



# 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, October 5, 2015

The Halifax Zoning Board of Appeals held a public hearing on Monday, October 5, 2015 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

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

Chairperson Tinkham called the meeting to order at 6:07 pm and reprised the audience that this public hearing/meeting is being audio taped.

Kozhaya Nessralla was in attendance at 6:10pm.

---

The Board reviewed the mail and other matter/issues:

#### Procedural Matters

I Correspondence/Mail/Email/Fax

- OCPC – “Agenda for Meeting No. 520 September 30, 2015” [received 9/28/15]

II \*Bill(s)

- Revolving: “Express Newspaper” – Petition #836 Legal Notices = \$70
- Expense: “CPTC” – Workshop: “The Next Chapter of 40B: Targeted Training for Planning & Zoning Board Members” on 10/21/15 at 5:30pm, 60 Temple Place, 3<sup>rd</sup> floor, Boston, MA = \$30

III Approval of Minutes

- November 10, 2014

IV New Business

- 6:15pm – Petition #836, Ralph Smith, 40 Carver Street, Halifax, MA

V Old Business

- 6:10pm – Petition #835, Garrett K. Back, 23 Richview Avenue, Halifax, MA

VI Other Matters

- PB to ZBA – re: “Site Plans for Review” 640 Plymouth St.” memo [9/18/15]
- BOS to ZBA- re: “Extended Trailer Permit-Back/Richview Avenue [9/25/15]

VII Upcoming Hearings, Seminars &/or Conferences

VIII Open Comments /Open Business

IX Possible Executive Session

X Adjourn

---

---

**Zoning Board of Appeals**

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

Page 2 / October 5, 2015

**Petition #835 -Garrett K. Back, 23 Richview Avenue, Halifax, MA**

BOARD/COMMITTEE: ZONING BOARD OF APPEALS

MEETING: PUBLIC HEARING (Please circle appropriately)

DATE: October 5, 2015 TIME: 6:10PM

LOCATION: Town of Halifax, 499 Plymouth Street, Halifax, MA; Meeting Room #1 / 2<sup>nd</sup> Floor

PURPOSE: Continuance of Petition #835, as requested by the petitioner via letter (dated 9/10/15), informing the ZBA of lack of prepared architectural plans for the original public hearing of 9/14/15

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, September 14, 2015 at 7:30 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Garrett K. Back for a Special Permit to build /renovate the home, located at 23 Richview Avenue, Halifax, MA. Said property is owned by Garrett K. Back, as shown on Assessor's Map #40, Lots 82 & 83. The Special Permit requested requires the following: a Continuation. Alteration and Extension of Non-Conforming Uses (Sections 167-8A, 167-8B & 167-8C; page 167:40) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned Residential. Petition #835

The secretary refreshed the Board's memory that this continuance was due to the applicant requesting a continuance as he did not have architectural plans for his property prepared timely for the original public hearing as it was cutting it close but under the recommendation of the Building Inspector, Mr. Back should file immediately in good faith.

Mr. Back came before the Board to speak to his petition.

Mr. Back explained that it started as a small one bedroom project as his wife was pregnant. However, during his work, he found out that structurally, there were termites, rotting of wood and the basement was in being held up by cedar post. The only thing holding the home was the siding of the house. As he got further into the project and before his wife delivered, the project just got out of hand. The house did get raised and he is not going over the footprint of the house. It will remain a two bedroom house, converting the old garage to a bedroom. He confirmed that it will stay in the same footprint. When the Board reviewed the pictures, they can see it was taken to the studs for the most part.

The secretary informed the Board that upon research, the house is deeded a two bedroom house and one of those lots that must remain a two bedroom home, which Mr. Back is aware of and it will be staying a two bedroom home. Currently Mr. & Mrs. Back are living in a trailer home and will be going before the Board of Selectmen for approval for the trailer home.

He explained the mold and termite damage was extremely severe. The cedar posts holding the basement were in just in bad condition. The footprint remains the same. The present garage will be converted to a bedroom and remains in the same footprint.

Mr. Gaynor asked when the original building permit was issued. Mr. Back explained that he was very bad as he not only did not apply for a building permit; he never did and was informed of the

## **Zoning Board of Appeals**

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

errors of his ways. Mr. Back explained that architectural plans with an architect stamping is required.

The secretary explained that the septic plans with the Board of Health has a discrepancy only in lot number as to what was done. Webby Engineering misprinted the lot and the secretary recommended to the applicant to have that match as he is the owner of the property.

Chairperson Tinkham opened the petition to the audience but no response.

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to waive the on-site inspection. So Voted by Voice and passed 5-0-0

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to grant your petition (#835) for a Special Permit to build/renovate your home, located at 23 Richview Avenue, Halifax, MA, as shown on Assessor's Map #40, Lots 82 & 83. The Special Permit was granted for the following: a Continuation. Alteration and Extension of Non-Conforming Uses (Sections 167-8A, 167-8B & 167-8C; page 167:40) in accordance with the Zoning By-laws of the Town of Halifax.

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:

1. The special permit was granted with the agreement that the applicant will comply with any/all pre-existing and/or forthcoming decisions set forth by the Building Inspector/Zoning Enforcement Officer.
2. Any/all permits required to complete the project will be filed accordingly.
3. The special permit was granted with the agreement that the applicant will not derogate from the submitted architectural plans at the public hearing.
4. 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:

- (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 (10/6/15) 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.

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 #835 was passed 5-0-0

Chairperson Tinkham reprised the applicant of the procedure following approval of the petition.

## **Zoning Board of Appeals**

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

Chairperson Tinkham also asked the secretary to release a memo in response to the Zoning Board of Appeals having no problems with extending the permit for the trailer home.

---

### **Petition #836, Ralph Smith, 40 Carver Street, Halifax, MA**

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, October 5, 2015 at 6:15pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Ralph Smith. The applicant(s) states the following: “ Owners request permission to sell mulch, loam + other landscaping supplies. There are no sales made to the public on-site. Orders are taken verbally (via phone) & deliveries are made” from the property located at 40 Carver Street, Halifax, MA. Said property is owned by Ralph & Mabel Smith, as shown on Assessor’s Map #71, Lot 23. The applicant(s) seek a Special Permit under Commercial Uses for “Open air business/outside sales” in accordance with the Zoning By-laws of the Town of Halifax under Section 167-7 Schedule & Summary of Uses, page 167:25 & 29. Area is zoned Commercial & Residential. Petition #836

Petitioner, Ralph Smith, came before the board to speak to his petition.

Mr. Smith explained that this business was already pre-existing prior to his ownership. He explained where the mulch was located. He said that he & his former partner, John (Devine) moved the business to his home and although Mr. Devine is still involved with the business, the mulch was no longer located on the property where there was a former special permit issuance of 320 Monponsett Street, Halifax, MA. The former special permit is non-transferrable as it remained with the applicant and the property. The applicant thought that it was transferrable and it is absolutely not transferrable. Mr. Smith said he was fully unaware of that condition. Chairman Tinkham said that it’s been over a year that letters have been sent to the petitioner explaining that he needs to file an application.

Mr. Smith was asked to explain the landscaping supplies listed on the application. Mr. Smith explained supplies such as loam, stone dust and colored stone. Chairman Tinkham said that the business of selling firewood was an addition to the business, which was posted as a signage at the 320 Monponsett Street address.

The secretary calls to the attention to the Board of all the letters pertaining to 40 Carver Street (from former petition #742 and petition #816 from the Building Inspector’s Office, dated December of 2014).

The Board reviews the layout of the land/lot as there are different zones on the property. Vice-Chair Gaynor inquired about the layout of the property and where things are stored on the property. Mr. Smith explained that he is getting pre-caster blocks, fencing goes down his property line and barriers within the fence. Mr. Smith was asked if he does commercial business and he said not really, mainly residential. Hours of operation for the business will be daylight hours as the area will not be lit per Mr. Smith.

Chairman Tinkham opened the discussion to the audience.

## **Zoning Board of Appeals**

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

Abutter Aldine McGee & Richard Nolan of 50 Carver Street spoke to the Board. Her property abuts the petitioners. Her concern is upon the purchase of the property back at/around the year of 2002 from John Devine, where the supplies are kept, it is an open land/lot. They are thirty eight feet from their property line/kitchen door in fact. The constant issues that they have are the noise of trucks that go to/from the property when moving loom as the debris/dirt is everywhere and even in their home. The smell is a problem and cannot open the windows to the house. It's really been a problem and they don't know what to do because from the last time she was here, the applicants stated it's their property and they can do what they want. Trucks are coming/going on a regular basis. The abutters said when the ownership of the business was with Mr. Devine, he would come to their home to ask if this was bothering them. Overall, the soot is the problem.

Mr. Smith responded to the Board that the former business that Mr. Devine had was approximately six to seven pump trucks that came/went from the property.

Mrs. McGee showed pictures to the Board reflecting her concern.

Abuter Linda Parent of 54 Carver Street spoke to the Board and agreed with her neighbors at 50 Carver Street. She explained the location of her property compared to the petitioners.

The abutters and petitioner were speaking to each other and getting a bit loud. Chairman Tinkham broke it up, explaining that all communication must go through the Board.

Joanne Smith explains to the Board what is on the property based upon a submission of the layout of the property. Mr. Nessralla suggested perhaps moving the mulch pile and a treeline to a hundred feet.

Conversations got a bit controversial regarding the relationship of the neighbors and how everyone treats one another.

### **Petition #826, Bowker, LLC, Land Off Franklin Street, Halifax, MA**

BOARD/COMMITTEE: ZONING BOARD OF APPEALS

MEETING PUBLIC HEARING (Please circle appropriately)

DATE: OCTOBER 5, 2015 TIME: 7:00PM

LOCATION: TOWN OF HALIFAX, 499 PLYMOUTH STREET, HALIFAX, MA  
MEETING ROOM #1/2<sup>ND</sup> FLOOR

PURPOSE: PETITION #826 = CONTINUANCE OF PUBLIC HEARING (MOTIONED AT  
THE AUGUST 31, 2015 PUBLIC HEARING)

REQUESTED BY: MARION WONG-RYAN, ZBA SECRETARY

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, March 16, 2015 at 7:00 p.m. on the second floor of the Town Hall in the Great Hall, 499 Plymouth Street, Halifax, MA, for the following, as stated in the application: "The applicant, Bowker, LLC is seeking a Comprehensive Permit from the Town of Halifax Zoning Board of Appeals, under the provisions of Massachusetts General Laws, Chapter 40B, Section 20-23, to construct fifty-two (52) single family homes (39 Market Rate and 13 Affordable) on a parcel of land containing sixty-two (62) acres between 229 and 243 Franklin Street, Halifax, MA. The project will be accessed by a main

## **Zoning Board of Appeals**

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

access road with sidewalks, public water, private subsurface sewage disposal systems and storm water management facilities complying with the current state storm water management regulations. The project will contain a mixture of three (3) and four (4) bedroom homes, thirteen (13) of which will be deed restricted in accordance with the requirements of Mass Housing which is the subsidizing agency on this project. Bowker, LLC will become a limited dividend organization as per the requirements of the state law and regulations.” Project is to be named “Blackledge Farm” on land located off Franklin Street, Halifax, MA. Said property is owned by Springer Construction Inc., as shown on Assessors Map 82/Lot 1 and Conoco Energy LLC, as shown on Assessors Map 93/Lot 9A. Petition #826

Chairperson Tinkham read aloud a letter (-see attached-), dated September 28, 2015, from the counsel for Bowker, LLC, Robert W. Galvin, Esq. (from the Office of Galvin & Galvin, PC). The letter stated the following: “As a consequence, we are **requesting to withdraw our request for a Comprehensive Permit for Blackledge Farm without prejudice.**”

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to accept the letter, dated September 28, 2015 from the counsel for Bowker, LLC, Robert W. Galvin, Esq. to withdraw Petition #826 / Comprehensive Permit for Blackledge Farm without prejudice.

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 withdraw without prejudice petition #826 was passed 5-0-0

Chairperson Tinkham asked the secretary to release a memo from the Office of the Zoning Board of Appeals reflecting this matter to the necessary Boards/Committees/Departments in the Town of Halifax, along with Town Counsel.

---

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

Respectfully submitted,

Marion Wong-Ryan  
Zoning Board of Appeals, Secretary

Robert Gaynor  
Zoning Board of Appeals, Chairman

---