



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 11, 2016

The Halifax Zoning Board of Appeals held a public hearing on Monday, July 11, 2016 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Robert Gaynor, Kozhaya Nessleralla, Gerald Joy and Robert Durgin were in attendance.

Peter Parcellin was not in attendance.

Chairperson Gaynor called the meeting to order at 7:03 pm 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.

The Board reviewed the mail and other matter/issues:

Procedural Matters

I Correspondence/Mail/Email/Fax

- OCPC: Agenda for Meeting No. 528 June 29, 2016 [received 7/5/16]
- Emails received & referred to in “Other Matters” for Petition #744 (see below)
- Letter & emails received, sent & referred to in “Other Matters” for Petition #845 (see below)

II Bill(s)

- Revolving: “Express Newspaper” Legal Notices for Petition #846, #847 & #848 = \$240

III Approval of Minutes – N/A

IV New Business

- 7:15pm: Petition #846, Ronald & Christine Cinquegrano, 13 Lantern Lane, Halifax, MA
- 7:20pm: Petition #848, Francis & Lori MacSwain, 151 River Street, Halifax, MA
- 7:30pm: Petition #847, R&J, LLC & Halifax Country Club, LLC, Halifax, MA

V Old Business

- 7:35pm: Petition #845, Allan Praught, 75 Hayward Street, Halifax, MA
- 7:45pm: Petition #744, Jennifer Harmon-Choate, 7 Plymouth Street, Halifax, MA

VI Other Matters

- A. BOA to ZBA – re: “Address Change Notification” memo [dated 7/1/16 & received 7/6/16]
- B. Selectmen Assistant to ZBA – re: “Talent Bank Form” memo [dated 6/21/16 & received 7/5/16]
- C. Petition #847 – the following to be acknowledged & read aloud at the continuance of the public hearing:
 1. Halifax Highway & Cemetery Dept to ZBA – re: “Multi-family Development located at 314 Plymouth Street” [dated June 8, 2016 & received on 6/13/16]
 2. Charlie Seelig to ZBA – re: “R&J LLC/Country Club of Halifax Condominium Development” [dated 6/23/16 & received 7/5/16]

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- D.** Petition #845 – the following to be acknowledged & read aloud at the continuance of the public hearing:
1. Letter received from Allan Praught – re: “Petition 845 75 Hayward St, Halifax, MA” [time stamped 2016 JUL 5 AM 10 18]
 2. Email to Mr. Praught from Secretary, sent on July 5, 2016 at 2:09pm
 3. Email to Mr. Praught from Secretary, sent on July 6, 2016 at 12:55pm
- E.** Petition #744 – the following to be acknowledged & read aloud at the continuance of the public hearing:
1. “Tarawood Kennel” subject from an Interested Party, Linda Murphy of Scituate, MA, requesting acknowledgement of email & it be read aloud at public hearing [emailed on 6/22/16; email forwarded to ZBA on 6/22/16]
 2. “Tarawood kennels” subject from an Interested Party, Cheryl Wilcox of Bridgewater, MA, requesting acknowledgement of email & it be read aloud at the public hearing [emailed 6/15/16; email forward to ZBA on 6/15/16; another email correspondence on 6/20/16]

VII Upcoming Hearings, Seminars &/or Conferences

VIII Open Comments /Open Business

IX Possible Executive Session

X Adjourn

Petition #846, Ronald & Christine Cinquegrano, 13, Lantern Lane, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, July 11, 2016 at 7:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Ronald & Christine Cinquegrano to request a Special Permit to add a second story on top of the existing footprint of their house at 13 Lantern Lane, Halifax, MA. Said property is owned by Ronald & Christine Cinquegrano, as shown on Assessor’s Map #42, Lot 55A. The applicant seeks a Special Permit for a Continuation & Extension of a Non-Conforming Use (Section 167-8A & 8C) & an Alteration to exceed 50% of the Real Market Valuation of the Structure (Section 167-8B) in accordance with the Zoning By-laws of the Town of Halifax, page 167:28. Area is zoned residential. Petition #846

Applicants Mr. & Mrs. Cinquegrano were present to speak to their petition.

Chairman Gaynor informed the petitioners that there are only four members on the Board this evening and if the Board proceeds to go to a motion, then the decision must be unanimous in order to be granted. The other option is to continue the petition to the following month where there will be five members. The petitioners understood and said that they would like to move forward with their application tonight.

Mr. Gaynor read aloud the decision letter for Petition #755 (-see attached-) as this petition was from the same petitioners and their same request for petition #846 was already applied for and granted back on the public hearing night of Monday, March 14, 2011. However, due to financial hardship, the petitioners were unable to complete the project.

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Knowing that the special permit granted back on March 14, 2011 has elapsed, the petitioners, in good faith, have re-filed for the same request which is to add a second story to their existing home. Mr. Cinquegrano stated that the plans submitted back from 2011 (for petition #755) remain the same for this petition. The house is currently a two bedroom/one bathroom home. The second story will consist of two bedrooms and no bathroom. The two bedrooms on the first floor will turn into a master bedroom and there will still be only one bathroom in the home. The Board reviewed the submitted plans.

Mr. Gaynor opened the petition to questions from the audience/interested parties.

Abutter, Timothy Feely of 27 Lantern Lane spoke in favor of the application.

The secretary read aloud three letters /email from direct abutters, who were also in favor of the application (-see attached-). These letters were from the following abutters:

- Alfred & Muriel Cook of 15 Lantern Lane, Halifax, MA
- Bill & Joyce Hay of 10 Lantern Lane, Halifax, MA
- Carol Simmons of 7 Lantern Lane, Halifax, MA

It was duly moved (K.Nessralla) and seconded (Gerald Joy) to waive an on-site inspection. Voice vote passed 4-0-0.

It was duly moved (K.Nessralla) and seconded (R.Durgin) to grant your petition (#846) for Special Permit for the following: to add a second story on top of the existing footprint of their house at 13 Lantern Lane, Halifax, MA, as shown on Assessor's Map #42, Lot 55A, under a Continuation & Extension of a Non-Conforming Use (Section 167-8A & 8C) & an Alteration to exceed 50% of the Real Market Valuation of the Structure (Section 167-8B) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned Residential.

The Zoning Board of Appeals granted this petition as it does not derogate from the intent of the bylaw and will not be detrimental to the established character of the neighborhood. The home is pre-existing non-conforming and will not derogate from the intent of the bylaw.

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

1. The applicant was given a "Recording a Decision with the Registry of Deeds" form by the Board's Secretary and was informed to follow the procedure as this must be completed prior to any permits/variances issued.
2. 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.

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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 (7/12/16) 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 Gaynor called for a Voice Vote: R.Durgin, YES; K.Nessralla, YES; G.Joy, YES; R.Gaynor, YES.

The motion to grant petition #846 passed 4-0-0.

Chairperson Gaynor and the secretary reprised the applicants of the procedure following approval of the petition, both verbally and handing “Recording a Decision with the Registry of Deeds” form to the applicants.

Petition #848, Francis & Lori MacSwain, 151 River Street, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, July 11, 2016 at 7:20p.m. in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax MA on the application by Francis & Lori MacSwain to build a single family home with a twenty-six (26) feet by twenty-four (24) feet In-Law Apartment at 151 River Street, Halifax, MA. Said property is owned by Francis & Lori MacSwain, as shown on Assessor’s Map 118, Lot2A-1. The applicant seeks 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 167:20) & Section 167-7(D)(12) Specific Use Regulation, page 167:27. Area is zoned residential. Petition #848

Applicant, Mrs. MacSwain was present to speak to her petition.

Mrs. MacSwain explained that the reason for the in-law apartment is that her parents will be residing with the family and, in turn, living in the in-law section.

The Board proceeded to review the submitted architectural plans with Mrs. MacSwain. The Board noted that the in-law apartment is a total of twenty four feet by twenty six feet, totaling six hundred twenty four square feet of living space. The main living floor measures thirty six feet by twenty six feet. The Board explained to Mrs. MacSwain that there needs to be a shared living space between the main living house and the in-law apartment. Mrs. MacSwain explained that the in-law apartment will be above the garage as this single family home has not been built but to be under construction. She said that changes can be made in order to adhere to what is required by the bylaw of the town.

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Mr. Nessralla suggested a six feet opening instead of the four feet eight inch opening, along with removing the door – both of which are shown in the architectural plans in the “common entry” way. Mrs. MacSwain was very open to the idea.

Chairman Gaynor informed the petitioners that there are only four members on the Board this evening and if the Board proceeds to go to a motion, then the decision must be unanimous in order to be granted. The other option is to continue the petition to the following month where there will be five members. The petitioner understood and said that she would like to move forward with her application tonight.

Mr. Gaynor confirmed with Mrs. MacSwain that there will be shared utilities, shared septic, the second floor of the main living house will have three bedrooms and two bathrooms, the in-law will have a full bathroom and a half bath on the first floor area.

A continuing conversation ensued between the Board and Mrs. MacSwain regarding the area in the architectural plans called “common entry” as the Board is looking for the openings to be more prevalent. The architectural layout of the main living area must be changed from the current (case) opening of five (5) feet to six (6) feet, as reviewed with the applicant. The architectural layout of the common area leading to the in-law apartment must be changed to reflect the removal of the door and reconfiguring the area of the washer/dryer unit, making it possible to have a maximum of opening of six (6) feet and no less than a five (5) feet minimum opening. The Board informed Mrs. MacSwain that she needs to agree to these recommendations and if this petition is granted, that a condition would be to submit updated the architectural layout/plans of the first floor; these updated layout/plans would need to be submitted to the Office of the Zoning Board of Appeals, no later than August 1, 2016, reflecting the changes agreed upon with the applicant in order to ascertain a building permit. The applicant agreed to these conditions.

It was duly moved (K.Nessralla) and seconded (R.Durgin) to waive an on-site inspection. Voice vote passed 4-0-0.

It was duly moved (K.Nessralla) and seconded (R.Durgin) to grant your petition (#848) for Special Permit to build a single family home with a twenty-six (26) by twenty-four (24) feet In-Law Apartment to the property, located at 151 River Street, Halifax, MA, as shown on Assessor’s Map 118, Lot 2A-1. The application was granted as it met the criteria 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 167:20) & Section 167-7(D)(12) Specific Use Regulation, page 167:27. Area is zoned residential.

This petition was granted as it does not derogate from the intent of the bylaw and will not be detrimental to the established character of the neighborhood.

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The conditions for granting the special permit for the in-law apartment that were agreed upon with the applicant(s) are, as follows:

- The in-law apartment will share all utilities.
- The in-law apartment kitchen appliances are to be removed when no longer occupied by a family member.
- The in-law apartment cannot become an income producing apartment.
- If any change in tenancy takes place, the applicant is to come back for review.
- The Board shall be notified if the in-law apartment is no longer needed.
- The special permit shall run with the owner and not with the property. The special permit is not transferable.
- Should the conditions for granting the special permit for the in-law apartment no longer exist, the special permit shall become null and void.
- The special permit for the in-law apartment is granted for a period of 5 years. Upon expiration of the permit, the applicant(s) shall come back before the Board and apply for an extension.
- The architectural layout of the main living area must be changed from the current (case) opening of five (5) feet to six (6) feet, as reviewed with the applicant.
- The architectural layout of the common area leading to the in-law apartment must be changed to reflect the removal of the door and reconfiguring the area of the washer/dryer unit, making it possible to have a maximum of opening of six (6) feet and no less than a five (5) feet minimum opening.
- Updated architectural layout/plans of the first floor must be submitted to the Office of the Zoning Board of Appeals, no later than August 1, 2016, reflecting the changes agreed upon (specifically bullet point 9 & 10, listed above) with the applicant in order to ascertain a building permit.
- The applicant was given a "Recording a Decision with the Registry of Deeds" form by the Board's Secretary and was informed to follow the procedure as this must be completed prior to any permits/variances issued.
- The special permit was granted based on the plans and testimony presented at the hearing. Any changes 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, 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 Clerk (7/12/16) 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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Chairperson Gaynor called for a Voice Vote: R.Durgin, YES; K.Nessralla, YES; G.Joy, YES; R.Gaynor, YES.

The motion to grant petition #848 passed 4-0-0.

Chairperson Gaynor and the secretary reprised the applicant of the procedure following approval of the petition, both verbally and handing "Recording a Decision with the Registry of Deeds" form to the applicants.

Petition #847, R&J, LLC & Halifax Country Club, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, July 11, 2016 at 7:30p.m. In Meeting Room 1, 499 Plymouth Street, Halifax, MA on the application by Attorney Edmund J. Brennan, Jr., on behalf of R&J, LLC and Halifax Country Club, LLC (c/o John Peck, Manager) for a Special Permit for a Multifamily development, to build four (4) buildings, with four (4) residential units per building (16 units in total), consisting of two (2) bedrooms per unit; a condominium development on land located on the southeasterly side of Plymouth Street. Said properties are owned by R&J, LLC, as shown on Assessor's Map 63, Lots 31 & 6 and Halifax Country Club, LLC, as shown on Assessor's Map 73, Lot 5. The applicant seeks a Special Permit in accordance with the Zoning By-laws of the Town of Halifax under Article III, §Section 167-7D (2) (a)-(d), Specific Use Regulations, page 167:23.

The applicant seeks Variances of the Units for the development to reduce the frontage from the one hundred fifty (150) feet required to one hundred forty three point three (143.3) feet requested. The applicant seeks Variances in accordance with the Zoning By-laws of the Town of Halifax under Article IV, §Section 167-11, Table of Dimensional and Density Regulations, page 167:31 & under Section 167-12.A. (1)-(7), Density regulations for specific uses, under Multifamily development, page 167:31. Area is zoned Residential & Commercial-Business. Petition #847

Board Member, Kozhaya Nessralla recused himself from the petition application.

Attorney Edmund J. Brennan, Jr. (of BRCSM LLP) was present for the petition on behalf of his client, Mr. John Peck.

Due to a lack of quorum, it was duly moved (R.Durgin) and seconded (Gerald Joy) to continue Petition #847 to the next public hearing date of Monday, August 8, 2016 at 7:15pm. Voice vote passed 3-0-0.

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Petition #845, Allan Praught, 75 Hayward Street, Halifax, MA (Continuance...)

Continuance of Public Hearing Motioned to July 11, 2016 at 7:35pm

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, June 13, 2016 at 7:31 p.m. in Meeting Room 1, Town Hall, 499 Plymouth Street, Halifax, MA on the application by Allan Praught (of 80 Spring Street, Boston, MA) to the property located at 75 Hayward Street, Halifax, MA. Said property is owned by Allan & Priscilla Praught, as shown as Assessors Map #121, Lot 1A. The applicant seeks to Appeal the Building Inspector's decision of the following: (A) a determination that the structure in its current state is in conflict with the "Single Family Dwelling" definition (under Section 167-3, page 167:10); (B) a violation of the Town of Halifax Zoning By-law Section 167-7D(2) Multi family dwelling or apartment (page 167:25-26) and/or Section 167-7D(12) In-Law Apartment/Immediate family member (page 167:27), and/or Section 167 Schedule of Use Regulations, "Renting of 1 or 2 rooms and the furnishing of board by a resident family to not more than (3) nontransient persons" (page 167:20). These uses are only allowed by Special Permit from the Zoning Board of Appeals. No such Special Permit has been issued for the property. The applicant seeks an Appeal of the Building Inspectors decision in accordance with the Zoning By-laws of the Town of Halifax under Section 167-21A (1) (page 167:64). Area is zoned Residential. Petition #845

Mr. Gaynor immediately read aloud a "Letter of Mutual Agreement for Withdrawal" form, submitted by the petitioner, requesting to requesting to withdraw the application without prejudice (-see attached-).

Chairperson Gaynor called for a Voice Vote to accept the letter of mutual agreement for withdrawal without prejudice: R.Durgin, YES; K.Nessralla, YES; G.Joy, YES; R.Gaynor, YES.

It was duly granted to accept the letter of mutual agreement for withdrawal without prejudice passed 4-0-0

Petition #744, Jennifer Harmon, 7 Plymouth Street, Halifax, MA (Continuance...)

Continuance of Public Hearing Motioned to July 11, 2016 at 7:45pm

The Halifax Zoning Board of Appeals held its original public hearing back on May 17, 2010 at 8:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Jennifer R. Harmon to request a special permit to "Kennel for the breeding or boarding of dogs" to her property at 7 Plymouth Street, Halifax, MA.

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The Halifax Zoning Board of Appeals will hold a continuance of this public hearing on May 2, 2016 at 7:15pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the same application by Jennifer R. Harmon to continue a special permit to “Kennel for the breeding or boarding of dogs” to her property at 7 Plymouth Street, Halifax, MA, as shown on Assessor’s Map #66, Lots 1A, 1B & 17. The applicant verbally stated (at the public hearing continuance on March 14, 2016) that she would like to amend the existing conditions currently set forth (conditions #5 & #6) to the following: increasing the existing condition of a maximum of fifty (50) adult dogs to a proposed maximum of a hundred (100) adult dogs, along with increasing the existing condition of a maximum of twenty six (26) litters allowed per year to a proposed maximum of fifty two (litters) per year, among the following two (2) breeds (German Shepherd & Pomeranian) on the property. Said property is still owned by Jennifer R. Harmon as shown on Assessor’s Map #66, Lots 1A, 1B & 17. The applicant continues to seek a special permit in accordance with the Zoning By-laws of the Town of Halifax under Section(s) 167-7 (C), Schedule of Use Regulations, Agricultural Uses, pages 167:20. Area is zoned Residential.

Chairman Gaynor explained the procedure and the protocol at the public hearings.

Chairman Gaynor wanted to confirm with Ms. Harmon that there are still only the two breeds (German Shepherd and Pomeranian) before the Board, to which the applicant confirmed by nodding. Mr. Gaynor wanted clarification, as during the onsite inspection; there were no Pomeranians on the premise.

Chairman Gaynor announced that there was an onsite inspection of the property on July 10, 2016 at 10:00am. The area of the property proposed for where the expansion is to take place.

Mr. Gaynor asked Ms. Harmon there was anything she wanted to address based upon the onsite. Ms. Harmon said she had nothing to discuss or add.

Mr. Gaynor proceeded to open the discussion to the members of the Board.

Associate Member, Gerald Joy, spoke regarding the insulation and sound proofing of the building themselves. There appears to be some insulation in the two small buildings and some insulation in the barn but to be honest, it’s probably not enough as there is still reports of noise coming from those areas. In the barn, there appears to be more insulation on the back side, while walls were tongue and groove, one cannot see insulation but the portion above, there was no indication of insulation in that part. Mr. Joy is not aware how barn doors can be insulated as they are nice size doors. Sound proofing part is still a question...what needs to be done to help the noise level to stay contained.

Mr. Gaynor asked Ms. Harmon if she had looked into any type of solution as she had mentioned at the onsite that she had some prices that were outrageous. So, the sound proofing itself, had she come up with anything? Ms. Harmon said that in looking at what she can do for the small or large building, the only thing that may help is the roof insulation. However, she does not think, even though the dogs are barking and alerting, that it’s an issue for or with the neighbors. She is certainly willing to work with the Board to make some changes if it is felt necessary.

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Mr. Gaynor proceeded to discuss the elements as that were noted from the previous two public hearing/meeting. The concern was the dogs' exposures to weather. Mr. Gaynor said he did notice the beginning of a two (feet) by four (feet) framing in the pens outback for what looks like placing a tarp or some type of plastic, leaving the permanent framing for weathering conditions. Question was posed if there is any estimation of completion by the applicant. Ms. Harmon said absolutely she want to do that for the dog and is committed to completing this project by the Fall/Winter season so there will be coverage over the existing area during the elements of the winter.

Mr. Nessralla said putting dogs alongside of the driveway when one first comes in (where the horses are) is too close to the neighbor. There is nothing to protect (noise) from that neighbor except a chain link. Ms. Harmon understood the suggestion and stated that the last thing she wants to do is impose on the neighbors.

Chairman Gaynor took a moment to review the kennel permits versus the rabies certificates that are on record at the Town of Halifax. Looking over the lists and was provided a list dogs on the property for the July 10th on-site compared to the rabies certificates submitted at the Town Clerk's office on July 7, 2016. There are some discrepancies that need clarification. The permit called for forty eight (48) dogs on the kennel permits. There was one on the list she referred as "Sel". Mr. Gaynor wanted clarification that "Sel" is short name for the dog on the kennel permit list where the complete name is "Seldovia". Next, Mr. Gaynor had four (4) dogs listed on the property that he wrote down during the onsite but do not appear to have rabies certificates. Names of these dogs are Valley, Bloss, Ulive & Shelby. He asked for explanation as this was the list provided by the petitioner and as there are no rabies certificates, was he reading it wrong. Ms. Harmon said that she absolutely did provide that to the Town and that they were up to date with rabies with Dr. Hopkins. At the town clerk's office on the 7th, they were firing off copies of rabies certificates and should have been copied. Mr. Gaynor asked that she clarify this with the Office of the Town Clerk and Ms. Harmon said she will check and can guarantee she submitted up-to-date with rabies certificates.

Mr. Gaynor moved onto five (5) dogs listed on the rabies certificates that were not on the property, so where are they. Ms. Harmon said there are three (3) house dogs. Mr. Gaynor named the five (5) dogs in question: Eden, Sampson, Hunter, Ace, Hoss and Latte. Ms. Harmon explained that Latte was in the garage. That house dog is garaged and she comes and goes and that's Latte. In the house, there are three (3) dogs, which are Hunter, Ace and Sophie. Mr. Gaynor said he doesn't have a Sophie listed to which Ms. Harmon said she would have been in the certificates that she copied and should be on file. Sophie was also done by Dr. Hopkins. Mr. Gaynor asked about Hoss, Sampson and Eden. Ms. Harmon replied that Sampson and Eden are retired and not on the property at all. As for the other four (4) dogs (Valley, Bloss, Ulive and Shelby), Ms. Harmon needs to get back to the Town Clerk as there are no certificates on record or on the kennel permit. Mr. Gaynor said he was confused as he could have missed something...whatever the case may be.

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Now, Mr. Gaynor wanted to know the status of the Pomeranians. Ms. Harmon said no Pomeranians on the property at this time. This breed may return at some other point but not now. Mr. Gaynor wanted to clarify that if the permit goes through, then the Pomeranians will not be listed and that the fifty (50) adult dogs would be all German Shepherds. Mr. Gaynor clarified again that the Pomeranians will not be on the property. Ms. Harmon said that is correct as there is a demand for German Shepherds.

Chairman Gaynor opened it to the audience, starting with Selectman Kim Roy.

Ms. Roy touched on the following matters:

- **Overhang:** As it was discussed in past public hearings, in order to protect the dogs from the elements, relating to weather in all increments (snow, rain, heat from the sun); understands it may not a requirement but she requested it and by a certain date. It has taken her some time to comprehend that the dogs are a business and not pets.
- **Barking:** The Board of Selectmen is holding a hearing, scheduled for July 12, 2016 in regards to the barking complaints. Understanding that Ms. Harmon was concerned that an abutter from one of the former hearings may have doctored up, Ms. Roy did her own research and due diligence and was situated at a neighbor's property to listen at different times of the day (11:00pm, 4:30am, 5:00am, 8:00am) and she did not go there once that there was NOT barking. The barking is a problem. She understands that this is a business. She is not asking for the business to be taken away but sited Article II, bylaw section 82-2 Disturbances & read aloud "No person shall own or keep in this town any dog which, by barking, howling or in any other manner, disturbs the quiet of any person." Ms. Roy believes that there has to be a better plan about the sound at the kennel.
- **Dogs:** Ms. Roy said that what she believes is that Ms. Harmon is not asking for 100 breeding dogs but a total of 100 dogs for training/breeding/boarding/daycare. She asked if the Board would entertain conditioning the applicant to the number of breeding of dogs, number of training of dogs with a number of times of the day, number of boarding dogs. This may help possibly contain the noise level. Also, Ms. Roy is not a fan of the bark collar.

Chairman Gaynor wanted to address the first thing /item which was the framework, meaning that something was going to be built to go up on top to protect from the sun and natural elements. Mr. Gaynor asked for clarity regarding the estimated date and time of completion from Ms. Harmon. Ms. Harmon said that she definitely will have it done before the winter and its elements. Her concern, personally, is the roof over the kennels and certainly there is enough there to focus on. Mr. Gaynor asked if this project is to be done the first of the year. Ms. Harmon responded that it will before then as it affects their well-being. Another gentleman next to Ms. Harmon spoke agreeing with what Ms. Harmon was saying.

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Ms. Harmon proceeded onward, agreeing with what Selectman Kim Roy touched upon, which was that she was not asking for 100 dogs for the purpose of breeding but to have that amount of dogs for the purposes of breeding, training classes and socialization, offering these services to customers, clients, township and/or community. Ms. Harmon agreed that breaking down the amount of dogs permitted on the premise may work. She would like to have 100 dogs during the daytime and 100 dogs overnight. Mr. Gaynor wanted clarification that the proposed overnight dogs and those dogs would be ones that formerly were bred and raised from her kennel. Ms. Harmon confirmed as these dogs will be familiar to the kennel. Mr. Gaynor asked if she would object if hours or time limits were set for training these transient dogs. Ms. Harmon absolutely did not object. She stated that they do not have an indoor lighted facility so daytime hours, such as 10am-7pm would be what she would like. She said that the outdoor part of the facility is lit.

Mr. Durgin asked about the dogs that she would be boarding or dogs being dropped off for daycare purposes. Ms. Harmon said those dogs would be part of the number and hours for these types of dogs would be maybe 7am-7pm. Mr. Nessralla said that the canopy over the dogs is an easy fix and can be done within a month. He does not want to see this project take up to January to do as you want to protect the dogs. Ms. Harmon absolutely agreed. As for the number of dogs, Mr. Nessralla said 100 dogs is an awful lot of dogs. Ms. Harmon said that would include the transient dogs for training etc... Mr. Nessralla said to Ms. Harmon that he understands that but she still has 47 breeding dogs and that is still a little too much. In his opinion, to give it a trial for what she has now.

Mr. Gaynor acknowledged Mrs. Roy. She said that she understands the reason for the expansion of the day for transients dogs but assume that these dogs would not have barking collars. As per Mr. Nessralla's suggestion regarding the trial basis, she would prefer this to happen. The following evening is the meeting with the Board of Selectmen to discuss the barking situation so to expand without address this matter may be apropos. She clarified that she was only speaking for herself and not her entire Board.

Mr. Nessralla spoke, referring to the on-site inspection at Ms. Harmon's property (on May 2, 2016 at approximately 10pm) and said when they arrived at the property, the dogs had bark collars on and those dogs were still barking. The dogs would not stop until Ms. Harmon came in and they know Ms. Harmon. As for the dogs that are coming in during the day and their owners don't want them in barking collars, what is to happen. If that is the case, they will create noise. Ms. Harmon said those dog owners will have to understand that there is zero tolerance for noise and nuisance. Mr. Nessralla said she has to take into consideration the people around her property. Mr. Nessralla said perhaps we may not be able to prevent you from operating a kennel; the Board will certainly need to maintain a limit of dogs for the good of the neighborhood. Ms. Harmon understood and does not want to impose any ill on anyone. Mr. Nessralla said he did not imply that but that it needs to be a good for all. Mr. Gaynor asked what if the dog is not trained to wear a barking collar. Ms. Harmon said the barking collar can be set on a lower/loser level.

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Before Chairman Gaynor opened it to questions from the audience, he asked Chief Ted Broderick of the Halifax Police Department if he had any comments/concerns he wanted to address.

Chief Broderick began by stating the Animal Control Officer (i.e. “ACO”) could not be present at tonight’s public hearing. Chief Broderick said that his ACO continues to be concerned about some of the shelter of the dogs. He understands that there is no policy in place regarding what the Town requires for the shelter of these dogs. Although this matter may not be exactly the situation being presented, it is a reasonable expectation or action. Chief Broderick believes that this case may be guided by what is currently listed in Massachusetts General Law, Chapter 140, Section 174E(c) where he read aloud the following: “A person owning or keeping a dog is confined outside in accordance with subsection (b) shall provide the dog with access to clean water and appropriate dog shelter. The dog shelter shall allow the dog to remain dry and protected from the elements...” It goes onto depict and describe conditions of what one is expected to maintain. It’s common sense guidance and that is what his ACO is basing her findings and expectations.

Board member Gerald Joy asked Ms. Harmon is she is training dogs now? She said that she does have people expressing interest but has had to cancel and/or hold off as her special permit does not allow for transient dogs.

Chairman Gaynor opened it to the audience.

Resident, Linda Ford, of 429 South Street spoke. Ms. Ford said that she wanted to clarify that this situation has been going on since early May from what she is hearing, that things have been asked or gone by to look at with the applicant and there have really been no improvements. Is that correct? Sounds like suggestions like coverage, insulation and things like that have been made but nothing is different. Mr. Gaynor responded saying that there have been no real substantial change or plans have been made. As he has been out there two times, the layout of the future has change but as far as actual changes on the property like noise, I would have to say that would be a fair statement. She said this is her first appearance for this petition as she saw it posted on Facebook. Ms. Harmon wanted to respond to the statement by saying nothing has been asked of her to do. She does not think there is a disturbance unless, if alerted, the dogs will bark. She too would like to see a resolution and trying to move on.

Resident, Dawn Corby of 17 Musterfield Lane spoke. Ms. Corby stated that she would like to have some clarification as to exactly how many breeding dogs there are, as well as number of dogs coming for training, as her main concern is the dogs. She has nothing against the petitioner but she is a huge animal activist and has been a dog trainer for the past 21 years. She would like to know the number of staff and if the dogs are in barking collars or shock collars. Mr. Nessralla asked her to explain the difference of the collars. She explained that the barking collars emit a citronella smell while a shock collar emits a shock to the collar to the dog. Neither are 100% proof. In a barking or shock collar, if a dog can handle the smell or the shock, then they will continue to do so. There are states that are outlawing shock collars. She wants this facility to not turn into a puppy mill. She has, in fact, trained a few of the dogs from her kennel and they are beautiful dogs but those owners do not reside in the town. She reiterated her concern of the number of staff. There has to be a guideline set in place.

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Interested party, Cheryl Wilcox of Bridgewater, MA expressed her concerns as she was in a civil suit with Ms. Harmon where the judgment went in her favor for selling a dog from out of state. She wanted to know what Ms. Harmon was licensed for.

Resident, Terry Carman of 228 Hudson Street spoke. She wanted to express her concern regarding shelter for the dogs and that the dogs should not have to go without proper shelter and that there are covering supplied for the dogs. She wanted to know if the permit was granted can it specified to include what was addressed. Mr. Gaynor replied that the permit can be specific to conditions.

Resident, Dawn Corby of 17 Musterfield Lane spoke again. She said that a hundred dogs are excessive and if dogs are coming from out of state, there is a two day quarantine period. Her question to the Board was who was going to enforce this regulation. Mr. Gaynor said he understands Ms. Corby's concerns and everyone hopes the regulations are followed and all is good until one gets caught. Ms. Corby stated that the dog's welfare should be the first priority. There should not be a use for that many barking collars. That many dogs will have a tough time with socialization skills, especially with barking collars.

Resident, Sean Clawson of 21 Plymouth Street spoke. He asked again about the past public hearings held on this petition where the abutters were not notified. Mr. Gaynor asked the secretary to reprise Mr. Clawson once again as this question was asked at the June 13, 2016 public hearing. The petitioner filed back on May 17, 2010 a petition for the "Kennel for the breeding or boarding of dogs". The application has not changed from the original public hearing and such, the applicant has returned for the renewal of her permit given to her as part of her conditions.

Selectman Kim Roy spoke again. She asked if Ms. Harmon is a commercial kennel, is she in violation of her personal kennel license. Mr. Gaynor said he did not know the answer to that question. Ms. Roy asked if she is allowed to bring in dogs from other states?

Ms. Harmon spoke to the Board, reiterating her reputation, character and credibility. She said she teaches the dogs to become well socialized. She meets AKC standards without using shock collar methods. She loves her dogs. She would like to continue her business for a long time and welcomes anyone to come and see her place of business.

Mr. Gaynor explained that the voting of the Board would purely be on what was applied for and that is what the Board would be voting on and should conditions or restrictions be applied, the applicant/petitioner must agree to said terms. Mr. Gaynor explained that at tonight's public hearing, it is a four member board and that all must vote in the affirmative in order for the petition to pass.

Mr. Nessler mentioned that he would like to get more information about the Massachusetts General Laws regarding Dogs and Licenses in order to make a better judgment.

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Selectman Kim Roy spoke regarding the Board of Selectmen meeting that is being held the following night, July 12, 2016. Ms. Harmon said that she just found out about this and was not made aware by the Selectmen's Office in a timely manner. Ms. Roy said that three certified letters were sent to Ms. Harmon's address and all were returned undeliverable.

The Board decided to table the vote. The Board asked that Ms. Harmon that the shelter for the dogs should be done right away. It was requested once again that Ms. Harmon supply a business plan with specific details.

Board member Gerald Joy said that the following need to happen from the applicant: making the building sound proof, how to operate the business. These need to be submitted by the next public hearing date of August 8, 2016, so the Board asked Ms. Harmon to submit the information to the Office of the Zoning Board of Appeals one week prior to the continuance of the public hearing, making the date August 1, 2016. The Board informed Ms. Harmon that the shelter covering should be done right away, that a business plan specifying details needs to be done.

Mr. Joy touched upon making the building soundproof, details of the operation of the business, the continuance being August 8, 2016 and information being requested of the detailed business plan by August 1, 2016.

Interested Audience Attendee, Al Wilcox of Bridgewater, MA spoke regarding the credibility of the petitioner as his wife just took her to civil court and that she (being Ms. Harmon) broke the law.

Resident, Dawn Corby, addressed the Board again, reiterating of the conditions of the shelter for the dogs during increment weather conditions, meaning sun, wind, rain and snow. There should be adequate shelter conditions in place. The Animal Control Officer should be going out there and if not, she asked that changes be made to that situation. Ms. Corby was informed that the Animal Control Officer reports to the Chief of Police and the Animal Inspector reports to the Board of Health. Ms. Corby's concern is animal cruelty, the Board of Health laws and how it pertains to out of state dogs.

Ms. Harmon spoke, saying the dogs are in at night and outside during the day.

It was duly moved (R.Durgin) and seconded (K.Nessralla) to continue Petition #744 to the next public hearing date of Monday, August 8, 2016 at 7:45pm. Voice vote passed 4-0-0.

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Informal Discussion with Edward Johnson, Manager of Brookside Realty, LLC

Mr. Johnson came before the Board to ask about a former petition that the Board approved for a multi-family development off Elm Street. His intention is to purchase the project from the owner of the property and inquired about changing the architectural plans to three different styles of buildings versus the one submitted by the owner of the property. As the entire application was informal, the Board did like the architectural plans that Mr. Johnson brought with him but recommended that if his intention is to purchase the project, then it would be in his best interest to file a new special permit application properly. Mr. Johnson understood and thanked the Board for their time.

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
