



TOWN OF DARTMOUTH
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: August 25, 2015
CASE: VARIANCE
CASE NO: 2015-19
PETITIONER/APPLICANT: Susan E. Fitzgerald
PROPERTY OWNER(S): Susan E. Fitzgerald
SUBJECT PROPERTY: 5 Wilbur Avenue
DISTRICT(S): General Business and Flood Zone X
Map: 169 Lot: 115
BRISTOL COUNTY
REGISTRY OF DEEDS: Book: 11135 Page: 12

RECEIVED
2015 SEP 16 AM 11 57
DARTMOUTH TOWN CLERK

ATTENDANCE

PRESENT: The Board: Chairman Jacqueline Figueiredo, Clerk Halim Choubah PE., and Robert Gardner
ASSOCIATE MEMBERS: Michael Medeiros Esq., Dr. Rahim Aghai and Alvin Youman Esq.
Principal Clerk, Michelle Vieira

Also Present: Susan Fitzgerald and Paul Flanagan, Aaron Pools and Spas

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

LEGAL AD: Notice is hereby given of a public hearing to be held on **Tuesday, August 25, 2015 at 6:30 P.M.** in Meeting Room 304, Town Hall, 400 Slocum Road, Dartmouth, MA on the petition of Susan Fitzgerald who is seeking a Variance to install a pool in which a 20 foot setback from a structure to the property line is required. The property is located at 5 Wilbur Avenue in the General Business District and identified on Assessor's Map 169 as Lot 115. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 26.200 Minimum Setback Dimensions)

ADVERTISED: The Notice for public hearing was published in The Dartmouth Chronicle on Wednesday, August 5, 2015 and Wednesday, August 12, 2015.

ABUTTER'S LIST: Robert Gardner motioned to waive the reading of the abutter's list, seconded by Halim Choubah. 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 dated July 22, 2015
- Schedule of Departmental Payment of Fees To Collector's Office
- Legal Ad
- Certified Abutter's List
- Vision Appraisal Card
- Letter from Planning Director dated August 12, 2015
- Site Plan by Prime Engineering dated July 14, 2015
- Document from Map Geo showing zoning areas
- Copy of email from Prime Engineering to Susan Fitzgerald regarding lot coverage percentage dated January 17, 2015

Chairman Figueiredo read into the record a letter from Planning Director John P Hansen, Jr. dated August 12, 2015.

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

Susan Fitzgerald stated she would like to install an in-ground swimming pool but her property is zoned General Business and a 20' setback is required. She continued by stating the entire immediate neighborhood is residential, and if it were zoned General Residence a 10' setback would be required. She stated her hardship is not being able to install a pool in a residential neighborhood due to the fact that it is zoned General Business. She also stated that a swimming pool would not be detrimental to the public good or affect the character of the neighborhood.

Chairman Figueiredo invited any board members to ask questions.

Dr. Aghai asked what precautions will or could be taken if there were a leak and the safety issues regarding the depth of the pool.

Paul Flanagan from Aaron Pools explained to the Board the installation procedure and the materials being used to install this pool.

There was further discussion regarding the existing fence around the property, and the consideration of adding vegetation recommended by the Planning Director. The Board did not find it necessary to add vegetation because the property is fenced in.

Halim Choubah suggested to go through the statutory requirements for granting a Variance and stated that the site proposed for the pool is the only possibility.

The Board made findings which are listed in the Decision.

The Board proposed conditions which are listed in the Decision.

Chairman Figueiredo invited public comments regarding this project.

No comments from the public.

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

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

Chairman Figueiredo asked for a motion to adjourn the hearing.

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

6:55 P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk

Zoning Board of Appeals

Date of approval: 9/15/2015



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DARTMOUTH TOWN CLERK
ADMINISTRATIVE MINUTES

DATE OF HEARING: August 25, 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 Robert Gardner
ASSOCIATE MEMBER(S) Michael Medeiros Esq., Dr. Rahim Aghai and Alvin Youman Esq.
Principal Clerk Michelle Vieira

Chairman Jacqueline Figueiredo announced next meeting date for the Zoning Board of Appeals will be September 15, 2015 at 6:00 P.M., Room 304 at the Town Hall.

ADMINISTRATIVE MINUTES:

Robert Gardner made the motion to approve the Administrative Minutes of August 4, 2015 as amended. The motion was seconded by Halim Choubah. The motion passed unanimously.

The following Hearing Minutes were approved as amended:

- Minutes of August 4, 2015 Variance Case #2015-12 55 Stoneledge Road-Continued
The motion was made by Robert Gardner, seconded by Halim Choubah to approve the minutes as amended. The motion passed unanimously.
- Minutes of August 4, 2015 Special Permit Case # 2015-17 361 State Road-Approved
The motion was made by Robert Gardner, seconded by Halim Choubah to approve the minutes as amended. The motion passed unanimously.

Chairman Figueiredo reviewed various informational documents to be added to the Board's binders. Also, Chairman Figueiredo recommended a formal application titled "Request For Public Hearing/Administrative Hearing".

Robert Gardner made a motion to accept the application for the Request Public Hearing / Administrative Hearing document. Halim Choubah seconded the motion. The motion passed unanimously.

Approval of the following Hearing Minutes were deferred until drafts have been reviewed by Town Counsel.

- Review and Approval of Minutes (January 20, 2015) Case # 2014-42 -769 State Road-Administrative Appeal
- Review and Approval of Minutes (February 17, 2015) Case # 2014-42 -769 State Road-Administrative Appeal

Chairman Figueiredo reviewed a document titled "Supervision of Board of Appeals Clerk by Board of Appeals Chairman and Director of Development" dated July, 2013. Chairman Figueiredo stated that at the time the document was implemented, it was to make it convenient for day to day office procedures to be conducted, sign forms etc.

Chairman Figueiredo continued stating that she has involved the Director of Development more, doing background research etc. In the Rules and Regulations Chairman Figueiredo stated she added a section, Section 3: Director of Development which states what the Director of Developments involvement and responsibility with the Zoning Board will be. Chairman Figueiredo asked the Board to abolish the document from July 2013 from the Zoning Board's records. Halim Choubah made a motion to abolish the document titled "Supervision of Board of Appeals Clerk by Board of Appeals Chairman and Director of Development" dated July, 2013. The motion was seconded by Robert Gardner. The motion passed unanimously.

Chairman Figueiredo and the Board continued revising the Rules and Regulations of the Zoning Board of Appeals until 6:30 PM.

The following Cases were heard August 25, 2015:

- Variance Case # 2015-19-5 Wilbur Avenue

Michelle Vieira, Principal Clerk

For the Zoning Board of Appeals

Date of Approval: 9/15/2015