



**Halifax Planning Board  
Meeting Minutes  
February 21, 2019**

**Official**

**A meeting of the Halifax Planning Board was held on Thursday, February 21, 2019, at 6:30 p.m. at the Halifax Town Hall, Meeting Room #1, 499 Plymouth Street, Halifax, Massachusetts.**

**Members Present:** Gordon Andrews, Mark Millias, Jonathan Soroko, Karlis Skulte **Absent:** Larry Belcher

The meeting was called into session at 6:30 p.m. and the agenda was read into the minutes by Gordon Andrews  
Motion to accept the agenda as read

MOTION: Mark Millias  
SECOND: Jonathan Soroko AIF

Bills payable:

Motion to pay bill for Plympton/Halifax Express Public Hearing notice, legal Ad #10399 in the amount of \$84.00 for the O'Reilly site plan review

MOTION: Jonathan Soroko  
SECOND: Mark Millias All in favor

Meeting minutes:

Motion to approve Meeting minutes for January 17, 2019 , members present and voting are G. Andrews, M. Millias and K. Skulte

MOTION: Karlis Skulte  
SECOND: Mark Millias All in favor

Time being 6:25 p.m.

Motion to suspend the regular Planning Board meeting and open the public hearing for Site Plan Review for 19-SPR-01 139 Hemlock Ln. Mud Fest.

MOTION: Jonathan Soroko  
SECOND: Mark Millias AIF

Public Hearing opened, continuation from Feb. 7, 2019

Mr. Bergstrom submitted a new plan to the board. The plan has more detailed information and more of what the site plan is required to have. Looks to have the 100' setback from all boundaries. Also submitted (and received) recommendations from the Police Chief and the Fire Chief.

Mr. Bergstrom noted that the Fire chief wanted to ensure there is a 35' access way and not structures are in the way. The plan was just completed the day within the last day or two.

Mr. Andrews asked if it was sent out to the other boards/committees. He is looking to have everyone get a copy of the updated plan. [secretary advised it has not, as it was just received just before this meeting].

Probably won't vote tonight and will ask for an extension. Just to ensure all the boards have time to give any further or updated comments. Get this going and move it forward. Chairman asked if anyone was here for this hearing for Mud Fest.

Mr. Bergstrom was concerned with the timeframe for a decision to report back to the courts, it is time sensitive and with the agreement need to get this completed as soon as possible.

Mr. Millias stated that the next meeting ins March 7 and the other boards need to take a look at the new plan.

Mr. Soroko noted that we had comments from other departments, which he read into record. The Highway surveyor S. Hayward asked that Hemlock Rd be swept after each event. Mr. Bergstrom added that it was mentioned before but hard to detect what was Nessleralla brings down from the tractor, and what is Mud Fest. Mr. Soroko added in that he was not sure if it was a concerned with the mud being trailed onto the road or the trash. Mr. Skulte also added that if the town needs to sweep it they will and send a bill.

MR. Bergstrom stated he will go out there and power wash it if he has to, give it his best effort. Mr. Millias wants him to see if there is extra mud being track onto the road.

[secretary noted it was more concern with mud coming out from the event onto Hemlock Rd.] Mr. Bergstrom thought to make a cleaning station before they leave the property.

Mr. Skulte stated he was not at the last meeting but asked if the noise issue was discussed. Mr. Andrews: No Mr. Skulte then asked if Mr. Bergstrom if he saw letters submitted on how to comply to the noise levels.

Mr. Bergstrom stated that there is no level amplified live music after 6 (pm). The law is 9 at night so.

Mr. Millias: The special permit granting authority sets those parameters on noise not planning board.

Special permit was already granted by the ZBA.

Mr. Bergstrom stated that the permits granted to him said there was no amplified music, turn on at 9 a.m. and shut off by 5 p.m. Mr. Skulte noted that they didn't identify the maximum noise generated by the site was not in the decision, no threshold for maximum of noise.

Mr. Bergstrom said he attorney did not discuss that, usually that was done by the board of selectman.

Mr. Skulte asked because there is a testimony from a resident on paradise Ln being in compliance.

Open for discussion.

Mr. Brown, Paradise Ln. has a couple concerns to address. It is important that any one request variance that the proposal set forth is complete, accurate and gives all details necessary so everyone can review. He stated he doesn't think it is appropriate for anyone to give a "blank check" . Secondly, one on the list is not covered is the noise,. Need to look at and consider. MASSDEP states anything that increases sound level from new use over 10 decibels of ambient conditions is not allowed, or they have to be mitigated. If proposing a land use over that threshold, have to mitigate or can't occur. He is addressing the Mud Fest, not the farm. The farm has no problem, doesn't have any.

Mr. Millias: the standard that your referring to is increase over normal operating in town. The normal operating is a farm that's though to put a threshold on, its allowed operating.

Mr. Brown, If you measure what the Mud Fest, actually its difficult operating Mud Fest and operating a farm, Need to do is go to paradise Ln, it sounds like the Daytona 500 going on here. Much different than the terms of a farm operation. If look at regulations and brought copies. My sense is that would apply to the situation. If you basically approve any action occurring on the land, that basically go beyond those thresholds, either they have to mitigate it or they have to stop it. Or fin a way in which that law regulations I'm stating about doesn't cover it.

Mr. Millias: When I looked at it I didn't see how that applies to a special permit outdoor event. I think when I read the state law, I didn't make the connection. So, I don't think that that applies to a special event, a one time event as far as the noise.

Mr. Brown: Its more than one time event, it's going to happen several times, once you approve it may be more

Mr. Bergstrom stated that he is only allowed 2 per year,

Mr. Brown stated that often happens that once you get a foot hold in, you get the whole thing... [inaudible]

Mr. Andrews interrupted and said no discussions back and forth.

Mr. Brown then stated he wanted to make that point and would want to make sure that you [planning board] check with legal council whether if fact my point is accurate or not accurate and I will yield to what they state. My sense is does, and will need to be addressed and something that needs to move forward. Another thing beyond that if that land, there is going to be significant land to accommodate this. Have seen the one on line, not the newest one.

Mr. Andrews asked if he saw the new plan. This has more detail on it.

Mr. Brown the point I wanted to make, is this land going to be used for agriculture after these events.

Members stated Yes, it always returns, Mr. Millias stated there is not actual permanent changes or alterations.

Mr. Brown noted jersey barriers being brought in, changes, are they removed after the event. Enough so the land continue.

Mr. Millias felt that the property owner would not allow them to stay in a way to hinder (farming)

**Mr. Brown:** My point is that would be fine, I just to make sure the stipulation in this occurs that any structures that occur on there are cleared away after the event so that farming agriculture can occur. **The problem is, if you don't do that, because its over 5 acres, it may trip the MECA threshold requirements and a notification will have to be filed. But as long as its being brought back to agricultural I don't think that's a problem.**

Mr. Millias stated that's always been the intent. Mr. Skulte noted that the MEPA filing only has to be filed if you need a state permit as well, so if you don't need a state permit.

Mr. Brown: also if you take the land off agriculture, but if your going back to agriculture, then its fine.

Mr. Millias: There will be no zoning changes

Mr. Brown: ok, the other piece that is commonly relate to it, when you start to clear land, and more likely have to have a MEPNDEPA storm water permit, which is not a big deal but when you do clear land and clear grass, that you will need on from the EPA. But a threshold that needs to be looked at and make sure the conditions are met. The purpose of that act is basically to ensure that any water either from storm that the soil is stabilized and does not go off site. (again stated they are not a big deal but when looking at what needs to be done, that has to be covered).

Mr. Millias; One thing that was provided, is that they are over 100' feet, a large buffer between any property, be adequate for anything.

Small discussion Mr. Brown and his previous work, look at wetlands, and need to put in place.

Again stated not clearing land. It is a working farm, and tractors, and probably have those permits in place.

Discussion on clearing for mud pit and for trucks. Basically concerns when go forward on anything in town that certain environmental standards and state standards are fulfilled and people carrying them out, met them.

Mr. Brown is just taking about the NEPDES permit.

Mr. Skulte asked Mr. Bergstrom to ask Mr. Webby whether or not this activity would require a construction general permit for NEPDES. I don't think it does.

Mr. Bergstrom. Stated his lawyer never mentioned it

Mr. Andrews stated that we [the board] can have it as a stipulation that that be confirmed. Can be just part of the condition, if you need to file the permit, then have to do it. Mr. Webby should be able to help you with it.

Mr. Brown stated it was not a complicated permit. He offered his notes to Mr. Bergstrom.

Mr. Bergstrom that stated that, when they do the mud fest and naturally formed so many aspects and criteria and under an acre of land. If we went above an beyond and acre of land then we would have to pursue a certain permitting thing, the way we measured them, we measured larger than they are and was still under an acre of land. I remember crossing that bridge 6 yrs. ago.

Mr. Andrews: yea you probably did, Just need confirmation. (webby)

Discussion on what and who.

It is an EPA notice of intent for the NEPDES permit. Needs to confirm with Webby Eng. whether or not he needs a NPDES permit from EPA. Mr. Skulte also noted that if your less than an acre of disturbance and its temporary, you probably don't need. But that can be a general condition that you get any and all required state and local permits

Mr. Bergstrom again stated in 2013 he had to do that at one point.

Mr. Brown stated 2 other points to the board. 1) to ensure that either plans or something there to deal with potential spills of oil and that they are properly cleaned up. More of a contingency plan than regulation.

(make a stipulation)

[secretary asked if he has actually filling on site]. Mr. Bergstrom said no, absolutely not. Secretary gave copy of the information Mr. Brown is speaking of.

Mr. Brown: only other thing, that after the event that this property is dewatering of the site, that the site is restored, and meets typical kind of storm water drainage guidelines.

Mr. Skulte: everything is just returned to normal when your done right.

Mr. Bergstrom: basically ya, it was always the plan

Mr. Millias stated that it is low impact on it.

Mr. Soroko stated that Mr. Nessralla wouldn't want his farm back in worse shape than when he left it in.

Mr. Skulte: as I think it relates to the noise issue, I think the zoning board has some discretion in terms of what they allow for these individual events in terms of the hours of operation as it relates to the noise generated from them.

Mr. Brown: They may, but I'm just sighting state law.

Mr. Bergstrom noted that it is like having a party at someone's house

An audience member also stated it isn't any worse than the gun range and that decibel level and can hear than more than anything happening on the farms. He also stated that that probably exceeds the decibel level as well.

Mr. Skulte aske to confirm with legal if this particular code applies. Mr. Andrews agreed.

Chairman Andrews asked if Mr. Brown had taken a look at the new plan. He advised he had not. It is available for anyone to view. Mr. Skulte asked if Mr. Brown had the specific code 310 CME 710. He advised he did.

Mr. Andrews asked if anyone else had anything to add. Audience member identified as Amy Troup stated I just don't know how different it would be if the fireworks goes over the decibel, we have that a couple times a year and that... (inaudible)

Mr. Millias: It is my understanding that it is under the special permit.

Mr. Bergstrom again stated that it is nothing permanent on this.

Mr. Millias: I understand the concern about the noise, but I think the main thing that is different on this, is the temporary aspect of it. I understand you can probably hear it from your house, but I think it falls under the special permit, limited time and also when they type of event it is going to be, a Saturday, probably early afternoon to...

Mr. Bergstrom: It's a Sunday, 9 to 5 usually. Usually the noise is done by 3 because everything breaks.

Mr. Brown asked if there was a Halifax noise ordinance posted.

Mr. Bergstrom stated the on the permit says no amplified music after 5 p.m.

Members briefly discussed noise ordinances in surrounding towns, and it would have to be reported to the police department.

Mr. Bergstrom asked, prior to coming back does he have to get that Webby thing. Time frame. Asked if he should have it emailed. Secretary said it was fine to email. Then it will be on paper.

Mr. Skulte: If he says, in his opinion: that this permit doesn't apply or MEPA doesn't apply, That's all we need in his opinion on whether of not it's applicable.

Mr. Bergstrom noted that he physically walked it and measured it... 175 and 125 which includes all the pits, when you do the math... We crossed that bridge in 2013 about that.

Mr. Millias If we can satisfy that and give the other boards the time to take a look at the new plan. I don't see any changes that need to be made to what's here, next meeting would be March 7<sup>th</sup>.

Mr. Andrews asked if there was any other discussion?

Audience member (associated with Mr. Bergstrom) asked if there is someone that he can contact with the verbiage of that permit, just in case.

Send an email to secretary.... Mr. Bergstrom advised he will have Webby email that.

Mr. Andrews then advised that we will need a mutual agreement to continue the hearing so we can get to March 7<sup>th</sup>. We need you to sign on for that agreement, if we get 30 days, give us time to have a meeting and give a decision to the Town Clerk. Mr. Millias explained that we can't act on this now, so if you grant [the board] the extension. To March 7<sup>th</sup>.

Mr. Bergstrom signed the extension, the board will need to accept and vote

Motion to sign a 30 day extension for the Public Hearing for permit, 19-SPR-01 , Mud Fest.

MOTION: Karlis Skulte

SECOND: Jonathan Soroko

All in Favor.

Prior to this, petitioner is to contact Webby Engineering, he will send the information to secretary.

Motion to continue the Public Hearing for Mud Fest petition 19-SPR-01 139 Hemlock Ln, to March 7<sup>th</sup> at 6:35 p.m.

MOTION: Jonathan Soroko

SECOND: Mark Millias

All in favor

Motion to reopen the regularly scheduled Planning Board meeting

MOTION: Jonathan Soroko

SECOND: Mark Millias

All in favor

#### Informal Discussion:

In attendance: Bob Maker:

Abutters/neighbors: Stephen Ghelfi, Chris Winiewicz, Deborah Winiewicz, Frederic Hawley

Mr. Maker basically looking to do an overlay district to the current Industrial Zone. Industrial zone is allowed to have medical marijuana dispensary. The day care in the area eliminates all the industrial zone in that area.

Looking to find out how and overlay district can be created, to try to get it up near Morgans [Power Equipment]. What would the planning Board suggest?

Members discussed that they tried to change the allowed use in the commercial business zone, but was voted down. Now looking to increase the zone. Mr. Maker wants to bring the Industrial zone down into the commercial area. Instead of trying to change the zoning, he believes to do an overlay, how to create, how to do it, what the board would recommend.

Mr. Skulte suggest that he would have to change residential to industrial. Mr. Millias stated that it would have to be petitioned and go to town meeting and have to vote on it. No other way to go. He also stated that may have a better chance than the last petition. Not a bad idea for the town to increase the Industrial area.

Members mentioned industrial zone on Rte. 105 and near Wood St. Would also recommend some sort of distance off 106, set that to some restrictions, set the new zone as it straddles 106 a few hundred feet on each side, so it won't effect any other roads.

Mr. Skulte asked if there was any spots in the industrial zone that go the distance form the day care.

Mr. Maker advised nothing, even across the street, (storage units) unless they rezone the entire place, everything comes within 500 feet of the day care center. Nothing in the Industrial Dr.

Mr. Andrew advise he would have to go for a zoning change, as long as it is connected to the other and is not spot zoning.

Briefly discussed procedure, 10 signatures on petition by March 1 to Town Administrator. Get on warrant, and possibly contact an engineer to have the exact area, parcels, addresses, longitude, latitude. Need some engineering work into it, can just be verbiage, to change zoning. Suggested to see Charlie.

Audience then spoke against this proposal. They are concerned with the children and neighborhood behind the building he is looking to have rezoned. (currently Mr. Reed is building) They are concerned that it is Industrial "adult" and putting this in a residential family neighborhood.

Mr. Millias would like to see what the impact would be on the town, industrial in town is inadequate. Our view is to see how it would impact the town.

Discussion continued on what the planning board is for, to bring to town any proposed changes, no matter who they are. Audience members were concerned and saying that he [Mr. Baker] is not telling the whole truths. That when he went to the Board of Selectman he stated there was plenty of buffer. However, Mr. Ghelfi showed pictures of the "blue building" right behind the residential neighborhood. From several different angles and homes. Arguments then went back and forth between Mr. Maker and residential neighbors/abutters.

Mr. Millias stated as far as we're [the board] is concerned, someone who is proposing a change, we will take a look just as if anyone came in and said the same thing. Mr. Skulte noted that we would need the facts, because that there seems to be some ambiguity, on what the question is. Mr. Millias, we wont go off of a word, we would have an engineer to take a look and propose something. No matter the proposal, making sneakers or anything else, we would say the same thing.

Mr. Andrews: you came in to ask what the process was, that is the process, and there would have to be a public hearing prior to the Town Meeting and everyone can voice their opinion on that.

Mrs. Winiewicz noted that it has to be 2/3rds vote (approval) to change zoning.

Secretary wanted to state that the town votes the changes in, not the planning board.

Mr. Maker will be contacting the selectman's office for further information.

Mr. Ghelfi asked about the last time? Mr. Millias stated that the last time was a different proposal to make the allowable use in the commercial district.

Mr. Andrews noted that the planning board makes a recommendation after the hearings based on what the input is. Mr. Skulte also noted that it (the last proposal) did not get voted in at town meeting.

Discussion continued in regards to the building in question, (blue) next to Morgans, which is in the commercial/business zone. They abutters are on the hill above the building, which is Laurel St. They also stated that the lights are shinning up onto the residential area. Mr. Skulte asked if it was his impression that he is trying to change zoning for that building. Mr. Ghelfi said yes, he wants it to suit him. They continued to review the maps and where zoning is. They also discussed the other industrial areas in town, and why they are located in those areas. Was briefly noted that Halifax does not have enough business in town to offset the residential.

Mr. Ghelfi was also noting the bylaws, where marijuana establishments are allowed in relation to places of assembly.

Mr. Andrews discussed with the secretary regarding the lights shining into the residential area. Letter to be sent to Mr. Reed, owner of the building.

Discussion: Submittal of site plan received. O'Reilly Auto Parts, should be sent out for third party review, they are looking for four (4) waivers, 3 regarding parking, which will be under Zoning Board of Appeals, and 1 for the "monument" sign, under the Planning Board. Members looked over the plans, discussed the traffic flows into and out of the entrance, taking a left in or out may be difficult. They will also be asking for a special permit, for an internally lite sign. It was asked if we can even accept an application if it is something that is not allowed. Secretary advised we have to accept all filed petitions, they plead their case and a decision is made by the board. We cannot turn away a petition when filed.

Members also looked at the contours. They discussed the review engineers and who they would like to send it out to. Silva Engineering, Amory, Merrill. (recent pricing has not changed) In the past we have just hired them, now we require a quick review and get an estimate of full review. The petitioner has given initial fee for engineer review. Mr. Andrews really wants an estimate before we hire someone.

Members also looked at green space, and reviewed the exact waivers requested. Requesting less than half of required spaces, and half of those will be under sized. It was then discussed of the 'gas lite tubes', like neon open sign, but you can't have it directly exposed from view.

Members agreed to go to Silva Engineering and Amory for estimate cost of review.

Members agreed to wait until the next meeting to approve minutes, to give time for members to fully review.

Motion to adjourn                      MOTION: Mark Millias  
  SECOND: Karlis Skulte                                      All in favor

It was unanimously voted to adjourn the meeting at 7:50 p.m.

Respectfully submitted,

**Date Approved:** \_\_\_\_\_

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Terri Renaud  
Planning Board Secretary

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