



HALIFAX ZONING BOARD OF APPEALS

Meeting Minutes

Monday, March 14, 2016

The Halifax Zoning Board of Appeals held a public hearing on Monday, March 14, 2016 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Robert Gaynor, Kozhaya Nessralla, Peter Parcellin, Gerald Joy, Robert Durgin and Daniel Borsari were in attendance.

Chairperson Gaynor called the meeting to order at 7:10pm and reprised the audience that this public hearing/meeting is being audio taped. He also explained the procedure and the protocol at the public hearings.

Correspondence/Mail/Notices/Bills:

Chairman Gaynor reviewed all mail: Municipal Law newsletter, letter from Charlie Seelig regarding Mudfest and the issuance of any permits by the Board.

The Board votes on Board of Selectman Mudfest requests:

1. 7:00am – 7:00pm. Stipulations are parking lane requirements - mark lanes better for emergency vehicles. AIF
2. Fieldstone Farms. ZBA recommends hours of operation for Saturday, July 16th be 11:00am – 9:00pm. ZBA recommends hours of operation for Sunday, July 17th be 11:00am – 7:00pm. AIF
3. Alcohol. ZBA recommends bar hours for Saturday, July 16th be 11:00am – 7:00pm. ZBA recommends bar hours for Sunday, July 17th be 12:00pm – 5:00pm. AIF

A response letter from Building Inspector Mr. Piccirilli regarding Mr. Memo's permit conditions was read into record by Mr. Gaynor. Memo from Planning Board regarding definitive subdivision plan for Jordiss Rains Estates on Palmer Mill Road was read into record.

Public Hearings:

7:15pm – Petition #840 - Michael E. Striff, 37 Buttonwood Road, Halifax, MA

ZBA Secretary Marion Wong-Ryan read the Public Hearing Notice into record.

Present: Michael Striff

Chairman Gaynor asks Mr. Striff to present his proposal. Mr. Striff has not received any response from his abutters. Mr. Striff presents pictures of his property showing the addition of a deck to the front of his house. The lot is 15,000 square feet. The house was built in 1940 and Mr. Striff is the only person residing there. There was a crumbling porch and a deck made from cinderblock and dura-fill. Mr. Gaynor asks about the supports in the ground. Mr. Striff explains that the Building Inspector thought everything looked good and that the deck was built well. Mr. Gaynor confirms that the deck is replacing the crumbling porch. Mr. Striff confirms that he did the construction.

Motion to waive on-site for Petition #840:

MOTION: Peter Parcellin
SECOND: Robert Gaynor AIF
Passes: 5-0-0

Motion to accept Petition #840 as presented:

MOTION: Peter Parcellin
SECOND: Kozhaya Nessralla AIF
Passes: 5-0-0

7:30pm - Petition #841, A&O Danner Co. Inc (on behalf of Deborah Harding), 17 First Avenue, Halifax, MA

ZBA Secretary read the Public Hearing Notice into record.

Present: Mr. Danner (contractor), Ms. Harding (owner)

ZBA Secretary reviews the petition and all correspondence relating to it. There was a question as to whether a variance would be needed for the continuation, alteration, extension, restoration of the non-conforming use as the house was torn down. As the house is staying in its exact footprint, it was determined by the Town Counsel that while the special permit is required, a variance is not. Certified plot plan and architect-stamped plans were submitted by Mr. Danner. Chairman Gaynor confirms what Mr. Danner is requesting – to change the home from a three-bedroom to a one-bedroom as well as expanding the living room, not increasing the non-conformity. Mr. Danner explains to the Board what happened. Mr. Danner requested a permit to replace the roof. Because of the many additions through the years, it was decided to change the style of the roof. While working on the roof, Mr. Danner found much rotting of the frame and walls that needed replacement to meet building codes. As the construction continued, the structure was found to need complete removal.

Chairman Gaynor opened the discussion up to the board. Mr. Danner did know that much restructuring needed to be done but did not realize how involved it would get or just how much damage there was to the home. Mr. Danner had a special permit to perform just the roofing work but the Building Inspector informed him that he would need a special permit to continue. Until Mr. Danner pulled the roof off, he didn't know how extensive the damage was. Mr. Danner explains that he wanted to build a forever-home for Ms. Harding however it was not safe to build a roof on the rotting walls. It was difficult to know the deterioration beforehand. Ms. Harding informs Mr. Gaynor that the home was originally built in 1945. There were numerous additions that were never completed, according to Mr. Danner. Mr. Danner is not increasing the elevation of the FAR or the new roof and it's the same footprint.

Mr. Gaynor asks the public and the Board if there are anymore comments or questions.

Motion to waive the on-site of Petition #841:

MOTION: Kozhaya Nessralla
SECOND: Peter Parcellin AIF
Passes: 5-0-0

Motion to withdraw the variance request of the by-law 167-8A-D:

MOTION: Robert Gaynor
SECOND: Peter Parcellin AIF
Passes: 5-0-0

Motion to continue special permit and variance for table and dimensional regulations for Petition #841:

MOTION: Peter Parcellin
SECOND: Kozhaya Nessralla AIF
Passes: 5-0-0

Motion to accept Petition #841 as presented:

MOTION: Peter Parcellin
SECOND: Kozhaya Nessralla AIF
Passes: 5-0-0

Mr. Gaynor feels it is important to note that the new construction is within the established character of the neighborhood. He personally doesn't feel it derogates from the intent of the by-law. Where it's not increasing the non-conformity of the lot and regarding the reply of the Town counsel, it would suffice for filling the requirements of a hardship. A Voice Vote is taken. Passes: 5-0-0.

7:45pm - Petition #783, Tony Giannetti, Hollywood East Auto Repair, 413 Plymouth Street, Halifax, MA

ZBA Secretary reviews the issues: First, the request to amend the conditions granted on 4/22/2013 to the special permit. Second, to address the Town Administrator's letter dated 1/29/2016. Third, to discuss the conditions of the property as it pertains to the conditions set forth by the ZBA and the Conservation Commission. ZBA Secretary reads all correspondence related to this petition into record.

Present: Tony Giannetti

Chairman Gaynor asks Mr. Giannetti what he'd like to do. Mr. Giannetti talks about amending the existing petition of having no unregistered cars on the premises which conflicts with a Class 2 license because they're unregistered. Mr. Gaynor asks if there are any cars with plates on them that are registered for sale. Mr. Giannetti answers no and confirms that they're all unregistered, except one car which could be a customer's. There are seven unregistered vehicles on the property that are for sale. There are around 13 cars on the property, total. Mr. Gaynor asks if those cars will remain on the property. Mr. Giannetti answers no, most are customers' cars being worked on or cars for sale. The tow truck and van are Mr. Giannetti's, the camper is a customer's car. Customer cars stay out on the property for the most part if there isn't enough room inside. Mr. Gaynor wonders if there is enough room outside. Mr. Giannetti informs the Board that the Planning Board wants him to keep the left side of the property clear for emergency vehicle access to the back where the loading dock is. Mr. Gaynor is concerned about the three cargo containers near the loading dock. Mr. Giannetti responds that his father needs to get rid of one, they aren't permanent and hold organized car parts. There is an old Chevrolet pick-up truck that is going to be junked next week after a customer decided not to have it restored and did not come back to pick it up which is located on the back side where the loading dock is. Mr. Gaynor asks if the loading platform has been addressed and cleaned up. Mr. Giannetti responds that yes, the owner of the building had to restructure the building and also cleared up the mess. Mr. Giannetti informs the Board that his workers park in the back. Mr. Gaynor explains to Mr. Giannetti that it is important to maintain his property; keep it clean and presentable as it is on the main street and bordering a residential area.

Mr. Parcellin discusses a neighbor concerned about the noise. Although he is happy that Mr. Giannetti's business is doing well, it is a small piece of land with a lot of activity and if there were any expansion, this might not work. Mr. Giannetti is not looking to expand. His main business is not car sales, it's restoration.

Mr. Gaynor opens the discussion up to the audience for comments or questions. There are none.

Motion to waive onsite inspection for Petition #843:

MOTION: Kozhaya Nessralla
SECOND: Peter Parcellin AIF
Passes: 5-0-0

Mr. Giannetti confirms that there are no changes being made to the business's list of services offered nor to the hours of operation.

The amendment with added conditions:

1. There will be a maximum of ten (10) unregistered vehicles on the property and
2. The applicant must maintain an accepted process of cleanliness to the property, specifically the exterior.

Motion for the renewal of special permit with the above conditions presented:

MOTION: Kozhaya Nessralla

SECOND: Peter Parcellin

AIF

Passes: 5-0-0

Petition #744, Jennifer Harmon-Choate, 7 Plymouth Street, Halifax

ZBA Secretary reads the public hearing notice and applicant's letter request to the ZBA into record. Letter states the petitioner would like to have some changes made to the petition from June 8, 2015, specifically to amend conditions lines #5 (maximum of 26 litters allowed per year) and #6 (maximum of 56 adult dogs on the property). ZBA Secretary apprised the Board of her contact with the police department regarding the complaints made on two separate occasions of dogs barking near the facility. The ZBA secretary also confirmed that the Town Clerk's records are up to date.

Present: Jennifer Harmon-Choate

Ms. Harmon would like to double her number of adult dogs allowed to 100 and double her litters. Ms. Harmon's last inspection (by the Animal Control Officer, Noreen) was done at the time of licensing, maybe July, and the inspection went well. Mr. Gaynor asks Ms. Harmon about the complaints made. She denies any complaints and has been very conscientious of the noise. She has been using bark collars and there hasn't been anyone banging on her door. She feels she absolutely has plenty of room for the increase she's requesting. She can handle six (6) litters at a time, six (6) puppies per litter. Mr. Parcellin asks if Ms. Harmon has any extra help. Ms. Harmon responds that she has students from the Aggy, three in the evening and five (5) different employees on a part-time basis.

Mr. Parcellin asks Ms. Harmon if there are similar businesses on three acres of land as he wonders if the number of dogs on three acres of land is acceptable; it seems like a lot. There is no vocal response.

Mr. Gaynor asks the audience if there are any comments or questions.

Kim Roy (Board of Selectman) feels that it will be difficult for 100 dogs to receive proper attention and care. With the expansion of dogs over the last few years (since 2010), Mr. Gaynor feels that it would be a good idea for the Board, Animal Control Officer, the public and abutters to visit and inspect the property.

Motion for onsite visit to property 7 Plymouth Street, Halifax, MA on April 9, 2016 at 11:00am:

MOTION: Peter Parcellin

SECOND: Kozhaya Nessralla AIF

Passes: 5-0-0

Continuance of Public Hearing on April 11, 2016 at 7:20pm.

Petition #842, Halifax Trails Co., Inc., 265 Monponsett Street, Halifax, MA

ZBA Secretary reads the Public Hearing notice into record. The applicant seeks a special permit to request variances for a multifamily project. Secretary issues a revised letter from Attorney Pellegrini to the Board.

Present: Rob Pellegrini, Attorney representing applicant

Mr. Gaynor explains to the room the process of the public hearing.

Mr. Pellegrini speaks about the subdivision in question. The Planning Board asked for lot lines pursuant to the Board's by-laws, however throwing in a bunch of lot lines will cause major title problems. The Building Inspector ran this by the Town Counsel who agreed with Mr. Pellegrini. The only way to add lot lines is to go through subdivision control which is not how the town has been doing things. Mr. Pellegrini points out, using the plans, which lots were which. Mr. Pellegrini shows the Board the plans with the infrastructure. He explains that there were internal delays. The applicants decided that they wanted a six (6)-foot bump out for a family room on the lower level. Mr. Pellegrini explains that there was some confusion with the process between the applicant and the Building Inspector so they all decided to start over. When this was decided, the lot lines were pulled. Mr. Pellegrini points out each of the four (4) buildings with lot lines. These are the only real lot lines, (rear and sides), that they believe legally exist. Most of the variances that were granted in 2014 don't need to be granted again. The only ones left are rear because 100 lines are required and now only 64 exist. They started with ten (10) variance requests and now they're down to two (2). It's the same project, the only difference is the six-foot bump out on the lower level for family room for each building. A little less driveway was taken for each but everything still fits and there were no other changes.

Mr. Gaynor asks about the fire hydrants, which Mr. Pellegrini isn't sure about, and explains that the plans are not complete but the design is still the same.

Mr. Gaynor opens it up to the Board for comments or questions. Mr. Parcellin explains that originally the intent was to have each building be on separate lots to limit the need for variances. Mr. Parcellin asks Mr. Pellegrini two questions: 1. If Mr. Pellegrini were asking for variances for five separate lot lines, even though they're gone, would they be different than the original application? 2. Is it something that could be changed after meeting now that the variance isn't needed because the lot lines are gone? Mr. Pellegrini answers no to the first question. He originally reapplied with the lot lines there so it was identical. He also answers no to the second question, he would not be able to make any substantial change. Mr. Gaynor asks for more information on the bump outs and asks for the drawings with the garage under. The reason for the bump out is the car can pull in somewhere else to allow space for a family room. The parking spaces are inside the unit, the driveway is not used for parking space. Set ups are the same for each unit; there will be a common area, gardens, retention ponds and no play area.

Mr. Gaynor asks if there is any additional feedback from the police or fire chief and asks if there are any plans for fire hydrants. Mr. Pellegrini confirms, once again, that everything is the same except for the 6-foot bump outs and lot lines. Emergency vehicles can get through with no problem. It is confirmed that the building fronts will remain the same and will be maintained.

Mr. Gaynor opens the discussion up to the public. There are no comments or questions.

Mr. Gaynor asks about any communication from abutters. ZBA Secretary discusses abutter (and Conservation Committee Chairman) Tina Tinnello's review of the 219-2016 plan. Ms Tinnello feels that though they are

minor changes, they are changes nonetheless. Because of this, the applicant should file for an amendment to ensure all matches. This has not been completed yet but will be by the next meeting.

Motion to accept the withdrawal of the variances previously granted for setbacks except for the rear setbacks for buildings #2 and #3:

MOTION: Peter Parcellin
SECOND: Kozhaya Nessralla AIF
Passes: 5-0-0

Mr. Gaynor confirms that the site plan and the site inspection is no different. He asks the Board if they have any issues with the setbacks for buildings #2 and #3. There are no issues from the Board.

Motion to waive the onsite for Petition #842:

MOTION: Peter Parcellin
SECOND: Kozhaya Nessralla AIF
Passes: 5-0-0

Motion to accept Petition #842 with the accepted revision of the variances and with the condition of the approval of any existing boards, committees, departments, pre-existing or forthcoming:

MOTION: Peter Parcellin
SECOND: Kozhaya Nessralla AIF
Passes: 5-0-0

Mr. Gaynor explains that if there are any further changes, they must be reviewed by the Board.

Adjourn:

Motion to adjourn meeting:

MOTION: Peter Parcellin
SECOND: Kozhaya Nessralla AIF
Passes: 5-0-0

Respectfully submitted,

Robert Gaynor
Chairman, Zoning Board of Appeals