

## MINUTES OF BOARD OF APPEALS MEETING OF April 1, 2014: Town Hall Banquet Room

### I. ADMINISTRATIVE BUSINESS

The meeting was called to order by Chairman Peter DeTerra at 6:00 p.m.

#### Quorum/Attendance

Members Present – Chairman Peter DeTerra, Peg Cook, Daryl Manchester, Ken Kendall (Assoc.), Jaime DeSousa (Assoc.), Al Silva (Assoc.) and Rene Fleurent, Jr. (Assoc.)

The Chairman asked for a motion to approve the \$110 invoice for advertisement of the hearing. Mr. Fleurent, Jr. made the motion; Mr. Kendall seconded. The vote was unanimous. The invoice was signed.

Minutes: Chairman DeTerra asked for a motion to accept the minutes of March 4, 2014. Mr. DeSousa motioned to accept the minutes. Mr. Fleurent, Jr. seconded. The vote was unanimous.

### II. PUBLIC HEARING:

1. Petitioner: Old South Wharf Realty, LLC, 24 Water Street, Plat 7, Lot 1, Book 9109 and Page 268;  
198-22: Short 4' of the required 5' setback for an Accessory Structure.

A letter was received from the petitioner requesting a continuance to May 6, 2014. The letter was read and is part of this record.

Motion to continue the petition request to May 6, 2014, was made by Mr. Silva; seconded by Mr. DeSousa.

Members voting to continue the petition request to May 6, 2014: Ms. Cook, Mr. Manchester, Mr. DeSousa, Mr. Silva and Mr. Fleurent, Jr.

Members voting not to continue the petition request: None.

The petition request is CONTINUED to May 6, 2014, with a vote of five (5) in favor and none (0) opposed..

2. Jeremiah & Kari Tyler, 52 William Street, Plat 9, Lot 32, Book 9791 and Page 168;  
198-23D: Home Occupation as a Pet Groomer requires a Special Permit.

The petition was read and there were 43 abutters notified. The petitioners wish to have a pet grooming business in the basement of their home. There will be a maximum of 4-5 pets per day with only 1 pet at a time being handled. The animals will be dropped off and picked up by their owners. The animals will not be held overnight. Business hours are 9:00 am to 5:00 pm. The petitioner, a certified groomer, will be the only employee. The walk-out basement will be used and off street parking is available. There will be no outward sign of a business except for a flag. Minimum interior alterations are required to accommodate the business. The petitioners have read the requirements of the By-Law and will comply. Ms. Phyllis Goodwin, 46 William Street, objected to the small neighborhood being business oriented. She believed this will set a precedent. She was concerned about parking in the winter, traffic and noise. She stated the music store on the corner of Main Street and Washington was only supposed to sell instruments but now gives music lessons and the noise is horrible.

The Chairman asked the Zoning Enforcement Agent, Wayne Fostin if the By-Law allowed such a use. He answered no, but the petitioners have the right to ask. Mr. Fleurent, Jr. read the By-Law which did not include pet grooming as an allowable use.

Motion to grant the Special Permit was made by Mr. Silva; seconded by Ms. Cook.

Members voting to grant the Special Permit: None.

Members voting not to grant the Special Permit: Ms. Cook, Mr. Manchester, Mr. Kendall, Mr. De Sousa and Mr. Fleurent, Jr.

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

3. Petitioner: Catherine & Anthony Zelano, 3 Ellis Place, Plat 2, Lots 9 & 192, Book 8871 and Page 157; 198-18: Short 74' of the required 100' frontage; Short 10,968 sq ft of the required 15,000 sq ft; Short 4' of the required 10' east and west side setbacks all in a RA District.

The petition was read and there were 35 abutters notified. The petitioners purchased the property in November, 2012 and would like to construct a summer home. Presently there is a shack on the property. The lot is small and narrow and therefore the request for the variances. Speaking against the petition was Mr. Caruso of 17 James Street who stated the house is too large for the small lot and not in keeping with the other houses in the neighborhood. The Oliveira's of Harborview Avenue stated the same. Mr. Bobrowicki of Harborview Avenue also stated he was in agreement with the statements. Two letters against the petition were received and read and are part of the record. One from Mr. Ray Robitaille, 4 Ellis Place and the other from his attorney Mr. Franco of New Bedford who provided documents indicating the Board of Appeals had granted a similar petition in 1999 that was overturned by Superior Court. The petitioners' developer, Scott Ringland stated the lot is grandfathered and the petitioners have the right to build and do not need to conform to existing zoning. Mr. Fostin, Zoning Enforcement Agent, stated the dwelling was destroyed by Hurricane Bob in 1991 and the owners had two years to re-build. That did not occur and the current zoning requirements apply. The Chairman asked if there is a right-of-way on the property for beach access. Mr. Fostin stated yes.

The Chairman called for a motion. Mr. DeSousa asked the Chairman for a clarification of the vote: a no vote on a positive motion is a denial of the petition and a yes vote on the positive motion is an approval of the petition. Mr. DeSousa spoke directly to the petitioners stating at this time they have three options before them, allowing the process to proceed, requesting a continuance in order to meet with the neighbors or requesting to allow the petition to be withdrawn without prejudice. Discussion ensued. The petitioners requested the Board allow the petition to be withdrawn without prejudice.

Motion to allow the petition to be withdrawn without prejudice was made by Mr. Fleurent, Jr.; seconded by Mr. DeSousa.

Members voting to allow the petition to be withdrawn without prejudice: Mr. Manchester, Ms. Cook, Mr. Kendall, Mr. Fleurent, Jr., and Mr. DeSousa.

Members voting against the motion: none.

The petition is WITHDRAWN WITHOUT PREJUDICE with a vote of five (5) in favor, and none (0) opposed..

4. Petitioner: Keith Christy, 514 Sconticut Neck Road, Plat 41, Lot 2C, Book 8499 and Page 56; 192-23-B: A Special Permit is required for a Home Occupation in the Building Trades.

The petition was read and there were 11 abutters notified. The petitioner has lived in town for 20 years and is in need of a home office so that he can secure a business certificate. He is a builder. Mr. Fleurent, Jr. read the By-Law requirements. The petitioner acknowledged he would comply.

Motion to approve the Special Permit was made by Mr. Silva; seconded by Mr. Kendall.

Members voting to approve the Special Permit: Ms. Cook, Mr. Manchester, Mr. Silva, Mr. Kendall and Mr. DeSousa.

Members voting not to approve the Special Permit: None.

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

5. Petitioner: Ronald Templeton, 196 Dogwood Street, Plat 43B, Lot 206, Certificate #12481 198-18: 5% over the maximum allowed building coverage of 15% in a RR District.

Mr. DeTerra recused himself from the meeting, having had business dealings with the petitioners' representative. Mr. Manchester was the acting chairman. The petition was read and there were 34 abutters notified. The petitioner was represented by Mike Ristuccia, 192 Dogwood Street, builder. The petitioners own a home in Lincoln, RI and will soon retire to 196 Dogwood Street. The property has little to no storage and no basement due to flood zone restrictions. They would like to build a 2-car garage, tool shed for storage of summer goods and a deck off the master bedroom approximately 10-12'x20. The lot is 12,000 sq ft and the deck addition will not be seen from the street.

Motion to grant the Variance was made by Mr. Silva; seconded by Mr. DeSousa.

Members voting to grant the Variance: Ms. Cook, Mr. Manchester, Mr. Fleurent, Jr., Mr. Kendall and Mr. DeSousa.

Members voting not to grant the Variance: None

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

**III. OTHER BUSINESS:**

**ADJOURNMENT**

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

Respectfully Submitted,  
Patricia Fowle, Secretary