



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

AMENDED MINUTES

HEARING DATE: October 14, 2014
CASE: AMENDMENT TO SPECIAL PERMIT
CASE NO: 2014-29
Petitioner/Applicant: Robert and Jacqueline Cabral
Property Owner: Robert and Jacqueline Cabral
Representative for Applicant: Steven D. Gioiosa, SITEC, Inc.
Subject Property: 703 State Road
District: General Business; Aquifer Protection
MAP: 164 LOT: 14 BOOK: 4510 Page:224

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ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Robert Gardner, Associate Members Rahim Aghai and David Dore, and Director of Development Deborah Melino-Wender
ABSENT: Associate Member Michael Medeiros
ALSO PRESENT: Robert Cabral; Steven D. Gioiosa; Tony Fernandes; Deborah DeMello

6:47P.M. Chairman Figueiredo opened the hearing

LEGAL AD: Notice is hereby given of a public hearing to be held on **Tuesday, October 14, 2014** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of Robert and Jacqueline Cabral, who are seeking an AMENDMENT to Case #2007-59 to maintain an existing fireplace/shed/woodstove retail business and to amend the Special Permit Decision to eliminate 4' high posts; two sections of the recessed landscape timbers and to add a seasonal storage area for wood pellets. The property is located at 703 State Rd. in the General Business and Aquifer Protection Districts and is identified on Assessor's Map 164 Lot 14. Information is on file in the office of the Board of Appeals and may be seen upon request (Section 11.100 – General Business Districts).

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, October 1, 2014 and Wednesday, October 8, 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 August 26, 2014
- Schedule of Departmental Payment of Fees To Collector's Office
- Legal Ad
- Certified Abutter's List
- Vision Appraisal Card
- Photos of the site
- Copy of Decision for Case #2007-59

- Memorandum from John Keegan of Sitec, Inc. dated 8/20/2014
- Letter from Donald Perry, Planning Director dated 10/14/2014
- Site Plan entitled "Site Plan – Special Permit Amendment, Ash Away Hearth and Chimney prepared by SITEC Inc., and dated February 7, 2014
- Site Plan entitled "Site Plan" dated October 26, 2007

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

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

Mr. Gioiosa reviewed the allowed in 2007 requested amendments to the existing Special Permit with the Board. He noted that the gravel parking lot is grandfathered in. He noted that the property has extensive wetlands which limit any expansion of the storage areas. The owner, Mr. Cabral is looking to display and store the pallets of wood pellets for his wood stove products in the front of the property. He has incurred about \$20,000 in losses due to vandalism of the product when it is stored in the rear of the property, where there is limited visibility. He would like to store them in the front of the property in the area that was originally designated as display for mailboxes. The pallets would be about 4' high. This location provides for more visibility and more efficient pick-up by customers. This is a seasonal product running from October to March. The display area is located at least 14' back from Rt. 6, providing a clear zone. The visibility is not being blocked from Route 6. This setback is the same as for the previous mailbox area and provides for good site lines. He noted that a maximum of 8 pallets could be stored there. Other changes include removing the posts that keep getting hit by vehicles and removal of the landscape timbers, which would prevent the need for vehicles to back up at the propane filling area. Mr. Gioiosa noted that the current use of a one way traffic pattern results in an improvement in public safety.

Mr. Cabral also addressed the Board. He provided the Board with a letter from Michael Ricardo to Paul Murphy, Director of Inspection Services, dated October 10, 2013 and Mr. Murphy's response dated October 15, 2013. Mr. Cabral stated that Mr. Ricardo is a competitor. Mr. Cabral stated that he did not have the pallets at the time of those letters. Additionally, he needs to move the pallets to the front due to the costs of vandalism. He noted that the pallets will replace the mailbox display area.

Chairman Figueiredo asked for clarification on the visibility and aesthetic issues. She noted that the only change was in the product being displayed. She noted the visibility will be mitigated by the one-way traffic pattern. She noted that the challenge in the original plan was that the plan noted "mailboxes" instead of generic display.

Mr. Gardner made the motion to accept the correspondence into the record. Mr. Choubah seconded the motion. The motion passed unanimously.

The Board had a general discussion and clarification of the plan with Mr. Cabral.

Chairman Figueiredo invited any board members to comment/ask questions.

Mr. Gardner expressed concern about public safety – the visibility of traffic entering and exiting the property onto Route 6 and that this could cause safety issues for oncoming traffic. Mr. Gioiosa stated they could temporarily place some pallets at the site and that the Board members could make a site visit and assess the visibility impact. A discussion followed.

Chairman Figueiredo invited public comments regarding this project.

Mr. Tony Fernandes introduced himself as owning abutting property and expressed concern about the upkeep of the property. He stated that he also has concerns about the visibility of cars exiting the property.

Chairman Figueiredo recommended that the safety officer take a look at the visibility situation and report back to the Board and that this item be continued to the November 18th meeting. Mr. Medeiros stated that he believes the visibility is sufficient and that the Board has heard from a professional engineer stating that there is adequate visibility. He stated that the Board should only consider the parts of the plan that are changing. Mr. Halim stated that he would like the Board members to be comfortable in making a decision.

The applicant and the Board agreed to extend the statutory deadline to December 15, 2014.

Mr. Choubah made the motion to continue the public hearing on the case to November 18th. Motion was seconded by Mr. Gardner. The motion passed unanimously.

7:55 P.M. Hearing was closed and continued to November 18, 2014.



Deborah Melino-Wender
Director of Development

Date of approval: November 5, 2014



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400 Slocum Road, Dartmouth, MA 02747
(508) 910-1868

AMENDED ADMINISTRATIVE MINUTES

October 14, 2014

6:18 PM: *Chairman Figueirido opened the meeting; Pledge Allegiance to the Flag; Moment of Silence.*

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Robert Gardner.

Associate Members: Rahim Aghai and David Dore

Director of Development: Deborah Melino-Wender

ABSENT: Michael Medeiros

ADMINISTRATIVE

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

- Administrative Minutes of September 30, 2014
- Minutes for Special Permit 2014-31 (4 Isaac Circle)
- Minutes for Special Permit and Variance Case 2014-22 (300 Gulf Road)

ADMINISTRATIVE APPROVAL: 20 North Shore (Round Hill)

Chairman Figueiredo explained that the original variances and special permit granted to Round Hill Associates requires Planning Board and Board of Appeals approval for the exact location of and detailed plans for any buildings or other structures which were not included on the original plans. The Planning Board approved the subject plans at its meeting of October 6, 2014. She explained that Dr. David Feingold and Dr. Dorian Mintzer are looking for approval for a 12'x20' storage shed to the south side of the existing condo. Chairman Figueiredo read the letter from Drs. Feingold and Mintzer. Dr. Mintzer made a brief presentation.

There were no questions from the Board or from the public.

Mr. Gardner made the motion to approve the location and style of the storage shed addition at 20 North Shore Drive as described in the plans entitled "Feingold Residence Storage Shed Addition" prepared by JM Booth & Associates, dated August 30, 2014. Mr. Choubah seconded the motion. The motion passed unanimously.

APPOINTMENT: LEDGEWOOD COMMONS, LLC, PHASE 3; IMPACT FEES

Chairman Figueiredo stated that there is a request from the Director of DPW and Deborah Melino-Wender, the Director of Development to allow the disbursement of the \$7,000 per unit

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impact fee for Ledgewood II to be designated for traffic improvements and signalization in order to address increased traffic congestion in the area. She noted that a letter had been received that evening from Bill Correia, the Plant Manager at Harvey Building Products, in support of a traffic light at the intersection.

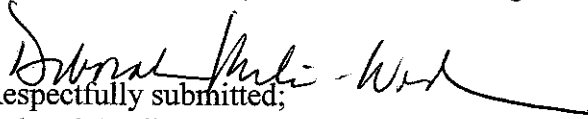
Ms. Melino-Wender made a brief presentation to the Board. She noted that the Town has also received verbal support for the project from the UMass Dartmouth Law School.

Mr. Gardner made the motion to allow the disbursement of the \$7,000 per unit impact fees for Ledgewood Commons III to be allocated for traffic improvements and signalization costs, and to send letters of said approval to DPW and to James Pisano (Senior Project Manager for Vanasse Hangen Brustlin, Inc.). Mr. Choubah seconded the motion. The motion passed unanimously.

ANNOUNCEMENTS

The next meeting is scheduled for Wednesday, November 5, 2014 at 6:00 PM.

The Administrative portion of the meeting was adjourned at 6:45 PM.


Respectfully submitted;

Deborah Melino-Wender

Director of Development

Minutes Approved: November 5, 2014



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AMENDED MINUTES

HEARING DATE: October 14, 2014
 CASE: SPECIAL PERMIT
 CASE NO: 2014-30
 Petitioner/Applicant: George Moniz and Patricia Moniz
 Property Owner: George Moniz and Patricia Moniz
 Subject Property: 869 Smith Neck Road
 District: Single Residence B MAP: 106 LOT: 33 BOOK: 10642 PAGE: 149

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah, Robert Gardner, Associate Members Rahim Aghai and David Dore, and Director of Development Deborah Melino-Wender
 ABSENT: Associate Member Michael Medeiros
 ALSO PRESENT: George and Patricia Moniz

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8:05 P.M. Chairman Figueiredo opened the hearing

LEGAL AD: Notice is hereby given of a public hearing to be held on **Tuesday, October 14, 2014 at 6:30 PM** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of George Moniz and Patricia Moniz, who are seeking a SPECIAL PERMIT for relief from side and rear setbacks where 30 feet is required by zoning by laws to construct a single family home with garage on the existing foundation. The property is located at 869 Smith Neck Road in the Single Residence B District and identified on Assessor's Map 106 as Lot 33. Information is on file in the office of the Board of Appeals and may be seen upon request (Section 3B.201).

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, October 1, 2014 and Wednesday, October 8, 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 September 2, 2014
- Schedule of Departmental Payment of Fees To Collector's Office
- Legal Ad
- Certified Abutter's List
- Vision Appraisal Card
- Photos of the site
- Plans entitled " A New Residence for George and Patricia Moniz" by Cornerstone Design/Build Services Inc., including exterior elevations and floor plans A-2, A-2, A-3, and A-4 dated August 21, 2014
- Two additional untitled site plans labeled "Existing" and "Proposed"

- Letter for Donald Perry, Planning Director dated 10/14/2014

Chairman Figueiredo noted a typographical error in the legal ad. The property was identified as being on Map 103 when Map 106 is the correct map. The abutter list was generated using the correct Map 106. She then read into the record a letter from Planning Director, Donald Perry, dated October 14, 2014.

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

Mr. Moniz reviewed the proposed project. He is looking to remove the existing structure and use the existing foundation, with a 10' expansion to the rear to construct a new two level home and garage. Since this is a corner lot, setback relief from both Smith Neck Road and Dutra Avenue are needed. All driveways would be removed from Smith Neck Road and the access would be from Dutra Avenue.

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.

Mr. Gardner made a motion to accept the untitled drawings labeled "Existing" and "Proposed" into the plans of record. Mr. Choubah seconded the motion. The motion passed unanimously.

The Board proposed the following findings:

1. The locus property at 869 Smith Neck Road is identified on Town Assessor's Map 106, Lot 33 and is located in the Single Residence B District.
2. The existing dwelling is a protected non-conforming structure pursuant to Section 3B. 201.
3. The lot at approximately 15,000 s.f. is non-conforming.
4. The lot is a corner lot with frontage on both Dutra Ave. and Smith Neck Road.
5. George and Patricia Moniz have owned the property since January 2013.
6. The Petitioners are seeking a Special Permit to demolish an existing residence and build a new two floor dwelling in its place on an expanded foundation to include a new basement and new garage.
7. The required setbacks from the street in a Single Residence B are 30 feet pursuant to Section 4B.404. The existing street setbacks include 43.49 feet from the front of the dwelling to Smith Neck Road; 26.83 feet from the northeast side of the existing dwelling to Dutra Ave; and an existing bulkhead that is attached to the northeast side of the existing dwelling with a setback of 16.73 feet from Dutra Ave.
8. The proposed front setbacks included 37.74 feet to Smith Neck Road which is a 5.75' reduction due to a new covered porch to be attached to the front of new dwelling; an additional setback 19.29 feet from Dutra Ave. due to the construction of a new garage to be attached to the rear of new residence and results in a 7.5' encroachment from the setback of existing dwelling. The actual encroachments

of 5.75' and 7.5' along Dutra Avenue are minimal where the neighboring homes are also closer to street than Single Residence B zoning permits.

9. Pursuant to Section 3B.202 the proposed expansion, alteration and new construction would not be more detrimental to the neighborhood than the existing nonconforming dwelling since the encroachment to the street is minimal and in keeping with existing homes and in keeping with the character and style of other homes in the neighborhood.

The Board proposed the following conditions:

1. The Petitioner and/or any 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.
2. The Board approved Plan of Record:
Project: A New Residence for George and Patricia Moniz
Drawings: A-1, A-2, A-3, A-4
Dated: August 21, 2014
Drawn By: Cornerstone Design/Build Services Inc.
3. Existing and Proposed Unlabeled drawings as approved on 10/14/2014 by the Zoning Board of Appeals

Chairman Figueiredo invited the Board members and the public to make any further comments or ask questions. There were no further comments or questions.

Mr. Gardner made the motion to close the public hearing. Motion was seconded by Mr. Choubah. The motion passed unanimously.

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

8:20 P.M. Hearing adjourned.



Deborah Melino-Wender

Deborah Melino-Wender
Director of Development

Date of approval: November 5, 2014