

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

ADMINISTRATIVE MINUTES

DATE OF HEARING: March 10, 2015

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

PRESENT: Chairman Jacqueline Figueiredo, Clerk Halim Choubah P.E. and Robert Gardner

ASSOCIATE MEMBERS: Michael Medeiros Esq. and Dr. Rahim Aghai

Principal Clerk Michelle Vieira

ABSENT: David Dore

Chairman Figueiredo announced next meeting date for the Zoning Board of Appeals will be March 11, 2015 @ 6:30 and March 31, 2015 @ 6:15 in room 304 at Town Hall.

ADMINISTRATIVE

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

- Administrative Minutes of February 17, 2015
 Motion made by Robert Gardner, seconded by Halim Choubah to approve.
- Minutes from Case #2014-49 710 State Road-Special Permit-Continued Motion made by Halim Choubah, seconded by Robert Gardner to approve.
- Minutes from Case #2014-50A Vacant Lot/Reed Road-Variance/Change of Use Variance-Continued

Motion made by Halim Choubah, seconded by Robert Gardner to approve.

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

Robert Gardner made a motion to close the Administrative Meeting, seconded by Halim Choubah, passed unanimously.

6:30 P.M. Adjournment

Michelle Vieira, Principal Clerk For the Zoning Board of Appeals Date of Approval:



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

MINUTES

DATE OF HEARING:

March 10, 2015

CASE:

SPECIAL PERMIT

CASE NO:

2015-2

PETITIONER/APPLICANT:

James & Patricia Welsh

PROPERTY OWNER(S)

James & Patricia Welsh

SUBJECT PROPERTY:

26 Bridge Street

DISTRICT:

General Residence

Map: 117 Lot: 109

REGISTRY OF DEEDS:

Book: 1744 Page: 952

<u>ATTENDANCE</u>

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

ASSOCIATE MEMBERS: Michael Medeiros, Esq. and Dr. Rahim Aghai

Principal Clerk, Michelle Vieira

ABSENT: Dr. David Dore

ALSO PRESENT: James and Patricia Welsh

6:30 P.M. Chairman Figueiredo opened the hearing

LEGAL AD: Notice is hereby given of a public hearing to be held on **Tuesday, March 10, 2015** @ 6:15 P.M. in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of James and Patricia Welsh who are seeking a Special Permit to construct a covered porch 7'x13'10" with stairs extending another 5' (Section 5.404 Setbacks) (Section 3B.202 Expansion of Non-Conforming One (1) or Two (2) Family Structures). The property is located 26 Bridge Street in the General Residence District and identified on Assessor's Map 117 as Lot 109. Information is on file in the office of the Board of Appeals and may be seen upon request.

<u>ADVERTISED</u>: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, February 18, 2015, and Wednesday, February 25, 2015.

<u>ABUTTER'S LIST:</u> Halim Choubah motioned to waive the reading of the abutter's list. The motion was seconded by Robert Gardner and the 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 time stamped with the Town Clerk on January 29, 2015
- Schedule of Departmental Payment of Fees To Collector's Office
- Legal Ad
- Certified Abutter's List
- Vision Appraisal Card

- Letter from Planning Director John P. Hansen, Jr., dated February 11, 2015
- Photos
- Site Plan, AVT Associates dated September 15, 2014
- Elevations and Plan, by Max Newman dated December 2, 2014

Chairman Figueiredo read into the record a letter from Planning Director, John P. Hansen Jr., dated February $11,\,2015$.

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

James Welsh, Petitioner stated that he is seeking relief from the Zoning By-Law Section 5.404 to construct a covered porch 7'x13'10" with the stairs extending another 5'. He is requesting relief to allow a final setback of 14'1" from the bottom step of the proposed porch. The Zoning By-Laws require a setback of 20' and the proposed porch without the steps will be 18'9".

Chairman Figueiredo asked Mr. Welsh if the Variance in 1987 was an extension of the first floor or a 2^{nd} level. Mr. Welsh replied the Variance was for a first floor addition with a fireplace, and an outdoor deck.

Chairman Figueiredo invited any board members to ask questions.

There were no questions from board members.

Chairman Figueiredo invited public comments regarding this project.

There were no comments from the public.

The Board made findings which are listed in the Decision.

The Board proposed conditions which are listed in the Decision.

Chairman Figueiredo asked for a motion to close the public hearing.

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

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

Robert Gardner made the motion to adjourn. The motion was seconded by Halim Choubah, and passed unanimously.

6:40 P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk

Zoning Board of Appeals

Date of approval:



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

Board Members

Jacqueline Figueiredo, Chairman Halim Choubah, P.E., Clerk Robert Gardner, Member

MINUTES

DATE OF HEARING:

March 10, 2015

CASE:

VARIANCE/CHANGE OF USE VARIANCE

CASE NO:

2014-40

PETITIONER/APPLICANT:

Joquim M. Fidalgo and Melissa M. Costa

PROPERTY OWNER(S):

Joquim M. Fidalgo and Melissa M. Costa

REPRESENTATIVE:

Nick Dufresne, Thompson Farland, Inc.

SUBJECT PROPERTY:

10 Thibeault Lane

DISTRICT:

Single Residence B, Flood Plain and Zone III Aquifer Protection Districts

Map: 180 Lot: 14

REGISTRY OF DEEDS:

Book: 8049 Page: 249

ATTENDANCE:

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

ASSOCIATE BOARD MEMBERS: Michael Medeiros Esq. and Dr. Rahim Aghai

Principal Clerk Michelle Vieira

ABSENT: Dr. David Dore

ALSO PRESENT: Nick Dufresne, Engineer and Joquim M. Fidalgo and Melissa M. Costa

6:40 PM Chairman Figueiredo opened the hearing by stating this Case # 2014-40 is being continued from February 3, 2015. The case was continued to give the Petitioners, Joquim Fidalgo and Melissa Costa time to get a stormwater system designed, and to be sure the Aquifer By-Laws are met and to present documentation regarding the flood zone.

Chairman Figueiredo stated that a new plan was submitted which includes the re-charge system.

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

Nick Dufresne, Engineer from Thompson Farland stated that at the initial meeting he informed the Board that the existing structures on the property would be removed to construct the new dwelling. He stated that the applicant is seeking setback relief: the requirement is 60' and the current structure is approximately 4' from the front setback. The new proposed structure would be moved back as much as possible with the front steps proposed at a 12' setback and the actual structure would be setback 21'. The reason for the reduced setback is due to the wetlands located in the rear of the property. He noted at the last meeting, the Board requested the plan changes for the infiltration system for the rooftop. The Board also requested that the plan note that the property is located in the Aquifer Protection District and the Flood Plain District. He also said the Board had asked if the Petitioner would consider changing the design of the structure. Mr. Dufresne said that the Petitioner met with the architect and they are staying with the original plans.

Chairman Figueiredo stated she had some concerns regarding meeting all the by-laws for the Aquifer Protection and the Flood Plain where it states it's located in Flood Zone A. Chairman Figueiredo stated there wasn't any documentation stating it's in Flood Zone A.

Mr. Dufresne stated that it's noted on the plan and that the entire property is in Flood Zone A. He also stated that he needed to do more research concerning the Base Flood Elevation. The Applicant will be going to Conservation and a ground water determination would be made for the re-charge system. Mr. Dufresne said that if a recharge system was not possible, then we would use depression rain garden would be developed for the stormwater for the re-charge.

Mr. Dufresne noted that arborvitaes were staying and that there will be additional screening in the front. The driveway will remain as it provides access to other properties, through an easement.

Chairman Figueiredo stated the structure will be 2 levels; does it have an underground basement?

Mr. Dufresne stated the bottom level is basically the basement; the first floor will be the living area. Also, the impervious area that is scattered on site will be consolidated and will be equivalent to the new structure.

Chairman Figueiredo asked any Board Members if they had questions.

No questions by Board Members.

Chairman Figueiredo invited public comments.

No comments from the public

The Board made findings which are listed in the Decision.

The Board proposed conditions which are listed in the Decision.

Chairman Figueiredo asked for a motion to close the public hearing.

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

Mr. Choubah made the motion to approve the Variance/Change of Use Variance with the Board's stated findings and proposed conditions. The motion was seconded by Mr. Gardner and passed unanimously.

Robert Gardner made the motion to adjourn. The motion was seconded by Halim Choubah, and passed unanimously.

7:10 P.M. Hearing adjourned

Michelle Wieira

Michelle Vieira, Principal Clerk

For the Zoning Board of Appeals

Date of Approval: _____



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

MINUTES

DATE OF HEARING:

March 10, 2015

CASE:

VARIANCE/CHANGE OF USE VARIANCE-Continued

CASE NO:

2014-47

PETITIONER/APPLICANT:

James DeMello

PROPERTY OWNER(S):

James DeMello

REPRESENTATIVE: SUBJECT PROPERTY:

David Fredette, Engineer 13 & 21 Sunview Terrace

DISTRICT:

General Residence

Man:117 Lat: 42

REGISTRY OF DEEDS:

Map:117 Lot: 43 & 44 Book 11105 Page 275

Book 6761 Page 338

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Michael Medeiros Esq. and Robert Gardner

ADDITIONAL BOARD MEMBERS: Clerk Halim Choubah P.E. and Dr. Rahim Aghai

Principal Clerk Michelle Vieira

ABSENT: Dr. David Dore

ALSO PRESENT: Philip Beauregard, Esq. representing Robert & Kathleen Lang in opposition, and other interested parties.

7:17 PM Chairman Figueiredo opened the hearing

The petitioner James DeMello is seeking a VARIANCE from strict enforcement of the minimum lot size for the property located at 13 Sunview Terrace (identified on Assessors Map 117 Lot 43). The applicant is proposing to extinguish the 2,135 sq. ft. easement on 13 Sunview Terrace and transfer this land area to 21 Sunview Terrace (identified on Assessors May 117 Lot 44). This action will result in a lot size of 13,269 sq. ft. for Lot 43 wherein 15,000 sq. ft. is required. The properties are located at 13 & 21 Sunview Terrace in the General Residence District and identified on Assessor's Map 117 as Lots 43 & 44. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 5.401 Lot Area)

Chairman Figueiredo stated this case is continued from February 3, 2015 on the request of the Representative David Fredette.

<u>ADVERTISED:</u> The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, January 14, 2015 and Wednesday, January 21, 2015.

<u>ABUTTER'S LIST:</u> Chairman Jacqueline Figueirdeo stated that the reading of the abutters list was waived at the February 3, 2015 meeting.

Chairman Figueiredo read a letter from an abutter in opposition of this variance.

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

Neither Petitioner nor Representative was present.

Chairman Figueiredo invited public comments.

Philip Beauregard, the attorney representing direct abutters Robert & Kathleen Lang, stated that ME Mr. Lang are opposed to this application. His clients are concerned about the future use of several properties in the neighborhood. Mr. DeMello has purchased property in the neighborhood over the years which have become rentals. His clients and other neighbors do not believe (1) that there is a hardship; and (2), if there is, it is self-created by the owner who transferred easements back and forth in order to get frontage to make the house of Lot 43 legal; and (3), the purpose of the by-law is to keep minimum lot sizes in place. Mr. Beauregard requested that the Board make a decision tonight whereas this case was already continued and neither the applicant nor his representatives have appeared.

Abutters, Robert Caron and Ed Winterhalter, expressed concerns with the rational for the requested variance. They stated that there are several rental apartments and are uncomfortable with more rental apartments.

Mr. Gardner and Mr. Medeiros agreed that a vote should be taken and that the applicant has the burden of proving that there is a hardship.

Mr. Medeiros made a motion to vote on the petition tonight. The motion was seconded by Mr. Gardner and passed unanimously.

Chairman Figueiredo stated that if the hearing was to be continued again the Board would need another extension and the applicant is not in attendance to sign it. Additionally, the information provided is confusing and requires clarification, but the applicant is not in attendance to respond to questions and concerns.

Chairman Figueiredo stated for the record that Dr. Aghai has recused himself from this case.

Chairman Figueiredo asked the board members if they had any questions.

Mr. Choubah stated that he agrees with the other members that a vote should be taken tonight, and that it doesn't make sense to take an existing conforming lot and make it non-conforming.

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

Mr. Medeiros made the motion, that given that the petitioner has not appeared at this meeting nor at the previous meeting of February 3rd, and given that the applicant has not proven the required statutory hardship, that the Board deny the requested variance. The motion was seconded by Mr. Gardner and passed unanimously.

Mr. Gardner made the motion to adjourn. The motion was seconded by Mr. Medeiros, and passed unanimously.

Michelle Vieira
Michelle Vieira, Principal Clerk
For the Zoning Board of Appeals
Date of Approval:



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

DATE OF HEARING:

March 10, 2015

CASE:

SPECIAL PERMIT-Continued

CASE NO:

2014-49

PETITIONER/APPLICANT: Al Amaral, Trustee PROPERTY OWNER:

REPRESENTATIVE:

SAMC Realty Trust Steven Gioiosa, P.E. SITEC Engineering

SUBJECT PROPERTY:

710 State Road

DISTRICT:

General Business and Aquifer Protection Overlay District

Map: 164 Lot: 21

REGISTRY OF DEEDS BOOK: Book: 11045 Page: 242

ATTENDANCE

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

ASSOCIATE MEMBERS: Michael Medeiros, Esq., and Dr. Rahim Aghai

Principal Clerk, Michelle Vieira

ABSENT: David Dore

ALSO PRESENT: Steven Gioiosa, P.E., Al Amaral, Petitioner and other interested parties

8:20 P.M. Chairman Figueiredo opened the hearing informing the Board that this case was continued from February 17, 2015.

The Petitioner is seeking a Special Permit to develop a retail building of 6,000 sq.ft. with associated parking and requires site development. The one-story building is planned to include up to 3 retail spaces. The property is located 710 State Road in the General Business District and Aquifer Protection Overlay District and identified on Assessor's Map 164 as Lot 21. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 20.510 Aquifer Protection District; Lot Coverage) (Section 20.600 Aquifer Protection District; Special Permit Uses)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, January 21, 2015 and Wednesday, January 28, 2015.

DOCUMENTS ON FILE

- Special Permit application time stamped with the Town Clerk on December 16, 2014
- Memorandum from Steven D. Gioiosa, P.E. dated 11/24/14
- Operation and Maintenance Plan for Proposed Stormwater Management System
- Map showing existing conditions of gravel base
- Schedule of Departmental Payment of Fees To Collector's Office
- Legal Ad
- Certified Abutter's List

Vision Appraisal Card
Letter from Planning Director John P. Hansen Jr., dated January 22, 2015
Photos submitted by Petitioner
Project Plans by SITEC, Inc., dated December 1, 2014
List of concerns from Chris Imbriglio, abutter

Chairman Figueiredo read into the record a letter from Planning Director, John P. Hansen, Jr., dated January
22, 2015 22, 2015

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

Steven Gioiosa, Engineer stated the subject lot is a 40,000 sq. ft., parcel of land and is located on the north side of State Road between Illinois Avenue and Maine Avenue. The property is located in the General Business District which allows general commercial use, mixed use, subject to setback standards, parking standards and Section 16 of the Zoning by-laws which governs parking. The Petitioner has configured the site to comply with all the elements of zoning relative to development in a General Business District. He stated that all applicable setbacks are met, and no variance relief is needed and that the parking meets the requirements for the intended commercial use. Mr. Gioiosa stated that there will be an alteration to an existing non-conforming condition in the Aquifer Protection District, where zoning by-laws stipulates the standards that need to be met for the project. The project will be connected to municipal water and sewer. A wetland delineation was completed by Mike O' Riley, Environmental Affairs Coordinator. The Petitioner will file with Conservation because of a structure which is located approximately 80' from the wetlands will be demolished. The Applicant has met with the Planning Board, and with DPW. Mr. Gioiosa reviewed the Performance Standards and the Zoning Board of Appeals standards and how the project is designed to meet these standards.

Chairman Figueiredo invited public comments regarding this project.

Chris Imbriglio spoke regarding concerns at Maine Avenue and State Road. He also expressed concerns about increased traffic on Maine Avenue for deliveries and other issues relating to a restaurant use and a potential dry cleaner. Alan Gebrael and Alfred Medeiros abutters also commented on the same concerns. Mr. Gebrael added that the dumpster would be at his parent's bedroom window.

Mr. Gioiosa addressed the concerns expressed by the abutters.

Halim Choubah had questions regarding the dumpsters, hours of operation, and the width of Maine Avenue. Mr Gioiosa replied that the Planning Board had concerns with the number of parking spaces for the proposed restaurant. The applicant will return to the Planning Board with the necessary revisions. He also stated that the applicant is also providing sidewalks/pedestrian links along State Road and Maine Avenue, which will be a significant improvement. The curb cut is planned to be off Maine Avenue, not off State Road. This is preferred for safety reasons. The dumpster will be fenced in and have trees as a buffer, also the hours of operation will be in compliance with the by-laws.

Chairman Figueiredo suggested this meeting be continued and to request that the safety officer determine if the proposed curb cut into the property presents a safety hazard. Both Mr. Medeiros and Mr. Gioiosa agreed.

Robert Gardner made a motion to continue this hearing until March 31, 2015, seconded by Halim Choubah, motion passed unanimously.

Robert Gardner made a motion to adjourn the hearing, the motion was seconded by Halim Choubah, and passed unanimously.

9:50 P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk

Zoning Board of Appeals

Date of approval:



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

Board Members

Jacqueline Figueiredo, Chairman Halim Choubah, P.E., Clerk Robert Gardner, Member

MINUTES

DATE OF HEARING:

March 10, 2015

CASE:

VARIANCE/CHANGE OF USE VARIANCE

CASE NO:

2014-50A

PETITIONER/APPLICANT: PROPERTY OWNER(S):

New England Amalgamated Clothing and Textile Workers Union Bldg. Corp. New England Amalgamated Clothing and Textile Workers Union Bldg. Corp.

REPRESENTATIVE:

Matthew J. Thomas, Esq.

SUBJECT PROPERTY:

Vacant Land on Reed Road

DISTRICT:

General Business and Aquifer Protection Districts

Map: 162 Lot: 3-1

REGISTRY OF DEEDS:

Book: 1764 Page: 799

ATTENDANCE

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

ASSOCIATE BOARD MEMBERS: Michael Medeiros Esq. and Dr. Rahim Aghai

Principal Clerk Michelle Vieira

ABSENT: Dr. David Dore

ALSO PRESENT: Matthew J. Thomas, Esq. and Steven Gioiosa, P.E., SITEC Inc.

7:50 PM Chairman Figueiredo opened the hearing by stating that the Petitioners, New England Amalgamated Clothing and Textile Workers Union Bldg. Corp; are seeking a Variance to construct a Single Family home with 200' frontage on Reed Road. The property is a vacant lot located on Reed Road in the General Business District and identified on Assessor's Map 162 as Lot 3-1. (Section 11.200 Allowed Uses) This case is a continued case from February 17, 2015, which was duly advertised, and the reading of the abutters list was waived.

Chairman Figueiredo read into the record a letter from Planning Director, John P. Hansen, Jr. dated February $11,\,2015$

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

Attorney Thomas informed the Board that a Variance/Change of Use Variance regarding this property was granted on March 28, 2006, Case # 2006-07. Due to the economic conditions affecting the textile trade in 2006, the Petitioner was prevented from constructing a single family home or selling the property and the Variance had lapsed. Mr. Thomas is asking for the Variance/Change of Use Variance with the same conditions that were stated in the 2006 case. Also, the Petitioner states that the presence and extent of wetlands on the property separate the portion of the property on which a single family house would be built from the rest of the property. The Petitioner will be going to Conservation for a permit. Mr. Thomas also informed the Board that the

Petitioner has entered a Purchase and Sales Agreement for the sale of the property, but the agreement is contingent upon the granting of the Use Variance.

Chairman Figueiredo asked when the ANR Plan was approved by the Planning Board to divide the two (2) lots and also where on the property the home would be built.

Mr. Thomas replied that the ANR was endorsed on July 24, 2006 and recorded at the Registry of Deeds Book 157 and Lot two was conveyed out on July 10, 2007. He also stated that the home would be built abutting Reed Road.

Steve Gioiosa, Engineer stated that when the original Variance was granted, the configuration of the subject lot is exactly the lot that was created by the Variance Plan and also the ANR Plan for the property. The property was set up this way to create a lot that would comply with the Residence B Zoning District. Regarding the Town Planner's suggestion on constructing the home in the large upland area at the north end of the lot. Mr. Gioiosa explained that by building in the proposed section, there's an opportunity to avoid filling in wetlands and one of the mandates of the Wetland Protection Act is to avoid wetland impact. The home is proposed to be built in an area close to Reed Road, which is several hundred feet deep and approximately 150-160' wide. There are stone walls that frame the front area and it will be preserved as part of the proposal and the property is connected to municipal sewer and water. He stated that wetlands were originally approved by Conservation and have been re-delineated.

Chairman Figueiredo asked any Board Members if they had questions.

Mr. Medeiros asked if there were any plans for the rear portion of the property. Mr. Gioiosa replied there were no plans.

Chairman Figueiredo invited public comments. No questions from the public.

The Board made findings which are listed in the Decision.

The Board proposed conditions which are listed in the Decision.

Chairman Figueiredo asked for a motion to close the public hearing.

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

Mr. Choubah made the motion to approve the Variance/Change of Use Variance with the Board's stated findings and proposed conditions. The motion was seconded by Mr. Gardner and passed unanimously.

Robert Gardner made the motion to adjourn. The motion was seconded by Halim Choubah, and passed unanimously.

8:20 P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk

For the Zoning Board of Appeals

Date of Approval: