



# HALIFAX ZONING BOARD OF APPEALS

## Meeting Minutes

### Monday, April 9, 2018

The Halifax Zoning Board of Appeals held a public hearing on Monday, April 9, 2018 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 are in attendance.

Chairman Gaynor calls the meeting to order at 7:00pm and reprises the audience that this public hearing/meeting is being audio taped. He also explains the procedure and the protocol at the public hearings.

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#### **Meeting Minutes:**

Motion to accept the Meeting Minutes for Monday, March 12, 2018:

MOTION: Gerald Joy  
SECOND: Kozhaya Nessralla     AIF  
Passes: 5-0-0

#### **Correspondence:**

Chairman Gaynor and the Board review and read into record all mail items.

- Letter from Deutsch-Williams dated 3/20/2018 to inform the Zoning Board that a copy of Petition 823 with Amended Plans was delivered to Court (*Re: Gordon C. Andrews v. Zoning Board, Building Inspector and The Party Trust - Land Court Civil Action No: 17MISC000507*)
- Memo from the Planning Board dated 3/19/2018 with a Form A Distribution for property Map 111 Lot 4C/4C-1, 235 South Street. The Zoning Board reviewed the plan and discussed its location.

#### **Appointment:**

**7:05pm – Petition #569 – Ronald and Cheri McLeod, 109 Holmes Street, Halifax – In-Law Apartment Renewal**

Present: Cheri McLeod, owner

Chairman Gaynor reviews and confirms with Ms. McLeod that all of the terms of her signed Affidavit are true and that the conditions of the original special permit granted in 2003 continue to be met. Ms. McLeod informs the Board that her mother, Carol, has passed but her father, Ronald, still occupies the In-Law. Ms. McLeod occupies the primary house. There have been no changes made.

Motion to renew Petition #569 with the same conditions of the original special permit granted in 2003:

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

#### **Appointment:**

**7:15pm – Petition #565 – Velma Siegel, 97 Circuit Street – In-law Apartment status update**

Present: Velma Siegel, owner; Kenneth Vinton, neighbor

Ms. Siegel: Nothing has changed, my grandson didn't get his GED yet. My daughter is delaying things because she wants to be in the primary house. We have problems. It's been delayed and I was wondering if you could give me more extensions.

Mr. Gaynor: Did Ken Vinton meet with the Building Inspector, Mr. Piccirilli, to determine what you need to do?

Ms. Siegel: Yes. There are requirements that I am going to do but they've been delayed. My grandson is going to get his GED. I want him in my home and want to send him to a trade school up here because he wants to be a plumber but he needs to get his GED before he gets started and I'm requiring that he get his GED before he comes.

Mr. Gaynor: Have you talked to the Building Inspector about this?

Ms. Siegel: Yes.

Mr. Gaynor: What kind of continuance are you looking for?

Ms. Siegel: I don't know. The high school counselor (for her grandson) is in a separate building where he needs to take his GED.

Mr. Gaynor: What state is this?

Ms. Siegel: West Virginia. There was a school strike down there which has delayed things. He hasn't made the appointment to take his GED.

Mr. Nessralla: Who lives in the house now?

Ms. Siegel: I live in the in-law and there are people I've known their whole life on the other side. There's a girl trying to get her child back from the grandparents; she needs a place of residence. I lived with her grandmother in the past and have known her father since he was four and have known her her whole life. She's living at my house for the moment but my daughter wants her out so she can move in.

Mr. Gaynor: Who owns the house? Whose name is on the deed? Are you the owner of the house?

Ms. Siegel: I am the owner.

Mr. Gaynor (to ZBA Secretary, Arlanna Snow): What have we heard from the Building Inspector on this?

Ms. Snow: At this point she would need to reapply for a new petition once she makes the proper changes.

Mr. Gaynor: So she can withdraw without prejudice?

Ms. Snow: She already withdrew in January.

Ms. Siegel: I just need the paperwork to redo it. I'll try to get it going, try to get legal with the town. I can't do it without things going my way and they haven't.

Mr. Nessralla: So the ultimate thing is that your grandson is going to live in the apartment or the main house?

Ms. Siegel: The main house.

Mr. Nessralla: Do you know when that is going to be?

Ms. Siegel: I thought it would be January but he hasn't passed his testing yet.

Mr. Parcellin: You're more than welcome to live in the house, we aren't telling you that you can't live there.

Ms. Siegel: I know I can live in the house, I own the house.

Mr. Parcellin: So I think that the issue is –

Ms. Siegel: To have my kitchen.

Mr. Parcellin: Either the kitchen, which we talked about --

Ms. Siegel: The people who live in the home are in their early twenties and I'm 68 so I don't want to be with them constantly.

Mr. Parcellin: The by-laws are pretty clear.

Ms. Siegel: I know.

Mr. Parcellin: You can live in the whole house but you can't have a tenant unless that tenant is an immediate family member. So the issue isn't with you in the house, it's with the tenant in the house.

Ms. Siegel: It hasn't been that long, just a few months.

Mr. Parcellin: Since November, right?

Ms. Siegel: A little before that, September or October.

Mr. Gaynor: I know her neighbor has met with the Building Inspector, Rob Piccirilli.

*Kenneth Vinton arrives.*

Mr. Nessralla: Are you collecting rent?

Ms. Siegel: \$500.00 a month.

Mr. Nessralla: So you're using it as an income?

Ms. Siegel: No. It's a small assistance on part of the mortgage but it's almost nothing.

Mr. Gaynor (to Mr. Vinton): What did you find out when you talked to the Building Inspector?

Mr. Vinton: I didn't know anything about tonight's meeting, I didn't get a copy of anything. (\*A Compliance Letter was sent to Velma Siegel on March 21, 2018 and a copy was sent to Ken Vinton on the same date by Ms. Snow) I went next

door because Kim Roy was there. She asked if she could help and I told her I was there to see someone. Then the Building Inspector got involved and he was telling me about it. He gave me the note that tonight was the meeting.

Ms. Siegel: Yeah, I didn't get the note that I should be here.

Ms. Snow: I sent them.

Mr. Gaynor: Did you (Mr. Vinton) talk to him (Mr. Piccirilli) in length about how she (Ms. Siegel) was going to be able to comply with the Zoning?

Mr. Vinton: No, I didn't get involved with him at all because as far as I know I was just supposed to be talking with the Board here.

Ms. Siegel: Yeah, we were just supposed to show up here. It wasn't official.

Mr. Gaynor: But you showed up here for what purpose? You don't have an application in front of us, you withdrew your application.

Ms. Siegel: I need a new application.

Mr. Gaynor: You're going to reapply?

Ms. Siegel: Yup.

Mr. Durgin: Did you meet with the Building Inspector?

Ms. Siegel: Not yet. I work odd hours, I don't get home until 7:00 at night.

Mr. Gaynor: Why don't you (Mr. Vinton) make an appointment to meet with Rob Piccirilli, the Building Inspector. Find out exactly what she has to do to comply with the current Zoning; what exactly she needs to do with changes, additions, deletions at the house. A time period has to be somehow determined as to when compliance can result. He's the Zoning Enforcement Agent, he's the Building Inspector.

Mr. Vinton: I thought that everything was being done here by the Zoning Board of Appeals, I didn't know that the Building Inspector was even involved.

Ms. Snow: He's the Zoning Enforcement Officer.

Mr. Gaynor: We don't enforce Zoning, we make determinations as the Board but if she's in violation of the Zoning by-laws regarding an In-law apartment, she has to comply with the current zoning. I would imagine he gave you a copy—

Mr. Vinton: He did, he ran off some copies but I didn't go into it. This is a copy of the letter he gave me, December 11<sup>th</sup> (2017).

*Ms. Snow hands Mr. Gaynor a copy of the March 21, 2018 letter and tells him she sent a copy to each one – Ms. Siegel and Mr. Vinton.*

Mr. Vinton (referring to the 12/11/17 letter): I thought this came from you, the Board here.

Mr. Gaynor: It does, but this doesn't list the necessary things that comply with Zoning. It's in the Zoning By-laws which lists what Ms. Siegel has to do to comply.

Mr. Vinton: So what are we doing here then?

Mr. Gaynor: I don't know. There is no application in front of us, she withdrew her application.

Mr. Vinton: I was told to come here tonight to meet with you.

*Ms. Snow makes a copy of Velma's original Decision Letter, dated December 11, 2002 as requested by the Chairman.*

Mr. Vinton: I don't mind going back to him (Zoning Enforcement Officer) and finding out what it is. I got involved because Ms. Siegel asked me to sit in with her because she had a problem with the town and they want to take her stove out. I said I don't know anything about taking a stove out, but I told her I would come down here and help her understand anything. I don't know what the violations are, I only live across the street.

Ms. Siegel: One of the violations is that I don't have any family living in my home besides me.

Mr. Vinton: And did you explain why?

Ms. Siegel: Yes.

Mr. Gaynor: (Ms. Siegel) explained the reasons why and the close relationship she has with the woman living there but it has to be a blood relative or by marriage. A relative has to be living in the in-law apartment. That's not what she has, she has a tenant that's renting the house. That's not an in-law apartment. In order to have an in-law apartment by definition, you have to comply with what the zoning by-laws say.

Mr. Vinton: Going by what she has told me, she finally got the house straightened out.

Mr. Gaynor: It's not straightened out. If it's a duplex, it's not an in-law apartment.

Ms. Siegel: I don't consider it rent, I consider it room and board because it's very little.

Mr. Parcellin: Unfortunately it doesn't matter if you're collecting rent, the tenant is living in that separate area and not by blood or marriage.

Mr. Vinton: Her grandson's coming, he's the only one left in the family. She is going to have a family member in there, it takes time.

Ms. Siegel: I'm going to have two in the very near future. One of my grandsons will go to college in this area but he's a year out.

Mr. Borsari: Do you have a time frame?

Ms. Siegel: My daughter said she wants to move back into my house without her husband but I know my daughter...  
*Mr. Gaynor reads out loud Velma Siegel's original Decision Letter, December 11, 2002.*

Mr. Gaynor: You met all requirements on December of 2002 for in-law apartments. Since December of 2002 there had to have been changes made so that you still comply with all of the conditions given. Do you have a 10-foot open archway between the main house and the in-law apartment?

Ms. Siegel: There is a door there.

Mr. Gaynor: Is there a 10-foot open archway between the main house and in-law apartment?

Ms. Siegel: Yes, but there is a door.

Mr. Gaynor: You're not going to answer my question?

Ms. Siegel: There is an opening there, yes.

Mr. Gaynor: So there isn't a 10-foot open archway?

Ms. Siegel: It's always open.

*Mr. Gaynor continues to read the rest of the conditions. Ms. Siegel confirms some of these verbally.*

Ms. Siegel: In 2002 my daughter, her fiancé and her two young girls lived there (in the main house). My grandson lived next door and my husband lived with me in the in-law. My daughter died 3 years ago. My husband and my grandson died. Everyone who lived there but me died.

Mr. Gaynor: The only reason the Building Inspector would be involved is if the Zoning Board, on renewing the permit, found that she didn't comply with the conditions that she agreed to back in 2002. Where he is the Zoning Enforcement Agent, he would go to the house and examine the house. He would say yes, she complies or no she doesn't. He would report back to the Board to tell us what he found. Therefore, the Board can either renew the permit or not. In this case we have non-compliance of the Zoning by-laws.

Mr. Vinton: Who notified the Building Inspector?

Ms. Siegel: Me. I had to renew it. It was a renewal and I didn't meet all of the criteria for it.

Mr. Gaynor (to Mr. Vinton): You gave us a handwritten letter, correct? (Explaining why you are involved?)

Mr. Vinton: Yes, I came and saw your secretary, it was not a meeting. Ms. Siegel asked if I would go with her and help her understand. That's how I got into it.

Mr. Gaynor: Mr. Vinton, why don't you meet with the Zoning Enforcement Officer and find out exactly what could make this compliant, find out what she (Ms. Siegel) has to do. Upon that, we will get a letter back from the Zoning Enforcement Agent in regard to what condition the place is in and what has to be done in order to comply. We'll take it from there. I'd like to send him a letter to let him know to expect a meeting with you. When can you meet with him?

Mr. Vinton: I can do it sometime this week. I only have one meeting tomorrow.

Mr. Gaynor: Give his office a call to find out the best time to meet with him.

Mr. Vinton: I could just stop in and see him.

Mr. Gaynor: We will hear back from him and find out when we have to reapply and see what else we have to do.

Ms. Siegel: I spoke to my grandson and he said he would make an effort to get his GED on his own. Then I would fly him up immediately. That might take a couple of weeks.

Ms. Snow: Should we make a motion?

Mr. Gaynor: No, we don't have a Petition in front of us.

**Appointment:**

**7:30pm – Informal discussion - Richard Gilcoine, 17 12<sup>th</sup> Ave, Halifax – Knock down and rebuild garage, on a pre-existing, non-conforming lot**

Present: Richard Gilcoine and Dan Gilcoine (son)

Mr. Gaynor greets Richard Gilcoine and Mr. Gilcoine presents the idea for the project. His son, Dan, is looking to make his garage bigger and more conforming. He's looking to build a two-car garage with a room above and a 10-foot

breezeway. The current garage is eight (8) inches from the street which they would like to tear down as the driveway is on the opposite side. His question is would the Board entertain the thought of a side lot-line setback of six (6) feet? Dan presents a septic plan. He'd like to get rid of his old, dilapidated garage and build a new garage with a family room on top with a breezeway. This is all the same property. There will be a two-story wall, 30 feet deep because of the room over the garage. They are not increasing the footprint of the original house, just the breezeway addition. The house is about 15 feet off of 12<sup>th</sup> Ave. The garage would be about 20 feet but the lot line would be 15 feet. Mr. Gilcoine planned on matching the front of the house with the garage but has no problem bringing it back about 5 (five) feet behind the chimney. Dan and the Board review the plans. The house is 44 x 28 feet. Mr. Gaynor points out that they would need a variance, which they know. The house hugs one lot line and is about 50-60 feet from the other side. Mr. Gilcoine confirms that they would not be increasing the non-conformity. They will be eliminating one and making the other more conforming. The lot is 10,000 square feet; a quarter of an acre. The Gilcoines confirm the new garage will be used for personal use – vehicles. The upstairs will just be a family room with no plumbing. The heat and A/C will be done by a heat pump. There will be no bedrooms. Mr. Gilcoine's concern was the one lot line and how much area it would take facing someone else's house. There is also a tree-line there. There is going to be a driveway on one side and a garage on the other so Mr. Gilcoine doesn't want the EMT's to be confused as that happened to him on the house across the street. None of the abutters are concerned at this time.

The Board discusses what would need varying. The by-laws state that the ground floor of a garage cannot exceed 884 square feet. The breezeway is considered separate from the garage. Mr. Gaynor directs the Gilcoines to address the issues, draw up a plan and contact the neighbors to get their responses in writing as confirmation that they are all okay with it. The Gilcoines would have to show hardship and that it's not detrimental to the neighborhood in their presentation to the Board.

**Correspondence Item for Discussion:**

- Email from Allan Comeau dated 4/4/2018 - "Halifax Trails Co. Freeze-out"

Present: Robert Pellegrini (Attorney for Paul Keating, partial owner of Halifax Trails Co.)

Mr. Gaynor reads Mr. Comeau's email into record. Mr. Pellegrini responds to the email update given by Allan Comeau regarding the sale of Halifax Trails by Mr. Keating. Mr. Pellegrini explains that there is a litigation and Mr. Keating owned 99% of the company. The project has been sold to Mike Guimares, Ricochet Enterprises. Mr. Pellegrini has no control over the buyer and has no idea what the buyer is doing at this time. Mr. Pellegrini is surprised the buyer has not been to the Board to try and transfer the permits. During the purchase process, Mr. Pellegrini looked at some of Mr. Guimares' other projects and thought they were very nice. Mr. Pellegrini took care of the sale and things are going exactly per their (Mr. Comeau and Mr. Keating) agreement. Mr. Guimares is a third party. Mr. Pellegrini hopes that Mr. Guimares comes to the Zoning Board soon to transfer the permits and hopes the project gets built. The permits don't expire but must be transferred, per the Building Inspector's Letter of Determination dated September 2017.

Mr. Pellegrini just wanted to give the Board the courtesy of an update as the Board hasn't heard from him in a while. Mr. Gaynor and the Board thank him.

**Remaining Correspondence:**

- Memo from Charlie Seelig, Town Administrator, dated 3/21/2018 regarding the In-Law Apartment Renewal Process.
- Memo from Charlie Seelig to the Planning Board dated 3/29/2018 regarding Zoning By-Law Amendments Proposed for Annual Town Meeting.
- The Old Colony Planning Council Agenda from 3/28/2018 for review.
- Notice of Withdrawal and Notice of Appearance letter from Deutsch-Williams dated 4/2/2018 (*Re: Gordon C. Andrews v. Zoning Board, Building Inspector and The Party Trust - Land Court Civil Action No: 17MISC000507*)
- Notice of Withdrawal and Notice of Appearance letter from Deutsch-Williams dated 4/4/2018 (*Re: Town of Halifax by and through Building Inspector v. Robert Bergstrom, ZBA and members – Land Court Civil Action No: 16MISC000681*)
- Memo from the Board of Health/Cathy Drinan dated 4/5/2018 regarding concerns about Nova Machine and Design's cutting fluids storage, handling and disposal at their new location - 413 Plymouth Street.

- Dan Borsari explains the process as it is his line of work. The Board determined that there will be no significant change to the process of disposal of water soluble coolant generated by the approximately nine (9) machines that will exist at this location compared to the process at the current location 500 Industrial Drive, Halifax. Secretary Ms. Snow will send a memo back to the Board of Health addressing their concerns with this information. (4/10/2018)
- Planning Board's Notices of Public Hearing dated 4/9/2018 for 5/3/2018 regarding several Amendments to Chapter 167.

**Other Business & Discussions**

The Board determines that they do not need the MA Land Court Reporter: An Annotated Index for purchase for \$170.00. Ms. Snow will return the Index that was sent to the Zoning Board.

Per Ms. Snow's request, the Board agrees to change the date of June 11, 2018's Zoning Board meeting to June 4, 2018.

**Bills:**

The Board has no bills.

**Adjourn:**

Motion to adjourn meeting:

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

It was unanimously voted to adjourn the meeting at 8:15p.m.

Respectfully submitted,



Robert Gaynor  
Chairman, Zoning Board of Appeals