



TOWN OF DARTMOUTH
Office of the Zoning Board of Appeals
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Board Members

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

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 DARTMOUTH TOWN CLERK

DATE OF HEARING: October 14, 2015
 CASE: VARIANCE/CHANGE OF USE VARIANCE
 CASE NO: 2015-23
 PETITIONER/APPLICANT: Ana Maria Watts, Russell Watts, Nelson Watts
 PROPERTY OWNER(S): Ana Maria Watts, Russell Watts, Nelson Watts
 SUBJECT PROPERTY: 9 Bourgon Street
 DISTRICT: General Residence
 Map: 138 Lot: 250

BRISTOL COUNTY
 REGISTRY OF DEEDS: Book: 11438 Page: 157

ATTENDANCE

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

ALSO PRESENT: Attorney Peter Saulino, Petitioner Nelson Watts, and Kelly Dollar

7:00 PM Chairman Figueiredo opened the hearing

Chairman Figueiredo reviewed and explained the continuance of this case.

The Petitioners, Ana Maria Watts, Russell Watts and Nelson Watts are seeking a Variance to be allowed to operate a party rental and seasonal products business out of their home. The property is located at 9 Bourgon Street in the General Residence District and identified on Assessor's Map 138 as Lot 250. Information is on file in the office of the Board of Appeals and may be seen upon request. (Section 5.200 Allowed Uses)

Chairman Figueiredo stated this case was continued from September 29, 2015 so the Petitioners could submit a site plan as requested by the Board. She noted that the complication with this case is that the Petitioners signed the Purchase & Sales agreement this property was then zoned General Business. The property was re-zoned to General Residence within the Bliss Corner Mixed Use District at the October 2014 Town Meeting.

Chairman Figueiredo invited the Petitioner or Representative to provide an update on the case.

Attorney Peter Saulino stated that the Petitioners retained Sitec Engineering to draft a site plan depicting the intended use of the property. Attorney Saulino reviewed the Board's concerns from previous meeting.

- Lot Coverage: The lot coverage requirement is 50%, the plan as drawn is at 47%, which meets the requirements.
- Setbacks: Corner, Front, Rear, Setbacks: all setbacks are met.
- Parking and Signs: Plans complies with the by-law.
- Storage Containers: Situated L-Shape, One 30', One 40'

On the bottom of the plan are photos of the containers with different facing options, and the Petitioner is proposing to add a facing to storage containers.

Attorney Saulino addressed the abutters' concerns regarding the view of these containers. The Petitioners are proposing to construct a solid 6' vinyl fence along with twelve 6' Leyland Cypress trees which will add additional screening. Attorney Saulino addressed parking. Along the existing driveway (northwest of the home) there will be six (6) parking spaces-four (4) for employees and two (2) for customers and will be surrounded by privacy shrubs. Also, the Petitioner is proposing an office building which will be 15' x 16'. On the southeast side of the home, the Petitioner is proposing four (4) off street parking spaces to accommodate the residential vehicles. Signage will be located on the Russells Mills Road side.

Chairman Figueiredo questioned the appearance of the containers, the office building and signage.

Attorney Saulino explained that on the bottom of the plans are photos of the containers with different facing options, and the Petitioner is proposing to add a facing to the storage containers. He also showed photos of additional facing options. Mr. Watts then stated the office building will either be built or be a modular unit. Mr. Watts stated that the sign will not be not higher than 8'.

Robert Gardner asked if the sign would be lit.

Mr. Watts stated there will be a light on the sign.

Chairman Figueiredo stated that the Board should comply with the Bliss Corner Mixed Use District standards and read the by-law (10B.408) pertaining to lighting.

Chairman Figueiredo suggested to the Board that this petition aligns with the by-laws of the Bliss Corner Mixed Use District and a condition will be added that it complies with those regulations should the petition be approved.

Chairman Figueiredo then read the purpose of the Bliss Corner Mixed use District by-law (10B.100).

Chairman Figueiredo had concerns regarding the proposed two (2) parking spaces that abut the existing driveway on Bourgon Street and the four (4) parking spaces behind the office building. If this is to be considered a small business, it does not need off street parking for business purposes (pursuant to 10B.406). Chairman Figueiredo would like to see more landscaping, trees, and greenery, in lieu of those 6 parking spaces.

Mr. Watts stated that they put the two (2) parking spaces there because the neighbor was concerned with parking on Bourgon Street. The other four (4) parking spaces will be for potential employees and for the commercial truck.

Chairman Figueiredo suggested that the existing driveway could be for parking the commercial truck and loading and unloading the equipment.

Chairman Figueiredo then stated that she considers this Retail Service and then read Section 10B.201 Retail Services.

The Petitioner and the Board agreed with the Chairman regarding this being a Retail Service business.

Chairman Figueiredo read Section 10B. 406 Parking and Driveways.

Chairman Figueiredo stated the size of the containers does not present a concern and read Section 10B.409 Architectural Appearance of Buildings.

Chairman Figueiredo then made reference to Sections 10B.407 Signs and 10B.408 Lighting.

Chairman Figueiredo asked if the current shed that is currently there remaining, Mr. Watts replied yes.

Chairman Figueiredo has concerns with the fencing and would like to see more greenery.

Chairman Figueiredo questioned the size of the parking spaces on the residential side and wondered if each space should be 17'x 9'.

Member Halim Choubah who is an engineer, stated that standard size would be fine, and 4 spaces on the residential side is allowable. Regarding the commercial parking, compliance should be with Bliss Corner Mixed Use District requirements. (Section 10B.406)

Chairman Figueiredo asked the Petitioner his thoughts on parking.

Kelly Dollar, co-owner of the Business would prefer to have parking spaces because at any time of the day on-street parking is difficult and they are trying to avoid any issues.

After further discussion the Applicant agreed that the two (2) proposed spaces that abut the existing driveway will be sufficient, and that the commercial truck can be parked in the existing driveway. Concrete surface in the area of the storage units is needed to turn a truck around and to clean their equipment. It is agreeable that four (4) parking spaces be eliminated in that area and the fencing on the Russells Mills Road side and behind the proposed office building will be shrubs, or stone wall, eliminating the vinyl fencing. The Petitioner would like to keep the privacy fence abutting Mrs. Furtado's property and also the fencing enclosing their backyard behind the residence.

Chairman Figueiredo invited public comments.

Mrs. Furtado, abutter, voiced her objections regarding the differences in the proposal at the previous meeting and what they are proposing now.

Victoria Callahan voiced her concerns regarding all the changes from the first hearing to this hearing. She is concerned about the signs, the office building, the parking space, the lighting, and the washing of the equipment. She asked about water runoff. She expressed concern about her property value. She asked if concessions could be made on certain proposals.

Chairman Figueiredo explained that when a proposal is brought before the Board, the Board has to make a determination if this proposal meets the requirements for granting the petition. There are rules and regulations that need to be followed.

Attorney Saulino stated that the Petitioner addressed the concerns of the neighbors based on his notes from the previous hearing. He stated that they are meeting all the by-laws regarding their proposal.

Robert Gardner asked if a lighted sign is needed.

Kelly Dollar responded by stating, not being known in the town, be a lighted sign or not, they would like people to know that this is where we are located. They would be open to eliminate the light on the sign.

Halim Choubah stated although he wasn't at the last hearing, he read the petition and minutes, and he concluded that it's a unique situation because it abuts the Bliss Corner Mixed Use District. The Board would be allowing the business by variance to be on this lot. A change of use or an expansion of the use would have to come before the Board. He suggested meeting the Bliss Corner Mixed Use District requirements while being stringent, and making compromises.

There was discussion regarding General Residence and the provision for Home Occupations. Chairman Figueiredo read the by-law related to home occupation in a General Residence District. (Section 5.205) Attorney Saulino stated they applied for a Variance because the Petitioner wanted the business to be esthetically pleasing, to give the neighbors the opportunity to give input, and to allow the Board more control. After further discussion, the Petitioner wanted to proceed with the Variance rather than consider the requirements for a Home Occupation.

Halim Choubah suggested a sign that is allowed under Home Occupations would be appropriate, also adding condition regarding business hours operation, and add the condition that runoff will remain on site. The Petitioner will submit hours at next hearing.

Chairman Figueiredo read the by-law. Section 5.205 G-Signs

Chairman Figueiredo stated the Board has to decide if they are going to allow a business in a Zoned General Residence District. With certain conditions the Board agreed they would allow it. After lengthy discussion the Board advised the Petitioner to revise the plan with the following:

- Sign –Free standing sign to be illuminated and the Petitioner will submit a rendering for a sign to be attached to the office building.*
- No fencing around business; landscaping only*
- Both storage containers will be 8.5'x 30' with facing*
- Remove 4 parking spaces on business side*

Chairman Figueiredo asked for a motion to continue.

Robert Gardner made the motion to continue the hearing until November 18, 2015. Dr. Rahim Aghai seconded the motion. The motion passed unanimously.

Robert Gardner made the motion to close the hearing on Case # 2015-23. Dr. Rahim Aghai seconded the motion. The motion passed unanimously.

9:15 P.M. Hearing adjourned

Michelle Vieira

Michelle Vieira, Principal Clerk
For the Zoning Board of Appeals

Date of Approval: 11/4/2015