



# HALIFAX ZONING BOARD OF APPEALS

## Meeting Minutes

### Monday, June 10, 2013

The Halifax Zoning Board of Appeals held a public hearing on Monday, June 10, 2013 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Debra Tinkham, Robert Gaynor, Peter Parcellin, Sally Wells and Richard Gilcoine present. Kozhaya Nessralla is absent.

Chairman Tinkham calls the meeting to order at 7:05pm and reprises the audience that this public hearing/meeting is being audio taped.

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#### **Correspondence/mail/notices:**

Ms. Tinkham and the Board review the mail items.

#### **Appointments:**

**7:15pm – Petition #792 – Michael & Elizabeth Dever, 36 Thirteenth Avenue, Halifax, MA**

Present: Michael and Elizabeth Dever (applicants); William Lockwood (architect)

The Public Hearing Announcement is read into record.

Mr. Lockwood presents the petition. He explains that there are zoning and survey plans available to the Board. The plan is to add a 16' x 26' addition to the right side of the building. The existing house is 26 feet deep but sits four feet closer to the street line than the proposed addition. There will be a small entrance which will give that four-foot difference. This addition will give this growing family more room by increasing the number of bedrooms. This is an older lot and smaller than the current zoning will allow, therefore it's difficult to do much while being compliant. This is a modest approach. They aren't coming in close to the 25% lot coverage but setbacks are an issue. The Board is shown pictures of the existing house.

Shown in the pictures, the doorway on the right-hand side of the structure will be abandoned and a new one will be created. Mr. Lockwood is not increasing bedrooms, there will still be three; one is staying and two are being recreated. The rear deck (off the rear setback) is 44 feet to the back property line, which has always been on the house, which the abutters confirm. There will be a full foundation. The hardship is the 12,500 square-foot lot, as it's non-conforming and nothing can be done without a variance. There will be electricity but no heat. The deck out back is sitting on sonotubes.

Ms. Tinkham does not think it will be detrimental to the neighborhood and feels there should be a stipulation to keep it to 16' x 26' and grant the variance to four feet. Mr. Lockwood, using the plans, explains where each room is currently located and how it will change. The addition will be two bedrooms, an office, a family room and full bathroom.

Mr. Gaynor feels that it is within the established character of the neighborhood and does not derogate from the intent of the By-law where it is pre-existing and non-conforming. The hardship is probably related to the topography. Any increase to the footprint would cause a financial hardship as it would be almost impossible here, which meets the hardship.

Motion to waive on-site inspection for Petition #792:

MOTION: Robert Gaynor

SECOND: Peter Parcellin

AIF

Passes: 5-0-0

Motion to accept Petition #792 as presented:

MOTION: Robert Gaynor  
SECOND: Richard Gilcoine      AIF  
Passes: 5-0-0

**7:30pm – Petition #793 – Thomas & Marianne Shirikjian, 73 Hemlock Lane, Halifax, MA**

Present: Thomas Shirikjian; Maureen Rogers (Wage and Personnel; interested party)

The Public Hearing Announcement is read into record.

Ms. Tinkham explains to the Board that the Shirikjians bought the house with the in-law apartment (built in 2000). The real estate agent didn't inform them of renewing permits and they are currently using the in-law apartment. The Building Inspector, informed the Shirikjians that the permit expired on August 4, 2011. The Board reviews photos of the home.

Mr. Shirikjian explains that he found out about the expired permit when he tried to refinance at the end of 2012. Using the plans, Mr. Shirikjian points out the 22' x 36' in-law apartment's living/dining/kitchen area and large bedroom and full bath on the second floor. The utilities, laundry room and entrance are shared. There is no bathroom on the first floor and the in-law doesn't connect to the existing house upstairs. The second floor is smaller than the first and there's a deck on both sides.

Ms. Rogers asked what "brought this to light" as this house hasn't been changed since it's been built. It is explained that the special permit for the in-law became null and void once purchased by the Shirikjians. When trying to refinance their bank informed them no, as their in-law permit expired. The Shirikjians are applying for a special permit.

Mr. Gilcoine confirms that this in-law was approved in 2001 and is a 1200-square-foot addition under the old By-laws. The Board agrees that no construction needs to be done in order to accept this petition.

Motion to waive the on-site inspection for Petition #793:

MOTION: Robert Gaynor  
SECOND: Richard Gilcoine      AIF  
Passes: 5-0-0

Motion to accept Petition #793 as presented with these stipulations: utilities remain shared, the hallway between the units remain open and unobstructed and at the end of the five-year period there will be a renewal:

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

**7:45pm – Petition #790 – 340-348 Monponsett Street Realty Trust, 340-348 Monponsett, Halifax, MA**

Present: Robert Piccirilli (applicant)

The Public Hearing Announcement is read into record.

Ms. Tinkham explains that the matter has been turned over to Town Administrator, Charlie Seelig, who wrote a letter to Mr. Piccirilli. Mr. Piccirilli received and read the letter and feels it was Mr. Seelig's opinion, as a lot of the information was incorrect. Mr. Piccirilli presents the architectural plans to the Board and gives the Board a "Before" and "After" view of the project and certified plot plan.

Ms. Tinkham explains that the quandry of the Board is that Mr. Piccirilli is requesting a special permit for a continuation. Ms. Tinkham states that there is nothing regarding the apartments in the request other than the alteration of the main building (closest to the street). Mr. Piccirilli's contention is that it's pre-existing, non-conforming and has been two structures on one lot predating Zoning. There was a special permit pulled once or twice for multiple apartments which were approved by the Zoning Board. Ms. Tinkham states that this lapsed in 1996. If it's been used as an apartment since

then, it's been illegal and she feels Mr. Piccirilli needs to reapply. Mr. Piccirilli explains that because it's pre-existing, non-conforming there is much that doesn't apply. The back unit has always been an apartment according to the earliest town records. Mr. Piccirilli states that the By-laws of Halifax say in a business district you can allow a multi-family. Mr. Gaynor explains that in 1983 it only shows a garage, not apartments. Ms. Tinkham confirms with Mr. Piccirilli that the alteration is for the porch area only on the front building and that the rest is a repair. Mr. Piccirilli explains that he is asking for a continuation of a multi-family.

Ms. Tinkham feels that Mr. Piccirilli is asking for something that is not covered under the current public hearing and feels that the Board should seek the advice of Attorney Richard Hucksam, Town Counsel; the Board agrees. The Board also agrees with Mr. Piccirilli that Mr. Seelig's letter was opinion. The Board will ask Attorney Hucksam about multi-family use in a multi-family development with a business, increasing the number of apartments from three to six, having two structures on one lot without frontage and the use/change of use to be reviewed. The Board will also ask what Mr. Piccirilli's application must include to properly apply.

Motion to submit Petition #790 with questions for review by Town Counsel:

MOTION: Robert Gaynor  
SECOND: Sally Wells                      AIF  
Passes: 5-0-0

Petition #790 will be continued to July 15, 2013 at 7:15pm.

**8:00pm – Petition #744 – Jennifer (Harmon) Choate, 7 Plymouth Street, Halifax, MA**

Present: Jennifer Harmon Choate

Ms. Tinkham explains that the last time Jennifer came to the Board, she was granted the extension on the dogs. There was no boarding of outside animals allowed on the premises and all dogs must be licensed to Ms. Choate. Ms. Choate would like to remove "Ms. Harmon" from "all dogs must be licensed to Ms. Harmon" as she would like to allow boarding of puppies sold to someone else allowed back for boarding when their owners are away. All dogs will be licensed, just not to Ms. Harmon. Nothing else is changing.

Motion to accept Petition #744 as amended to omit "Jennifer Harmon Choate" from stipulations #1 and #2:

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

**Adjourn:**

Motion to adjourn the meeting:

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

Respectfully submitted,

Robert Gaynor  
Chairman, Zoning Board of Appeals