



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

ADMINISTRATIVE MINUTES

DATE OF HEARING: March 11, 2015

6:30 P.M. Chairman Jacqueline Figueiredo opened the meeting, Pledge the Flag, Moment of Silence

PRESENT: Chairman Jacqueline Figueiredo, Robert Gardner and Dr. Rahim Aghai

ASSOCIATE MEMBERS: Michael Medeiros Esq.

Principal Clerk Michelle Vieira

ABSENT: David Dore and Halim Choubah

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

6:35 P.M. Adjournment

Michelle Vieira

Michelle Vieira, Principal Clerk

For the Zoning Board of Appeals

Date of Approval:

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Board Members

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

MINUTES

DATE OF HEARING: March 11, 2015
 CASE: SPECIAL PERMIT/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 PARE, JR., Esq. AND ELISABETH RUTKOWSKI OF TRM
 Subject Property: 300 GULF ROAD
 Registry of Deeds: BOOK 7917 PAGE 343
 District: MARITIME/MARINE INDUSTRIAL

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Robert Gardner, Dr. Rahim Aghai
ASSOCIATE MEMBERS: Michael Medeiros Esq.
 Director of Development Deborah Melino-Wender and Principal Clerk, Michelle Vieira
ABSENT: Halim Choubah P.E. and Dr. David Dore
ALSO PRESENT: Town Counsel Anthony Savastano, Attorney Edward D. Pare Jr., Elisabeth Rutkowski,
 and interested Residents

6:30 P.M. Chairman Figueiredo announced that the next Zoning Board of Appeals meeting is March 31, 2015 at 6:15.

Chairman Figueiredo stated that this case, Special Permit #2014-22 (AT&T) is before the Board to deliberate and finalize findings. She announced that the Public Hearing is closed.

Chairman Figueiredo informed the board that she will read the draft findings and will stop when discussion is needed.

NEW CORRESPONDENCE AND DOCUMENTS RECEIVED SINCE February 26, 2015

Email from Robert Harding Vice-Chairman Dartmouth Historical Commission

The Board proceeded to review and revise the proposed findings as required.

The Board then took the following votes:

The motion was made by Dr. Rahim Aghai and seconded by Robert Gardner to deny a Special Permit for the Facility under Section 13.210(A) of the Zoning By-Laws because the Facility does not satisfy the standards for relief and because Town Counsel informed the Board that such a special permit is not required for the Facility as modified by the Petitioner. The motion to deny passed unanimously.

The motion was made by Dr. Rahim Aghai and seconded by Robert Gardner to deny a Special Permit for the Facility under Section 13.301 of the Zoning By-Laws because the Facility does not satisfy the standards for relief and because Town Counsel informed the Board that such a special permit is not required for the Facility as modified by the Petitioner. The motion to deny passed unanimously.

The motion was made by Dr. Rahim Aghai and seconded by Robert Gardner to deny a use variance for the Facility under Section 36.300 of the Zoning By-Laws and Massachusetts General Laws, Chapter 40A, Section 10 because the Facility does not satisfy the standards for relief. The motion to deny passed unanimously.

The motion was made by Dr. Rahim Aghai and seconded by Robert Gardner to approve the FINDINGS. The motion passed for most findings unanimously, with Robert Gardner dissenting on findings #18, #31, #33, #34, #44, #45, #46, #47 and #48. A motion was then made by Dr. Rahim Aghai, and seconded by Robert Gardner to approve the federal preemptive Variance. The Board voted as follows: Chairman Figueiredo and Dr. Aghai voted yes, and Robert Gardner voted no. Mr. Gardner stated that his dissenting vote was based on his belief that the Petitioner failed to prove by a preponderance of evidence that a significant gap in cell coverage exists within the geographic confines that were displayed in the Petitioner's application materials and presentation. Due to lack of unanimity, the federal preemption Variance for the Telecommunications Facility under 47 USC § 332(c)(7)(B)(i) was denied.

Robert Gardner made a motion to close the hearing which was seconded by Dr. Aghai.

The motion passed unanimously.

8:40 P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk

Zoning Board of Appeals

Date of approval: _____