



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

MINUTES

DATE OF HEARING: SEPTEMBER 30, 2014
 CASE: SPECIAL PERMIT
 CASE NO: 2014-31
 Petitioner/Applicant: Paul & Debra Botelho
 Property Owner: Paul & Debra Botelho
 Representative:
 Subject Property: 4 Isaac Circle
 Map 109, Lot 102
 District: Single Residents B District
 Registry of Deeds: Book: 04642 Page: 0087

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 DARTMOUTH TOWN CLERK

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Robert Gardner, Associate Member, Michael Medeiros, Rahim Aghai and Temporary Principal Clerk Assistant, Brittany Doherty
ABSENT: Associate Member, David Dore
ALSO PRESENT: Paul & Debra Botelho

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

LEGAL AD:

Notice is hereby given of a public hearing to be held on **Tuesday, September 30, 2014 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of **PAUL BOTELHO** and **DEBRA PAVAO** who is seeking a **SPECIAL PERMIT** to allow to construct a proposed 8' x 40' wooden deck farmer's porch attached to the front of existing home. The subject property is located at 4 Isaac Circle in the Single Residence B District and identified on Assessor's Map 109 as Lot 52. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 3B.200-Non-Conforming and Section 3B.202-Expansion of Non-Conforming One or Two Family Structures)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, September 17, 2014 and Wednesday, September 24, 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

- Special Permit application
- Schedule of Departmental Payment of Fees To Collector's Office
- Legal Ad
- Certified Abutter's List
- Vision Appraisal Card
- Letter from Donald Perry, Planning Director, dated 8/7/14
- Site Plan prepared by AVT Associated, dated 7/9/14

Chairman Figueiredo read into the record a letter from Planning Director, Donald Perry, dated August 7th.

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

Paul Botelho, property owner and Petitioner of 4 Isaac Circle, stated that he wanted to place an 8' x 40' farmer's porch on the front of the house.

Chairman Figueiredo invited any board members to ask questions.

There were no questions by board members.

Chairman Figueiredo invited public comments regarding this project.

There were no public comments.

The Board made findings:

- Locus property at 4 Isaac Circle is identified on Map 109, Lot 52 and is located in the Single Residence B District.
- A back corner of the property is located in the aquifer and wetlands also exist in that corner.
- Paul Botelho and Debra Pavao have owned the property since March, 2000.
- Both the lot area and existing dwelling are non-conforming pursuant to 3B.200 and 3B.300.
- The Petitioners are seeking a Special Permit pursuant to 3B.202 to construct an 8' x 40' wooden farmer's porch to the front of their existing home.
- A Special Permit is needed since the porch will not meet the 60' street setback requirement for Single Residence B District. The existing non-conforming home is 31.6' from the street line and with the porch addition the setback from the street will be reduced to 23.6'.
- The houses in the neighborhood are mostly setback 30' from the street line; therefore the proposed encroachment is only 7.4'.
- The proposed porch will be a visual enhancement for the home.
- Approval of the Special Permit is appropriate since the proposed extension, that is, the porch will not be more detrimental to the neighborhood than the existing home. There is a minimal encroachment to the street line when compared to neighboring houses, and the porch will enhance the property.

The Board made proposed conditions:

- The Petitioners and/ or subsequent owner will secure all of the necessary permits and approvals from all applicable Boards and Agencies prior to the issuance of a Building Permit.
- The porch is not to be enclosed.
- The Board approved the plan referenced as:
 - Site Plan by AVT Associates
 - Owners: Paul A. Botelho and Debra M. Botelho
 - Dated: July 9th, 2014

Chairman Figueiredo invited further public comment. There was no public comment.

Halim Choubah makes the motion to close the public hearing. Motion was seconded by Robert Gardner. The motion passed unanimously.

Halim Choubah makes the motion to approve the SPECIAL PERMIT in accordance with the Board's stated findings and proposed conditions. Motion was seconded by Robert Gardner. The motion passed unanimously.

7:12 P.M. Hearing adjourned

Brittany Doherty

Brittany Doherty, Temporary Principal Clerk
Zoning Board of Appeals
Date of approval: October 14, 2014



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ADMINISTRATIVE MINUTES

DATE OF HEARING: SEPTEMBER 30, 2014

6:22 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 Members: Michael Medeiros, and Rahim Aghai, and Temporary Principal Clerk Assistant, Brittany Doherty

ABSENT: DAVID DORE

ADMINISTRATIVE

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

- Administrative Minutes of September 2nd, 2014 Meeting
- Minutes for Special Permit Case 2014-21 (1048 Allen Street, New Cingular Wireless (AT&T))
- Minutes for Special Permit Case 2014-25 (4 Isaac Circle)
- Minutes for Variance Case 2014-26 (572 Elm Street)
- Minutes for Special Permit & Variance Case 2014-28 (103 Wilson Street)

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

ANNOUNCEMENTS

The next Zoning Board Meeting has been scheduled for Tuesday, October 14th.

6:30 P.M. Adjournment

Brittany Doherty, Temporary Principal Clerk
For the Zoning Board of Appeals
Date of Approval: 10/14/14

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MINUTES

DATE OF HEARING: SEPTEMBER 30, 2014
 CASE: SPECIAL PERMIT and VARIANCE
 CASE NO: 2014-22
 Petitioner/Applicant: New Cingular Wireless PCS, LLC ("AT&T")
 Property Owner: Thistle Trust LLC, Tenant and Concordia Company LLC, Landlord
 Representative: Edward D. Pare, Jr., Esq. Brown Rudnick LLP
 Representative: Elisabeth Rutkowski, Tower Resource Management
 Subject Property: 300 Gulf Road in the Maritime/Marine Industrial District
 Registry of Deeds: Book 7917, Page 343

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Robert Gardner, Associate Member, Michael Medeiros, Rahim Aghai and Temporary Principal Clerk Assistant, Brittany Doherty
ABSENT: Associate Member, David Dore
ALSO PRESENT: Anthony Savastano

6:30 P.M. Chairman Figueiredo opened the hearing and announced the continuance of this hearing from the first hearing of July 8th, 2014. The Board had continued the hearing in order to secure a consultant to help the board with technical assistance when needed and to also involve Town Counsel, Attorney Savastano on any legal issues. To reintroduce the case, she read the legal ad. She explained that the petitioner's application to the ZBA was received on 5/16/2014 with a shot clock deadline of 10/13/2014. She then proceeded to identify correspondence and documents that had been received since the July 8, 2014 public hearing.

Chairman Figueiredo read into the record the list of names and dates of letters that have been received by the board.

NEW CORRESPONDANCE AND DOCUMENTS RECEIVED SINCE JULY 8, 2014

- An additional 25 letters from residents in opposition to the proposal
- 7 letters from residents in support of the proposal
- 4 letters from residents in opposition of the continuance
- Memorandum by Attorney Daniel Perry and Neil Smola, representatives for the Dartmouth Residents Association, "Stop Concordia", dated 9/22/12
- A petition with 441 signatures of residents in opposition to the proposal
- A letter and report date 9/18/2014 from opposing resident Peter Rhys-Jenkins, residing on Gulf Road, entitled "ATT Proposed Installation at 300 Gulf Road, Dartmouth, MA".
- Letters from Dartmouth Historical Commission dated 8/8/2014 and 7/29/2014
- Extension forms and letters from Attorney Pare

Halim Choubah read into the record the list of names and dates of letters that have been received by the board.

Halim Choubah made the motion to add to the correspondence listed into the record. Motion was seconded by Robert Gardner. Motion passed unanimously.

Chairman Figueiredo read the letter from Attorney Pare to continue the hearing to November 5 2014.

Chairman Figueiredo invited Attorney Savastano to speak on behalf of the continuance.

Attorney Savastano stated that his expert and he have been working on providing an alternative location for AT&T to review and as a result of that, there has been continuous communication with Attorney Pare. Attorney Savastano explained the extended shot clock will benefit the Board, since now, instead of fifteen days to make the decision, the board has until December 1, 2014 (thirty days after the next hearing date). Attorney Savastano then stated that Attorney Pare's agreement to extend statutory deadlines form and letter has been completed and agreed upon.

Chairman Figueiredo then asked Attorney Savastano to speak on behalf of the by-law 38.103 which states special permits shall be issued only after a public hearing within 65 days after filing with the application with the Board of Appeals. The Board of Appeals shall act on a special permit request within 90 days after the public hearing.

Attorney Savastano then stated that the public hearing has not been concluded, and this provision is in the by-laws to prevent the ZBA from stalling on an application. If deadlines are not met, then there is an automatic approval called a constructive grant. It works in the applicants favor in order to develop more findings, draft decisions, ask more questions, and bring in experts. It's common practice for the board or applicant to extend the hearing date if needed, he stated.

Chairman Figueiredo stated that in order to find more information thoroughly for alternative sites, this continuance is necessary and she has agreed to this continuance.

Chairman Figueiredo stated that she will not open public comment since she wants the Attorney to respond directly to any comments made by the public. The Board is aware of the common threads of issues proposed by the public.

Chairman Figueiredo invited board members to ask questions.

No questions by board members.

Halim Choubah made the motion to approve the continuance of the AT&T request to November 5th. Motion was seconded by Robert Gardner. Motion passed unanimously.

Halim Choubah makes the motion to agree to the proposed decision extension date to December 1st. Motion was seconded by Robert Gardner. Motion passed unanimously.

6:50 P.M. Hearing adjourned

*Brittany Doherty
Temporary Principal Clerk
Zoning Board of Appeals
Date of approval: October 14, 2014*