



HALIFAX ZONING BOARD OF APPEALS

Meeting Minutes

Monday, May 20, 2013

The Halifax Zoning Board of Appeals held a public hearing on Monday, May 20, 2013 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

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

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

Correspondence/mail/notices:

Ms. Tinkham and the Board review the mail items.

Bills:

The Board reviews and signs bill Gatehouse Media MA - Petition #789, Legal Ad = \$82.50.

Appointments:

7:15pm – Petition #791 - Dino & Maureen Christani, 18 Colby Drive, Halifax, MA

Present: Dino Christani

Zoning Board secretary reads Public Hearing Announcement into record.

Mr. Christani presents his petition. He explains he'd like to build a one-floor, two-car garage and shows the plot plans to the Board, which show he was off on the setback. There will be a four-foot foundation. There is no way to connect the garage to the house as it wouldn't fit properly due to elevation issues. Mr. Christani spoke to his neighbors who have no problem with this project. The garage cannot be moved to any other location on the lot due to the septic tank's location. There is no water or heat in the garage and there will be no businesses running out of the garage. There will be no electricity connected to the house due to the slope. The elevation issue is the hardship. The reason for a two-car garage is that Mr. and Mrs. Christani have two vehicles.

Motion to waive the on-site for Petition #791:

MOTION: Kozhaya Nessralla

SECOND: Peter Parcellin AIF

Passes: 4-1-0 (Robert Gaynor – no)

Motion to accept Petition #791 with the stipulation that the distance be narrowed from six (6) feet to four (4) feet between the house and the garage, bringing the side setback from 26 feet to 28 feet. (Applicant agrees):

MOTION: Richard Gilcoine

SECOND: Kozhaya Nessralla AIF

Passes: 3-2-0 (Robert Gaynor and Peter Parcellin – no)

7:30pm – Petition #790 - 340 Monponsett Street Realty Trust (Robert Piccirilli, Trustee), 340-348 Monoponsett Street, Halifax, MA

Present: Robert Piccirilli

Zoning Board secretary reads Public Hearing Announcement into record.

Mr. Piccirilli presents his petition. He is asking for a special permit for a continuance and extension of a non-conforming use. He'd like to change the building on this property from a multi-family/business (with office)/hair salon to multiple

apartments (multi-family). The front building would have three apartments on the first floor, one on the second floor and two apartments in the back building. He is not looking to change the intent of the use or make it detrimental to the neighborhood. It will stay within the footprint. There are things Mr. Piccirilli needs to do due to structural reasons. He shows pictures to the Board. A front porch needs to be knocked down and rebuilt as there is much damage to it. The foundation under the porch is a sonotube foundation currently, but Mr. Piccirilli would like a full foundation underneath it. The front of the building has a basement, which is in disrepair. He'd like to add a frost wall to make it structurally sound. He'd like to increase the first floor living space but stay within the footprint. The front building was built in 1912 and the back building was built in 1960. Under *MA General Laws, Ch. 49*, the Zoning Board has the authority to grant multi-family use if it is not detrimental to the neighborhood. This is one lot. The use has always been mixed (business and residential) and Mr. Piccirilli believes this is still multi-family with these apartments. The back building has only one level.

The Board reviews the plans. There will be seven bedrooms for this project. The special permit would go to the owner of the land. When previous owner Mr. Sturdivant sold the land, there was no longer a special permit with it. The value of the front house previously was \$327k, current is \$240k. The alteration will probably be around \$30k. The assessed value was \$28k. The alteration does not exceed 50% of the value. The non-conforming use goes with the land, not the structure.

Mr. Piccirilli explains this is something that has been granted in the past. Mr. Gaynor feels the use would be changing as the business (commercial use) would be removed, thus turning the property completely residential.

Ms. Tinkham asks the public if there are any questions or comments. She also comments that Mr. Piccirilli's reputation precedes him; his work is done well. Joseph Doherty (audience member) comments that Mr. Piccirilli's work would be an improvement to the neighborhood.

Ms. Tinkham feels this petition needs to be brought to Town Counsel. The Board agrees. Mr. Piccirilli points out that there are no abutters present with complaints and that the Board has granted what is currently there. Ms. Tinkham explains that the special permit is not asking for the alterations or the additional apartments.

Motion to review Petition #790 with Town Counsel on permission of use regarding the application and special permit:

MOTION: Robert Gaynor

SECOND: Kozhaya Nessralla AIF

Passes: 5-0-0

Motion to waive on-site for Peition #790. AIF

Motion to continue Peition #790 to June 10, 2013 at 7:45pm. AIF

Informal Discussion:

Single-family with In-Law – Melo J. Spencer, 21 Dwight Street, Halifax, MA

Present: Melo J. Spencer – 21 Dwight Street, Halifax, MA

The Zoning Board secretary describes Ms. Spencer's history to the Board. Ms. Spencer came to the Board in September 2008 requesting and was granted a variance and special permit for an in-law apartment with her mother. The addition was built by Joe McCullin. Ms. Spencer is the only person on the deed, her mother was taken off in 2011.

Ms. Spencer explains that her mother passed away almost a year ago. There is no one living in the house and she would like to rent the house to help her with the taxes, while Ms. Spencer lives in the in-law. She wants to do everything legally without an issue with the town. She doesn't know how long she will live there, but she's not looking to change anything. Whenever she does sell, it will be sold as is. This is only to assist her with her \$5,000/year taxes.

Ms. Tinkham and Ms. Spencer review a picture of the property with the staking. Ms. Spencer explains that the only thing shared is water; the electricity is separate. There is a shared "great room" on the first floor which Ms. Spencer considers

the in-law apartment. If the renters of the main house wish to use it, Ms. Spencer would need to be asked. Ms. Tinkham cites a similar petition where the Board granted a five-year special permit.

Bylaw *167-7D Multifamily Dwellings or Apartments* is cited and discussed. Mr. Gaynor feels Ms. Spencer may have an issue with regards to the established character of the single-family-home neighborhood. Ms. Tinkham feels Ms. Spencer could apply to change her special permit from an in-law apartment to an income-producing apartment with a five-year stipulation that this special permit ends when the home is sold. When selling, Ms. Spencer would be able to list it as “with in-law apartment available.”

The Board advises Ms. Spencer to reapply for the special permit switching from a single-family with an in-law to a two-family duplex dwelling. The same stipulations would apply with the in-law as renewable after five years and ends with Ms. Spencer.

Adjourn:

Motion to adjourn the meeting at 9:00pm:

MOTION: Kozhaya Nessralla

SECOND: Robert Gaynor AIF

Passes: 5-0-0

Respectfully submitted,

Robert Gaynor
Chairman, Zoning Board of Appeals