



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

ADMINISTRATIVE MINUTES

DATE OF HEARING: JULY 22, 2014

6:30 P.M. Chairman Figueiredo opened the meeting, Pledged the Flag, 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 D. Dore

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ADMINISTRATIVE

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

- Administrative Minutes of July 8, 2014 Meeting
- Minutes for Special Permit & Variance Case 2014-23 (Off Horseneck Rd) Proposed Cell Tower
- Minutes for Special Permit Case 2014-21 (1048 Allen St)
- Minutes for Special Permit & Variance Case 2014-22 (300 Gulf Rd)
- Minutes for Special Permit Case 2014-18 (10 Samoset Dr)

A motion was made by Robert Gardner to accept the Minutes, seconded by Halim Choubah, and unanimously voted.

ANNOUNCEMENTS

Chairman Figueiredo announced the proper continued date for hearing for 1048 Allen St (Case 2014-21) is August 5, 2014 and the continued date for hearing for 300 Gulf Road (Case 2014-22) is September 30, 2014.

Chairman Figueiredo addressed the board members that the Board of Appeals is scheduled to meet with the Select Board on August 4, 2014 to discuss the Proposed Realignment of Land Use/Development Services Functions per Memorandum dated July 8, 2014 from the Selectman's Office. Chairman Figueiredo expressed to board members to write down any questions and/or concerns in preparation for said meeting.

6:40 P.M. Adjournment

Tina Cabral

Tina Cabral, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 8/5/14



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MINUTES

DATE OF HEARING: July 22, 2014
CASE: SIX-MONTH EXTENSION FOR CASE 2013-19
Petitioner/Applicant: Roland P. Valois/Four Kings LLC
Property Owner(s): Roland P. Valois/Four Kings LLC
Subject Property: 25 Russells Mills Road in the General Business District
MAP: 133 LOT: 99
MAP: 138 LOT: 100
Registry of Deeds Book: 10736, Page: 319 Certificate No: 23058

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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: Roland P. Valois

6:40 P.M. Chairman Figueiredo opened the hearing

DOCUMENTS ON FILE

- Six-Month Extension application with brief time-stamped with Town Clerk on 6/23/14
- Copy of Variance Decision Case#2013-19
- Copy of Special Permit Decision Case#2013-19

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

ROLAND P. VALOIS: Explained to the board that the subject property will require more time in order to complete the North side of the property and is still in the process of finalizing plans. Also, the proposed zoning changes for the Bliss Corner District may render this Variance unnecessary and the redevelopment of the King Lumber yard property may be allowed by right.

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.

Robert Gardner motioned to close the public hearing which motion was seconded by Halim Choubah. Motion passed unanimously.
Robert Gardner made the motion to GRANT the SIX-MONTH EXTENSION for a period of six-months from the date of this hearing. Motion was seconded by Halim Choubah. Motion passed unanimously.

6:45 P.M. Hearing adjourned
Tina Cabral, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 8/5/14



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MINUTES

DATE OF HEARING: JULY 22, 2014 (continued hearing)
CASE: VARIANCE
CASE NO: 2014-15
Petitioner/Applicant: SITEC, INC.
Property Owner: Ivelia Frias
Representative: SITEC, INC.
Subject Property: 122 Potter Street
District: General Residence MAP: 138, LOT: 122
Registry of Deeds BOOK: 8630, PAGE: 89

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6:45 P.M. Chairman Figueiredo opened the hearing

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: Steve Leach/SITEC, Inc., and Other Interested Parties

LEGAL AD: Notice is hereby given of a public hearing to be held on **Tuesday, July 22, 2014 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of Ivelia Frias who is seeking Variances to allow the division of an existing 12,000 s.f. lot with residence into two lots of 6,000 s.f. Applicant seeks (2) – 6,000 s.f. lots with 60 feet of frontage and to allow a 10 foot sideyard setback where 20 feet is required. Lots in this district require 15,000 s.f. and 100 feet of frontage. The property is located at 122 Potter Street, Dartmouth, MA in the General Residence District and identified on Assessor's Map 138 as Lot 122. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 36-Variances; Section 5.401-Lot Area; Section 5.403-Frontage and Section 5.404-Setbacks)

ADVERTISED: The Notice for public hearing was published in the Dartmouth Chronicle on Wednesday, July 2, 2014 and Wednesday, July 9, 2014.

Chairman Figueiredo read into the record a letter from Donald Perry, Planning Director, dated July 14, 2014.

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

STEVE LEACH, SITEC, INC.: The Petitioner, Ivelia Frias', property consisted of three lots as shown on Subdivision Plan prepared in 1909 and recorded with the Bristol County Registry of Deeds in Book 7, Page 44. The plan and lots were created prior to the subdivision control law. The subject property was built in 1945 and is a small bungalow style home. The Petitioner is under severe financial hardship and wishes to divide the existing 12,000 s.f. lot into two (2) lots of 6,000 s.f. (60' frontage) keeping her existing residence on one lot and the other lot vacant for a potential buyer to build a home (36'x 24' size house). A Variance is being requested to allow a 10 foot side yard setback where 20 feet is required. The lots created would be in character with similar lots in the neighborhood and are actually larger than some lots within the neighborhood.

Chairman Figueiredo invited any Board Members to ask questions.

HALIM CHOUBAH: Asked Mr. Leach if he could expand on the criteria for hardship that relates to this subject property.

STEVE LEACH/SITEC, INC.: The lot is flat and in character with the neighborhood and was created back in 1909 and intended to consist of three (3) lots and not one (1). There is plenty of off-street parking and plenty of frontage for a driveway.

No further questions by Board Members.

Chairman Figueiredo invited public comments regarding this project.

JOHN ARAUJO: Expressed the Petitioner's desire to remain in her home, but due to her financial hardship she cannot keep up with the maintenance of the property such as mowing the lawn, trimming the bushes and paying for her real estate taxes. The Petitioner lives on a fixed income of \$700.00 monthly from retirement. Petitioner has owned this property since 1982 and has lived there since. Mr. Araujo believes going forward with this project will help the Town with more tax revenue and help the Petitioner financially so that she can remain in her residence.

MICHAEL MEDEIROS: Stated that this road was recently resurfaced last Spring and to cut into the pavement/sidewalk would require a five (5) year restriction.

CHAIRMAN FIGUEIREDO: Explained to Petitioner that no one would be allowed to buy the other vacant lot for a number of years because the road was just resurfaced last year and there are restrictions for breaking into the pavement. She also expressed her understanding of Petitioner's financial hardship but basing a finding on the personal hardship of the Petitioner cannot be allowed. The Variance must meet the four Variance Requirements in order to grant this petition. The Planning Board expressed concerns regarding this petition including the fact that the subject property does not comply with current zoning presently, and allowing a further reduction in the zoning requirements for the purposes of constructing another house is not in keeping with the intent of the zoning bylaws. The Planning Board also stated that a recent attempt to rezone this area for smaller lots failed at a recent town meeting since residents did not want to see the smaller lots in this district that were created in the past.

Chairman Figueiredo invited further public comments regarding this project.

No further public comments.

The Board made proposed findings:

1. The locus property at 122 Potter Street is identified on Map 138 as Lot 22 and is located in the General Residence District.
2. The Petitioner seeks a Variance to divide an existing 12,000 s.f. lot with an existing residence that has 120' of frontage into two lots, each having 6,000 s.f. of area and 60' of frontage. One lot would retain the existing residence and the second lot would be vacant.
3. The General Residence District, pursuant to section 5.401 of the zoning bylaws, requires that lots be 15,000 s.f., and pursuant to Section 5.40 of the zoning bylaws frontage is to be 100'.
4. Side yard setbacks would be affected by the lot division. Therefore, the Petitioner also seeks a Variance for a side yard setback of 10' where 20' is required in the General Residence District pursuant to Section 5.404 of the bylaws.
5. The existing lot is a non-conforming lot in accordance with Section 3B.300 of the bylaws.

6. The existing dwelling meets the frontage requirements for General Residence Districts, but it does not meet the setback making the dwelling non-conforming per 3B.200.

After much discussion, the Board determined that the petition did not meet the statutory requirements for granting a variance. The proposed hardship was personal. Board member Halim Choubah suggested that the Petitioner might request to withdraw the proposal, and the Board indicated their support of this idea.

STEVE LEACH/SITEC, INC.: Requested to withdraw this proposal without prejudice.

Robert Gardner made a motion to close the public hearing. Motion was seconded by Halim Choubah and motion passed unanimously.

Robert Gardner made a motion to approve the withdrawal of this petition without prejudice based on the findings as proposed. Motion was seconded by Halim Choubah and motion passed unanimously.

7:15 P.M. Hearing adjourned

Tina Cabral

Tina Cabral, Principal Clerk

Zoning Board of Appeals

Date of approval: 8/5/14



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DATE OF HEARING: JULY 22, 2014
 CASE: SPECIAL PERMIT
 CASE NO: 2014-24
 Petitioner/Applicant: Tekeyla Atkinson
 Property Owner: Tekeyla Atkinson
 Representative: Gary Farland/Thompson Farland
 Subject Property: 11 Tolland Path in the Single Residence A District
 MAP: 177 LOT: 16

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

7:25 P.M. Chairman Figueiredo opened the hearing

LEGAL AD: Notice is hereby given of a public hearing to be held on **Tuesday, July 22, 2014 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of **TEKEYLA ATKINSON**, who is seeking a **SPECIAL PERMIT** in order to allow to bring water to an Accessory Building that will become an esthetic/massage studio home occupation. The property owner is Tekeyla Atkinson. The subject property is located at 11 Tolland Path in the Single Residence A District and identified on Assessor's Map 177 as Lot 16. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 4A.302- Accessory Buildings or Structures with Kitchen or Bathroom Facilities)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, July 9, 2014 and Wednesday, July 16, 2014.

Since neither the Petitioner nor a Representative was present, Chairman Figueiredo recessed briefly in order to provide additional time for someone to arrive to present the petition.

7:30 p.m. Hearing resumed

Chairman Figueiredo suggested to the board that they could discuss the case and have a vote on whether or not to approve the petition or they could vote to continue this case to a later date and notify the Petitioner of that continuation. After some discussion, Chairman Figueiredo suggested that this case be continued to the next available Board of Appeals meeting on August 5, 2014 as this case has a decision deadline of August 15, 2014. She requested that the Principal Clerk, Tina, contact the Petitioner/Representative to determine if there was an emergency situation or a notification problem as to why no one was present at this hearing and to notify her/him of the new hearing date.

ROBERT GARDNER made the motion to continue this case to August 5, 2014 in order to allow the Petitioner/Representative an opportunity to present the case. Motion was seconded by HALIM CHOUBAH. Motion passed unanimously.

7:45 P.M. Hearing adjourned

Tina Cabral, Principal Clerk

Zoning Board of Appeals Date of approval: 8/5/14