



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, October 7, 2013

The Halifax Zoning Board of Appeals held a public hearing on Monday, October 7, 2013 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Debra Tinkham, Kozhaya Nessralla, Robert Gaynor, and Peter Parcellin were in attendance.

Chairman Tinkham called the meeting to order at 7:12p.m & made the audience aware that the meeting is being recorded.

The Board reviewed the mail and other matter/issues:

Correspondence/Mail/Email/Fax

1. Irene Alden to ZBA – re: “Petition #787” letter [dated 9/18/13]
2. OCPC – “Agenda for Meeting No.502 September 25, 2013” [received 9/23/13]
3. Robert Piccirilli to ZBA – re: “Petition #790” letter [dated 9/30/13]

II **Bill(s):**

1. Expense: “WB Mason”: Recorder Digital Item #PSPDVT700000 = \$199.99

III **Approval of Minutes**

1. September 16, 2013

IV **New Business**

1. Informal Discussion, Rick Springer & Rick Lincoln, Franklin Street, Halifax, MA

V **Old Business**

1. 7:15pm – Petition #790, 340-348 Monponsett Street Realty Trust, 340-348 Monponsett, Halifax, MA

VI **Other Matters**

1. Charlie Seelig to ZBA on the following emails/memos:
 - a. “Town of Halifax-Introduction to Town Government-October 10 at 7pm [emailed 9/10/13]
 - b. “Town of Halifax-New Water Superintendent [emailed 9/12/13]
 - c. “Town of Halifax-Training Workshops-October 10 and November 14-Details and Reminder [emailed 9/30/13]
 - d. “Town of Halifax-Veterans’ Day Ceremony-November 11, 2013-9am [emailed 10/1/13]
2. Secretary to ZBA – re: Email Sent to Mr. Rick Springer & Mr. Rick Lincoln [emailed 9/23/13]

VII **Upcoming Hearings, Seminars &/or Conferences**

1. CPTC – Fall 2013 Workshops

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Petition #787 – Irene Alden, 82 Carver Street, Halifax, MA

Petitioner, Irene Alden, submitted a letter to the office of the Zoning Board of Appeals, dated September 18, 2013, requesting to be placed on the November 4, 2013 meeting agenda, as stated in conditions of her decision letter following her public hearing on Monday, April 22, 2013 9-see attached-).

The Board made a motion by voice vote to have Mrs. Alden placed on the November 4, 2013 meeting agenda at 7:15pm. The secretary will reprise the applicant, along with posting a public hearing notice, of the date and time.

Petition #790 – 340 Monponsett Street Realty Trust, 340-348 Monponsett Street, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, May 20, 2013, at 7:30 p.m. in Meeting Room 1, Town Hall, 499 Plymouth Street, Halifax, MA on the application by 340 Monponsett Street Realty Trust, Robert J. Piccirilli -Trustee to add alterations, including closing in the front porch area of the property located at 340-348 Monponsett Street, Halifax, MA. Said property is owned by 340 Monponsett Street Realty Trust, Robert J. Piccirilli -Trustee as shown on Assessor's Map #52, Lots #424 & 425. The applicant seeks a special permit for a Continuation (section 167-8A) & Extension (section 167-8C) a non-conforming use, along with an Alteration (section 167-8B) that states "A non-conforming structure may not be altered if the cost of such alteration exceed 50% of the real market valuation of the structure at the time of the change" in accordance with the Zoning By-laws of the Town of Halifax Non-Conforming Uses, page(s) 167:39. Area is zoned Commercial-Business. Petition #790

Chairman Tinkham read a letter from the applicant, Mr. Robert Piccirilli, dated September 30, 2103, regarding his lack of attendance to tonight's public hearing (-see attached-) and that his attorney, Joseph Dougherty will be representing his petition in his absence.

Attorney Joseph Dougherty was present to speak to the petition.

DT: You're up.

JD: Was there anything found or more to that?

DT: Well, I thought you would talk about that firstly; your role here is tonight. You are here to withdraw the petition without prejudice?

JD: That is true, your honor...Madame Chair.

DT: Ok.

JD: One of the reasons that I think that's the very fact is the delicate question, I think, from the very first meeting...whether or not the notice that was sent out to the public or what the application sought was not what was presented on paperwork that was handed. Clearly there has been somewhat of a battle of this or that issues. We think that the best way to do it is to withdraw the petition of the project, sit down, straighten out whatever we want, bring it back to the Board and that is what I am asking in no particular way.

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- DT: Okay. Now will there be construction continued on that building?
JD: He's remodeling the inside...that is true.
DT: And are we making it into apartments?
JD: He may be...may be...
DT: I would strongly suggest that not happen until this has been resolved; because there is already an apartment there, right now, which I have not seen a building permit for and I don't think Rob is the one that put it in but there still is an apartment in that garage that no one was suppose to have. So there is still some issues regarding that piece of property.
JD: I realize there are.
DT: Okay.
JD: And anybody feels that those issues by some other agency or whatever it is in the town if there is some building violation, certainly it should come forward with it.
DT: Okay, but if the intent is to finish those apartments...
JD: At this point, I don't know what it is.
DT: Okay.
JD: I don't know. I can't say. I think he wants to work with the Board but I can't...I can't say.
DT: Okay. Thank you. Does the Board accept Rob's request to withdraw the petition without prejudice?

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to accept the withdrawal without Prejudice, submitted by the applicant, to petition (#790)

Chairman Tinkham called for a voice vote: P.Parcellin, YES; K.Nessralla, YES; R.Gaynor, YES; D.Tinkham, YES

Informal Discussion, Rick Springer & Rick Lincoln, Franklin Street, Halifax, MA

Rick Springer came in front of the Board for an informal discussion regarding the property on Franklin Street. Rick Lincoln was unable to attend and replied, via email, that Rick Springer will represent the informal discussion.

Mr. Springer explained that he was here to get some ideas from the Board on the Franklin Street property. He asked the Board to recall that on the former petition filed in the past that was approved by the Board for 51 units. As such, the petition has expired and they understand that it has elapsed. One reason why the project did not go forward was the interpretation by the Building Inspector and/or the Board of Health as it pertains to the perc testing under the multi-family bylaw. Well, Mr. Springer said he got approached by the Board of Health agent a few weeks ago and she said that the Board of Health has ruled that under that multi-family bylaw, all the Board of Health would require is a coring on those areas that was not being used for drainage, such as street, parking lot or septic drainage. After getting that ruling from the Board of Health, Mr. Lincoln is thinking about moving forward with a project on the property for a multi-familij development. Should this go to a formal application, verification would be required.

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The Board wanted to know what the Planning Board had to say and Mr. Springer said that the Planning Board has nothing to do with this process. The Zoning Board said it was their understanding that some of the issues stemmed from the Planning Board and their concerns. Moving on, the Zoning Board wanted to know Building Inspector thought about this and Mr. Springer replied that it is up to the Board of Health and found percable by the Board of Health. In the past, going back and forth with the Building Inspector and Board of Health, it was the Board of Health that did not think two holes in each square was not that necessary.

Mr. Springer explained that Mr. Lincoln not attend as he need to fly elsewhere. In his absence, Mr. Spring addressed to the Board that Mr. Lincoln had an idea of a long-term care facility being of fifty one units under the multi-family. However, it would be a change of use and the current bylaws does permit a change of residential use to a hospital/care/nursing home unit with an application and permit from the Zoning Board of Appeals. Mr. Lincoln wanted to know if this was an option. Mr. Springer said that after reading the bylaw, it appears that there should not be a reason for denial of the use. Chairman Tinkham checked the Schedule of Use Regulations as it pertains to this area in question. Mr. Springer's biggest question was could this application for a nursing home facility type place run parallel with a multi-family development, basically running two applications at the same time so there is no time lapse of awaiting for one versus the other. Mr. Springer believes that Mr. Lincoln prefers a life care facility and that they have met with an architect that has designed these types of facilities. Mr. Lincoln is looking for a client that may b interested in this particular design. It would require a pre-treatment center due to the use of water compared to a multi-family where people leave for the day & return. Mr. Springer said that he has not history of this type of facility and seeing that Mr. Lincoln is investigating, this may be an opportune location. Mr. Springer cannot see where the Planning Board would have an opinion on the multi-family matter as it should fit the criteria. Mr. Springer asked if the Board would have an issue running two applications simultaneously on the same lots but for different intentions. The Board replied that it should not be a problem.

A question from Mr. Springer arose that would filing for the facility, would it be required to file for the multi-family or would filing for a facility of a long-term care property be completely separate from any multi-family filing? Several conversations occurred and the thought is that there was confusion of it being a mixed use. However, after a better understanding of what Mr. Springer was asking, the Board explained that it would need to be an "either or" scenario. Mr. Springer said what if he just filed for a long-term care facility, would he still need a multi-family permit. The Board believes he does not need to have a multi-family permit due to the use but all the leg work must be done by the applicant and the state requirements. Ultimately, it is the "use" that predicates the manner in which to file.

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Mr. Springer said that apartments would still be fine in the location but Mr. Lincoln feels otherwise due to locale. The other thought was a 40B because when the location was approached with the Planning Board, it was unfavorable as the conventional subdivision with the Planning Board did not work as they required the entire width of the road and would not vary the required one hundred ten feet and Mr. Springer said they only had seventy feet and the balance is wetlands. There would be a half mile of wetland crossings which is impractical. The Board recalls that is when the Planning Board had a problem with the proposed project of the subdivision.

Mr. Springer said there are still obstacles but getting an idea of options is good.

Associate Member, Peter Parcellin

Chairman Tinkham addressed both the Board about Associate Member, Peter Parcellin regarding elevating his position to a regular Zoning Board of Appeals member. Mr. Parcellin has demonstrated a desire to learn about the position by attending class workshops and his attendance has been regular. Mr. Parcellin appreciated the offer and said he would accept an appointment.

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to motion to recommend appointment of Associate Member, PeterParcellin to the position of a board member of the Zoning Board of Appeals.

Chairman Tinkham called for a voice vote: K.Nessralla, YES; R.Gaynor, YES; D.Tinkham, YES

The Board requested the Secretary to send a memo to the Board of Selectmen to recommend appointment.

It was duly moved, seconded and VOTED to adjourn the meeting.

Respectfully submitted,

Marion Wong-Ryan
Zoning Board of Appeals, Secretary

Debra Tinkham
Zoning Board of Appeals, Chairman
