, and made unanimous by Chairman Figueiredo. Unanimous vote. Motion passed.

Chairman Figueiredo listed the new documentation received:

- Letter from Attorney Christopher T. Saunders to Jacqueline Figueiredo dated March 21, 2014
- Revised plans received by the Office of the Zoning Board of Appeals on March 21, 2014 showing increased parking for a total of 218 parking spaces (Sheets C1.0 through C8.2)
- Landscape plan also received on March 21, 2014
- Letter from Fire Chief Richard K. Arruda dated April 1, 2014 to the Planning Board Office

Brief discussion ensued in terms of the zoning district for the subject property. The subject property is located in the Office Industrial District, but the Town's Assessor's records list the zoning district as Limited Industrial. The correct zoning district for the subject property is the Office Industrial District.

Chairman Figueiredo, referencing the Planning Director's previously submitted letter dated February 25, 2014, stated that the Planning Director thought that it is important to note that sufficient area exists on this 24 acre property to provide the required number of parking spaces and that a variance is being sought not because there is insufficient lot area to provide the required number of spaces, but because it would be a waste of resources and an unnecessary burden on the environment to build the extra parking spaces.

Chairman Figueiredo invited the petitioner or representative to speak at this time.

Attorney Christopher Saunders

Explained that the proposed Behavioral Healthcare Center will be operated by Acadia Health Care and proceeded to provide details for the Board:

- One-story structure with walk-out basement
- 144 bed maximum build out
- Strictly inpatient (short term basis – 7 to 10 days)
- 3 shifts for employees
 - 95 employee maximum for busiest shift
- No high-volume traffic
- Patients will not have vehicles
- No visitors allowed
- Only doctor-controlled, scheduled patient visitation
- Secure facility
- Parking spaces only needed for business related parking or patient drop off

Regarding revised plans:

435 parking spaces required, originally requested variance to allow 151 parking spaces

- Revised plan added parking spaces for a total parking count of 218 parking spaces
- Additional entrance
- Added drop off location
- Added sidewalks
- Extended walkway to rear of the building
- Increased landscaping to create buffer between neighbors

Chairman Figueiredo invited public comment at this time.

James Pimental – Resident, Town of Somerset

Questioned the hardship

Board discussion ensued regarding:

- Encroachment on the wetlands
- Unique lot
- Soils
- Topography

Board general findings:

- Property locus
- Office Industrial Zoning District
- 24 +/- acres of land
- Surrounded by Limited Industrial District lots
- Wetlands/pond on subject property
- Proposal to construct 87,000 s.f. structure
 - Operated by Acadia Health Care
 - 144 beds
 - Short term, inpatient care
 - 3 shifts – max. 95 employees
 - No social visits, scheduled visits only
 - No outpatient services
- Variance request to allow reduction in parking
 - Pursuant to Section 16 of the Zoning Bylaws
 - 435 required / 218 requested
- Proposed use does not require Section 16 parking requirement
 - Nature of use (inpatient care)

Specific findings:

Sufficient land to provide required number of parking spaces

- Preserving natural environment and natural resources on subject property
- Wetlands/pond on subject property
- Topography
 - Steep slopes/grading

Wetlands, pond, and topography interfere with the logical construction of the required number of parking spaces.

Hardship:

- 218 parking spaces sufficient for number of parking spaces for proposed use of the Behavioral Health Care Center
- 1 parking space per bed is adequate for this type of facility and use (144 beds)

Not detrimental to the public good

- Maintaining the natural environment and natural resources of the subject property beneficial to the neighborhood

- Behavioral Health Care Center is a needed service for community
- Aesthetically pleasing structure and landscaping

Does not nullify or substantially derogate from the intent or purpose of the bylaw

- The Behavioral Health Care Center is an allowed use
- Reduction in required number of spaces reduces pervious coverage and is more beneficial to the natural environment

Conditions:

- Permits and approvals from applicable Boards and Town Agencies prior to issuance of a building permit
- Compliance with submitted Fire Chief District #3, Planning Director, and D.P.W. project review comments
- Site plans require Planning Board approval prior to the issuance of a building permit
- Planning Board approved parking plan with 218 spaces shall become ZBA Plan of Record for this Decision
- Future parking build-out plan must be filed
- ZBA may at any time after public hearing (fees paid by petitioner/subsequent owner) review the Variance application to ensure adequacy of reduced parking
- If determined more parking spaces are needed in the future, non-built spaces shall be constructed in accordance with a revised parking plan approved by the Planning Board
- Allowed reduction in parking spaces is for the Behavioral Health Care Use only
- Change of occupancy shall require Planning Board parking plan approval and could result in the requirement that the additional parking spaces are built
- Inpatient facility use only
 - Change of use to outpatient facility would require Planning Board parking plan approval and could result in the requirement that the additional parking spaces are built

Ron Rheume, Bricklayers Unit

Questioned if this facility could turn into an outpatient facility

The Board stated that this is strictly an inpatient facility and added the condition that if there was a change, it would require parking plan review.

James Pimental – Resident, Town of Somerset

Reminded the Board that just because Acadia Health Care facilities only use 1 parking space per bed does not mean that it meets the zoning bylaws for a reduction in parking spaces.

The Board responded by noting that the reduction in parking spaces is the reason a Variance is required for this proposal.

Chairman Figueiredo asked if there was any further public comment.

Attorney Saunders

Stated that the Board's conditions were acceptable to his client.

No further public comment was received at this time.

Kevin Melo motioned to close the public portion of the hearing, which was seconded by Halim Choubah, and made unanimous by Chairman Figueiredo. Unanimous vote. Motion passed.

Halim Choubah motioned to approve the revised application to allow a reduction of 218 parking spaces where 435 are required – with the Board's stated findings and conditions. This motion was seconded by Kevin Melo, and made unanimous by Chairman Figueiredo. Unanimous vote. Motion passed.

7:40 P.M. Hearing adjourned

Jane Kirby

Jane Kirby, Temporary Clerk
For the Zoning Board of Appeals

Date of approval: 4-29-14