



Town of Halifax Commonwealth of Massachusetts

Zoning Board of Appeals

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

HALIFAX ZONING BOARD OF APPEALS MONDAY, NOVEMBER 13, 2006

The Halifax Zoning Board of Appeals held its regular monthly meeting on Monday, November 13, 2006 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Debra Tinkham, Jean Reilly, Kozhaya Nessralla, Robert Gaynor, Garrett Walsh and Michael Schleiff

Richard Gilcoine was not in attendance.

Chairman Tinkham called the meeting to order at 6:58 p.m.

APPROVAL OF MINUTES:

It was duly moved (K.Nessralla) and seconded (J.Reilly) to approve the minutes of Monday, October 2, 2006.

Chairman Tinkham: All those in favor of approving the minutes of October 2, 2006, please signify by saying aye. So VOTED 6-0-0

BILLS:

- A. Expense: CPTC / Fall 2006 Workshop for S.Nolan on 10/19 - \$30.00
- B. Expense: Gas Mileage for Fall 2006 Workshop for S.Nolan on 10/19 - \$41.83
- C. Expense: Gas Mileage for Fall 2006 Workshop for M.Wong-Ryan on 10/19 - \$41.83
- D. Expense: CHAPA / Chapter 40B:Trends & Innovations for S.Nolan on 11/17 - \$45.00
- E. Expense: Gas Mileage for Fall 2006 Workshops for D.Tinkham on 10/17 & 10/18 - \$40.94
- F. Expense: CPTC/Fall 2006 W/S on Variance & Special Permits for M.Wong-Ryan - \$30.00
- G. Expense: Gas Mileage for Fall 2006 Workshop for M.Wong-Ryan on 11/9 - \$66.75
- H. Expense: Landlaw Specialty Publishers/2007 MA Land Court Reporter Renewal - \$187.00

The Board reviewed the mail and discussed other matter issues:

Mail:

- A. "Zoning Bulletin" – Annual Subscription Form

Upcoming Seminars and Conferences:

- A. "Chapter 40B: Trends and Innovations"/ Full Day Conference – 11/17
- B. "State Ethics Commissions Conflict of Interest Law Seminar – 11/28 at 5:30pm

Other Matters:

- A. ZBA to Finance Committee – Request For Transfer From The Reserve Fund
- B. Chief Lance Benjamino – Amanda Estates Project
- C. Charlie Seelig – Response to Geoffrey R. Duffy
- D. Finance Committee – Liaison Listing
- E. Charlie Seelig – Veteran's Day, Christmas Eve, Christmas Day, New Year's Eve, New Year's Day

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- F. Charlie Seelig – Capital Plan Submissions
- G. DHCD/Jane Wallis Gumble – 2006 Subsidized Housing Biennial Update
- H. Charlie Seelig – Updated Guide
- I. Old Colony Planning Council – Agenda for Meeting #436, October 25, 2006
- J. Board of Selectman – “Amanda Estates Project” Packet
- K. Deutsch Williams – Lounge v. The Town of Halifax Zoning Board of Appeals – Update As Of 10/20/06
- L. Beverly Smith – Blackledge Farm/Franklin Street
- M. Town of Hanson – Hanson ZBA Hearing Findings & Decision for Cast #06SP39
- N. Chairman Tinkham – Synopsis of Recently Attended Seminars for the ZBA

#599 – MARGARET & THOMAS FITZGERALD – 65 PARADISE LANE, HALIFAX, MA

The secretary read the notice of public hearing:

The Halifax Zoning Board of Appeals will hold a public hearing on May 3, 2004 at 8:50 p.m. in Meeting Room 1, Town Hall, 499 Plymouth Street, Halifax, MA on the application by Thomas & Margaret Fitzgerald to modify their original petition #571 in order to build a seven (7) foot by twenty (20) foot attached deck and a sixteen (16) foot by fourteen (14) foot attached enclosed screen porch to the rear of their proposed home at 65 Paradise Lane, Halifax, MA. Said property is currently owned by Thomas & Margaret Fitzgerald, PO Box 496, Halifax, MA as shown on Assessor’s Map #53, Lot #16. The applicants seek 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 #599

Two of the Board members, D.Tinkham and M.Schleiff, recused themselves from the discussion due to the fact that they are abutters to the property. Vice-Chairman Gaynor is presiding over this discussion.

T.Fitzgerald: Shall I recap what happened the last time?

R.Gaynor: Why don’t we recap? That’s a good idea.

T.Fitzgerald: I came in with a situation, order by pergola, quote-unquote, adding a small deck back there. You wanted to see some plans there.

R.Gaynor: Do we have them?

T.Fitzgerald: So, we have here 3 sets of corrections. I might point out the first one was here. I checked here, the porch. We had an open deck, a cute little pergola there which ended up to be impractical. Here is the copy of the original situation with this thing. That’s the one you have. That’s been changed to a deck. Yeah, that’s it. That’s the first thing. There’s a roof here, not a deck. It’s a roof.

R.Gaynor: The size and the dimensions haven’t changed?

T.Fitzgerald: Actually, it’s the same. Nice little porch. Nine (9) by Eighteen (18); this is twenty (20) feet from the front. This is an eighteen (18) feet porch.

R.Gaynor: So, nine (9) by eighteen (18), three(3) stays the same?

T.Fitzgerald: Yeah. No changes on the footprint at all.

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Board member, G. Walsh reviews the updated submitted plot plans to bring himself up to speed on the changes being made to the property.

G. Walsh: So this is the area right here, Mr. Fitzgerald?

T. Fitzgerald: Yeah, that's the porch area here. This is the street, front door right here.

G. Walsh: So, there's no increase to encroach on the front setback?

T. Fitzgerald: No, just the roof. Just the roof. Changes. That's the only change. Pergola was impractical. Let me say it that way. It was a frilly little thing that we thought we could cheat but it wasn't very practical. It would leak all year long. Snow comes through it and everything else. Rain come through it.

G. Walsh: And this is being changed just to an open deck?

T. Fitzgerald: The deck is yeah was the same thing. Just changing it from pergola. Pergola was above it. Take that up and put a roof. That's basically what it amounts to. It matches the house obviously.

R. Gaynor: Nothing else as far as an overhang or anything on that window or anything like that?

T. Fitzgerald: No. There? No, that was always there. There's no overhang. That was just a trim, a house trim. The question was over here. Someone had questioned it and the fact that we were putting a roof up here and not a pergola so we wanted to see a pergola...a roof and you wanted to see an updated plans.

R. Gaynor: Alright and then we move onto?

T. Fitzgerald: There was a deck that we had to get an extension over here because they had no second easement. This is a porch which is ten (10) feet...twelve (12) feet off the ground. So, I wanted to get a second easement off the first floor, so I got an extension from the Planning board...uh Conservation committee. This is a fifty (50) foot line right here. That's why we had to go to the Conservation committee. I wanted this to be a set of stairs going down, leading to the walkway going out to the street?

J. Reilly: Do we have that on this?

T. Fitzgerald: Yes. This is the plans.

J. Reilly: Where's does the water come in here?

G. Walsh: This might help. This orientation here is the same as this orientation here. So, the set of stairs that you're looking for is essentially what's here on this. Correct?

T. Fitzgerald: Yeah, just a little longer than that one really. You see, the chimney was in the way. There's a chimney here. There's also, on neither one of these plans, a concrete wall. This all had to be filled in nine (9) feet to get the septic system in here. So, in trying to get the staircase down here and the configuration of the wall did not allow it. The only thing to do is build a small platform out a little further and it makes it work. Otherwise, the configuration of the wall makes very poor construction. That's all.

R. Gaynor: You still have approximately fifty (50) feet over to the side lot line.

T. Fitzgerald: Oh yeah. That hasn't changed. Everything encroaches on that side. More than fifty (50) feet on this side.

R. Gaynor: Well, doesn't that come out beyond the fireplace now?

T. Fitzgerald: It comes right to the edge of the fireplace, the stairs.

G. Walsh: Well, this here says five-ten. This is four feet, so it's not up two feet plus or minus. So, if that's fifty seven minus the four is fifty three. So, you're still fifty one feet, two inches off that side line.

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T.Fitzgerald: That's it. We did change the vinyl, took it off. The whole house is cedar shingle.

K.Nessralla: Now, this is the plan you're going by? No more changes?

T.Fitzgerald: Yes, that's basically it. No more changes. The house is pretty much set right now.

R.Gaynor: When you said you went through...what was it... Conservation, you talk to them as far as, what...encroaching closer to the wetlands? You said something about going to the Conservation.

T.Fitzgerald: Well, I had to go to the Conservation to get that little increase in deck there, to get room to go down the porch. I was thinking about ending it there but that didn't work out too well. I wanted a second easement on either side of the back of the house. I had the front door, of course. As I said, this was up in the air. You couldn't touch the bottom of this from the ground. So, I wanted to be able to have a second easement, more convenient to have a back door there.

R.Gaynor: Any more questions from any members of the board? Anyone from the audience would like to ask any questions or come up and see the revised plot plans, you're certainly welcome to do that.

From the audience, an abutter to the property, Debra Tinkham, addressed the Board with a question regarding the petition at hand.

Tinkham: Mr. Gaynor, what has changed since the plans were approved and the set of plans that are presented tonight.

R.Gaynor: Basically, as far as. In the first case, nothing as far as the roof materials are being used. Correct me if I'm wrong. They show now that a regular roof will be put on the open across the farmer's porch or porch on the front. Just like an upgrade is what it sounds like to me. Shingles.

T.Fitzgerald: From pergola to a flat roof. That wasn't even a flat roof. That was just two by six's. Now, there's going to a firm roof. That was basically impractical.

R.Gaynor: So now there's going to be over the open farmer's porch, for a lack of a better term. The other thing, the second one as far as what I understand is just making access to the deck on the back. His proposed plot plan showed fifty seven (57) feet to the side lot line, to the left hand side as you are looking from Paradise Lane on the property. Now, it will roughly be about fifty three (53) with a small jog platform going around the fireplace. Other than that, that's it as far as I can see. You certainly may take a look at these. Do you want the old ones to compare it to?

Tinkham: Yeah. Was the upper deck part of the original plan from the back?

R.Gaynor: I believe it was. On my old plan, it shows it here.

T.Fitzgerald: That was always part of the plan.

G.Walsh: That was the original issue with the whole setback and everything else, if I'm not mistaken. Correct?

R.Gaynor: The open deck attached to the screen porch.

G.Walsh: This guy, right here.

Tinkham: Thank you.

R.Gaynor: Any other questions from anybody else in the audience? At this point, voting on this would be Jean, Kozhaya, you and I. I would entertain any motion in regards to a site inspection or where this is a revision, this is not anything necessary to do that where we've been out there before?

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The secretary proceeded to stamp the date of the hearing on the revised submitted plans to place into the petitioner's file.

- G.Walsh: Is there anything on the record already regarding that the deck with the pergola remaining open or anything like that?
- R.Gaynor: As far as the conditions?
- G.Walsh: Yeah and do we want to include that when now we are putting on a roof now and now it makes it a whole lot easier to close it up.
- T.Fitzgerald: The front roof?
- G.Walsh: Right. That's a stipulation that we include quite often just so you don't close it in. You don't make a three season room out of it.

Vice-Chairman Gaynor and secretary reviewed the conditions from prior petitions #571 and #599.

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

It was duly moved (J.Reilly) and seconded (G.Walsh) to amend your petition #599 to the submitted plans, stamped and dated November 13, 2006. The Board granted the amendment to the special permit to continue and extend a non-conforming home at 65 Paradise Lane, Halifax, MA as shown on Assessor's map #53, Lot #16.

The Zoning Board of Appeals grants this petition with the following conditions and amendments made to petition #599 are as follows:

- The material of the roof will be changing from vinyl siding to cedar shingles.
- The roof will be changing from pergola across the front porch to a regular firm roof extending across the front porch and front door.
- In regards to making access to the deck on the back, the former proposed plot plan showed fifty Seven (57) feet to the side lot line to the left-hand side as you are looking from Paradise Lane at the property. The new proposed plan showed a roughly fifty three (53) feet with a small jog platform going around the fireplace.
- All previous conditions set forth from petition both petitions #599 and former petition #571 remain in effect.
- The front porch is to remain open. The front porch cannot be enclosed.
- The modification granted was 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.

This does not derogate from the intent of the By-law. It is not detrimental to the neighborhood because the addition of the screen porch and deck will remain within the setbacks already in place with petition #571.

Vice-Chairman Gaynor called for a voice vote: K.Nessralla, YES; J.Reilly, YES; G.Walsh, YES; R.Gaynor, YES

The motion to grant petition #599 with changes passed 4-0-0.

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Informal Discussion with Mr. Scott Gilpatrick on Land on Upton Street, Halifax, MA

Tinkham: Mr. Gilpatrick, what are you up to?

S.Gilpatrick: I'm going to have to plead ignorance. Well, my mother-in-law does. She had three lots of land and she wanted to give them to my daughter and son-in-law. But, because she has four daughters and some other grandchildren, she didn't want to tick everyone off. So, she decided to give the land to my wife and I so we can then, give them the land to build on. Unfortunately, we didn't know that when we did that, it's partially attached to our land, we cannot attach it again. I guess is the word.

Tinkham: What are talking for square footage? Do you have a plot plan?

S.Gilpatrick: No, the reason we are here is to find out if, in fact, this is something we can do before or not before we spend getting plot plans and everything else done.

Tinkham: So, how many...what kind of acreage do you have on the property as it stands?

S.Gilpatrick: We have four lots, thirty (30) by eighty (80) that our house is on.

Tinkham: Is that a rough draft?

S.Gilpatrick: Yeah, this is my own. This is where my house is now on Dwight Street. These are the three lots that my mother-in-law owned and she gave them to us on Upton Street, up to this last one.

R.Gaynor: Was this ever one parcel? Not until you...

S.Gilpatrick: No. The only time I believe it was one was back in the 1800's when it was all part of Montpossett.

R.Gaynor: So, lots four hundred and twenty-four (424), twenty-two (422) and twenty (420) were owned separate, up until when your mother-in-law gave them to you.

S.Gilpatrick: Right.

R.Gaynor: I don't understand why they automatically became attached.

M.Schleiff: I own a house lot on Lincoln Street and they were divided up as campsites like you would divide up a development; and you were aloud to buy one lot or two or three...how many you wanted. I have a copy of a map at home that shows they split that whole section up into campsites.

R.Gaynor: Right. Was there a separate deed for twenty, twenty-two and twenty-four?

S.Gilpatrick: Yeah, I have a separate deed here, just for those three.

G.Walsh: Zoning laws are very clear in that continuous lots held by the same owner or the one order of kinship or something is treated as one lot. So, you can have ten four thousand square lots that, you know, may be grandfathered if owned by ten different people. But, the second one person owns all of them, I believe, the zoning laws are clear in that is treated as a single parcel and therefore, un-grandfatherable, if that's even a word.

R.Gaynor: But they were separate prior to...when did she deed them over to you?

S.Gilpatrick: A couple of months ago.

M.Schleiff: What do you call separate?

G.Walsh: I'm not sure that mother to son is a clear enough separation in ownership. I think they are pretty clear because what was happening when all these zoning laws were coming through. Brothers that were in business together; they called it checker boarding. Brothers would own separate lots, so brother A-lots were continuous and they got wise to that pretty quickly; and that is why there's that wording above the first order of kinship or whatever it is. It doesn't matter as far as zoning laws are concerned.

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- Tinkham: But, you see what's going to happen though... it was going to end up that two homes on a single parcel, which is not allowed; and if they sell off these three, they're creating their own hardship and you can't get a variance from that.
- G.Walsh: I mean if you have eighty thousand square feet, you're all set.
- M.Schleiff: No, you can't sell it off now. I mean a real estate lawyer would tell you exactly what you can, what you cannot do.
- S.Gilpatrick: I already talked to a lawyer and basically, the lawyer said to come to the town and see what the town can do to help you get through the mess, not knowing what she did, you know, my mother-in-law, was doing, if she had just given the land directly to them, we would have a better...
- Tinkham: Not sure if that would have worked either. I mean if she owns both of these parcels?
- S.Gilpatrick: No, we own this one.
- Tinkham: Which is the one your mother?
- S.Gilpatrick: These three, which were owned separately. She's owned them forever. She lives on the other side of Dwight Street. She just owns those three.
- Tinkham: They're just open lots?
- G.Walsh: I may be wrong in thinking that it extends from a grandparent to a child, but I'm pretty sure it's clear that if it's in the family, it's considered one family.
- R.Gaynor: Yeah, but it wasn't one parcel. They lived there... here with a separate deed.
- G.Walsh: I don't care if there is a hundred deeds or one deed or three deeds, as this case may be. These were owned by the grandmother. The same family as these, they are treated as one lot. Like I said, you were getting subdivisions.
- R.Gaynor: I understand what you were saying there.
- K.Nessralla: I think this is a matter for the court. You should go to the court and file. Have a lawyer, go to court and settle this thing for you first before you come here.
- Tinkham: You need a real estate lawyer.
- S.Gilpatrick: You think this is pursuing or like, we haven't got a shot and a prayer and just give up on this.
- K.Nessralla: We can't give you one right now. I mean none of us agree. So, your best bet is a lawyer.
- M.Schleiff: And who's to say by the time you get back here, we're all still here or some of the members here are gone and the ones who don't, are.
- R.Gaynor: But, as a month ago, she was on another street.
- G.Walsh: And your deeds are recorded for the two lots combined?
- S.Gilpatrick: No. They're two separate deeds; one for our house.
- G.Walsh: But you've recorded ownership?
- S.Gilpatrick: Yes.
- G.Walsh: I've seen these more than once. I've worked for various municipalities and I've never seen one turn in favor of what you guys are asking. I wish you all the best and don't take my word for it.

Discussions continued with the Board and Mr. Gilpatrick regarding his recorded non-conforming. It was the opinion of the Board of Appeals that Mr. Gilpatrick to re-address this situation with his real estate attorney, should he decide to attempt to build on his recently acquired lots.

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Informal Discussion with Mr. Walter Greaney on Brookside Farm Subdivision on Hayward Street, Halifax, MA

In attendance for this informal discussion was Mr. Bill Armberger, Attorney for Mr. Greaney.

Tinkham: Okay, what are you two up to?

B.Armberger: Walter owns off of...over the past year or so, twenty acres of land off of Hayward Street from Janet Bradshaw. In turn, the Planning Board a four house subdivision. The septic systems have been designed and approved by the Board of Health. Conservation Committee is issued order of conditions for all of those. We appreciate the Board taking the time just to informally give us some guidance. Walter and his engineers are looking at here and he would like to put forward to the Zoning Board a proposal for a multi-family residence; and the question I had in reading the by-law. I have had a couple of sub-divisions approved before the Planning Board, but I have never been in front of your Board before, is as follows. There are couple of twists here that are actually good twists and not in a bad sense but all the criteria which you have in your by-law for, as far as approximately twenty units of land; when you look at the wetlands anticipating, having talked to the Conservation Commission and what they need for setbacks and all these various in sundry things. My reading and I don't mean to be presumptuous, and would like to ask your opinion is that multi-family by-law appears to me to be a by-law that was envisioning that you have kind of a like large type of apartment buildings. I don't mean large but four units to six units as opposed to have townhouses; and what the concept which Walter has here, and he's also met with the fire chief on a number of issues, is to have a fifty-five and older residential development where there are. Basically, and there are some plans which he has. They're relatively modest and have first floor master bedrooms on them. They also all have mostly two car garages or one and one-half car garages. The problem which we want guidance is, that is, having met with various in sundry officials of the town, including, Walter will talk a little bit about that, he met with the housing committee, Elaine Dolan, who is the Director also house premium themselves. It is possible to do this because the two problems that they have that would aesthetically for people living space privately. The architect and engineers think this is a good layout of what it is. That's their opinion. It is possible that there's two issues which under your by-law, one is it says in between any buildings there's suppose to be one hundred feet between any building. That doesn't have a hundred feet between the buildings. There is an alternative design where basically, in another words, basically they're all together. But, in this way, it kind of gives everyone a little privacy on the side yard and those things. The second thing, which can achieve by making one large building and then maybe a single family house there and a single family house here is, you have a seventy-five foot set back, which is required under the multi-family district; and in the single family home, I know it's fifty feet. If it was, and again, what I'm really asking your protocol as I have no experience and I don't mean to be presumptuous to suggest anything. That's why we're here; is if it's fifty feet or more, it gives it more flexibility as far as moving the buildings like this and maintaining some separation, aesthetics and things along those lines. One of the things that Walter met with is he recently had in Marshfield a fifty five and older development, fourteen housing units that's going to be approved. One of the things

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Marshfield has, a lot of other towns, they have affordability components. It just so happens dealing with affordability components in Marshfield, it's just ironic that Elaine Dolan also is the Housing Director in Marshfield too. So Walter said and went to them and he said at this Brookside Farm, if we can do something like this. You know obviously your town needs affordable housing. Walter said voluntarily, I know it's not required under your by-law, get you two units of affordable housing on here and they thought that was a great idea obviously. As part of the discussion involved, they said well, we don't know if it's better if you have two of these units or if the preference of what they said and what if it's not going to work. What we prefer to do is, if you won't do this, is to buy two townhouses and then, through the housing authority, sell these as affordable at a reduced price to people so they can afford them and it fits within the state guidelines to make them affordable housing from a town standpoint. So Walter sent letters back and forth through the nets. Kind of a work in progress because, they said their preference was that they rather do that; and also, Walter had an undertaking and said if he did that, up in several other towns, they have for the, you give a one time amount of like six thousand dollars, so that the housing authority has that. So, in another words, there's a restriction, a reconveyance restriction that has to go with affordables. So, when that's reconveyed and that gives money to the housing authority has it to monitor that so in the future, when other people did that and also to offset, basically, the types of units. Again, obviously if he was buying two townhouses somewhere in town, it have to be acceptable. Number one the town makes a commitment to refurbishment to put various in sundries to make it nice. But, that's kind of side issue that Walter said. But, I guess, unless you wanted to add something, Walter. That's about it. We just wanted to just get a feel from the Board as to what are things you think might be good ideas or not such good ideas so that we can come up something more concrete.

G.Walsh: You said you had an approved plan for...

B.Armberger: Yes. Marshfield.

G.Walsh: Oh. I thought this you had.

W.Greaney: Approved subdivision.

K.Nessralla: You have an approved subdivision there for four houses there.

W.Greaney: Correct.

G.Walsh: Four lots?

B.Armberger: Four lots.

K.Nessralla: You can put four houses on there. Did that fall through?

B.Armberger: Oh no.

K.Nessralla: You just wanted to change the footprint.

B.Armberger: Yeah. The road would be exactly the same. As a matter of fact, in the Spring, one way or the other, they're going to start putting in the road.

R.Gaynor: So, you're going from four to nineteen?

B.Armberger: Well, it can go to four single family houses but under the multi-family by-law.

W.Greaney: It's twenty acres.

K.Nessralla: What about the septic?

B.Armberger: You would have it. According to all the perk test and various in sundry things done, it is very good material out there and they would do whatever is necessary to the septic, separate septic systems to apply to both your by-laws and the Board of Health.

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- K.Nessralla: That wouldn't impact the brook that's going by there.
- W.Greaney: The brook is over here. Significantly off. That would be engineering.
- G.Walsh: Did you do eight perks out there? Did you do twenty perks? Hundreds?
- W.Greaney: Oh my goodness. No, not hundreds. But if I said we did two dozen, I might be missing it by one or two. We dug a lot of holes.
- G.Walsh: But you can get eighteen.
- R.Gaynor: Nineteen.
- W.Greaney: Some of these...well, you don't use separate without toying without the developments. There's nineteen showing there. The other projects I've done, there's been joint septic systems. Common septic systems for these projects, like the one in Marshfield, one system for fourteen units; it all has to all comply with title V.
- R.Gaynor: How many bedrooms in each unit?
- W.Greaney: Here's a layout of the units. This was evolved from meeting with the housing authority and some of the things that...
- R.Gaynor: In Marshfield?
- W.Greaney: Well, no. Also in Halifax. I met with the housing authority twice. What we're looking at here is master bedroom on the first floor, master bath on the first floor, large walk-in closet on the first floor for the master bedroom, kitchen, living room, dining room all on the first floor. Majority of these units have sited two car garages and it's a little oversized two car garages. The second floor, a lot of it open to the first floor where a bedroom and a full bathroom, laundry room on the second floor. There's about eighteen hundred square feet of living space per unit.
- G.Walsh: How much area of your upland do you have in your twenty plus acres?
- W.Greaney: Upland...somewhere between eight and ten.
- R.Gaynor: How long is your road?
- W.Greaney: The road right to hear is, I think, a little under thousand feet. It's definitely under a thousand. I met with...
- G.Walsh: So, that's an acre of your upland for the road.
- W.Greaney: No. My calculations do not include any of the road.
- G.Walsh: So your total upland is...
- W.Greaney: Somewhere around eight acre, excluding the road. When I'm talking about this space, the acreage, I don't include the road.
- B.Armberger: I welcome to answer your question about the septic system. Right now, there's ample room.
- W.Greaney: But what I'm saying there's four four bedroom systems, which is seventeen hundred sixty gallons of flow. There's fifty five, that's a hundred fifty gallons a unit which would require two thousand eight hundred fifty gallons. So, there is a difference but not a big difference. Here's a preliminary designs of what they'll look like. What we're trying to do is go for sort of a Nantucket type of traditional New England farmhouse look with these units. The difference between the so not all these units look the same, be it the rooflines, frontage. We'll break it up to not look so cookie cutter. So, it's got a better design that way. The design of the units and the separation was a recommendation by the housing authority and the Halifax Fire Chief, as opposed to one big building. The spread out, if you notice on the layout inside, what it does is it gives it much more natural light in the unit. So, the sharing on these two units here would be the wall between the garage and the master closet. Those offer privacy.
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- M.Schleiff: In your plan, is that looks like it almost opens to the garage below on the garage.
- W.Greaney: No. The garage is just a thing you could see.
- M.Schleiff: It's almost looks like there's a floor there.
- W.Greaney: No. There's no floor there. On the second floor right here, that bedroom would be over this area here. It's open in this area here to below because it's a cathedral ceiling. In this suite here, over the living room here, is a vaulted ceiling. It's a good volume.
- M.Schleiff: It just looks like there's still wall lines on the second floor.
- W.Greaney: No, not over the garage. It's a two bedroom unit.
- B.Armberger: The question is my reading and again, of your by-law. There's two issues which they have here. One is this is showing at fifty or more feet off the road and it's suppose to be seventy five feet; and also, if you have any buildings, there's suppose to be a hundred feet of separation between them which you couldn't do this. You could probably do two buildings, probably three buildings. Aesthetically, it's better to think, I don't know. Would that be a major? I mean if we applied for a special permit for a multi-family housing, is that something under that by-law, that you folks could approve under the waiver or does that need a separate variance? I guess that's what my question is.
- M.Schleiff: So, where is the setback change? Can you show me? You're thinking about seventy five feet to seventy feet from the road?
- B.Armberger: Right here on these units right here. If we move back seventy five feet off the road, off Hilder's Lane. Mr. Webby asked us to keep it the same. We said sure. But right here, you got fifty feet. If we go seventy five feet, that makes it a four unit building, pushes the building together. So, we just figured that it looks better where we separate the two units like that.
- Tinkham: The yellow area is wet?
- B.Armberger: The yellow area is wetlands. Yes.
- G.Walsh: If you'd push these two units together. If you'd make 15,16,17,18 one building. They'd be seventy five feet.
- B.Armberger: Seventy-five feet off the road, no problem.
- G.Walsh: So what we're looking at is having a four unit building that conforms to our setbacks as oppose to having two two unit buildings that are looking for a waiver or variance...whatever you want to call it of twenty five feet to make them two unit townhouses.
- B.Armberger: Right and similarly up here, you could push...like in another words, Walter. Is this seventy foot out?
- W.Greaney: This is just preliminary engineering.
- G.Walsh: So, the actual layout ends at the cul-de-sac? That becomes the driveway?
- W.Greaney: That becomes the driveway.
- G.Walsh: So, really we're only talking about six units? Is this seventy five here?
- W.Greaney: That's seventy-five feet there.
- G.Walsh: So, we're really only talking about four units.
- W.Greaney: We're just trying to get as many duplexes as oppose to larger buildings as possible.
- M.Schleiff: So, there's two issues: the seventy-five to fifty and then, the clear of the hundred feet building.
- W.Greaney: The separation of the hundred feet between buildings. It says in your by-laws there must be a hundred feet between buildings. We're trying to get away from the larger buildings are because it seems what the by-law addresses is if the large building guards
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the parking. We're trying to get away from that. We've done preliminary traffic study on the road. Mike Abben (sp?) of Abben and Associates out of Wilmington did it and for a two day period, there were three hundred twenty cars that went down Hayward Street or about at the busiest times. One and a half to two minutes. Site lines were all fine in regards to the federal guidelines and the impact on the townhouses will be negligible.

B.Armberger: One of things on the side from Planning Board process and I know obviously if we came to this board and were granted a multi-family thing, then you would also have to have the site plan approval back to Planning Board. But, when Walter said it was preliminary engineering, the entire site has been topped, engineered, drainage, the whole nine yards. Ralph Pole and Barbara Tercell are the two surveyors and engineers that Steve Iris is the wetland scientist that has done it all.

G.Walsh: Do you have a conceptual conforming design? Do you have it with you?

B.Armberger and W.Greaney proceeded to show the Zoning Board their conceptual design.

B.Armberger: One of the things that Walter is directed is the design of the way the units, and again, that's all conceptual. From the experience of fifty five and older, this is just conceptual.

The Board reviewed the conceptual plans that conform to the setbacks versus the conceptual plans proposed by W.Greaney to be aesthetically pleasing.

W.Greaney: Honestly, It's not as nice. I don't think it's as good a layout versus the other one.

R.Gaynor: Let me just throw this out. Why out of the nineteen buildings and the second one, why wouldn't two of them be affordable housing units?

B.Armberger: Well, the answer to that is that we would be willing...well, actually Walter would be willing.

R.Gaynor: He's got the dough.

B.Armberger: The housing authority, actually, thought that would be better to go out, buy two units.

R.Gaynor: Where are they going to come from?

W.Greaney: Let me ask the question further. The exact why's and the where's; the why is because it's fifty five and older, so there's an age restricted. If we do it off-site, there would not be any age restriction so the housing authority would have more flexibility to have a family if a family needed housing. The other consideration was good neighbors. People were living here at market price and other people were paying less than market price; and also, pro-rated on, let's say condo fees, it causes really bad blood within the neighborhood. That's what came up there. So, that is the major reason for why we should go off-site. And where would we find existing stock that would be acceptable to the housing authority?

R.Gaynor: Did they give you examples or possibilities; because there would have to be deed restrictions.

Tinkham: I don't understand how they can do that.

B.Armberger: What happen if I can explain this because it's a little complex? Walter intended to have them in there and the principle thing is that, one of the things, and I know this because of other communities. In order for people to qualify for affordable house, when you're fifty five or older and even though you think there would be a lot, it's rather strange and

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does not give the housing authority a lot of flexibility, because normally, I have in Scituate, which is the condo development and the developer voluntarily gave six units to affordable housing, it was tremendous. Three of the units went to guys who were actually, at the time, in Iraq with their wives living back here. If that were a fifty five and older project, you would not have been able to do that and because the qualification on assets and incomes, when people are over fifty five, it's more difficult to do that. I've talk to some non-profit entities and that usually, when they hold fifty five and older offering, whether it's under 40B or voluntary or inclusionary zoning, that one of the things they always say is that you're going to have some difficulty filling that. So, from the housing authority, who were perfectly willing to have two of these to be affordable, and again, it's one of those things where, when you are doing something that's not required, you kind of ask them what do you want. Just because Walter originally said he thought it would be good to have it there, they said they thought they could get a better housing situation for the town is if they were off-site and then it would not be restricted to fifty five and older.

W.Greaney: It was done before where it is required for inclusion.

G.Walsh: An off-site 40B is potentially replicating what is required under 40B as a concession for whatever it is you're asking.

W.Greaney: It's not a 40B.

G.Walsh: No; helping a town fulfill those requirements.

W.Greaney: Yes, in that respect.

R.Gaynor: Carver did that. Carver had an over fifty five, 40B plan. They had no problem filling that.

B.Armberger: Fifty five and over 40B? One of the concepts is when you're doing something you don't have to do, is because you think the project is good on its own. But, it's something they do a lot of things. Walter has other subdivisions, other property down in town here, so hopefully, he's going to be doing other business here, so it makes sense to do something good for the community. Believe me, he doesn't want to get involve with doing something that he, in another word, doesn't have to do. He'll do whatever anyone wants. If the town says it, that's great. But, the whole point from the housing authority is like, Rose knows what they like. Because originally, that's where we thought it to be so we want to make sure the configuration, units and all that stuff are all there; except, they said their preference was is that you go out, you get two units. In another words, buy them from market rate and then, under the town, when they set up the lottery and all that stuff that you sell them at a reduced price so that they qualify for affordable housing.

R.Gaynor: Same sort of deed restrictions?

B.Armberger: Absolutely. Same deed restrictions are required by mass housing.

W.Greaney: Except it's not age restricted. That's where the difference is as oppose to on site. I know that we sat twice for a number of hours on the topic of how do we know these units going to be in good condition that you're going to turnover? I said, look, let's pick a number. Let's put a number on it and we'll agree to put up to that amount of number which is five thousand dollars per units for any upgrades that are needed in those units.

R.Gaynor: In addition to the base price.

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- W.Greaney: In addition to that and also, six thousand dollars per unit for administrative fees. So, I'm buying the units, selling them for cheaper and here's the check refund for eleven thousand. Goodnight. That's really what I'm saying. That's what I've done in Marshfield and other developments where it does inclusionary aspects to it.
- B.Armberger: With all that said, we recognize the fact that you have a special permit agreement already so, bottom line is, if you folks think there's something better, then absolutely, Walter's willing to do something different. If you think it's better here, then fine, we'll go back to the housing authority that there's a difference of opinion and maybe we should go back.
- Tinkham: What about the subdivision plan you currently have with the Planning Board right now?
- B.Armberger: It's recorded with the registry of deeds and currently filed. They can hold whatever quotations to go in and start building roads, infrastructures, septic systems. Designs have been approved.
- G.Walsh: It's just a subdivision approved. That's not a subdivision plan, right? I mean there's no roadway, utility plans yet, right?
- B.Armberger: Oh yeah. Sure there is. There's like a fourteen sheet.

The Board, Mr. Armberger and Mr. Greaney proceeded to review the two different proposed plans for both the four home divisions and the fifty five subdivision, regarding drainage basins, septic system locations.

- Tinkham: I think my initial concern is the one entrance. I mean if you have fifty five plus, I see more potential for ambulance runs up there, more fire trucks; and if something should happen to the end of Hayward Street, how do they get in there?

The Board, Mr. Armberger and Mr. Greaney are reviewing the roads from the plans based upon Chair Person Tinkham's valid question.

- G.Walsh: Based upon your understanding of our zoning requirements and zoning and planning laws, you think you can get that eighteen lot continuous unit plan approved. You've got the seventy five setbacks between buildings.
- B.Armberger: It meets all the dimensional requirements but obviously it's a special permit so it's subject to all the criteria. We think it's a good plan. You see the whole conceptual plan, there's five variations. But the other thing, this was Walter's concept for the fifty five and older thing. Again, if you think that it is not a good fifty five and older and generally speaking, towns like fifty five and older because demographically, there's a ton of people who have houses who are tired of doing their lawns, it's a larger house and they're looking to downsize. The demographics are enormous south of Boston and that whole thing. So, that's a good concept and the other thing too, is there's always building houses, school children added to the schools and their expenses which are usually mitigated a lot by having fifty five older housing.
- R.Gaynor: Who would you estimate to be a fair market price on these nineteen units roughly?
- W.Greaney: About probably, best guess range, \$275.0 to \$375.0 per range. Somewhere in that range.
- J.Reilly: For the affordable one?
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W.Greaney: Oh no. For the market. Affordable depends on the family size, whether it's, you figure three or four generally. It can go anywhere between \$140.0 to \$175.0, depending on the range, depending again on the family size.

J.Reilly: That's a lot less than some others out there.

Vice-chairman Gaynor asked Mr. Greaney about his opinion on another fifty five and older development in Parsons Lane and to re-address the concerns that Chairman Tinkham had regarding the single lane road and ambulance runs.

W.Greaney: These, in other towns we've been talking about, are deemed as active adult community. It's not what you really consider for senior citizens. Generally, these are geared towards fifty-five to sixty-eight. It's the general demographic that buys these. The ambulance runs, I'll tell my traffic consultant to look into that. But, generally speaking, that is not my experience on these types of units.

Tinkham: How wide is that road going to be?

W.Greaney: The road itself? This is a fifty foot layout right here. That's a fifty foot layout.

B.Armberger: Whatever the rules and regs are. Is it twenty six or thirty feet? I'm not sure.

W.Greaney: In speaking with the Fire Department, there are a couple of things that he brought up worked in being able to turn around a vehicle at the end. So, we incorporated something that we show we can turn around a vehicle or back in. That can be addressed there.

R.Gaynor: There's a big issue with him. He mentioned that before.

W.Greaney: We can address that. That's something we can address. He said. One of his suggestions and I quote him, because he brought it up was that down the end here, you might want to look at sprinklers. I said to him in other developments what I have done, when I've heard that question is that I use hardy plank. If you're not familiar with hardy plank, it looks like clap wood but it's made out of concrete. It's a stone product and I've used that. So, he brought that up, sprinklers down here and we also said, although it's five hundred feet for hydrants, we'll put an extra hydrant if that's a concern. That's not a problem and obviously, it'll be a loop system. That's where we're at.

R.Gaynor: I, personally like the space between the buildings as oppose to them all being there.

G.Walsh: But I think for me, I need to know and I need to see the plan that conforms to the multi-family that you can do it and then, from there, let's back off and get to something that's more aesthetically.

W.Greaney: On that plan there, what are you specifically looking for?

R.Gaynor: It's all right here.

W.Greaney: No no, but it's not right there as far as all the engineering, draining calcs and all that stuff.

B.Armberger: What want you want us to do, if I understand it, is to show us that you can have nineteen units here, conforming the way the by-law is writ, right?

G.Walsh: Correct.

B.Armberger: Because the whole concept being is that you don't want to add more units than you would have had on the special permit? Let me ask you two things. There are other options here. What I'm saying, overall, there's a good village feels to this. There's another way to do this too. If you wanted to turn two of these into single family lots, so

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then you have instead of having nineteen unit residential development, then you have two family lots and then you have twelve unit or eleven units.

G.Walsh: Again, before you shoot yourself in the foot, let's start with the conforming, maximize return, conceptual design and back off from there; and then as issues come up, maybe we take one of the two units because a neighbor has a concern or something. They're all real issues and you have some concessions along the way.

B.Armberger: Can I ask one more thing and again, I really appreciate it? If we got those things and came back, got the information back and speak informally again, is that okay?

M.Schleiff: What things? What exactly are we asking him to get? Conceptual plans?

G.Walsh: For me, I've looked at enough plans day-to-day, I have a sense from that second drawing of what it will look like and I know what I would like it to look like but, from the Planning Board, I don't know if that meets their requirements. I haven't done a preliminary site plan review to know if what you're telling me is fact.

B.Armberger: But, let me ask you for protocol. My understanding is that if you folks are approving this and also the use, we'd have to go for site plan approval. Right now, that road, drainage, toppled and everything has been engineered, consulted and even looked at. None of that is being changed. The only thing being changed here is location of housing units and different housing units, which obviously, going back to the Planning Board, if this, in fact is approved by the Zoning Board, then, what you say is if there is a different in drainage A and now, there's a drainage B, if there's this, there's this. In another words, this is an add on. They've already approved all the other things. So, again, you would like to see, under your multi-family bylaw. By the way, quick aside, my correct that originally when that was formatted that it was geared towards, kind of like buildings with multiple apartments in them?

Tinkham: Condos.

R.Gaynor: And then, we have those duplexes that conform to those on 106 there?

B.Armberger: Okay. So, in another words, definitively, under the by-law, if we're seventy five feet off the street and if we have a hundred separation between buildings, this is what we look like.

G.Walsh: Right and then this gives us a sense from the abutters where their concerns are and what can be done to accommodate the conditions they have.

B.Armberger: If I can speak to that for a minute and we will get that. Mr. Webby is an abutter here who we've worked actually, near the process, we've worked with Mr. Webby and we'll get something if you need it, and he's happy with this. In another words, we're helping him with some drainage situations and helping him with the driveway.

K.Nessralla: He's not the only abutter though.

B.Armberger: Yeah, I know that. Okay, so..

G.Walsh: I'm not well verse in the process that leads you back to us again, the next time around.

B.Armberger: Well, what I'm saying is we can apply but that's the whole reason. We don't want to throw darts in the air. We think a little guidance, this would be better than that. Obviously, we want to do something that's acceptable from the town. That's good for the town.

Tinkham: Did Chief Benjamino have a problem with that one access road?

W.Greaney: He brought up that he has a problem. He doesn't like to see anything over a thousand feet long for access because of the size of the department and, I guess, they have to carry hoses.

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- R.Gaynor: The length of the hoses is a thousand feet maximum.
- W.Greaney: Right. We talked about that and then, out of that conversation came the ability to turn around the vehicle down the end would be one of his concerns. Then, he brought up the part of sprinkling the buildings down here would be something that he would look at.
- G.Walsh: And that's all going to come out at the subdivision approval process. The feedback you need from us is whether we would prefer, at this point, would entertain the idea of fifty foot instead of seventy five foot, and then, rather mashing them all together, you put a little separation so then everyone can have a vegetable garden.
- W.Greaney: Exactly and privacy.
- G.Walsh: Are you going to have one of those covenants here that says, you know, your trims got to be green and your car's got to be blue.
- M.Schleiff: There's already a covenant. What is on the covenant you got now, pertaining to the lot?
- B.Armberger: No, it's the planning board. Just a standard planning board covenant insuring the construction of the roadways, that you can sell anything or do anything.
- G.Walsh: No, but I've seen these types of townhouse units go in where your grass can't be anymore than two and a half inches...
- B.Armberger: No, but this would be only because the condominium association did in the condominium documents and like, maybe, they'll hire a company that cut their lawn and all that stuff. It's your backyard. You can plant whatever flowers, vegetables.
- M.Schleiff: Would that be under housing authority? Wouldn't that anything to do with housing authority?
- J.Reilly: I'm just curious. This is just a silly question for me. When they go in and there's like a new trend and they have a grey door. Is that forever? Can they have a different front door?
- R.Gaynor: You said the units are going to be similar to each other.
- W.Greaney: No, well, there's two parts to that. We're trying to make the units look somewhat differently. Let's just say that this was where it was, the one we all agreed upon. The one with the separation. If you wanted to do something differently in the rooflines, just the front looks of the building, so they don't look like cookie cutters. That's how we can make it look different. There would be approved color schemes that people could have on doors but that would be part of the condominium association and once you draw that up, the neighborhood could amend it. Bill can speak on that.
- B.Armberger: But, generally, you have a connected feeling. Like, one would kind of look like a cape, the other might look like a gambrel.

The Board will continue the informal discussion until Monday, December 4, 2006 at 7:15pm.

Chairman Tinkham - Synopsis of Recently Attended Seminars for the Zoning Board of Appeals

Chairman Tinkham proceeded to discuss recent seminars that both Chairman Tinkham and Secretary have recently attended and that copies of the seminar packet will be readily available at the Board's request. The secretary attended a seminar for "Variances & Special Permits". Chairman Tinkham discussed the seminar pertaining to "Writing Reasonable & Defensible Decisions", where the key points regarding this particular seminar is to be very specific of what we talk about, we do not, in holding a hearing, to address an applicant by their first name; to always keep is very professional. For

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instance: “Mr. Fitzgerald, Mr. Gaynor”. Don’t go on a first name basis as it may come back negatively. The Board should also be very specific about who attends the hearings, when the notices were sent, when it was published, which is kept within each folder. Scrupulously acknowledge the open meeting law and the conflict of interest law. Make sure everyone can see and hear the entire procedure. It is the Chairman’s responsibility to keep order. There should be no argumentative debate. There should be no unruly, disrespectful behavior, racial or ethnic slurs. We need to prevent asking questions at the same time to avoid missing any pertinent questions or comments are being made. Avoid making personal remarks, even as a joke. Avoid familiarity, such as petitioners or members of the audience by their first name. No talking to each other after meetings. In regards to site visits, site visits are arranged by the Board at a meeting and scheduled to occur before or after the hearing process. Site plans are not open to the public and that the petitioner has the right to refuse to permit neighbors to go on their property. The Board can address concerns from the neighbors but that is all.

Another meeting Chairman Tinkham attended was the seminar for “The Basics of Reading a Subdivision Plan” and brought back a seminar packet for the Boards reference and/or review.

The last attended meeting by Chairman Tinkham was a seminar for “Comprehensive Permits Chapter 40B and Regulations. Seminar packet for the Boards reference and/or review. Chairman Tinkham informed the Board there is a one time 40B grant request of ten thousand dollars. Also, Chairman Tinkham reminded them that there are two potential 40B’s, Blackledge Farm and Amanda Estates. As of now, the Selectman have sent a letter in response to Blackledge Farm and, as for Amanda Estates, the request went directly to the state as those responsible for this particular project may not be aware of the protocol.

Chairman Tinkham discussed the voting criteria should a member of the board misses a meeting, per a memo from Charlie Seelig, dated May 24, 2006.

The hearing was continued until December 4, 2006 at 7:00 pm.

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

Respectfully submitted,

Marion Wong-Ryan,
Zoning Board of Appeals Secretary

It was duly moved, seconded and VOTED to approve the minutes of Monday, October 2, 2006 as presented/corrected.

Debra Tinkham, Chairman
