



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, July 14, 2014

The Halifax Zoning Board of Appeals held a public hearing on Monday, July 14, 2014 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

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

Chairperson Tinkham called the meeting to order at 7:05 p.m.

The Board reviewed the mail and other matter/issues:

Correspondence/Mail/Email/Fax

- OCPC – re “Agenda for Meeting No. 510 June 25, 2014” [received 6/24/14]
- James Rodriguez – re: “9 Lake Street, Halifax, MA – Informal Discussion Request with the Halifax Zoning Board of Appeals [emailed 6/26/14]

Bill(s) – N/A

Approval of Minutes

- June 2, 2014

New Business

1. Informal Discussion; James Rodriguez, 9 Lake Street, Halifax, MA
2. Petition #814, Christopher & Tracy Abacherli, 17 Pratt Street, Halifax, MA

Old Business

1. Petition #811, Halifax Trails Co. Inc., Map 74, Lots3+3A & Map 64, Lots 10+11, Halifax, MA [continuance...]
2. Petition #813, Alan & Priscilla Praught, 75 Hayward Street, Halifax, MA 02338 [continuance...]

Other Matters

1. Charlie Seelig to ZBA – re: “Conflict of Interest Law monthly seminar-State Ethics Commission [emailed 6/27/14]
2. Charlie Seelig to ZBA – re: “Town of Halifax – Blackledge Farm” [emailed 7/1/14 & forwarded to ZBA members via email on 7/1/14]
3. Charlie Seelig to ZBA – re: “Town of Halifax – Halifax/Carver TV Merger Requirements” [emailed 7/2/14 & forwarded to ZBA members via email on 7/2/14]
4. PB to ZBA – re: “Site Plan for Review” for a Solar Farm Development, 280 South Street [dated 7/3/14 & Chairman Tinkham has packet]
5. Charlie Seelig to ZBA – re: “Doors and Lights” [memo dated 7/8/14]

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Informal Discussion: James Rodriguez, 9 Lake Street, Halifax, MA

Mr. Rodriguez came before the Board to discuss what is viable to do on his property as he has never applied for a permit before. He wanted to openly discuss the matter with the Board before spending money on an architect to later find out that it was not in his best interest to pursue. He showed pictures of his property to the Board to give them a visual. The house is an existing two bedroom home. It's on two very small lots and since the house has been constructed, two lots have been combined. His thought was to relocate the structure and to center it between the lots. He would like a garage but has no plans on going crazy with his wish list. Not understanding the protocol of the town, he asked for the Board's opinion. Both lots are approximately 4,000 square feet. Both lots have 2 separate structures, where he resides in 9 Lake Street and his girlfriend resides in 13 Lake Street. When they bought it, it was to be bought as a pair.

To clarify, 9 Lake Street sits on 2 lots and 13 Lake Street is on 1 lot, thus making it a total of 3 lots being discussed. The septic system is shared with 13 Lake Street, existing and approved to bring up to code. Discussion of the size of the lots, overhanging deck and location of the house on the street were discussed with Mr. Rodriguez.

Question was asked about the proposed size of the addition and Mr. Rodriguez is proposing 1,000 square feet and a garage, keeping it a 2 bedroom home. Currently there is only a crawl space garage but no intention of adding an attack, mainly building up as it's currently a single story home. The septic has already been approved as he is updating the system. Basically, it appears that the proposal is to increase the nonconformity.

There's a concrete pad on the lot line...why, he does not know.

Moving to the right would be increasing the nonconformity on the right side but lessening the nonconformity on the left. His plan is to keep the front and rear setback the same, hoping that if an architect can make something work. Again, he would like a two car garage but open to a one car garage. He is not touching lot 13.

Mr. Gaynor said he never heard of sharing of a septic system and there are normally all kind of crazy regulations in areas near the lake, for example: tight tank, flood zone restrictions. Mr. Rodriguez has not gone to Conservation yet and suggested he do that. The Board appeared to not have an issue pending all the other boards and Conservation Commission. Based on the size of the lot, there is no way around not coming before the Board. What the Board suggested was that he may want to proceed to look for an architect as it's challenging for the Board to visualize. Mr. Rodriguez said he will so long as the Board did not think it absurd to pursue. The Board responded that they did not feel it to be absurd for the applicant to research.

Mr. Rodriguez thanked the Board for their time and left the meeting room.

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Solar Farms Development, 2 Monponsett Street, Halifax, MA

Chairman Tinkham asked some people in the audience if they were present for a specific petition or discussion. The people did not address themselves but only said that they are in attendance for any discussions that may pertain to the proposed solar farm. Chairman Tinkham said that the site plan submitted to the Zoning Board of Appeals will be acknowledged but there will be no discussion. The people were satisfied with the response and proceeded to leave the public hearing.

Petition #811 – Halifax Trails Co., Inc., Halifax, MA [continuance...]

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, May 19, 2014 at 8:30 p.m in Meeting Room 1, 499 Plymouth Street, Halifax, MA on the application by Jacobs Driscoll Engineering Inc., on behalf of Halifax Trails Co., Inc. (c/o Richard Allan Comeau, President) for a Special Permit for a Multifamily development, as stated by the application: “The project consists of twenty-six (26) townhouse units, in five (5) building, each consisting of two (2) or three (3) bedrooms. The lot on which the project is proposed consists of approximate twenty-six (26) acres”. A request for Variances of the lots is required for the project & goes as follows: Front setback from seventy-five (75) feet to a minimum of ten point seventy five (10.75) feet; Frontage from one hundred fifty (150) feet to seventy point five (70.5) feet; Lots depth from two hundred (200) feet to a minimum one hundred (100) feet; Rear setback from one hundred (100) feet to sixty-nine point seventy-five (69.75) feet. Said properties are owned by Halifax Trails Co., Inc., as shown on Assessor’s Map #64, Lots 10 & 11, along with Ryan P. Nelligan, Robert & July Cummings, as shown on Assessor’s Map #74. Lots 3 & 3A. The applicant(s) seek Special Permits in accordance with the Zoning By-laws of the Town of Halifax under Section 167-7D (2), Specific Use Regulations. The applicant(s) seek Variances in accordance with the Zoning By-laws of the Town of Halifax under Section 167-11, Table of Dimensional and Density Regulations, page 167:43. The applicant(s) seek both a Special Permit & Variances under Section 167-12, Density Regulations for Specific Uses, Specifically Section A, Multifamily development, pages 167:43-45 &. Area is zoned Residential & Conservancy. Petition #811

Applicants, Gregory Driscoll, Richard Alan Comeau and Edward Jacobs were present to speak to the petition.

Chairperson Tinkham began the public hearing by informing members that a memo had been sent to the Planning Board (dated May 21, 2014), following the initial public hearing and the ZBA received a memo from the Planning Board (dated June 16, 2014) of an invitation to attend their next public meeting on June 19, 2014. As there was not much information received from the Planning Board to the ZBA regarding any issues as it pertains to the application in front of the ZBA. There had been no comments.

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Mr. Comeau informed the ZBA that they had met with the Planning Board and it appeared the only issue was the individual lots for each proposed building. The Planning Board did not understand why their project was being done this way, to which Mr. Comeau replied that it states as such in the bylaw and are attempting to adhere to the bylaw. Mr. Comeau spoke to his attorney as to whether this proposal can be executed and his attorney said yes, it can be done so long as the current application remains intact with all the original waiver requests.

Mr. Driscoll spoke, reminding the Board that it was discussed at their last public hearing to change the petition to make the entire parcel one lot instead of the original petition of five lots. Based on their feedback, he would like to keep the current petition request as is, with all the waivers.

Chairperson Tinkham said that she had spoken to the Town Administrator regarding the lot issues and if the proposal is to turn the parcel into an individual lot, as most former multi-family developments had been presented to the Board in the past, then the applicant would have to re-advertise the petition. Based on this information, Chairperson said the current petition applied for with five individual lots for each building with waiver requests should continue so the Board can move forward with the current petition, instead of having the applicant re-apply.

Mr. Gaynor asked what the Planning Board thought. Mr. Comeau said he asked the Planning Board about the five lots and he said that they like it but do not like the individual lots and why they need them. Mr. Comeau asked the question to his attorney and his attorney believes that when the bylaw was written, its intent was to enable phasing of the development; so, if each building is on its own individual lot, then each building can be given a phase number, for example, phase 1, phase 2. That appeared to make sense to the Board members. By doing this, it creates other problems with the applicant as it pertains to the frontage and setbacks as presented in the current application, but also to the condominium documents ruled by the condominium laws, entire condominium is owned by the association, each unit owner has a unit deed and each unit is given a percentage of the association to be stated in the master deed.

Mr. Jacobs informed the Board that this adds an additional layer to the legal documents. Mr. Comeau said he would prefer the additional layer if it means that the petition can continue to move forward. Mr. Comeau said he reached out to his broker to ask if he has ever dealt with separating the lots for a development. His broker said he is working on a project in Hanson, Massachusetts, called Great Cedar Drive, where each building is on its own individual lots, consisting of six units in each building. The Town of Hanson preferred each building be on its own lot for phasing purposes and it seems to be working out. Mr. Comeau felt that hearing the same opinion from his attorney and broker, it appears that this reason the individual lots.

Mr. Driscoll submitted letters from other Boards of issues and submitted a "Drainage Calculation and Storm water Management Plan" booklet to the ZBA which he submitted to the Planning Board for the application of their site plan approval and the Conservation Commission. Per the Board's agreement, Mr. Driscoll highlighted the booklet. The booklet touched on the outstanding things, such as creating drainage, refining it, making it better, layout is the same, road ways are the same, removed a retention basin, a smaller basin and recalculated the water drainage to another basin.

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All is stated in the booklet. Mr. Gaynor wanted to know if any of the changes will affect the proposed trail. The applicants do not believe so at this time. As to the location of the trails, Mr. Comeau said he will know better after he speaks to the Conservation Commission. There appears to be a good half mile of upland for a proposal for a trail, so if at the approval of Con Com will they proceed with that portion of the land. They reviewed the location as it relates to the elderly housing building, retention basins and Halifax Twin Lakes condominiums.

Chairperson Tinkham reviewed list of comments from other departments, boards, committees:

- Board of Health – No septic plans presented to the Board at this time; no comments or information required by the Board at this time.
- Building Inspector – Requires the 200 feet by 200 feet grid layout of percable area; the applicants had to redo the grid layout after moving the Nelligan’s lot which changed the grid layout; as such the changing of the Nelligan’s lot made the grid better and changed the grid layout.
- Highway Department – Reiterated that this was privately owned and reiterated stipulations as it pertains to the responsibility of maintenance and what the condominium is responsible for maintaining. Will revisit when the water system is ready to begin.
- Fire Department – Interim Fire Chief Cuozzo approved what he has seen and reiterated that the fire codes requirements will be adhered to and to assure there is a central station for the system.
- Police Department – No comments at this time from Chief Broderick.
- Board of Selectmen – Would like sidewalks from Route 58 to the Housing Authority be put in. The suggestion may have come from the American Disability Act Committee to make it possible for motorized wheelchairs to use the sidewalk. It is being asked that the applicants “assist” the Town of Halifax, which seems to mean to help in a monetary standpoint.

The applicants said that the Building Inspector want to see an approved perc test before releasing a building permit, which the applicants are fine doing. The goal is to submit the testing plan to the Board of Health, Agent Cathy Drinan to review initially.

Chairperson Tinkham said that she believes this project is a well thought out project, a good use of land, close to downtown Halifax, good amenities, great gardening area and walking trails. She recommends the Board proceed with the project and should be subject to conditions with the remaining Boards/Committees/Departments. There is a good budget for landscaping so the Board was pleased to hear that trees and greenery will be done.

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It was duly moved (R.Gaynor) and seconded (K.Nessralla) to grant your petition (#811) for a Special Permit for a Multifamily development, as stated by the application: “The project consists of twenty-six (26) townhouse units, in five (5) building, each consisting of two (2) or three (3) bedrooms. The lot on which the project is proposed consists of approximate twenty-six (26) acres”. Variances were granted of the lots, required for the project, and goes as follows: Front setback from seventy-five (75) feet to a minimum of ten point seventy five (10.75) feet; Frontage from one hundred fifty (150) feet to seventy point five (70.5) feet; Lots depth from two hundred (200) feet to a minimum one hundred (100) feet; Rear setback from one hundred (100) feet to sixty-nine point seventy-five (69.75) feet. Said properties are owned by Halifax Trails Co., Inc., as shown on Assessor’s Map #64, Lots 10 & 11, along with Ryan P. Nelligan, Robert & July Cummings, as shown on Assessor’s Map #74. Lots 3 & 3A. The applicant(s) sought Special Permits in accordance with the Zoning By-laws of the Town of Halifax under Section 167-7D (2), Specific Use Regulations. The applicant(s) sought Variances in accordance with the Zoning By-laws of the Town of Halifax under Section 167-11, Table of Dimensional and Density Regulations, page 167:43. The applicant(s) sought both a Special Permit & Variances under Section 167-12, Density Regulations for Specific Uses, Specifically Section A, Multifamily development, pages 167:43-45 &. Area is zoned Residential & Conservancy. Petition #811

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

- 1. The special permit and/or variances were granted to the applicant (s) with the stipulation that the applicant(s) are within compliance of the conditions set forth by the remaining Boards, Committees and/or Departments in the Town of Halifax, whether the conditions are pre-existing or forthcoming.**
- 2. The special permit and/or variances were granted based on the plans and testimony presented at the hearing. Any changes (whether it be substantial, alterations or otherwise) from what was presented and approved must be brought back before the Zoning Board of Appeals.**

Please be advised that all variances and/or 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 (7/23/14) 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.

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**Petition #813 – Allan & Priscilla Praught (Kurt Boettcher), 75 Hayward Street, Halifax, MA
[continuance...]**

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, June 16, 2014 at 7:45pm in Meeting Room 1, Town Hall, 499 Plymouth Street, Halifax, MA On the application by Kurt Boettcher for a Special Permit to modify an existing single family home to a “Two-family or duplex dwelling”, located on 75 Hayward Street, Halifax, MA. (Note: only the proposed altered portion of the “Two-family or duplex dwelling” is approximately five hundred seventy six (576) square feet). Said property is owned by Allan Praught & Priscilla Praught, as shown on Assessor’s map #121, Lots 1A & others. 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), pages (s) 167:25-26. Area is zoned Residential. Petition #813

Owner of the property, Mr. Allan Praught (of 80 Spring Street, West Roxbury, MA) and applicant, Mr. Kurt Boettcher were present to speak to the petition.

Chairperson Tinkham read aloud an email received from the Office of the Zoning Board of Appeals was received by an abutter, Ms. Ellen Snoeyenbos on June 27, 2014, which read, as such: “I am a resident of 106 South Street, a short way from the property on Hayward St. That is being discussed. My concern is that proper procedures are followed and housing is appropriate to the property. I don’t think that a duplex residence, with the related increase of activity, noise, and cars has a place in this section of Halifax. I would rather see two family residences in parts of the community with sidewalks and other amenities. Keeping a more rural flavor to the neighborhood would be better for property valued, I feel. Thank you for your consideration if neighborhood interests. Sincerely, Ellen Snoeyenbos”

Board members, Robert Gaynor and Robert Durgin, were at the scheduled on-site inspection (on Saturday, July 12, 2014 at 9:00am). Both Board Members noticed that some time had been spent on cleaning the debris for a better description, roof work appeared to be placed on the house and certainly moving in a positive direction to make the property much more presentable. Both members entered the property. Chairperson Tinkham recalled a remark from Mr. Millias that although the electrical was up, in the center of the wall, if this was going to be a two-family... Mr. Durgin said it was all sheet rocked and plastered so it would appear to already been done.

Mr. Durgin stated that the project has been moving forward, countertops were there, floor is down, and cabinets are in, refrigerator in place. The applicant appeared to be moving forward in the proposed section of the house. The size did not seem that small but adequate. Both Board members thought the minimum square footage was seven hundred fifty square feet. Mrs. Tinkham was not sure. Mr. Durgin thought, for a duplex unit, it was seven hundred fifty (square feet).

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Mrs. Tinkham wanted to clarify that work was progressing in the home, even in the proposed section being applied for/voting on. Both Board Members replied yes and that the following was what they saw during the on-site inspection: floor was done, kitchen was in, refrigerator was there, and no stove, no dishwasher, and countertops are in, cabinets are in. As for the occupancy permit, Mr. Nessralla asked if there was one for this portion of the house and Mr. Gaynor asked when the last time Mr. Millias did an inspection and Mrs. Tinkham did not know. Mr. Millias was going to make an attempt to be present for this hearing.

Mr. Gaynor stated that there was concern about the basement. There was a full shower bathroom in the family room / living room/play room/whatever it is to be called. Both members would ask that a stipulation be put in place that there will be no rental unit is placed in the basement. The space of the basement was huge...the size of the whole house practically. They spoke to the applicant and he did state that his intention is not to turn the basement into a rental unit but just a usable space. There is a sliding glass door off the back and a stairway that leads into the kitchen of the main house from downstairs. The Board members reviewed the architectural plans to review the space in the basement and better understand the size of the space, reviewing the foundation plan. The basement was unfinished, all studded off and floor finished. Mr. Nessralla asked what the intention of the basement is. Mr. Boettcher replied the basement is to be a "man cave". Mr. Praught responded that it is essentially for the occupants who live upstairs, to have access as both occupants living there are in construction and both people are thinking about being occupants, a good way to shower, change and maybe have a beverage before heading upstairs. Mr. Nessralla asked the applicants, again, to clarify that there is no intention to turn the basement into an apartment to which Mr. Boettcher replied no. Mr. Praught stated not when there is such a problem with the upstairs.

Mr. Praught said that the house was built mainly by two people and they would like residency. The total number of occupants would not exceed five in the whole building at any one time. He does not see where the problem or congestion, excessive use in consumer services, their ages, the men are middle aged and not senior aged, no senior health, no children in school.

Mrs. Tinkham stated what has everyone on edge is the lack of being upfront with the Building Inspector and/or the Zoning Board of Appeals. There always appeared to be an intent for an in-law or two family but it took the Building Inspector, during an inspection to notice that a potential in-law apartment or a two-family was being placed but no application for a special permit and that is concerning. Mr. Praught said the purpose was supposed to be an in-law apartment. They found out the conditions of an in-law apartment and did nothing about it and continued on with the plans they had versus discontinuing it. There was never intent to avoid the issue. If that were the case, then they would have gone for an in-law apartment. He stated why would go through the trouble of getting a second family and go through all this grief. He would have just proceeded with the in-law apartment and kept it in the family. Mr. Praught also went onto say that there are supposing three in-law apartments as reported but who knows if they are being used in those capacities.

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Mr. Boettcher addressed the Board and stated that he is substantially disabled, as both his knees are seriously damaged and continued medical issues. His best friend, who also has significant medical issues with his back, would like to reside so they can help each other out. There are times when his friend is unable to walk, at times, and basically, it would be a set up where they can help each other out. He stated the only thing being asked is to put another stove in legally, whether it be designated an in-law or whatever the terminology.

The Board reviewed the by-laws regarding the minimum of square footage. The multi-family part of the by-law states a minimum unit is seven hundred square feet and in the in-law apartment, there is a maximum of nine hundred square feet.

Chairman Tinkham asked the remaining Board members if there were any other questions. Mr. Durgin asked if it was known how many in-law apartments are within the area of the property and the remaining Board members believe the secretary said there are three existing in-law apartments in the neighborhood. Mr. Parcellin addressed Mr. Boettcher to clarify his reasoning for an in-law apartment would not qualify as his friend is not a relative. Mr. Boettcher proceeded to say that his friend is "...a brother from another mother" but still Mr. Boettcher appeared to understand.

Mr. Gaynor asked what the secretary quoted last month as the amount of in-law apartments with special permits in the neighborhood and Mr. Parcellin said he believed the secretary quoted three.

Chairman Tinkham proceeded to open this public hearing to the audience. The following abutters to the property and resident were present:

- Kathy & Robert McGrath of 84 Hayward Street
- Nancy Gonsalves of 102 Hayward Street
- Cheri Fox of 78 Hayward Street
- Diane Bradford of 131 Hayward Street
- William Scott of 108 Hayward Street

Abutter, Mrs. Fox spoke regarding her concerns as she lives directly across the street. She said she understands the request for an in-law as that was what his intention was but Mr. Boettcher has not been very honest from the get go. Now a full bathroom in the basement is a concern as what if it becomes an apartment. An in-law is one thing but saying it's a duplex or two-family is another as this is a rural road. What is going to happen with the other five lots he owns...more apartments?

Abutter, Mrs. McGrath, spoke regarding her concerns. She said she was at a meeting for this property two years ago. She did not recall an in-law being built but a single-family home on this lot. She asked the Board if any of the members recall this coming before them. Mr. Gaynor replied that he surely does not recall this address ever coming before the Board. Mrs. Tinkham asked if the meeting room was in Meeting Room 1, it might have been with Conservation Commission due to the amount of conservation land the applicant owns. She understands the confusion but wants to understand that if the meetings two years ago, they wanted to put in single family homes yet, they have already been constructing the property as a two-family home,

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Wouldn't the applicants have violated the fact that they applied for single family lots and now turning into a two-family home. The applicant already went ahead, proceeding with a two-family proposed unit without approval. Therefore, the applicant has already violated the process by disregarding what is necessary to get this done. What can be done and can this still be stopped. Mrs. Tinkham replied to her that she must understand that the Zoning Board of Appeals has only seen an application for this property one month ago. She said she understands where the Board stands with the application but knowing that Board Members have gone into the home, seen that work has been done, cabinets are in, etc...it's all set to go as some kind of unit already. The question is will the applicants be allowed to have the duplex they want or is something else going to happen instead. Mrs. Tinkham replied she is unsure as the Board has yet to take a vote.

Mr. Praught asked to address some of the issues. Number one is that they have been in constant contact with the Building Commissioner throughout the entire process. It was discussed back and forth as to what may, could, should be done. Number two there was no intention to fit this apartment out. He stated there are no counters, there are temporary items that are in the room and the only appliance is a refrigerator that belongs somewhere else. There is no problem with having a so-called non-transient person living in the area...living in that room. As far as he believed, he can have three people living in that house who are not relatives and who are non-transients. There is no intent to disclose or hide this from anybody. The Building Inspector knew it all along. That he did not holding a meeting with the neighbors was probably my mistake, if that's the case. It is not equipped, at the present time, for separate units. There's a lot of work to be done and he thanked the Board.

Chairperson Tinkham responded that maybe if there was no attempt to hide this, then why wasn't this, when the house was applied for correctly, whether it is an in-law apartment or a duplex. She is aware this project has been floating around and the plans are dated October 18, 2012 and yet, this is the first the Zoning Board of Appeals is hearing of this, over the last month. As such, she apologized for her lack of believing the story presented. As such, Mr. Praught proceeded to apologizing for not reporting it the way it might have been but there was never intent to disguise the issue at all...it was going to be one way or another. However, there was going to be someone living in that unit, whether it was approved as a separate dwelling unit or not. He asked if he is not allowed to have three non-transient people in his house and if there is a by-law that says that. Mrs. Tinkham said he can but not a separate apartment though to which Mr. Praught agreed but believes the only distinction is a doorway, to the best of his knowledge. Mr. Gaynor said that a distinction is a separate kitchen and kitchen unit. Mr. Praught replied that there is no kitchen unit...there is nothing there. Mr. Boettcher attempted to respond with a comment of the stove but Mr. Praught stopped him from speaking. Mr. Praught stated that there's no sink...there's a counter and the counter there maybe moved into the other room. As for the cabinets, there are no cabinets in the main house and it had yet to be determined where they would go in the main house, so they were placed there on a temporary basis. If there was a mistake made, then it was his mistake as he was unaware there would be firestone regarding this matter. He said all he is talking about is a one - two and a half room unit where someone is going to be living except they cannot have a stove. Mr. Gaynor asked what the building permit granted by Mr. Millias for. Were the building permit

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and the temporary occupancy permit for a single family home. Mr. Praught said he believed so but whatever it said, he had never seen it. Mr. Gaynor said that the bottom of the building permit, he believe it states that there is a definition where that the building permit could be null and void upon any major change compared to what was applied for. Mr. Praught said he does not know and Mr. Gaynor said that it does state that stipulation. Mr. Praught admitted that being his mistake. Mr. Gaynor said that he would consider going from a single family to a two-family or a single family with an in-law apartment a substantial change from what you applied for. Mr. Praught asked questionably...a stove? Mr. Gaynor replied that, yes, a stove, and a kitchen area. Mr. Praught then stated that there is no stove in the unit.

Chairperson Tinkham proceeded to ask any other abutters if they had any other comments.

Abutter, Mrs. Gonsalves, spoke regarding her concerns about the disregard and how underhanded the applicant proceeded with this filing. She understands an in-law but does not want to open up the neighborhood for more construction becoming a multi-family development on Hayward Street.

Resident, Mrs. Bradford, spoke regarding her concerns about the lack of concern that applicant have about the rules and regulations in building this two-family and, until a month ago, had no regard for the neighborhood with trash and lack of upkeep to the property. However, when push came to shove and knowing that the Board was coming for an on-site inspection, the place got cleaned up. Now, what is going to happen if there are two separate families living there?

Abutter, Mrs. Fox readdressed the Board and informs them that it only cost \$55 to rent a dumpster for a month.

Abutter, Mr. Scott spoke to the Board and asked if Mr. Boettcher and his friend is building the house and both of them were medically challenged, how the balance is going to get finished. Mr. Boettcher responded that money is tight and that he is projecting a two to three weeks to complete the project. He is on a schedule and doing what he can do.

Mr. Boettcher said that the intention was to go for the in-law apartment at a later point. Because he put the gas stem in on the rough, it was suggested that they go for the in-law apartment. It was not a thought they were going to do at this point...perhaps later. But, because they put the gas stem in, it was suggested that they go for the in-law apartment now and get it out of the way. If anybody saw the original plan, it was all pretty clear on the original plan. There is nothing that changed from the outside of the house. Mr. Gaynor said that he is now lost because there are two front doors with two separate stairways which, is his definition is a substantial change. Mr. Boettcher replied that down the line, the intent was for a future in-law apartment. He proceeded to say that it was not their intent, nor is they trying to put a big apartment building across the street...it's not a 40B project and it's probably added \$40,000-\$50,000 to the neighborhood as he had it assessed and it was appraised \$30,000 higher from a year ago.

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The abutters got extremely loud as they found his last remark unsubstantial and Chairperson Tinkham asked the audience to tone it down.

Mrs. McGrath asked to readdress the Board and just wanted to say if the applicant wanted to come into the neighborhood and build some homes that are understandable. Just do it right and don't be underhanded. Make the area look dignified so you can develop some type of decent name for yourself as a builder in making the area look nice and according to the nature of the street.

The abutters agreed with Mrs. McGrath's opinion.

Abutter, Mrs. Fox readdressed the Board that should this project not get finished, that it will bring their property value. She compared this to a property on River Street, which did not get finished and condemned. She is frightened at the possibility.

Chairperson Tinkham asked for the Board's direction. Mr. Gaynor proceeded to read, into the record, a section of the by-law 167.12.A. (6), where it states: "Minimum residential floor area. No multifamily housing, whether condominium or rental, shall be erected, reconstructed, remodeled or altered so that the lowest level (i.e. ground floor or equivalent of living space per dwelling unit (i.e., in a unit) contains less than 750 square feet". Upon reading this section of the by-law aloud, Mr. Gaynor pointed out to the applicants that the proposed square footage of this petition equates to five hundred seventy six (576) square feet.

Mr. Praught asked if some of the basement area be counted in the space. Mr. Durgin replied that the basement space is not accessible to the proposed duplex unit. Mr. Praught said he suppose the best way is to cut to the chase as there appears to be no effort to resolve the issue and asked the Board if he could just get permission to have three people in a house and maybe a stove. He said that the Board need not grant the current petition and try this proposal out for a year or two and maybe that would satisfy some of the people or not.

Chairperson Tinkam replied no and believes the Board needs to talk to Mr. Millias and Mr. Charlie Seelig (Town Administrator). Mr. Gaynor said that the applicants have clearly stated that they have been in communication with Mr. Millias during construction of the whole project and if that is correct, then what Mr. Millias has to say is important. As such, Chairperson Tinkham recommended continuing this public hearing to the next scheduled public hearing date of Monday, August 11, 2014.

It was duly moved (K.Nessralla) to continue the public hearing to Monday, August 11, 2014. The motion was not seconded.

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It was duly moved (R.Gaynor) and seconded (P.Parcellin), for voting purposes only, to accept the petition (813), as presented. The Halifax Zoning Board of Appeals voted unanimously to deny the petition (#813) with a vote of five (5) to deny and zero (0) in favor of the petition for a special permit to modify an existing single family home to a “Two-family or duplex dwelling”, located on 75 Hayward Street, Halifax, MA. (Note: only the proposed altered portion of the “Two-family or duplex dwelling” is approximately five hundred seventy six (576) square feet). Said property is owned by Allan Praught & Priscilla Praught, as shown on Assessor’s map #121, Lots 1A & others. 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), pages (s) 167:25-26. Area is zoned Residential.

Chairman Tinkham called for a voice vote: R. Durgin, NO; P. Parcellin, NO; K.Nessralla, NO; R.Gaynor, NO; D.Tinkham, NO

The motion to deny petition #813 passed 5-0-0.

Chairperson Tinkham reprised Mr. Praught and Mr. Boettcher that she felt this application did not fit the established character of the neighborhood; this application will change the character of the neighborhood and cannot see this application going through.

Vice-Chairman Gaynor stated that he cannot see this meeting the criteria of a multi-family, duplex or in-law apartment. He also stated that he felt this application was a substantial change from what the original building permit was applied for.

Mr. Praught ended it by saying “Thank you and so be it”.

Christopher & Tracy Abacherli, 17 Pratt Street, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, July 14, 2014 at 7:45 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Christopher & Tracy Abacherli to request a Special Permit for the following: build a detached thirty (30) feet by forty (40) feet garage(30) which would be in excess of 884 square feet, the ground floor area will be greater than the foundation size of the house and a garage door height will be in excess of twelve (12) feet on their property, located at 17 Pratt Street, Halifax, MA. Said property is owned by Christopher & Tracy Abacherli, as shown on Assessor’s Map #117/Lot 7. The applicants seek a Special Permit under Section 167-12.F (4), (5) & (6) authorized by special permit from the Zoning Board of Appeals page (167:47) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned residential. Petition #814

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Mr. Abacherli was present to speak to his petition.

Mr. Gaynor asked for the location of the house and Mr. Abacherli explained he is the third house on the right from the turn on the cross streets of River Street and Cross Street...cape style house.

Mr. Abacherli's existing house has a full basement with a two-garage under and proposing to turn the existing garage into a play room area for his children. The reason for the size of the garage is because he owns four cars, which are more expensive than the garage, and because of lack of proper storage, he had to sell cars he did not want to, due to lack of proper storage. He owns a few vehicles and just tired of storing it elsewhere.

The lot is 1.5 acres and his lot has wetlands. He already received approval by the Conservation Commission. He must remove the storage container (shown on the certified plot plan) and all that is store in the container will be stored in this new proposed garage. He would like a wood stove in the oversized garage, no water but would like electricity. The second floor of the garage will be used for woodworking, along with storage of wood. There will be no living space, nor commercial use. As for the garage doors, the difference in sizes is based on the size of the building and the lift in the structure, a smaller garage door would look out of place and give the appearance that it would look bigger than how it appears. His attempt is to make the illusion that the doors and the garage look aesthetically pleasing. In fact, that is the reason why he is putting a front awning piece in front of the door to help the appearance. He will be using clapboard and no dormers. There is a stairway leading to the second floor from the inside of the structure. Mr. Abacherli would like this structure to look aesthetically pleasing, like a carriage house appearance.

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 (R.Gaynor) and seconded (K.Nessralla) to grant your petition (#814) for a Special Permit for the following: build a detached thirty (30) feet by forty (40) feet garage, which would be in excess of 884 square feet, the ground floor area will be greater than the foundation size of the house and a garage door height will be in excess of twelve (12) feet to your property at 17 Pratt Street, Halifax, MA, (as shown on Assessor's Map 117, Lot 7) in accordance with the Zoning By-Laws of the Town of Halifax for a Special Permit under Section 167-12F(4, 5 & 6) (page 167:47).

This project does not derogate from the intent of the By-law and will not be detrimental to the neighborhood.

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

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1. The garage is to be used for personal use only. No commercial use will be allowed.
 2. No running water or drainage will be installed in the garage.
 3. Electricity will be allowed
 4. No living space will be allowed.
 5. The special permit runs with the applicant(s) only and is not transferable.
 6. 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.

This decision shall not take effect until:

- (c) 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 (7/21/14) 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
- (d) A certified copy indicating such Registry Recording has been filed with the Board.

Chairperson Tinkham called for a voice vote: R.Durgin, YES; P. Parcellin, YES; R.Gaynor, YES; K.Nessralla, YES; D.Tinkham, YES

The motion to grant petition #814 passed 5-0-0

Chairperson Tinkham reprised Mr. Abacherli of the procedure following approval of the petition.

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

Respectfully submitted,

Marion Wong-Ryan
Zoning Board of Appeals, Secretary

Debra Tinkham
Zoning Board of Appeals, Chairman
