



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

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2015 AUG 5 PM 3 36

ADMINISTRATIVE MINUTES

DATE OF HEARING: July 21, 2015

6:00 P.M. Chairman Jacqueline Figueiredo opened the meeting; Pledge the Flag, Moment of Silence

PRESENT: Chairman Jacqueline Figueiredo, Clerk Halim Choubah P.E., and Dr. Rahim Aghai
Principal Clerk Michelle Vieira

ABSENT: Michael Medeiros Esq. and Robert Gardner

Chairman Jacqueline Figueiredo announced next meeting date for the Zoning Board of Appeals will be August 4, 2015 at 6:00 P.M., Room 304 at the Town Hall.

Chairman Jacqueline Figueiredo announced that an alternate member is needed, and if anyone is interested to send a resume and a letter of interest to the Town Administrator, David Cressman c/o Dartmouth Select Board.

ADMINISTRATIVE MINUTES:

Halim Choubah made the motion to approve the Administrative Minutes of June 30, 2015 as amended. The motion was seconded by Dr. Rahim Aghai. The motion passed unanimously.

The following Hearing Minutes were approved as amended:

- Minutes of June 30, 2015 Variance Case #2015-12-55 Stoneledge Road-Continued
The motion was made by Halim Choubah, seconded by Dr. Rahim Aghai to approve the minutes. The motion passed unanimously.
- Minutes of June 30, 2015 Special Permit Case #2015-13-256 Bakerville Road-Approved
The motion was made by Halim Choubah, seconded by Dr. Rahim Aghai to approve as amended. The motion passed unanimously.
- Minutes of June 30, 2015 Variance/Special Permit Case #2015-14-40 Nonquitt Avenue-Approved
The motion was made by Halim Choubah, seconded by Dr. Rahim Aghai to approve as amended. The motion passed unanimously.

Chairman Jacqueline Figueiredo stated the minutes of Case # 2014-42 will be deferred until August 4, 2015.

Chairman Jacqueline Figueiredo stated that the review of the Zoning Rules and Regulations will be deferred until August 4, 2015.

At 6:15 the meeting was in recess.

Resume Session at 6:30

Chairman Jacqueline Figueiredo stated the Administrative Hearing Case # 2012-34 O'Connor Sisson House is before the Board to submit the final plans prior to the issuance of a building permit.

Robert Smith, Architect representing Partners in Housing LLC., informed the Board the only changes that were made were the paired windows that were changed to single, and the number of windows in the new stairway was reduced. All plans that were requested were submitted.

Chairman Jacqueline Figueiredo stated that Mr. Smith submitted the plan titled "First Floor Plan" and "Second Floor Plan" also the final approval letter from the Department of Housing & Community Development.

Clerk Halim Choubah made a motion to accept the final plans as submitted. The motion was seconded by Dr. Rahim Aghai. The motion passed unanimously.

The following Cases were heard July 21, 2015:

- Variance Case # 2015-12- 55 Stoneledge Road-(Continued from June 30, 2015)
- Variance Case # 2015-15 -54 Donald Street
- Variance Case #2015-16-Leonard Avenue

Michelle Vieira, Principal Clerk

For the Zoning Board of Appeals

Date of Approval: 8/4/2015



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Board Members

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

DARTMOUTH TOWN CLERK

MINUTES

DATE OF HEARING: July 21, 2015
CASE: VARIANCE
CASE NO: 2015-15
PETITIONER/APPLICANT: Southeastern Massachusetts Amateur Radio Association
PROPERTY OWNER(S): Southeastern Massachusetts Amateur Radio Association
REPRESENTATIVE(S): Marcel Dumont, Club President
SUBJECT PROPERTY: 54 Donald Street
DISTRICT(S): General Residence
Map: 138 Lot: 231
BRISTOL COUNTY
REGISTRY OF DEEDS: Book: 1260 Page: 374

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah P.E. and Dr. Rahim Aghai
Principal Clerk Michelle Vieira

ABSENT: Michael Medeiros Esq. and Robert Gardner

ALSO PRESENT: Marcel Dumont, Club President

6:30 PM Chairman Figueiredo opened the hearing

LEGAL AD: Notice is hereby given of a public hearing to be held on **Tuesday, July 21, 2015 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of Southeastern Massachusetts Amateur Radio Association, Inc. who are seeking a Variance to be granted a relief from Section 16-Off Street Parking Plan Regulations, 16.100 General Vehicular Service Regulations, Section 16.101 C (A substantial alteration). The property is located at 54 Donald Street in the General Residence District and identified on Assessor's Map 138 as Lot 231. Information is on file in the office of the Board of Appeals and may be seen upon request.

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, July 1, 2015 and Wednesday, July 8, 2015.

ABUTTER'S LIST: Halim Choubah motioned to waive the reading of the abutter's list into the record, which was seconded by Dr. Rahim Aghai. 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

- Variance application time stamped with the Town Clerk on June 24, 2015
- Schedule of Departmental Payment of Fees To Collector's Office
- Certified Abutter's List
- Vision Appraisal Card
- Letter from Planning Director John P. Hansen Jr., dated July 14, 2015
- Determination of Applicability from Conservation Commission dated November 13, 2014
- Photos
- Copy of GIS Map showing shape of subject property lot
- Plans by Michael Walker Design/Builder, LLC dated July 27, 2014

Chairman Figueiredo read into the record a letter from Planning Director, John P. Hansen, Jr. dated July 14, 2015.

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

Marcel Dumont, President of Southeastern Massachusetts Amateur Radio Association explained to the Board that the Association is replacing a building that had to be demolished because of a heating oil tank that had been vandalized that had 275 gallons of heating oil dumped into the ground. The site had to be remediated and approved by the Town Environmental Affairs Coordinator and was a large expense for the club members. The Association is proposing to attach a self-standing concrete telecommunication shelter to the main building. Due to this proposed addition, the Association is now required to conform to the Zoning By-Law Section 16-101C (A substantial alteration). The Association is asking for a relief to this by-law whereas it will create a substantial financial hardship to the club to be required to install paved parking.

Chairman Figueiredo asked any Board Members if they had questions.

Dr. Rahim Aghai asked Mr. Dumont how often do they meet and how many members are in the club.

Mr. Dumont explained that there is a meeting once a month with approximately 15-20 members in attendance. On any given Sunday morning, 5-6 members may be there socially. He explained that there are over 300 members from different areas of the country and this location is for local members. Mr. Dumont also stated that the Association has been in existence since 1936, and that this local Association has been at this site since 1954; the Association purchased the property in 1958.

Halim Choubah asked Mr. Dumont if there was ever an issue with parking.

Mr. Dumont replied no, that the property could probably accommodate fifty vehicles without a problem but have never had that many.

Chairman Figueiredo Chairman Figueiredo invited public comments.

No public comments

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.

Halim Choubah made the motion to close the public hearing. The motion was seconded by Dr. Rahim Aghai. The motion passed unanimously.

Halim Choubah made the motion to approve the Variance, Case #2015-15 in accordance with the Board's stated findings and proposed conditions. The motion was seconded by Dr. Rahim Aghai. The motion passed unanimously.

Chairman Figueiredo asked for a motion to adjourn the hearing.

Halim Choubah made the motion to close the hearing. The motion was seconded by Dr. Rahim Aghai. The motion passed unanimously.

7:02 P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 8/4/2015



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Board Members

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

MINUTES

DATE OF HEARING: July 21, 2015
CASE: VARIANCE
CASE NO: 2015-12
PETITIONER/APPLICANT: Joseph and Maria Medeiros
PROPERTY OWNER(S): Joseph and Maria Medeiros
SUBJECT PROPERTY: 55 Stoneledge Road
DISTRICT: General Residence
Map: 123 Lot: 218 & 219
REGISTRY OF DEEDS: Book: 11225 Page: 276

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DARTMOUTH TOWN CLERK

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah P.E. and Dr. Rahim Aghai
Principal Clerk Michelle Vieira
ABSENT: Robert Gardner and Michael Medeiros, Esq.

ALSO PRESENT: Kevin Medeiros, Joseph Medeiros and Scott Rapoza

7:45 PM Chairman Figueiredo opened the hearing.

Chairman Figueiredo read the Planning Director's letter as a reminder on what needs to be done to approve the Variance.

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

Kevin Medeiros, son of the Applicant, informed the Board that after the untimely death of Ken Ferreira, Steve Gioiosa from SITEC was contracted to take over this petition. Mr. Medeiros stated a message was left for Mr. Gioiosa reminding him of the meeting yesterday, Monday, July 20, 2015. However Mr. Gioiosa is not in attendance. Mr. Medeiros asked for a continuance.

Chairman Figueiredo invited public comments.

Mary Margaret Quinn and Margaret Quinn, abutters, stated they are in favor of Mr. Medeiros's petition.

Chairman Figueiredo clarified the inconsistencies with the application and information regarding the Assessors Card and the lot structures. Chairman Figueiredo stated the information submitted by Kenneth Ferreira was correct.

Chairman Figueiredo asked for a motion to continue this case.

Halim Choubah made a motion to continue Case # 2015-12 to August 4, 2015. The motion was seconded by Dr. Rahim Aghai. The motion passed unanimously.

Chairman Figueiredo asked for a motion to close the hearing on this petition.

Halim Choubah made a motion to close the hearing. The motion was seconded by Dr. Rahim Aghai. The motion passed unanimously.

7:57 P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 8-4-15



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Board Members

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

MINUTES

DATE OF HEARING: July 21, 2015
CASE: VARIANCE
CASE NO: 2015-16
PETITIONER/APPLICANT: Eye Man Limited Partnership
PROPERTY OWNER(S): Eye Man Limited Partnership
REPRESENTATIVE(S): Richard Rheume, Engineer and Attorney John Janiak
SUBJECT PROPERTY: Leonard Avenue
DISTRICTS: General Business and Single Residence A
Map: 169 Lot: 240

BRISTOL COUNTY
REGISTRY OF DEEDS: Book: 3748 Page: 196

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2015 AUG 5 PM 3 37
DARTMOUTH TOWN CLERK

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah P.E. and Dr. Rahim Aghai
Principal Clerk Michelle Vieira
ABSENT: Michael Medeiros Esq. and Robert Gardner

ALSO PRESENT: Richard Rheume, Prime Engineering and Attorney John Janiak

7:05 PM Chairman Figueiredo opened the hearing

LEGAL AD: Notice is hereby given of a public hearing to be held on **Tuesday, July 21, 2015 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of Eye Man Limited Partnership who is seeking a Variance to construct twenty-one, 17 foot long parking spaces without the 12 foot setback from the vehicular easement line as required by Section 16.202 B and Section 16.203A of the Dartmouth Zoning By-Laws. A zero setback is proposed. The property is located on Leonard Avenue in the General Business District and identified on Assessor's Map 169 as Lot 240. Information is on file in the office of the Board of Appeals and may be seen upon request.

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, July 7, 2015 and Wednesday, July 14, 2015.

ABUTTER'S LIST: Halim Choubah motioned to waive the reading of the abutter's list into the record, which was seconded by Dr. Rahim Aghai. 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 July 1, 2015
- Schedule of Departmental Payment of Fees To Collector's Office
- Certified Abutter's List
- Vision Appraisal Card
- Letter from Planning Director dated July 14, 2015
- Proposed Parking Plan by Richard Rheume, Prime Engineering dated July 1, 2015
- GIS Map showing Zoning distinction for subject property
- Copies of prior ZBA decisions related to subject property

Chairman Figueiredo read into the record a letter from Planning Director, John P. Hanson, Jr. dated July 14, 2015.

Chairman Figueiredo asked Richard Rheume, Engineer for clarification on the number of parking places being requested, she stated there is conflicting information.

Mr. Rheume answered 20 parking spaces are being proposed.

Halim Choubah asked what the relief is on the setback.

Mr. Rheume stated that the required setback line from the property line is 10' and the required setback from the vehicular easement line is 12'. A 0' setback from the vehicular easement line is being sought. Mr. Rheume clarified that on the petition it states that the District is General Business, which it is, but the last 6 spaces are in Single Residence A. The setback requirements are the same. Mr. Rheume submitted a revised plan showing where the General Business District and Single Residence A begin and end.

Chairman Figueiredo stated that nothing changes with the petition; the setbacks and abutters remain the same.

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

Richard Rheume from Prime Engineering stated that over the years Eye Health Vision Center has grown and has become a very successful business with the need for additional parking. People are parking in the emergency access driveway that is used for emergency vehicles to get to the Nauset Building. Mr. Rheume further explained that they are bordered on the west by property lines and wetlands and bordered on the south is a detention basin and wetlands. The area to the east is the only area where additional parking can be constructed. Also, there's an existing hydrant along that stretch so the Petitioner is proposing a 12' wide landscaped island to protect the hydrant. The parking spaces would then be 17' which complies with the parking requirements. The relief the Petitioner is looking for is the elimination of the landscape strip that abuts the vehicular easement line.

Chairman Figueiredo questioned Mr. Rheume about the Planning Director's suggestion regarding the erection of a barrier to prevent vehicles from overhanging onto the sidewalk and the configuration of the plan to allow for proper snowplowing.

Mr. Rheume explained that since the sidewalk will abut the proposed parking spaces, drivers may tend to park and have their cars hang over the sidewalk. To prevent such, the Petitioner will be constructing a high curbstone, a small decorative fence or bollards.

Chairman Figueiredo stated that there will be a condition in the decision whereby the Planning Board will approve a final parking plan which would include an accommodation for overhang and plowing concerns.

Chairman Figueiredo asked if a permit was secured with the Conservation Commission.

Mr. Rheume stated that a hearing with Conservation Commission was opened. He met on site with Michael O'Reilly and Mark Garrett (Assistant), and agreed to improvements regarding the detention basin. Revised plans will be submitted to Conservation Commission for approval at their meeting on Tuesday August 4, 2015.

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

Dr. Rahim Aghai questioned the exposed soil and the where water run-off goes.

Mr. Rheume explained that the exposed soil had been lawn. The Petitioner misunderstood that a parking plan relief was needed. They were told to stop so they placed the soil further to the south of the road. The Petitioner went to Conservation Commission and informed them that the soil could wash into the wetlands. The Petitioner got permission to spread it out, loam and seed it and nothing further has been done. Mr. Rheume went on to explain that the water pitches to the existing detention basin. The Petitioner also presented hydraulic and hydraulic calculations to Conservation Commission to show that there is no negative impact. Conservation suggested water quality improvements so the Petitioner will be adding features to the detention basin to increase the water quality.

Chairman Figueiredo invited public comments.

Attorney John Janiak, Counsel for Dartmouth Place, stated Dartmouth Place is in support of this petition, and this proposal will complete the last phase to improve the parking at the Eye Man Limited Partnership. Attorney Janiak went on to explain that Dr. Sullivan conveyed property, lot 236 at 49 State Road, razed the building and did a land swap with Eye Man. This brought Dartmouth Place and Eye Man into conformity with the dimensional requirements, allowing Dr. Sullivan to reconfigure parking at Dartmouth Place with additional eight (8) parking spaces. Dr. Sullivan has also budgeted half a million dollars for repaving the Dartmouth Place parking lot. Attorney Janiak stated his opinion on why the Variance could be granted. It's not a detriment to the public good, it adds additional parking spaces to an existing commercial parking lot, Leonard Avenue is no longer a Town traveled street once you past 5 Leonard Street, He stated no one sees the parking lot until you travel down to the parking area, also there is no negative impact on the side line requirement.

Abutter Eugene Benbenek voiced his opposition regarding this petition.

The Board made findings which are listed in the Decision:

The Board made proposed conditions which are listed in the Decision.

Again Mr. Eugene Benbenek voiced his opposition regarding this petition and the decision was predetermined, which Chairman Figueiredo denied that the decision was predetermined.

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

Halim Choubah made the motion to close the public hearing. The motion was seconded by Dr. Rahim Aghai. The motion passed unanimously.

Halim Choubah made the motion to approve Variance Case # 2015-16 in accordance with the Board's stated findings and proposed conditions. The motion was seconded by Halim Choubah. The motion passed unanimously.

Halim Choubah made the motion to close hearing Case #2015-16. The motion was seconded by Dr. Rahim Aghai. The motion passed unanimously.

7:44 P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 8/4/2015