

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

HALIFAX ZONING BOARD OF APPEALS

MONDAY, APRIL 10, 2006

The Halifax Zoning Board of Appeals held its regular monthly meeting on Monday, April 10, 2006 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Debra Tinkham, Jean Reilly, Kozhaya Nessralla, Richard Gilcoine, and Michael Schleiff.

Robert Gaynor arrived late at 7:32 pm.
Garret Walsh was not in attendance.

Chairman Tinkham called the meeting to order at 7:00 p.m.

APPROVAL OF MINUTES:

It was duly moved (K. Nessralla) and seconded (J. Reilly) to approve the minutes of Monday, March 13, 2006.

Chairman Tinkham: All those in favor of approving the minutes of March 13, 2006, please signify by saying aye. So VOTED 5-0-0

BILLS

A. Memorial Press Group - \$330.00

The Board reviewed the mail and discussed other matter issues;

- A. OCPC Agendas
- B. Review Chapter 40B Fee Sheet

The Board reviewed the proposed Chapter 40B fee sheet and voted to accept the fees. A copy will be submitted to the Town Clerk.

The Board would like a letter sent to the Selectmen regarding 732 Old Plymouth Street (Lounge/Bagge). Work continues on the property and to date, the applicant(s) have not submitted a request for a special permit.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 2

April 10, 2006

Other matters cont:

The Board would like a letter sent to Mr. Nicola Gentile – 822 Old Plymouth Street. Mr. Gentile has not sent the Board any information regarding the numbers of litters he has had per year. Unless he does so, he is in violation of his special permit and is in jeopardy of losing his special permit.

#659 – JOSEPH & RHONDA MASTERSON – 324 THOMPSON STREET, HALIFAX

The secretary read the notice of public hearing:

The Halifax Zoning Board of Appeals will hold a public hearing on April 10, 2006 at 7:15 p.m. in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Joseph Masterson to add a 12 x 28 family room addition to the left side of his existing home at 324 Thompson Street, Halifax, MA. Said property is owned by Joseph & Rhonda Masterson as shown on Assessor's Map #90, Lot 4. The applicant seeks a special permit to continue and extend a non-conforming use in accordance with the Zoning By-laws of the Town of Halifax under Section 167-8 Non-Conforming Uses, page 16726.8. Area is zoned residential. Petition #659

Tinkham: What would you like to do?

J. Masterson – We would like to add a 12 x 28 family room to the side.

Tinkham: To the left side of the house.

J. Masterson – Yes. We have an old stone foundation. Originally the house burned down and it was rebuilt on its original rock foundation, which is too close to the street.

The Board reviewed the plans and the layout of the lot.

Tinkham: What is this going to be?

J. Masterson: A family room.

Tinkham: Will you be adding a bathroom?

J. Masterson: No.

The Board reviewed the proposed addition plans for the single story family room.

Tinkham: Will there be a full cellar underneath the addition?

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 3

April 10, 2006

J. Masterson: We are not sure. It depends on what we can afford.

The Board reviewed the pictures of the property.

It was duly moved (K. Nessralla) and seconded (J. Reilly) to waive the on-site inspection.

So VOTED 5-0-0

It was duly moved (K. Nessralla) and seconded (J. Reilly) to grant your petition (#659) for a special permit to construct a (12x28) family room addition to the left side of your home. The proposed addition will be located at 324 Thompson Street, Halifax, MA as shown on assessor's map #90, lot 4.

The Zoning Board of Appeals granted this petition due to the fact that this change will not be detrimental to the neighborhood as several homes in this area have been upgraded. The home is pre-existing non-conforming and the addition will not derogate from the intent of the bylaw because it will not encroach any further on the lot lines.

The Zoning Board of Appeals grants this petition with the following conditions:

1. The special permit was granted based on the plans and testimony presented at the hearing. Any changes from what was presented and approved must be brought back before the Zoning Board of Appeals.

Please be advised that all variances and special permits shall comply with all the rules and regulations and codes of the Town of Halifax.

This decision shall not take effect until:

- (a) A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerks (4/18/06) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- (b) A certified copy indicating such Registry Recording has been filed with the Board.

Chairman Tinkham called for a voice vote: J. Reilly, YES; K. Nessralla, YES, R. Gilcoine, YES; M. Schleiff, YES; and D. Tinkham, YES.

The motion to grant petition #659 passed 5-0-0

Ms. Tinkham reprised Mr. & Mrs. Masterson of the procedure following approval of the petition.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 4

April 10, 2006

#660 – ELAINE GOWING – 1 FIRST AVENUE, HALIFAX

The secretary read the notice of public hearing:

The Halifax Zoning Board of Appeals will hold a public hearing on April 10, 2006 at 7:30 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Elaine Gowing, 84 Range Rd, Concord, MA to raise, replace and add on by squaring off the foundation and left rear side of the home. The applicant also wishes to replace the back landing and stairs and add a set of front stairs to her pre-existing non-conforming home at 1 First Ave, Halifax, MA. Said property is owned by Elaine Gowing as shown on Assessor's Map #52, Lots 68 & 69. The applicant seeks a variance of the front set back from fifty (50) feet to thirty-nine (39) feet and a special permit to continue & extend a non-conforming use in accordance with the Zoning By-laws under Section(s) 167-11 Table of Dimensional & Density Regulations and 167-8 Non-Conforming Uses, page(s) 16726.11, & 16726.8. Area is zoned residential. Petition #660

Member, Richard Gilcoine recused himself from the public hearing for petition #660 due to the fact that he is an abutter to the property.

Tinkham: What are you proposing?

Gowing: I would like to raise the house up so I can square off and replace the foundation.

Tinkham: You want to raise the entire house up.

Gowing: Yes.

Tinkham: Would there be a full foundation underneath it?

Gowing: It has a full foundation on the lake side and I want to maintain that height. It would raise the front of the building about 30 inches.

Tinkham: What will be downstairs/down cellar when you raise the foundation?

Gowing: I am going to change the layout. I am going to put two bedrooms and a bath downstairs and open up the upstairs.

Tinkham: How many bedrooms are there now?

Gowing: There are currently two bedrooms, and I am only allowed to have two bedrooms. The main floor will have a kitchen, dining area, and bathroom.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 5

April 10, 2006

The Board reviewed the new proposed plans and the plans to raise the foundation. The front of the home will be raised approximately 30 inches.

Gaynor: So you are replacing the back landing and stairs and adding a set of stairs to the front of the house.

Ms. Gowing is adding a front door to the home and requires a variance in order to have a landing and a set of stairs.

Gaynor: Currently the house is 49 feet to the front and you are asking for a 10 foot variance for the stairs.

Gowing: Yes.

The Board discussed the location and layout of the new front steps and reviewed the pictures of the property. The architect drew up the plans and felt that the proposed steps would be suitable for the house at the new height.

Gaynor: How big is the house now?

Gowing: Approximately 33 feet across and 21 feet wide minus the 7 foot by 13 foot jog.

The Board reviewed the pictures of the home and the proposed changes to be made. The back landing and stairs is to be replaced and remain the same width as the existing set. The new staircase is not to encroach any closer to the rear lot line.

It was duly moved (R. Gaynor) and seconded (K. Nessralla) to waive the on-site inspection.

So VOTED 5-0-0

It was duly moved (R. Gaynor) and seconded (J. Reilly) to grant your petition (#660) for a special permit to continue and extend a non-conforming use and a variance of the front set back from fifty (50) feet to thirty-nine (39) feet in order to add a front landing and steps. The Board granted the special permit in order to raise and replace the foundation and add on to the home by squaring off the foundation and left rear side of the home with an approximate seven (7) foot by thirteen (13) foot addition. The special permit also allows for the replacement of the back landing and stairs. The proposed addition, rear stairs, front landing and steps are to be located at 1 First Avenue, Halifax, MA as shown on assessor's map 52, lots 68 & 69.

The Zoning Board of Appeals granted this petition due to the fact that this addition will not be detrimental to the neighborhood. Due to the age of the home and the fact that it is in a neighborhood of other pre-existing non-conforming homes, the Board felt that the addition, replacement of the back stairs, and new set of front stairs would not derogate from the intent of the bylaw.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 6

April 10, 2006

The Zoning Board of Appeals grants this petition with the following conditions:

1. The front stairs and landing are to remain open. They may not be covered or enclosed.
2. The special permit was granted based on the plans and testimony presented at the hearing. Any changes from what was presented and approved must be brought back before the Zoning Board of Appeals.

Please be advised that all variances and special permits shall comply with all the rules and regulations and codes of the Town of Halifax.

This decision shall not take effect until:

- a. A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerks (4/18/06) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- b. A certified copy indicating such Registry Recording has been filed with the Board.

Chairman Tinkham called for a voice vote: J. Reilly, YES; K. Nessralla, YES, R. Gaynor, YES; M. Schleiff, YES; and D. Tinkham, YES.

The motion to grant petition #660 passed 5-0-0

Ms. Tinkham reprised Ms. Gowing of the procedure following approval of the petition.

#661 – MICHAEL & SUSAN BONECARIIEWSKI – 92 POND STREET, HALIFAX

The secretary read the notice of public hearing:

The Halifax Zoning Board of Appeals will hold a public hearing on April 10, 2006 at 7:45 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Michael Boncariewski to request a variance of the right side set back in order to construct a (26 x 26) garage with family room addition above to his property at 92 Pond St, Halifax, MA. Said property is owned by Michael & Susan K Boncariewski as shown on Assessor's Map #25, Lot 5E. The applicant seeks a variance of the right side set back from thirty (30) feet to twenty-two (22) feet in accordance with the Zoning By-laws of the Town of Halifax under Section(s) 167-11 Table of Dimensional and Density Regulations page 16726.11. Area is zoned residential. Petition #661

Tinkham: Why don't you tell us what you want us to do?

M. Boncariewski – We want to build a 26 foot by 26 foot garage to the right side of the house.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 7

April 10, 2006

The Board reviewed the plans of the proposed addition, layout of the property, and the pictures of the property.

Gaynor: Is there a way to get from the house to the 2nd story addition?

M. Boncariewski – Yes. There is an entry from the kitchen. We are not going to finish the upstairs room right away. It will be a future family room. We are going to remove a window on the side of the existing house and that will become the entry way into the future family room.

Gaynor: Will there be a bathroom in the addition.

M. Boncariewski – No.

Gaynor: Will there be an intent for an in-law apartment in the future.

M & S Boncariewski – No. Absolutely not.

Schleiff – How close are your abutters?

M. Boncariewski – My brother lives nearby. His house is probably 150 feet from the property line. My sister lives behind me.

The Board continued to review the plans and the pictures.

Schleiff: The way the garage is set up you really can't make it smaller with the fireplace being where it is and the set up of the stairs, which take away from the interior of the garage.

M. Boncariewski – I really can't. I wanted to make it bigger but I didn't want to get too close to the lot line.

Gaynor: Because of the topography of the lot, the layout of the house and location of the fireplace, the garage really needs to stay where it is.

Nessralla: You are not adding on any bedrooms.

M & S Boncariewski – No. We just want a family room in the future.

M & S Boncariewski – We don't want anyone living in it.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 8

April 10, 2006

It was duly moved (K. Nessralla) and seconded (R. Gaynor) to waive the on-site inspection.

So VOTED 5-0-0

It was duly moved (K. Nessralla) and seconded (J. Reilly) to grant your petition (#661) for a variance of the right side set back from thirty (30) feet to twenty-two (22) feet in order to construct a twenty-six (26) foot by twenty-six (26) foot attached garage with a family room above to your home located at 92 Pond Street, Halifax, MA as shown on assessor's map 25, lot 5E.

This petition was granted due to the layout and topography of the lot. It does not derogate from the intent of the bylaw and will not be detrimental to the neighborhood as many of the surrounding homes in the area have garages.

The following conditions must be adhered to in order for the variance to remain in effect:

1. The family room above the garage may not be converted into any type of in-law apartment or rental property.
2. The special permit was granted based on the presentation and plans presented at the hearing. Any changes from what was presented and approved must be brought back before the Zoning Board of Appeals.

Please be advised that all variances and special permits shall comply with all the rules and regulations and codes of the Town of Halifax.

This decision shall not take effect until:

- a. A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerks (4/18/06) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- b. A certified copy indicating such Registry Recording has been filed with the Board.

Chairman Tinkham called for a voice vote: J. Reilly, YES; K. Nessralla, YES, R. Gaynor, YES; R. Gilcoine, YES; and D. Tinkham, YES.

The motion to grant petition #661 passed 5-0-0

Ms. Tinkham reprised Mr. & Mrs. Boncariewski of the procedure following approval of the petition.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 9

April 10, 2006

#662 – WILLIAM & TAMARA SEGALLA – 20 ANNAWON DRIVE, HALIFAX

The secretary read the notice of public hearing:

The Halifax Zoning Board of Appeals will hold a public hearing on April 10, 2006 at 8:00 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by William Segalla, 20 Annawon Dr, Halifax, MA to square off the left front side of the existing foundation and construct a 2nd story addition to his pre-existing non-conforming home. Said property is owned by William Segalla & Tamara Schmidt as shown on Assessor's Map #43, Lots 298, 299 & 300. The applicant seeks a variance of the front set back from fifty (50) feet to forty-one (41) feet and a special permit to continue & extend a non-conforming use in accordance with the Zoning By-laws under Section(s) 167-11 Table of Dimensional & Density Regulations and 167-8 Non-Conforming Uses, page(s) 16726.11, & 16726.8. Area is zoned residential. Petition #662

Tinkham: What would you like to do?

Segalla: I actually took a few pictures for you to look at.

The Board reviewed the pictures and the plans for the proposed addition.

Segalla: I would like to add a 2nd floor to my house. In order to have the set of stairs work in the plan, I need to square off the front of the foundation. I need a variance in order to square off the front corner of the house.

The Board discussed the location of the home.

Tinkham: You are adding a whole second floor.

Segalla: Yes, I am taking the roof off and adding a whole second floor. I will take the 3 bedrooms from downstairs and put them upstairs. The current house is so tiny. I will have a pretty wide open floor plan on the 1st floor. I want to open the kitchen and the living room up.

Nessralla: Are you going to have a bathroom downstairs and upstairs.

Segalla: Yes. I will have a ½ bath downstairs and a full bathroom upstairs.

Gaynor: There will be a master bath and a full bath upstairs?

Segalla: Yes, that is correct. I went to the Board of Health and they said it was fine.

Gaynor: So you have 3 bedrooms now and you are going to have 3 bedrooms.

Segalla: Yes

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 10

April 10, 2006

The Board continued to review the plans. As they reviewed the plans they noticed that the new front covered staircase encroaches closer to the lot line than was originally requested.

The Board reviewed the layout and location of the proposed front steps.

The applicant was asked if he would like to change his original request for a variance of the front set back from fifty (50) feet to forty-one (41) feet and amend it to have a variance of the front set back from fifty (50) feet to thirty-four (34) feet.

Mr. Segalla amended his variance request from forty-one (41) feet to thirty-four (34) feet in writing and submitted it to the Board. (see file)

It was duly moved (K. Nessralla) and seconded (J. Reilly) to waive the on-site inspection.

So VOTED 5-0-0

It was duly moved (R. Gaynor) and seconded (K. Nessralla) to grant your petition (#662) for a special permit to continue and extend a non-conforming use and a variance of the front set back from fifty (50) feet to thirty-four (34) feet in order to construct a 2nd story addition, add a new landing and steps, and square off the left front side of your pre-existing non-conforming home at 20 Annawon Drive, Halifax, MA as shown on assessor's map 43, lots 298, 299 & 300.

The Zoning Board of Appeals granted this petition due to the fact that this addition will not be detrimental to the neighborhood. Due to the age of the home and the fact that it is pre-existing non-conforming, the Board felt that the squaring off of the home, the new landing and steps, and the 2nd story addition would not derogate from the intent of the bylaw.

The Zoning Board of Appeals grants this petition with the following conditions:

1. The new front stairs landing is to be four (4) feet or smaller and a maximum of 3 steps/risers is allowed.
2. The front landing and steps will not encroach any closer than thirty-four (34) feet from the front setback.
3. The variance is for the front landing and steps/risers only.
4. The special permit and variance were granted based on the plans and testimony presented at the hearing. Any changes from what was presented and approved must be brought back before the Zoning Board of Appeals.

Please be advised that all variances and special permits shall comply with all the rules and regulations and codes of the Town of Halifax.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 11

April 10, 2006

This decision shall not take effect until:

- a. A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerks (4/18/06) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deed, or with the Assistant Registrar of the Land Court for Plymouth County, and
- b. A certified copy indicating such Registry Recording has been filed with the Board.

Chairman Tinkham called for a voice vote: J. Reilly, YES; K. Nessralla, YES, R. Gaynor, YES; R. Gilcoine, YES; and D. Tinkham, YES.

The motion to grant petition #662 passed 5-0-0

Ms. Tinkham reprised Mr. & Mrs. Segalla of the procedure following approval of the petition.

ZBA RECOMMENDATIONS FOR TOWN MEETING!

Article #34 (Deletion of the 5,000 sq ft Special Permit under Commercial Uses)

Chairman Tinkham: All those in favor, please signify by saying aye. So VOTED 5-0-0

The Zoning Board does **NOT RECOMMEND** the change to delete the 5,000 square foot bylaw under commercial uses Section 167-7C & 167-7D.

Article #35 (Fuller Street rezoning from Industrial to Residential)

Chairman Tinkham: All those in favor, please signify by saying aye. So VOTED 5-0-0

The Zoning Board does **NOT RECOMMEND** the zoning change from Industrial to Residential.

Article #36 (Removal of the words ‘two or fewer’ in the definitions section)

Chairman Tinkham: All those in favor, please signify by saying aye. So VOTED 5-0-0

The Zoning Board **RECOMMENDS** the deletion of the words two or fewer under Section 167-3.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 12
April 10, 2006

Article #37 (To increase the ground floor area of a garage from 800 square feet to 884 square feet under Section 167-12F(4))

Chairman Tinkham: All those in favor, please signify by saying aye. So VOTED 5-0-0

The Zoning Board **RECOMMENDS** the increase in the ground floor area under Section 167-12.

Article #38 (To add “G. Exemption” to allow for the vertical extension of a non-conforming building which will NOT create any additional living space)

Chairman Tinkham: All those in favor, please signify by saying aye. So VOTED 5-0-0

The Zoning Board **RECOMMENDS** the change to add “G. Exemptions” under Section 167-8.

Article #39 (To add 167-13C(2)f that any sign found in disrepair by the Zoning Enforcement Officer shall be brought into compliance within 30 days of written notification)

Chairman Tinkham: All those in favor, please signify by saying aye. So VOTED 5-0-0

The Zoning Board **RECOMMENDS** the change to the sign bylaw under Section 167-13.

Article #40 (To change the square footage requirements for building or office park signs)

Chairman Tinkham: All those in favor, please signify by saying aye. So VOTED 5-0-0

The Zoning Board **RECOMMENDS** the change to the sign bylaw under Section 167-13E(11)b

Article #41 (To add the words Industrial Park under exterior signs section 167-13E(11) multiple sign directory)

Chairman Tinkham: All those in favor, please signify by saying aye. So VOTED 5-0-0

The Zoning Board does **NOT RECOMMEND** the addition of the words Industrial Park under Section 167-13.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 13
April 10, 2006

It was duly moved, seconded and VOTED to adjourn the meeting.

Respectfully submitted,

Melissa Traynor,
Administrative Assistant

It was duly moved, seconded and VOTED to approve the minutes of Monday, April 10, 2006 as presented/corrected.

Debra Tinkham, Chairman
Zoning Board of Appeals
