



Halifax Zoning Board of Appeals Meeting Minutes January 12, 2015

The Halifax Zoning Board of Appeals held a public hearing on Monday, January 12, 2015 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

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

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

Chairman Tinkham: Brief discussion about a resident to possibly come on the Board a Mr. Tom Keegan.

The Board reviewed the mail and other matter/issues:
Mileage rate increased to .575 cents up from .56 cents

7:10 p.m. Petition#820 Lawrence - Woodbury, 35 Eight Ave.

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, November 10, 2014 at 7:45 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Lawrence A. Woodbury to request a Variance of the left side setback from thirty (30) feet to ten (10) feet and the front setback from fifty (50) feet to eight (8) feet to build a twenty four (24) feet by twenty six (26) feet car port to the property located at 35 Eighth Avenue, Halifax, MA. Said property is owned by Lawrence A. Woodbury, as shown on Assessor's Map #52, Lots 348-352 & 382-386. The applicant seeks Variances under the following by-law sections: a Continuation (section 167-8A) & Extension (section 167-8C) a non-conforming use (page 167:40); the setback requirements, under Section(s) 167-11 Table of Dimensional and Density Regulations (page 167:43) and Accessory building or structure, under Section 167-12.E (3) & (8) (page 167:46-47) in accordance with the Zoning By-laws of the Town of Halifax). Area is zoned Residential. Petition #820

Chairman Tinkham: (advised there is a letter from Tom Millias) When we met last time there was some discussion about moving the car port to the back yard is that feasible?

Mr. Woodbury: No

Ms. Tinkham: It can't go over that? Read into minutes: At a meeting held on December 8, 2015 The Halifax Zoning Board of Appeals continued the petition 820 on the application of Lawrence Woodbury of 35 Eight Ave, Halifax Ma attached is the following: a denial letter from the office of the Building Inspector, dated 11/19/, notice of public hearing, certified plot plan, copies of the code of the Town of Halifax By laws. Upon reviewing the application it is the understanding of the Board that the address of a resident is the front yard front door of that said property but that in mind the Board agrees the denial letter, but I would like your opinion as to whether by-law section 167-12 E3 should have been included in the application filing request which states the following: No accessory building or structure shall be located within an area with the following sides, the front lot line and the lines drawn perpendicular from the corners of the side of the house closest to the front lot line to the front lot line. Your response is necessary by Monday, January 5th earlier if possible; this in turn would give the Board enough time to review your correspondence by the continuation of this public hearing scheduled for Monday January 12th @ 7:10. FYI: The applicant did allude to looking to placing the proposed accessory structure/carport elsewhere on the property and will need to discuss with the Board of Health. The Board said

that's fine, but will continue with the application when submitted. The Board did ask if the applicant would consider decreasing the size of the accessory structure/carport. The applicant did take the Board's opinion into consideration and said he would think about the matter. Thank you in advance.

Mr. Woodbury: I do that, from 24' to 21'.

Gaynor: Did we get a response from Mr. Millias?

Tinkham: Yes, I met with him last week, what Mr. Woodbury does need and Tom said he was sorry that missed it, he a variance from the front of the house, because there is no garage, accessory structure to be located in the front yard. With that in mind, you're going to change it from 24 to 26' to 21'

Mr. Woodbury: No, it's going to be 26' long, was 24' wide, I agreed to go down to 21' wide.

Deb: 21' x 26' and leave it where it is? The 50' to 8' feet from the front and 50' to 11'

Mr. Woodbury: It's going to be 10' from the property line and 11 from the street. The only thing I need is one foot added on to the front, it's eleven feet from the street. I'd like to go to 10 because there is a hill.

Deb: It's 8 feet now; you want to move it back?

Mr. Woodbury: No, it's eleven, I moved everything, so it's eleven feet from the street, on the front side, and I'd like to have another foot.

Nessralla: You want 10 from the front and eleven from the back.

Mr. Woodbury: Yes

Nessralla: The front will be 10 feet and the back will be 11

Gaynor: So what did they say at the meeting?

Tinkham: That one of the things that he needs a variance to put a carport in the front yard, and Tom acknowledged that he missed that. So from 50 feet to 11 feet. 10 and 11 ok.

Gaynor: We if that would be a substantial change from what has been applied for?

Tinkham: Yes and we need to re-advertise it, if that's what we're going do. There is a bylaw on the books about putting and accessory structure in the front yard, you need a variance from that. Tom said he should have said that to you when he wrote up the denial letter. How do we want to handle this?

Gaynor: My question, what happened with our last discussion about maybe moving it to the back yard?

Mr. Woodbury: No, I can't, because it has to be level place, I'd have to fill in, from 9th Ave it slopes down and my driveway is slopes down all the water pull down there.

Gaynor: The corner of 9th and Lingan isn't there a gate right there.

Mr. Woodbury: no, you asked me and I said no. And where the shed is, all the water comes down.

Gaynor: so it couldn't be close to your dad's house, it would be closer to Lingan St. on the corner

Mr. Woodbury: but my septic is there, that why it's the only place I can put it.

Tinkham: We can table this for now, re-advertise this. I think we had some discussion about waiving that fee. Because Tom missed it.

Mr. Woodbury: See, I disagree, it's not my front yard, it's my side yard.

Tinkham: What is your address?

Mr. Woodbury: 35 Eleventh Ave.

Tinkham: That's your front yard. If you want to go that route, Lingan St. is a front yard, 9th Ave is a front yard, and your really have no place to put this without getting a front yard variance.

Gaynor: Wait he has two front yards?

Tinkham: Three

Gaynor: Everybody that owns a corner lots has two front yards. Isn't this case has three. It's not just particular to you. Everybody who has a corner lot has two front yards.

Tinkham: We'll table and continue this to next month, re-advertise it, and discuss next month.

Gaynor: We'll need a letter from Mr. Woodbury to agree to that or we vote on it tonight.

Tinkham: Whatever the Board's pleasure is.

Gaynor: What would you like to do Mr. Woodbury?

Mr. Woodbury: I don't want to wait any longer, this is like the third month I've been in here.

Gaynor: What we'd have to do is vote on it as presented. He can add the changes, but as far as..

Nessralla: But the changes wouldn't be the same, it would have to be advertised again. The front yard.

Parcellin: Would he be given a building permit without the variance? He would have to apply for a whole new variance, if he denies it.

Gaynor: But if he doesn't agree to withdraw it, we have to vote on it tonight, what is presented.

Parcellin: Even if it passes, it's still not varied.

Motion by R.Gaynor to accept Petition #820 as presented. K. Nessralla: Seconded

Chairman Tinkham called for a voice vote:

R. Durgin: no; P. Parcellin: as presented, yes; K. Nessralla: yes; B. Gaynor: no; D. Tinkham: no

Motion failed: 3-2-0

7: p.m. Petition#824 Robert Durgin, 7 Bourne Dr.

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, December 8, 2014 at 8:00 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Patrick & Jennifer MacPherson to request a Variance to build a detached garage in the front of their property, located at 7 Bourne Drive, Halifax, MA. Said property is owned by Patrick & Jennifer MacPherson, as shown on Assessor's Map #98, Lot 8X. The applicants seek a Variance under Section 167-12.E(3), which states: "No accessory building or structure shall be located within an area with the following sides: the front lot line, and lines drawn perpendicular from the corners of the side of the house closest to the front lot line to the front lot line" and requires a Variance from the Zoning Board of Appeals, under Section 167-12.E(8) (page 167:46-47) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned residential. Petition #824

R. Durgin recused himself as he is an abutter. Chairman Tinkham read Mr. Millias response into record.

Dear board, you requested an explanation of the denial dated Nov. 19, for the property known as 7 Bourne Drive. To your point, yes the garage is a detached garage and in addition to 167-12E3, defines separately with no called out placement restrictions. However my interpretation has been and continues to be that a detached garage is both an accessory building a structure, subject to the restrictions set forth in 167-12E.

D. Tinkham asked the petitioners if they had anything more to add. Is there anybody here to speak to this petition?

Mr. Durgin as a neighbor has no issues with the placement. He advised that the house is so far back on the lot, that there is really nowhere else to put it.

The members briefly discussed the by-law in terms of the front lot line, perpendicular from the corners of the house as stated in the by-law.

Motion to accept Petition #824 as presented. The hardship is the topography of the lot itself. They have placed the garage within the setback as best can be done, and is within the character of the neighborhood with the other similar structures and does not derogate with the intent of the by-law. To allow with the following restrictions Will not be used a commercial business, there will be no heat, may have electricity and the second floor will not be used as livable space will only be used for storage, will only be used for personal use.

Motion by B. Gaynor, Seconded by K. Nessralla Chairman called for voice vote.

Parcellin: yes; Nessralla: yes; Gaynor: yes; Tinkham: yes Motion passes 4-0-0

Petition #823 - Webby engineering: The Party Trust, Multifamily Development

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, December 8, 2014 at 7:15 p.m. in Meeting Room 1, 499 Plymouth Street, Halifax, MA on the application by Webby Engineering Associates, Inc., on behalf of The Party Trust (c/o Corrie S. Merritt, Trustee) for a Special Permit for a Multifamily Development, as stated by the application: "The applicant is proposing to construct 6 duplex style units with a total of twelve, 3 bedroom residential buildings with a single attached garage for each of the units. The proposed development will be situated on 12.52 acres, located westerly side of Elm Street". Said property is owned by The Party Trust, as shown on Assessor's Map #14, Lot 9 & Map 15, Lot 6 & 13. The applicant(s) seek a Special Permit in accordance with the Zoning By-laws of the Town of Halifax under Section 167-12.A, Multifamily Development under Density Regulations for Specific Uses. Area is zoned Residential. Petition #823

S. Kotowski: Webby Engineering, representing the applicants. New plans submitted:

The last time we were here one of the abutters, Mr. Andrews is here this evening, had brought up a concern that he had. In his opinion, the plans that we originally submitted did not meet one of the requirements under the by-law, to provide a 30' vegetated buffer along his property line. When it was brought to our attention, there were a few ideas that we talked about at the last meeting. Joe Webby was also here at the last meeting, one of the things we talked about was, that we have the access way into the development aligns so that the center of the access way, went within kind of the middle of the, between the two properties. We also had a (4) foot grass strip that we didn't feel that was all that necessary. So we looked to see if we could re-align the access way so we were more parallel with the northerly abutter, to provide a 30 foot access way, which we did. We eliminated the 4 foot grass strip on both sides of the roadway, which gave us an extra (8) feet. We also

B. Gaynor: Eight feet on each side?

Kotowski: Yeah the four foot grass strip, there was two feet, that we were able to shift this way, and then by, that we have an addition, then we had shifted it 2 feet to this side, that gave us the extra footage that we needed to be able to provide the 30' buffer, which is shown on the plan. It was just a matter of re-aligning it so that it wasn't favoring the center. The two properties aren't actually parallel to one another. They sort of expand as you go back from the street, so we favored one side over the other. So now have 30' vegetated buffer. That was one of the concerns that come up from the board. We went over the other details as far as the site. Those are revised plans, of sheet two, we didn't really change anything else on the rest of the development. There is one other thing that come up at the last meeting, the board had requested from the applicant, was to provide samples of the structural exterior façade, siding. You had the plans, just not the details of the color scheme, so we have those to provide.

Tinkham: We don't necessarily need the color scheme, but we need to see what the structures are going to look like.

Kotowski: We provided those plans, they should be in your package.

Gaynor: What would change from what point?

Kotowski: Basically the wetlands crossing, that's where we shifted the sidewalk to the opposite side and eliminated the grass strip completely. Tighten the roadway and re-aligned it, centered it, actually didn't center it, we favored running it parallel with the other abutter. I do just want to say one thing, not trying to split hairs or anything, but the under definition of the by-law that was brought up, and I have it highlighted, it says, "in addition the required 30' minimum side yard between the development and the adjacent property shall be maintained as a vegetated buffer area". And that is where I think we got tripped up, we figured that was the end of the statement, it doesn't end there, it actually says "free of parking, and or any structure" Which we weren't originally proposing any parking or structures within 30', so we decided to just stick with what we've done to try to accommodate. It does say any changes in the natural state shall require approval of the Special Permit Granting Authority. We aren't proposing any structures or parking within 30' and then it goes in a little bit further with the definitions or yards, side yards, a template which indicates side yards are actually to be offset from the building portion of the site. We're not proposing buildings in that section either.

Gaynor: So did the width of the road change?

Kotowski: No, kept it the same, shifted it over, it was just the alignment, to where we originally kept it centered right between the two property lines. We shifted it over a little bit, we had a couple of feet on that one side, so we're favoring 30' parallel line on the northerly side providing more access on the southerly side.

Gaynor: The 30' buffer runs the whole length of the property line.

Kotowski: Up to where the crossing is. It goes beyond Mr. Andrews onto the neighboring property, there are no houses.

Gaynor: But as far as the Andrews property and along the other side will be maintained.

Kotowski: That's where the green is yes

Gaynor: You didn't have to decrease the arc or the entrance way

Kotowski: We didn't change any of the width, we kept the width as it was, it was just the alignment from the sides. That's the only change. Just a slight bend in the angle, until we hit, pretty much the green, as you can see, we favored all the way beyond the crossing on this side, up until the crossing beyond Mr. Andrews property to here.

Gaynor: How far does Mr. Andrews property go?

Kotowski: Just to the bound.

Tinkham: I know last month we talked about the fire chief and that it was approved by the former fire chief, has the current one been?

Kotowski: No, we haven't, we know that it went out for pier reviews and it was reviewed by when we went for site plan process, they had an opportunity to review the plans and make statements or comments. We didn't get any negative feedback, that we were ok with the fire department. Again, we're way in excess of any of the WB40 requirements that we would have for the intersection, the roadway is typical of any subdivision roadway that was the Town of Halifax has for requirement. So I can't imagine that there is anything in here that is different from what would be required of a street, a minimum requirement under a subdivision regulations, and where we didn't get any negative feedback. We are required, I think in the site plan review, the only thing, I think that they did comment on, I don't have the review back from the site plan review, was that they just emphasized the need for sprinkler system within the subdivision which we did put that on the first sheet.

Gaynor: Required by whom?

Kotowski: It's under the by-law, it says that has to have fire protection, it's not required by the state because it's only duplex's, but under your fire protection, it says that every multifamily development, whether condo or rentals building shall install an automatic fire protection system, just basically says that all that stuff has to be tied into the Fire Department

Tinkham: I think you should be, have a change to go over this. The other thing that was part of your development notes, it says that all units shall install a fire protection system approved by the Fire chief. Well, we don't have that.

Secretary: Technically we do from the prior chief, it's not going to change from one chief to another.

Tinkham: I still think he should be brought into the loop, the other one is prior to any issuance of as Special Permit, the applicant shall conduct percolation tests of 80% of the total parcel witnessed by the Board of Health on 200 x 200 grid. I know you did the grid, did you do the perc test?

Kotowski: We've done the perc test, we have them indicated on the plans.

Tinkham: Who witnessed them

Kotowski; Cathy witnessed the ones in this area, 80%, we didn't perc all of them, just the ones where the houses are going (on full sized set) we have the locations where the perc test are (last sheet). Let me rephrase that, unfortunately, they weren't all witnessed by the Board of Health. If I remember, we did most of them with Merrill Associates, as shown and indicated where the differences are. Most of these that we did within the grid like these were done alongside the roadway for a drainage swale that was done, and then we did these ones. We did when we did the subdivision plans. The ones in the back were done, these test pits here were done and witnessed by the Board of Health. These were witnessed by Merrill Associates out here and here where the drainage were. But all of them were of the 80%.

Gaynor: All of them were witnessed, where the buildings are going?

Kotowski: Yes these ones here were witnessed by the BOH but the ones that were in the drainage where we're not building anything were witnessed by Merrill Associates. Again, I know that, we submitted, when we were doing the review with the Planning Board, years back, we submitted all the drainage calculations, and soil information with them, we can do formal letters and submit them, but we didn't realize we were going to be required to do that.

Tinkham: Well that's part of the stipulations of a multifamily development, and it's in your notes, these are on the front of the plans, because Cathy, I think it was Cathy, I'm not sure who in the BOH we talked to, didn't know anything about this development, had never been out there.

Kotowski: The only thing I can say is that I know what was done when they had bought the property, and I don't know if at that point they were having another consultant doing it. I know that they have been perced. Like I said, I can't speak for the history, but I know there were multiple times that we have gone out there. Some with Merrill Assoc. and some with I believe was with Cathy because that was part of the stipulations Corey had bought the property, he had to have a perc test witnessed by the BOH. I guess we can schedule a perc test and go out there and perform them if that's where we're at.

Tinkham: Well that is part of the stipulations in order for us to grant a special permit.

Kotowski: Well it doesn't exactly say that either. It says prior to any issuance of any building permit. Another words you could this is I guess why we presume to assume the process would be, we would get a special permit. Just like any building, you know for a variance, like people here before us, for a garage, if they were adding an addition onto the house, requiring a septic system, they wouldn't go and do the perc tests first and not grant the special permit, just be a waste of money if you decide.

Tinkham: I know I understand, but last month you told us, we were the last stop.

Kotowski: correct

Tinkham: We're not the last stop.

Kotowski: Well the last stop is always the building inspector, and it says prior to issuance of a building permit. We're not at that stage we're applying for a building permits, so we've demonstrated that we can create the 200 x 200' grid. We feel that the soils within those grids will perc. We perced all over the place out there. I'm not exactly sure which ones were witnessed by the BOH. I'm pretty sure that at least some of them were and most of them were witnessed by Merrill. I know they've paid for the review process for that, but again, I've said, the by-law says prior to issuance of a building permit. That's always been our impression, once we get the special permit from the board of appeals, it would be no different than building a single family house, you would then schedule a perc test, go thru the board of health, and if it doesn't perc then, you can't do a design that meets the requirement of that by-law. I agree with you, if it said prior to issuance of the board of appeals, special permit, then we would have been out there and had Cathy out there witnessing perc test and everything else.

Nessralla: There's no record of it That the perc tests were done before.?

Kotowski: Again, I know that Joe (Webby) was out there, pretty sure it was Cathy at the time. I wasn't there.

Secretary: Is there anything in writing saying that the perc tests were done and witnessed? From the Board of Health?

Kotowski: I don't have anything in right here in front of me, this was the first time this was brought to my attention. I don't have anything tonight. Again, it was my feeling that the perc test would be something that we would have to satisfy for the building inspector for a building permit, not for you folks. That we demonstrated the 200 x 200' grid, we can accommodate that and, but if that's where we're at, then I apologize, I misinterpreted the by-law. I mean we can schedule it and go out there and do a perc test. I guess because of being on the opposite side of the table, it wouldn't make any sense to go out and spend thousands of dollars to do perc tests, if the board for other reasons decide that a special permit isn't granted. Then the applicant is just wasting money to move forward. That's why I assumed at that stage it's just the Building Inspector would review the perc tests would be done, and satisfied the method of requirement under the bylaw. It's a condition usually for approval of a special permit. I guess it was always one of these things that as long as we get that 200 x 200 grid and we could perc 80% of that at the time, and we're ready to go out there for perc testing, for official ones for the board.

Tinkham: Well, number 2 of section 167-12 80% of a total parcel tested a 200 x 200' grid, must be found to be percable by the Board of Health. What would the board like to do.

Gaynor: I personally would like to see again the renditions of what the building is going to look like, in order to be able to review them. In the meantime we could certainly check with the BOHealth and Mr. Millias and find out, if in fact, it does make sense what you were saying, why would you spend all that money to perc.

Kotowski: If the board likes, we do have the colors, as far as what types of colors for the siding and the roofing as requested last hearing. We didn't have the actual colors of what the siding was going to be, and those match the footprint that is shown on the site plan, and these are the color scheme, which is typical.

Members discussed and looked at the color schemes. Floor layouts, elevations, etc. Mr. Gaynor wanted to see the elevations, will basically be two colonials with garages, to ensure it is within the established character of the neighborhood. They will have multiply roofs lines to break up the front, flat look. Each will also have small porch.

The history of the property was discussed regarding the single family subdivision which the applicant went through the Planning Board. Petitioner advised that they felt they meet the requirements under subdivision control. At the intersection, regarding the curved line with no less than 30'. Mr. Kotowski felt they were able to do that, and they did discuss other subdivisions with less than 30'. Went before the board Planning, wanted to also waive the 1000' street length, originally they said they were ok, designed the plans, then the board said no. The applicant then went and applied for 40B, Selectman took no action, received a license through Mass housing, went back to the Planning Board, board said no in the end.

Tinkham: At the very least with whatever happens tonight, there will be stipulations, as the Board of Health said they don't even have an appointment set up with you yet.

Kotowski: I have to say it's been at least a decade since we, they've owned the land since 2002. When they did the original percs, I was there, I don't think Cathy was there, or who was out there from the BOH, but it was one of the stipulations, that I perc. Worst case he would get one house lot back there, as a retreat lot, and that's they way he made sure before he bought it, that he got an official perc. That's my recollection.

Tinkham: Mr. Andrews you have some comments?

Mr. Andrews: Yes, it still doesn't, it still goes into the buffer, it leaves almost no buffer at the end. The reason why the PB at the meeting didn't agree to the plan as far as I can tell, it didn't have the minimum 105' intersection that they needed. Over the years a number of other roads in town have come up. They talked about Firefly Ln, I guess that's 84 feet, where this is only 74-78. They said that the intersection, they didn't feel it was a good intersection so making it even smaller, they didn't think that was a good idea either. There have been a number of things that have come up. I just think that if you can't park on something, meaning you couldn't leave it as a green grass strip, like in other places, I don't know how you can put pavement over it. If you can't park on it, I don't get how you can put pavement over it.

Kotowski: You can park on the grass, you can park in the woods, you could say that anything on that site is,

Mr. Andrews: Excuse me, I'm taking about the parking still, I still think that's an issue. I just think that if you're going to give 44' or 78' for an access to a retreat lot like this, you're going to see this happen all over the place. You're going to see multifamily with tiny little strips going out there. And we've gone to the Conservation hearings and I don't believe those perc tests have taken place, because they need to get permission to go over the crossing to have those perc test done.

Kotowski: I'd like to speak to that to if that's...

Tinkham: Hold on one second... is there anything else? OK

Kotowski: As far as the perc testing's, and again, this is part of the whole expensive process that they've been through. Originally there was a wetlands delineation that was done and paid for by them with a credible wetland scientist, they've had the wetland, being two separate wetlands, with a large gap between them, while we went through the Planning Board process the PB hired, I'm sorry, the Conservation Commission, the PB required us to get the wetlands line reviewed. Our wetland scientist at the time was pretty adamant that these two things were separated, but they couldn't convince the conservation commissions consultant. So when we went through, we filed a request for determination, we let the conservation commission know we were going out there to do perc tests. In good faith we had a wetlands scientist that said, this was not wetlands, you could cross through there. You need to go out there most, but it was a re-classification, of either eastern white cedar or Northern New England cedar, or one tree that was re-classified within this, that created, two separated wetland areas to be connected. That's why we were able to go out there originally and do perc tests, and then through the secondary process and going back to the Planning Board they required us to file an ANRAD to get the wetlands line reviewed, we went through that process, paid the expensive fees for that. Then we went back as a requirement, and again this, these were things that were within the process of going through the Planning Board that the applicant was, said, this is all we want you to do. They said we want you to get your conservation approval first. So we went to the Conservation Commission, we file a Notice of Intent, went through the whole process. They reviewed the drainage, they reviewed the wetland line, they reviewed everything. We go back to the Planning board and the Planning Board says, well now we have this one issue, again, it's been reviewed continuously for a long time with the Planning Board and the Conservation Commission, multiple times. In fairness, we've met with the Fire Chief not even the previous one, but the previous one before that, so we met with a few different fire departments multiple times, now I understand you have a new one, and no problem,

Tinkham: Just run it by him.

Kotowski: I mean that section of roadway for site distance, you couldn't ask for greater sight distance without visual obstacles all the way up and down Elm St. Long, long tangent section and I don't think the intersection, it far exceeds, and speaking with Mr. Andrews, Yes, we over designed the intersection, we've maxed out, typically you would only have for pavement, you would have around 75' maybe 80' of pavement, we have over, I think a 120' of pavement at the intersection, just because it flairs out, the radius'. We're talking about actual pavement, from here to here.

Tinkham: When you said, you're talking about this where it flairs out, Is that what you're talking about too?

Kotowski: Yes, in other words, if you were to, well, your requirement, your by-law doesn't really have and again, I want to clarify, this, is what Mr. Andrews is referring to is this, you could have potentially 74 feet of all these other lots coming before you, well, he is correct, but that's only because your by-law doesn't stipulate how much of an intersection, how much required frontage we have to have or any of those things. It's within your review process to decide, whether or not this intersection is safe and adequate for 12 units on this site. We have the 10 acres, we exceed the 10 acres, all other provisions under there, because this may not meet, well, we're not even showing a street line intersection, because our street is all of this, it's all one lot, we're not proposing any roadway either. So we're not required to have, we have a 50' radius where if you were to do a 30' radius, we would actually be less than that, with that ever the inset from that street line would be. You have 50 and 35 on both sides. From here to here, if this were a subdivision roadway this would only be whatever this distance would be offset from the street line with whatever remaining land you have and again, we'd have to demonstrate that two cars could get in there safely. In this case two fire engines could get in and out of here without any problem, safely.

Tinkham: Any other questions?

Parcellin: Are there any other multifamily duplex neighborhoods in this area?

Kotowski: I don't even know if there is a duplex in Halifax.

Discussion on where there are duplex's in Halifax.

Tinkham: With the couple of things that I brought up, that could be stipulations on whether or not it goes thru, as long as he continues on with the BOH, and the new Fire Chief, run it by him.

Gaynor: What do you feel about Mr. Andrews concerns about the buffer area here.

Tinkham; Now they did have grass originally,

Kotowski: A grass strip between the sidewalk and the edge of the berm. We relocated the sidewalk on this side so we could have the 30' here.

Tinkham: Now, what's going to be right here?

Kotowski: Whatever is there right now, they are not proposing to do any work there now, there was a sidewalk, but now that's on the other side.

Tinkham: So it will be whatever vegetated.

Kotowski: Whatever is there now. Honestly, we would prefer to have the sidewalk, all without having to have the pedestrian to jump on the other side of the road. But we understand what we're working with here.

Tinkham: It can't go all the way down the road?

Kotowski: Not to provide the setbacks that he's looking for.

Tinkham: On this side, they would still have to cross over?

Kotowski: They would have to jump over because of the way the lot lines are. completely parallel, as you can see it gets a little wider as you get back here so we had to re-align the road, so that it is parallel with this line all the way down to the middle to accommodate that 30', up to this point we had to shift everything over. Obviously we would like to have the sidewalk follow on this side, because you always want the sidewalk to the closest to the town center, and want to prepare if there' ever going to bring sidewalks, connect it that way.

Mr. Andrews: I have one other concern, if these are new plans, I believe it has to go back to the Planning Board so they get to vote. Because they changed the plan, the Planning Board has to approve this.

Nessralla: They made a change to the side lot lines.

Mr. Andrews: I agree, but approval wise, they made a change, it's got to go back to the Planning Board, because they approved the previous one. I'm happy that they made this change, but I still don't feel like it fits the character like Bert said and I still think that they should still have to have a 30' buffer the length of the property.... I guess they don't because they need the radius to get in there, and they don't have 125' of road of their property. They have less that that because their property goes to the street.

Kotowski: I know Mr. Andrews concern, and I just want to get back to what the bylaw says, the 30' minimum to the side yard and the adjacent property shall be maintained as a vegetated buffer area.... And there is no comma there, the continuing statement is... the area free of parking or any structure. We are not providing any parking or structures here, we're going to provide the vegetated buffer. It says any changes in the natural state requires approval by the special permit granting authority, you the board of appeals, not the planning board. The Planning board is advisory under the site plan review. We haven't made any significant changes, we made the sidewalk on one side, but they do that all the time. Just want to remind the BOA, there is no requirement under your bylaw for a sidewalk. We could have come with a striped down plan, no sidewalk, no berms, no nothing, shorten the pavement, shorten the intersection. We tried to work with what we know other boards, departments, agencies, have been pushing this project in that direction, we weren't able to meet the requirements under the subdivision rules and regulations for a single family residential subdivision. We used what information, knowledge and experience we've complied over the years during this process to get to this point. We think we meet the requirements, and could go into it further, the definition of a side yard is,

Tinkham: We go it, I just want to read into the minutes, the letter that went out to Amanda Monti at the meeting held on December 18. (attach copy)

Kotowski: I have no problem with that.

Nessralla: So the Planning board gave its approval.

Mr. Andrews: I just want to point out that the plans changed.

Nessralla: It's not really a significant change. They meet what you wanted.

Mr. Andrews: Ok, I don't think they met what I wanted.

Secretary: (interjected) As far as the site plan requirements, they met site plan requirements for the Planning Board to endorse.

I will make a motion on petition #823 to accept the petition as presented, contingent upon final approval from the Board of Health regarding specifically regarding the percs. Contingent upon the review from the current Fire Chief.

MOTION: R. Gaynor

SECOND: K. Nessralla

Chairman Tinkham called for voice vote:

Durgin: Yes; Parcellin: No; Nessralla: Yes; Gaynor: Yes; Tinkham: Yes; Passes 4-1-0

Petition #825 Denzil & Elfreda D'Souza In-law Apartment

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, January 12, 2015 at 7:45p.m. in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax MA on the application by Denzil & Elfreda D'Souza to convert an existing space (of approximate 265 square feet) within the existing home to an In-Law Apartment at 16 Brandeis Circle, Halifax, MA. Said property is owned by Denzil & Elfreda D'Souza, as shown on Assessor's Map 34, Lot 105. The applicants seek a Special Permit for an In-Law Apartment in accordance with the Zoning By-laws of the Town of Halifax under Section 167-7(C), Summary of Use Regulations (page 167:26.1) & Section 167-7(D)(12) Specific Use Regulation, page 167:38-39. Area is zoned residential.
Petition #825

Present: Denzil & Elfreda D'Souza;

They have a special needs son and not ready to be on his own yet. Would like to make the downstairs an area for him. Laundry area would be a bathroom, front storage area a kitchenette. All will be within the house in order to have his own area.

Mr. Gaynor asked if all the utilities would remain as one to include heat, water, electric. He also asked if there is a common area, there is no door. He will have his own living area. It will remain open to the rest of the house. The kitchenette will have a range, counters, small sink. There will be a shower stall, vanity, /sink and toilet in bathroom.

Tinkham: It's 267 square feet is what you're asking for?

Mrs. D'Souza: yes, it's 265, it's just to get him thru the next few years and develop some skills so he can go out on his own.

Tinkham: Do we need to go out and look at this?

Gaynor: I make a motion to waive the on-site.

MOTION: R. Gaynor

SECOND: K. Nessralla:

AIF

Make a motion to accept petition #825 as presented with the following conditions: The permit is renewable every 5 years. When no longer in use the kitchenette will be removed, and to leave the door open to the upstairs.

MOTION: R. Gaynor
SECOND: K. Nessralla

AIF

Chairman called for voice vote:

Gaynor: Yes; Nessralla: Yes; Parcellin: Yes; Durgin: Yes; Tinkham: Yes; Passes-5-0-0

Adjourn:

Motion to adjourn meeting at 8:45 p.m.

MOTION:
SECOND: AIF

It was unanimously voted to adjourn the meeting at 8:45 p.m.

Approved Date:

Current Chairman: Robert Gaynor