



HALIFAX ZONING BOARD OF APPEALS

Meeting Minutes

Monday, July 29, 2013

The Halifax Zoning Board of Appeals held a public hearing on Monday, June 29, 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 Kozhaya Nessralla present. Richard Gilcoine is absent.

Chairman Tinkham calls the meeting to order at 7:10pm and reprises the audience that this public hearing/meeting is being audio taped.

Appointments:

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 apologizes to Mr. Piccirilli that there was a lack of quorum on July 10th to present his Petition.

Mr. Piccirilli presents new information, building permits, regarding this petition. One of the apartments was renovated in 1980, another in 1981 and again in 1989. He also presents Assessors records dating 1979 for the back unit showing apartment #240A. Another (building) record shows the apartments in each building. All the square footage can be matched up to the existing footage. Mr. Nessralla points out that something was renewed in 1983 which Mr. Piccirilli thinks is the upstairs as it's the only area with two bathrooms. Mr. Piccirilli believes a 16' x 10' room is a wing that was added on.

Ms. Tinkham asks if Mr. Piccirilli has building permits for the apartment in the garage when the building was first built. Mr. Piccirilli answers that the records don't go back that far. Plans dated 1983 of Petition #248 were presented by the Board secretary, Ms. Wong, showing existing garage. The garage is still in question.

Ms. Tinkham reads a response letter of opinion, dated 6/24/13, from Attorney Hucksam (Land Counsel). Ms. Tinkham explains that the special permit for the apartments was never renewed so there is no continuation of use, the special permit is null and void. Because Mr. Piccirilli said there was nothing being altered that exceeds 50% of the market value, it's not part of the application/advertisement, therefore the Board can't vote on that portion. Mr. Piccirilli feels he can't meet the criteria of a multi-family if it were to be built today as he does not have ten (10) acres, doesn't have an individual lot for each building and doesn't have the frontage. Mr. Piccirilli's contention is that the two buildings have been there since 1912 and 1960 and three of those apartments have been there since the 1980s, at least. He doesn't believe the original owner needed to apply for a special permit, he's not sure why he did that. Mr. Piccirilli asked for pre-existing, non-conforming and cites the Bylaw for support to show he meets the criteria. This is just a continuation. He is not extending the use of the land and is staying within the footprint. It's already been a multi-family and it's not detrimental to the neighborhood. The abutters are thrilled to have things fixed up on this property. He doesn't see a problem with what he's asking for.

There is discussion on whether the special permit should have been applied for by the previous owner. Mr. Piccirilli does not believe this special permit was needed. The Board refers to Attorney Hucksam's opinion of the special permit being null and void. Mr. Piccirilli asks the Board what else, as an applicant, is needed from him. Ms. Tinkham answers that even though Mr. Piccirilli put a lot of work into this project, unless he finds somewhere that the special permit was extended for five years, nothing is going to change. The previous owner let it go. Mr. Piccirilli responds that Mass General Law set up a process where things don't fit inside the box, which is the reason for a special permit. Mr. Piccirilli doesn't feel a

special permit is to give to someone and take it away from someone else. He feels a special permit is put in place to regulate what's going on with a building. Mr. Piccirilli doesn't understand why the special permit is being granted to someone but not him. Ms. Tinkham explains it is because Mr. Piccirilli is not asking for a special permit. Mr. Piccirilli answers that it's because he's asking for a continuation of a non-conforming use. Mr. Piccirilli can't apply for a special permit for a multi-family because it doesn't meet the criteria, but the previous owner had one. Mr. Piccirilli asks the Board how he can move forward.

Ms. Tinkham states that today is the 100th day and the Board needs to vote. The Board discusses what they can vote on versus what Mr. Piccirilli is applying for. Ms. Tinkham explains that Mr. Piccirilli can't apply for a special permit for something that isn't legal now. Mr. Piccirilli explains that he is asking for a non-conforming use as he cannot apply for a special permit for a multi-family as he does not meet the criteria. Ms. Wong, reads from communication with Land Counsel Attorney Hucksam who feels Mr. Piccirilli didn't explain the extension in his application, 167-8A: Extension of Use. Mr. Piccirilli explains that the extended use is in the Bylaw which is the special permit that was granted for the current apartments. Ms. Wong explains that her advertisement is based on the wording of the application and is the only thing the Board can vote on. Mr. Piccirilli would like to know if he should be re-applying, adding information about the apartments. Ms. Tinkham responds that yes, apartment information is what is missing from Mr. Piccirilli's application. Mr. Piccirilli asks the Board for permission to speak to Town Counsel, Attorney Hucksam, so that he may provide Mr. Hucksam with all information. The Board explains that it would probably need to go to the Board of Selectman to get that permission.

Ms. Tinkham states that there is a mutual extension. Town Administrator Charlie Seelig will be contacted on August 5, 2013 to discuss whether Mr. Piccirilli and his lawyer can communicate with Town Counsel. Hopefully there will be some resolution by August 12, 2013 of how the Board can proceed. The extension time-frame is up to the applicant, Mr. Piccirilli.

Motion for an extension to Petition #790 until Town Administrator is contacted:

MOTION: Robert Gaynor
SECOND: Kozhaya Nessralla AIF
Passes: 5-0-0

Petition #790 will be continued to August 12, 2013 at 7:00pm.

Adjourn:

Motion to adjourn the meeting:

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

Respectfully submitted,

Robert Gaynor
Chairman, Zoning Board of Appeals