



HALIFAX ZONING BOARD OF APPEALS

Meeting Minutes

Monday, April 11, 2016

The Halifax Zoning Board of Appeals held a public hearing on Monday, April 11, 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 7:02pm 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:

Reviewed mail and bills: Old Colony Planning Council; Town of Halifax Planned Mudfest Weekend Music email to Charlie Seelig; Charlie Seelig's memos regarding: Halifax-Fieldstone Farm events, Town Meeting Warrants, Drainage at Halifax Country Club Multi-Family project.

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

Public Hearing:

7:15 – Informal Discussion - Nicole Nolan, 19 Circuit Street, Halifax, MA – In-Law Apartment

ZBA Secretary reads into record the request from owners for an informal discussion to create an in-law apartment for Nicole's father in a barn on their property.

Present: Nicole Nolan

Ms. Nolan presents her idea/plan and describes the property/barn to the Board. The 100-year-old barn is unattached, is structurally sound and has three floors. The house (1,900 sq. feet) is new and on the same lot as the barn. Their idea is to make the first floor (26 x 36) a one or two car garage and have the top floor (16 x 36) be the in-law apartment. (The ground floor is a basement.) The barn is about half the size of the house. The barn is 29 feet from the house. They would like to connect the barn to the house with a shared family room. The in-law apartment would have a kitchen/living room combo, bedroom and bathroom. Another idea is to split the barn in half. The left side would be the garage, the right being the in-law apartment with an upstairs-downstairs option. She is unsure if the connected living room would be considered shared living space.

Chairman Gaynor explains that the concern is that it would eventually not be a two-family in the future and would become an income property for someone else. Mr. Gaynor explains that the kitchen would need to be removed from the apartment if they decided to sell someday. Ms. Nolan agrees to this and explains there are no plans to move. Mr. Parcellin and the Board explain that if there were no kitchen in the apartment (no stove, no dishwasher), there would be no need to make it an in-law. The kitchen in the house could be shared with Ms. Nolan's father. The apartment cannot have separate utility, either. The Board directed Ms. Nolan in the process - speak to the Building Inspector regarding the plans and the Board of Health to inquire about the septic, etc.

Public Hearing:

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

ZBA Secretary reads into record all communication and documentation regarding Petition #744. This includes the Boards request to reschedule their on-site inspection to 4/30/2016 at 11am as well as the Board's motion of continuance to 5/2/2016 at 7:15pm. To follow up on March's meeting, Chairman Gaynor requests that Ms. Harmon submit a written request to increase the volume of dogs in her kennel, even though they have her verbal request on record from the last meeting. The ZBA Secretary reads into record a memo from the Board of Health regarding Ms. Harmon's request to increase her adult dogs and puppy litters and their concern with a waste management plan. The ZBA Secretary reads into record an email with concerns/complaints from an abutter/neighbor's police report.

Motion to reschedule Petition #744's on-site inspection to April 30, 2016 at 11:00am :

MOTION: Robert Durgin
SECOND: Gerald Joy AIF
Passes: 5-0-0

Motion to continue the public hearing to May 2, 2016 at 7:15pm:

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

Public Hearing:

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

ZBA Secretary reads the public hearing notice and documents pertaining to request into record.

Present: Ralph Smith and abutter Aldere McGee, 50 Carver Street

Chairman Gaynor discusses with Mr. Smith his request for permission to sell mulch, loam and other landscaping supplies. He would also like to replace the plantings along the front and abutter's property lines with a 6' x 200' stockade fence with 8' panels where the existing three-rail fence is. Abutter, Ms. McGee, has no problem with this. Mr. Gaynor asks the Board their thoughts on the change to Petition #836.

Motion to accept the amendment to Petition #836 to change bullet point #7 from arborvitae to 6' stockade fencing:

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

Mr. Nessralla recuses himself and there is now a four-member board.

Public Hearing:

Petition #843, Petition #843, R&J, LLC & Halifax Country Club, LLC, Halifax, MA – Multi-Family Development

ZBA Secretary reads the public hearing notice into record. Also reads memos into record from Treasurer and Selectmans' offices. Copies given to attorney.

Present: Ed Brennan, Attorney representing Mr. Peck; Owner John Peck and Engineer Larry Silva

Mr. Brennan explains they have only filed with ZBA so far but have plans prepared for submission to Planning Board for site plan approval. They are looking to ZBA first for thoughts on the requested variances. Mr. Brennan presents the proposal for a variance. The access they propose is off of Plymouth Street, lining up with

the set of lights going into the shopping center across the street which gives them the benefit of traffic control. They are about 6.3 feet short of 150 feet coming into the lot. They took what they could from the adjacent parcel A, which is being combined with the three-acre parcel in the back to comprise the development site. If granted the variance, this site will be combined with the country club and there will be enough frontage. The bulk of the variances being requested have to do with setback requirements. They are ready to begin if this proposal is successful.

The Board views the plan with Mr. Brennan and Mr. Silva. Mr. Silva explains, using the plan, the variances they're requesting. It is recognized that the plan presented is an updated, more detailed plan. The Board requests a copy of this updated plan for the Building Inspector.

Mr. Brennan reviews and points out the measurements/dimensions around each unit and the variance requests associated with each: separations, front, rear and side yard setbacks. Also points out the abutters to each property. There will be 16 units, townhouse style, with connecting garages that all comply with parking.

Chairman Gaynor asks about the vegetation buffer. Mr. Brennan explains that a variance or "waiver" to eliminate the buffer requirement is being requested for units 1, 10 and 11 if the landscaping doesn't satisfy the buffer requirement. Unit 10 is not related to a wetland, it is an abutter's property and is in the bylaw as a buffer. Since a vegetated buffer is not defined, they're asking for a variance to eliminate it by using landscaping, as this is not a wetland protection issue.

Mr. Gaynor asks about the concept of the townhouses. Mr. Silva reviews the rendition of the townhouses. Each unit is separated by single-car garages as well as an area in front for parking. Visitors also have some driveway parking and on the side. Mr. Gaynor asks about turning radiuses and emergency equipment, sidewalks and widths of the street. Mr. Brennan explains that there is further design to be done regarding those items, however, they are seeking availability of variances before they submit the site plan to the Planning Board. Mr. Gaynor explains that the Board has never given variances prior to a site plan approval and feels the Planning Board needs to approve the site plan before the Zoning Board can vary anything.

Mr. Gaynor asks Mr. Brennan what the hardship would be. Mr. Brennan feels it is a Planning issue as it is regarding topography. Mr. Parcellin feels the best argument for a hardship is the frontage for the variance as a multifamily development doesn't *need* to be built on that property; It's a special permit as it is. Mr. Parcellin doesn't understand why there is a need to get these variances to build that number of buildings on that lot. Mr. Brennan answers that there are lots of reasons why the development got pushed over into this area, primarily relating to the layout of the golf course. There are good lots on the front that would be valuable to the property owner and this would also be a good development for the town if and when they ever get developed. However, coming in 300 feet off of Plymouth Street to be used for commercial is not as realistic. By using the rear part of the property for commercial purposes, from a small development point-of-view, the multifamily works nicely. He understands that the by-law is 100 feet between buildings, but if that is adhered to, a huge parcel of land would be needed to accommodate the 16 townhouses and this project won't work. Mr. Parcellin inputs that there could just be less buildings. Mr. Brennan informs the Board that the country club is zoned as AR – agricultural-residential with the front as business-commercial.

Mr. Gaynor asks if the property will be used as mixed use when combined with the country club. Mr. Brennan answers that when the ownership is combined, the rear will be in the commercial district. Mr. Silva further explains that the recurrent front part of the country club property will have the recreational classification which cannot be residential, and is why the remaining part will be not be in the recreational portion. Mr. Gaynor explains that if you'd like to combine the land with the country club you wouldn't need to meet the

setback requirements; you wouldn't need the 100-foot variance as you would be mixing the use. Mr. Brennan responds that if that is done, yes, there would be an alleviation of some variances but there would also be an additional density requirement that would in turn require another variance.

Mr. Gaynor asks for clarification on acres. As this project is being presented, 16 acres are needed to meet the requirements to build this development. There are just under 5 acres currently so 11 acres are needed from the country club. Mr. Parcellin feels there will be difficulty finding a hardship this way. He explains that the intent of the bylaw is that we don't build buildings this close to each other in this town. He feels it would be great to have a nice development on the fairway, he's not opposed to this, but he feels it's too much. If there were less buildings, there would be more space. Mr. Peck explains that if there were no garages so that the buildings would fit better, he doesn't feel this is what the town looks like. Mr. Brennan feels the way the project is being presented with garages is more attractive and that the aesthetics are better.

Mr. Gaynor asks the Board if they have any more questions. Mr. Gaynor addresses the audience and lets them know he will take questions.

Mr. Steve Colomboe, 234 Monponsett Street, asks if the trash collection is the same as a regular house. Mr. Brennan answers that this would not be a public way so there would be individual containers; private collection. Mr. Colomboe asks about vegetation and landscaping and whether there would be something to block the view. Mr. Silva answers that there would be some shrubbery. In respect to the buffer, some of it would be grass and some would have trees or some combination. There must be a lot of shrubbery in order to be attractive.

Ms. Gina Alger, 340 Plymouth Street, talks about her main concern, which is drainage. She comments that Mr. Peck and Mr. Silva know this but that she wants to make sure the Board is aware of it. Mr. Gaynor asks if it has perked to which Mr. Silva responds that yes, it has. The Board of Health was present and witnessed the perks. Ms. Alger explains there is a serious problem with the bank. The land is saturated from the overflow from the bank, they get soil erosion, the retention pond has never worked and they're suffering the consequences. Mr. Silva elaborates on Ms. Alger's concerns using visual aid (plans), as he spoke with her before the meeting in the corridor. He gives a summary of what happens to drainage now and how it will drain with the project. Mr. Silva is going to see if there's a way to adjust the pipe. His goal is to take care of Ms. Alger's problems first, which are basically the result of the bank area.

Mr. Gaynor would personally like to see this project go through the Planning Board with a site plan review to see if it is feasible. He would like to see if it's detrimental to the neighborhood and if it fits with the intent of the by-law with Conservation and Board of Health, as well. He would recommend that the Board defers until they can make a proper determination. Mr. Gaynor feels that it would be a good idea to find out from Town Counsel if the state allows the Board to initiate a variance prior to Planning Board approval with site planning review before the Board acts on the proposal. Mr. Brennan claims they are pretty much ready to go to the Planning Board. Mr. Gaynor would like to attend the Planning Board meeting when this project is presented to them and asks Mr. Brennan to get on their agenda as soon as possible.

Motion to request Attorney Richard Hucksam look into the feasibility of reviewing Petition #843 in conjunction with the Planning Board.

MOTION: Peter Parcellin
SECOND: Gerald Joy AIF
5-0-0

Mr. Steve Colomboe speaks again in relation to the project. First, he feels that six feet compared to 150 feet is not a big deal and makes sense. Second Mr. Colomboe feels this project is an opportunity to fix and make drainage better. Third, being between routes 495 and 3 it's not often that new building opportunities come up for Halifax. Because other towns are closer to these routes, they are able to build what they want. We should add whatever we can whenever we can to develop this town.

Motion to continue Petition #843 for May 2, 2016 at 7:30pm.

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

Motion to accept minutes for August 31, December 14 and January 11, 2016.

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

Adjourn:

Motion to adjourn meeting:

MOTION: Peter Parcellin
SECOND: Gerald Joy AIF
Passes: 5-0-0

Respectfully submitted,

Robert Gaynor
Chairman, Zoning Board of Appeals