

MINUTES OF BOARD OF APPEALS MEETING OF January 2, 2013: Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS

Chairman Peter DeTerra – Opened the meeting at 6:00 p.m.

Quorum/Attendance

Members Present – Chairman Peter DeTerra, Vice-Chairman Francis Cox, Jr., Joseph Borelli, Peg Cook, Rene Fleurent, Jr. (Assoc.), Ken Kendall (Assoc.), AL Silva (Assoc.) and Jaime DeSousa (Assoc.)

Members Absent – Daryl Manchester

Minutes: Chairman DeTerra asked for a motion to accept the minutes of December 5, 2012. Mr. Cox, Jr. motioned to accept the minutes. Mr. Kendall seconded. The vote was unanimous.

II. PUBLIC HEARING:

1. Petitioner: Dana Marie & Alan J. Grant, Causeway Road, Plat 43A, Lot 145-148; Certificate #22497; 198-18: Short 6,000 sq ft of the required 30,000 sq ft for a buildable lot in a RR District.

The petition was read and there were 59 abutters notified. Ms. Grant inherited the property that her father bought in 1985 and they would like to construct a house and eventually retire there. They presently own a house on Dogwood Street. House plans were presented and are part of this record. No one spoke in favor or against the proposal. The house plans were quickly reviewed by Board members. However, the Chairman stated that the petition is only for a dimensional variance. If approved, the petitioners could request a variance for the house if needed. The Chairman asked Wayne Fostin, Building Commissioner, if the lots were grandfathered and was told they are not.

Mr. Cox, Jr. motioned to grant the Variance. Mr. Borelli seconded.

Members voting to grant the Variance: Ms. Cook, Mr. Borelli, Mr. Cox, Jr. and MR. Kendall.

Member Mr. Fleurent, Jr. abstained.

The Variance is GRANTED with a vote of four (4) in favor and one (1) abstention.

2. Petitioner: Jerry's Auto & Cycle (Jerry's Auto Service), 86-88 Middle Street, Plat 11, Lot 6E & 7; Book 4268 and Page 127, Administrative Appeal: A Crane Service is not allowed in a mixed Use District.

The petition was read and there were 50 abutters notified. The petitioner was represented by Attorney John Murray of New Bedford. A written statement in support of the appeal request was provided and is part of this record. Attorney Murray stated his client purchased the property in 1995 when it was zoned Industrial and it has been in use as such since that time. The Mixed Use District change occurred in May, 1998. Patrick Carr, owner of A#1 Crane Company stated he stores his trucks there so that they can be serviced each day prior to use. The vehicles are for commercial use, not industrial as evidenced by their GVW. Pictures of the equipment and a written statement of facts were presented and are part of this record. Owner Jerald Bettencourt was present and stated that he has not altered his operational procedure and the vehicles on the premise owned by Mr. Carr are serviced and maintained daily so that they are ready when called upon. Speaking in favor of allowing the use: Mark Carvalho, 16 Crescent Drive, Fairhaven who stated the business is neat, clean and respectable; Rui DaSilva, owner of Artistic Auto Body at 98 Middle Street is in favor of continuing the use; Mr. Francendese, 84 Middle Street, stated there is no problem with the business-it is clean and quiet; Patricia Crabbe, 24 Holiday Drive, stated she is a neighbor to Mr. Bettencourt and she is 100% in favor of the use; Mike Bettencourt, son of the petitioner stated he worked at the business for over 10 years and there was never any problem with the area or the work done. Tyson Cleaves, 81 Middle Street, stated he has no problems with the operation and his car is serviced there. Speaking against was Cheryl Cook, 87 Middle Street who believes the crane service is running a business from the site and the vehicles are not parked there for service but for storage until needed. She believes the cranes should be serviced as a crane business. Jerry's Auto & Cycle is a good business but the crane should be licensed as a business. The Chairman explained that the property use has not changed since the petitioner purchased it. The use is grandfathered for this owner as Industrial.

Mr. DeTerra motioned to grant the Administrative Appeal. Mr. Cox, Jr. seconded.

Members voting to grant the Administrative Appeal: Ms. Cook, Mr. Borelli, Mr. DeTerra, Mr. Cox, Jr. and Mr. DeSousa.

The Administrative Appeal is GRANTED with a vote of five (5) in favor and none (0) opposed.

III. OTHER BUSINESS:

Appearing before the Board were Kathleen & David Melanson of 87 Green Street. A letter was written on their behalf by the property owner Cathy Melanson of 110 Adams Street, Fairhaven requesting the Board rescind its vote of December 5, 2012 on the request for a Special Permit for a home occupation in the building trades because the petitioner, her sister-in-law, was not notified of the hearing date. Discussion ensued.

Mr. Borelli motioned to rescind the vote of December 5, 2012 and to re-advertise and re-hear the petition in February, 2013 if feasible-March, 2013 if not; Mr. Fleurent, Jr. seconded.

Members voting to approve the motion: Ms. Cook, Mr. Borelli, Mr. Fleurent, Jr., Mr. Kendall and Mr. DeSousa.

The request is GRANTED with a vote of five (5) in favor and none (0) opposed.

ADJOURNMENT

Mr. Cox, Jr. moved to adjourn the meeting. Mr. Kendall seconded. The vote was unanimous. The meeting was adjourned at 6:50 PM.

Respectfully Submitted,
Patricia Fowle, Secretary
To the Board of Appeals