



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, September 16, 2013

The Halifax Zoning Board of Appeals held a public hearing on Monday, September 16, 2013, in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Debra Tinkham, Robert Gaynor and Peter Parcellin were in attendance.

Kozhaya Nessralla was in attendance, arriving at 7:10pm.

Vice-Chairman Gaynor called the meeting to order at 7:10pm.

Petition #794, Melo J. Spencer, 21 Dwight Street, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, September 16, 2013 at 7:00pm in Meeting Room 1, Town Hall, 499 Plymouth Street, Halifax, MA on the application by Melo J. Spencer to amend her residential use(s) from a Single-family home with an In-law apartment to a Two(2)-family or duplex dwelling to his home on 21 Dwight Street, Halifax, MA. Said property is owned by Melo J. Spencer, as shown on Assessor's Map #19, Lots 523-542. The applicant seeks a Special Permit under Table of Use Regulations (Section 167-7C), in accordance with the Zoning By-laws of the Town of Halifax, Schedule of Use Regulations (Section 167-7), page(s) 167:25 & 167:26. Area is zoned Residential. Petition #794

Applicant, Melo Spencer was present to speak to her petition.

The public hearing began by apologies from the Board to the applicant for the delays of the petition. The Board explained to due unforeseen personal/family matters, it conflicted with the public hearing dates causing the delays. It was unfortunate but things of this nature happen without warning.

The Board addressed the matter that Ms. Spencer hired an attorney but had nothing in writing from the applicant that she is being represented by an attorney but a call to the office of the Zoning Board of Appeals from an attorney reprising the Board verbally. Normally, the Board would require something in writing of release of authorization and/or representation will be other than the applicant.

Ms. Spencer explained her situation that as her mother passed away, the financial responsibilities/taxes on her property is difficult to maintain on her own. She basically reiterated what she explained in detail in her petition application in writing. Seeing that her property was approved for an in-law apartment years ago, she was hoping to turn the main part of the home into a income producing apartment as she has resided in the in-law portion of the home and is content with remaining in that space.

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The Board reviewed the layout of the interior of the property, discussed the open area which would impact the main house to the great area. The Board discussed that should this be the area which separates the main house from the great room, then the potential renter must have access by key to the second egress. That would need to be a stipulation that the applicant would need to comply with. She accepted the stipulation. Also discussed was conditions that would need to be agreed to and that special permit goes with the applicant and not the property.

Chairman Tinkham opened the public hearing to the public.

Abutters, Kevin & Leona Carrico of 28 Upton Street & Sandra Rigo of 25 Upton Street were in the audience.

The abutters were all in favor of the applicant's request. They also made mention voluntarily of how the contractor did a less than stellar construction job when building the in-law apartment.

It was duly moved (K.Nessralla) and seconded (R.Gaynor) to waive the on-site inspection. So VOTED by voice 4-0-0.

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to grant your petition (#794) for a Special Permit to amend her residential use(s) from a Single-family home with an In-law apartment to a Two(2)-family or duplex dwelling to her home on 21 Dwight Street, Halifax, MA, in accordance with the Zoning By-laws of the Town of Halifax, Schedule of Use Regulations (Section 167-7), page(s) 167:25 & 167:26.

The permit was granted as the home had a pre-existing in-law apartment and the due diligence of the applicant to legitimize to an income producing apartment by filing for a special permit. This petition was granted as it does not derogate from the intent of the bylaw and will not be detrimental to the established character of the neighborhood.

The conditions for granting the special permit are as follows:

- **The special permit shall run with the owner and not with the property. The special permit is not transferable.**
- **Should the conditions for granting the special permit for the income producing no longer exist, the special permit shall become null and void.**
- **The applicant agreed to the rental unit must have a permanent second egress from the main house to the great room on the first floor by key access.**
- **The applicant agreed to submit a copy of the standard rental lease agreement being used for the rental unit, specifically detailing the accessibility of the second egress on the rental lease agreement.**
- **The applicant confirmed that parking is permissible for the rental unit on the property.**
- **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.**

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Please be advised that all variances and special permits shall comply with all the rules, 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 Clerk (9/19/13) 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: R. Gaynor, YES; K.Nessralla, YES; P.Parcellin, YES; D.Tinkham, YES

The motion to grant petition #794 passed 4-0-0.

Chairman Tinkham reprised Ms. Spencer of the procedure following approval of the petition.

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to adjourn the meeting. All in favor and so voted by voice 4-0-0.

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

Respectfully submitted,

Marion Wong-Ryan
ZBA Secretary

Debra Tinkham
Zoning Board of Appeals, Chairman