



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

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2014 JUL 9 PM 2 33
ADMINISTRATIVE MINUTES
DARTMOUTH TOWN CLERK

DATE OF HEARING: JUNE 25, 2014

6:25 P.M. Chairman Figueiredo opened the meeting, Pledged the Flag and Moment of Silence

ATTENDANCE

PRESENT: The Board, Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Robert Gardner, Associate Member, Michael Medeiros, and Principal Clerk Assistant, Tina Cabral

ABSENT: Associate Member, David Dore

ADMINISTRATIVE

The Board unanimously voted and approved the following Minutes as amended:

- Administrative Minutes of June 11, 2014 Meeting
- Minutes for Variance Case 2014-16 (Prospect Hill Preserve-Old Fall River Rd)
- Minutes for Variance Case 2014-17 (31&39 Bayview Ave)

A motion was made by Robert Gardner, seconded by Halim Choubah, and unanimously voted.

Chairman Figueiredo provided a copy of the warrants relative to changes of the by-laws which were approved by Town Meeting Members on June 3, 2014 to the Board's Principal Clerk who will e-mail copies to each Board Member.

6:30 P.M. Adjournment

Tina Cabral

Tina Cabral, Principal Clerk
For the Zoning Board of Appeals
Date of Approval: July 8, 2014



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MINUTES

DATE OF HEARING: JUNE 25, 2014
CASE: SPECIAL PERMIT
CASE NO: 2014-18
Petitioner/Applicant: David & Donna Cordeiro
Property Owner: David & Donna Cordeiro
Subject Property: 10 Samoset Drive
District: Single Residence A, Map 131, Lot 105

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ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Robert Gardner, Associate Member, Michael Medeiros, and Principal Clerk Assistant, Tina Cabral

ABSENT: Associate Member, David Dore

ALSO PRESENT: David Cordeiro, Donna Cordeiro 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 **Wednesday, June 25, 2014 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of David & Donna Cordeiro who are seeking a SPECIAL PERMIT to construct a proposed addition and proposed porch to the existing garage and dwelling. The property is located at 10 Samoset Drive in the Single Residence A District and identified on Assessor's Map 131 as Lot 105. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 3B.200-Non-Conforming Structures and 3B.300-Non-Conforming Lots)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, June 11, 2014 and Wednesday, June 18, 2014.

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.

Chairman Figueiredo read into the record a letter from Planning Director, Donald Perry, dated June 13, 2014.

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

DAVID CORDEIRO: Expressed his desire to construct a proposed addition and porch to the existing garage and dwelling so that there is additional storage room and living area available for his family and guests.

Chairman Figueiredo invited any board members to ask questions.

HALIM CHOUBAH: Questioned why Petitioner didn't apply for a Variance. Mr. Choubah's concern was due to the setback exemptions in bylaw 4A.404A, it appears that this qualifies as a non-conforming structure. As such, it seems that a Variance rather than a Special Permit would be needed for setback relief.

DAVID CORDEIRO: Explained that he was told by the temporary Zoning Board Clerk that he should apply for a Special Permit and not a Variance. The temporary Zoning Board Clerk had spoken with the Zoning Enforcement Officer who reviewed the application and determined it was to be a Special Permit.

A lengthy discussion ensued between Board members relative to the bylaws pertaining to this proposal and it was agreed upon that this matter be continued in order to have the application reviewed by the Zoning Enforcement Officer, Paul Murphy, and to obtain his determination in writing for the Board's review. The Board agreed to continue this hearing to July 8, 2014.

Robert Gardner makes a motion to continue this case to Tuesday, July 8, 2014. Motion was seconded by Halim Choubah, and made unanimous by Chairman Figueiredo. Motion passed unanimously.

6:50 P.M. Hearing adjourned

Tina Cabral

Tina Cabral, Principal Clerk
Zoning Board of Appeals

Date of approval: 7/8/14



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MINUTES

DATE OF HEARING: JUNE 25, 2014
CASE: VARIANCE
CASE NO: 2014-19
Petitioner/Applicant: Matthew L. Parsons
Property Owner(s): Matthew L. Parsons
Representative: Richard Rheume/Prime Engineering, Inc.
Subject Property: 1306 Reed Road
MAP: 66, LOT(S): 2-4 in the Single Residence B and Aquifer Districts
Registry of Deeds Book: 5676, Page 199

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ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Robert Gardner, Associate Board Member, Michael Medeiros and Principal Clerk Assistant, Tina Cabral

ABSENT: Associate Member David Dore

ALSO PRESENT: Richard Rheume/Prime Engineering, Inc.

7:00 P.M. Chairman Figueiredo opened the hearing

LEGAL AD: Notice is hereby given of a public hearing to be held on **Wednesday, June 25, 2014 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of Matthew Parsons who is seeking a VARIANCE to allow the existing wood deck to be reconstructed and expanded into a three-season room. The property is located at 1306 Reed Road in the Single Residence B District and identified on Assessor's Map 66 as Lots 2-4. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 26.200D-Minimum Setback Dimensions)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, June 11, 2014 and Wednesday, June 18, 2014.

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

- Variance application time-stamped with the Town Clerk on 5/9/14 with Memorandum
- Legal Ad
- Certified Abutter's List
- Vision Appraisal Card
- Letter from Planning Director, Donald Perry, dated 6/13/14
- Letter from interested party in favor of proposal, dated 6/24/14
- Amended Order of Conditions, dated 3/28/13

- Property photos
- Grading and Layout Plan, dated 4/11/14

Chairman Figueiredo read into the record a letter from Planning Director, Donald Perry, dated 6/13/14.

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

RICHARD RHEAUME, P.E.: The Petitioner is seeking permission to create a proposed three-season room on the existing wood deck that is to be expanded. The existing deck is on the south side of the house and the proposed three-season room would be located 17 feet from the property line, where 20 feet is required by zoning. The proper location for this proposed three-season room is on the south side of the house. The current location of the house is a part of the existing topographic area that is unique to this property and does not affect generally the rest of the zoning district. If the proposed addition were required to be built somewhere other than the south side of the house it would not get enough sun exposure. If the addition of the three-season room were to be reduced in size to meet the side yard requirement it would be approximately 7 foot by 20 foot which is too small for its intended purpose. The subject property is also located in the Aquifer Protection District and consists of wetlands.

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 proposed findings:

- Locus property at 1306 Reed Road is identified on Map 66 as Lot 2-4 and is located in the Single Residence B and Aquifer Protection Districts.
- Subject property has a total area of 73,451 s.f., and there are wetlands on the property.
- The wetlands were flagged under an A-1 filing in 2011 and through the Conservation Commission a permit with an Order of Conditions was issued on March 28, 2013.
- The Petitioner, Matthew Parsons, has owned the property since August of 2002, and he is seeking a Variance to allow the existing wood deck to be reconstructed and expanded into a three-season room.
- A Variance is required since the proposed three-season room will be located 17 feet from a side property line where 20 feet is required by zoning pursuant to Section 26.200D as well as Section 4B.404 of the bylaws.
- The submitted proposal includes the installation of an infiltration system for the existing roof runoff which will result in a lot coverage of 9.8%
- The requested Variance does meet the statutory requirements for granting a Variance pursuant to Massachusetts General Laws Chapter 40A §10.

The Board made statutory Variance requirements:

- The subject property has a topography that is unique to the neighborhood. The existing dwelling is set back 189 +/- feet from the street line due to the existence of wetlands at the front of the lot.
- The placement of the three-season room other than on the south side of the house would involve hardship to the Petitioner because sun exposure would be reduced. Also, a reduction in the size of

the proposed three-season room to meet side yard requirements would be too small for its intended purpose.

- Since the proposed three-season room would be attached to the existing dwelling that is 189 +/- feet from the street line and the dwellings on the abutting lots are closer to the street line, the 3 foot reduction in the 20 foot setback would have minimal effect on the abutting properties or to the neighborhood. The encroachment is on a wetland buffer area which creates a larger buffer than the required setbacks by zoning.
- The proposal meets the intent of the bylaws in the Single Residence B and Aquifer Protection Districts. The impact on natural resources will be minimized with the installation of an infiltration system on the roof of the existing dwelling thereby resulting in lot coverage of 9.8%. The encroachment is on a wetland buffer area which is larger than required setbacks.

The Board made proposed conditions:

- Petitioner to secure all of the necessary permits and approvals from all applicable Boards and Agencies
- Plan of Record: Grading and Layout Plan
For: Matthew L. Parsons
Dated: April 11, 2014
By: Prime Engineering, Inc.

Chairman Figueiredo asked Board Members for further comments and/or questions.

No further comments or questions by Board Members.

Chairman Figueiredo invited further public comments regarding this project.

No further public comments.

Robert Gardner motioned to close the public hearing which motion was seconded by Halim Choubah and made unanimous by Chairman Figueiredo. Motion passed unanimously.

Halim Choubah makes the motion to GRANT the VARIANCE based upon the findings as stated and conditions as proposed. Motion was seconded by Robert Gardner and made unanimous by Chairman Figueiredo. Motion passed unanimously.

7:15 P.M. Hearing adjourned

Tina Cabral

Tina Cabral, Principal Clerk
For the Zoning Board of Appeals
Date of Approval: 7/8/14



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DATE OF HEARING: JUNE 25, 2014
CASE: VARIANCE
CASE NO: 2014-20
Petitioner/Applicant: Jason Oliver
Property Owner(s): Jason Oliver
Subject Property: 88 Willis Street
MAP: 123, LOT: 103 in the General Residence District

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Robert Gardner, Associate Board Member, Michael Medeiros and Principal Clerk Assistant, Tina Cabral

ABSENT: Associate Member David Dore

ALSO PRESENT: Jason Oliver and Other Interested Parties

7:20 P.M. Chairman Figueiredo opened the hearing

LEGAL AD: Notice is hereby given of a public hearing to be held on **Wednesday, June 25, 2014 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of Jason Oliver who is seeking a VARIANCE to keep an existing pool and deck as constructed closer to the street line allowed by zoning. The property is located at 88 Willis Street in the General Residence District and identified on Assessor's Map 123 as Lot 103. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 36.200-Variations and Section 5.404-Setbacks)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, June 11, 2014 and Wednesday, June 18, 2014.

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

- Variance application time-stamped with the Town Clerk on 5/9/14 with Memorandum
- Legal Ad
- Certified Abutter's List
- Vision Appraisal Cards
- Letter from Planning Director, Donald Perry, dated 6/13/14
- Plan of Survey by AVT Associates, dated 6/26/12
- Building Dept. Permit, dated 5/8/12
- Building Dept. Permit (with drawings attached), dated 6/12/12

Chairman Figueiredo read into the record a letter from Planning Director, Donald Perry, dated 6/13/14.

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

JASON OLIVER: In 2012, permits were submitted to the Building Dept. to allow the installation of the pool and to construct a deck around the pool. The pool was installed by Aaron Pools & Spa and the deck was constructed over the course of a weekend. Permits were issued by the Building Dept. without knowledge of a "paper street" towards the rear of the subject property which would be Adams Street. David Brunette, Local Building Inspector, advised Mr. Oliver to seek a Variance to validate the building permits. Mr. Oliver feels that the removal and relocation of the existing pool and deck would cause great financial hardship to his family.

CHAIRMAN FIGUEIREDO: Commented that she went out to the property and spoke to one of the neighbors. She did see a path that looked like a driveway that connected to the approved portion of Adams Street. There are three unbuildable lots abutting the subject property, and the property is surrounded by wetlands.

Chairman Figueiredo invited any Board Members to ask questions.

No questions by Board Members.

Chairman Figueiredo invited public comments regarding this project.

INTERESTED PARTY PRESENT:

MICHAEL MARTIN: Made the Board aware that there is one house situated at 107 Adams Street (which is at the end of the undeveloped of Adams Street), and it is owned by Elizabeth A. Serra. An unpaved driveway leads to this property.

No further public comments.

The Board made proposed findings:

- Locus property is located at 88 Willis Street and identified on Map 123 as Lot 103 and is located in the General Residence District.
- The Petitioner, Jason Oliver, has owned the property since July, 2011.
- The Petitioner is seeking a Variance to allow the acceptance for a pool and deck that was constructed in 2012 closer to a street line than allowed by zoning bylaws.
- The existing above-ground pool and attached deck were allowed by a building permit in 2012 without knowledge of the paper street to the rear of the subject property.
- Pursuant to Section 5.404, swimming pools are allowed to be placed within 10 feet of a perimeter property line and 20 feet from a street line.
- The subject property has frontage on two public ways, that is, the paper Adams Street and Willis Street.
- The above-ground pool and deck is located 5.1 +/- feet from the paper street where 20 feet is required.
- The pool and deck meet other setback requirements for the General Residence District.
- The paper street is an extension of an established portion of Adams Street.
- The paper street serves once resident at 107 Adams Street
- Wetlands exist along part of an undeveloped portion of Adams Street.
- The requested Variance does meet the statutory requirements for granting a Variance pursuant to Massachusetts General Laws Chapter 40A §10.

The Board made statutory Variance requirements:

- The uniqueness of the lot is due to the existence of a public way to the north of the property and a paper street to the south of the property. Wetlands are also located to the south side of the subject property. Due to the area where the pool and deck are currently located there would need to be a 100 foot buffer from the wetlands before another structure could be built. Therefore, the pool/deck would not negatively affect any new construction that would be built on the undeveloped portion of Adams Street.
- The removal and relocation of the existing above-ground pool and deck to another location on the property to meet the paper street setback requirements would involve substantial financial hardship to the Petitioner.
- The paper street and its abutting lots are vacant with the exception of one property at 107 Adams street. Wetlands exist along the south side portion of the subject property.
- There would be no detriment to the public good because it is unlikely for the paper street to be developed or extended due to the existence of wetlands.
- In accordance with the purpose outlined in Section 5.404 of the zoning bylaws for the General Residence District, the above-ground pool and deck being closer to the paper street than allowed by zoning does not create a nuisance since abutting lots to the paper street are undeveloped.

The Board made proposed conditions:

- Petitioner to secure all of the necessary permits and approvals from all applicable Boards and Agencies.
- The setback Variance for this petition is limited to the existing above-ground pool and deck only and no other temporary or permanent structures are allowed to be constructed with this Variance.
- Plan of record will be plan entitled "Plan of Survey", prepared by AVT Associates for Jason J. Oliver and Heather J. Silvia, dated June 26, 2012.

Chairman Figueiredo asked Board Members for further comments and/or questions.

No further comments or questions by Board Members.

Chairman Figueiredo invited further public comments regarding this project.

No further public comments.

Robert Gardner motioned to close the public hearing which motion was seconded by Halim Choubah and made unanimous by Chairman Figueiredo. Motion passed unanimously.

Halim Choubah makes the motion to GRANT the VARIANCE based upon the findings as stated and conditions as proposed. Motion was seconded by Robert Gardner and made unanimous by Chairman Figueiredo. Motion passed unanimously.

7:50 P.M. Hearing adjourned

Tina Cabral

Tina Cabral, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 7/8/14