



HALIFAX ZONING BOARD OF APPEALS

Meeting Minutes

Monday, February 10, 2014

The Halifax Zoning Board of Appeals held a public hearing on Monday, February 10, 2014 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Debra Tinkham, Kozhaya Nessralla, Robert Gaynor, Peter Parcellin and Robert Durgin present.

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

Correspondence/mail/notices

The Board reviews mail. Ms. Tinkham reads mail items into record.

Bills

"WB Mason" 2014 Desk Calendar (\$7.65) & 16 pk AAA Battery (\$15.19) = \$22.84;

Additional bill for advertisements after Agenda was posted: Petitions \$300 total (Secretary negotiated to \$150/week for the Town of Halifax)

Appointment:

7:15pm – Petition #787 – Irene Alden, 82 Carver Street, Halifax, MA

Present: Irene Alden

Zoning Board Secretary reads Public Hearing Announcement into record. The secretary reads a letter from Ms. Alden requesting to be added to the agenda. Ms. Alden was asked to appear before the Board because on 12/31/2013 the Planning Board meeting on 12/19/2013 voted to waive the site plan requirements for her business. The waiver will be for on-going operations unless there are any problems and will expire March 1st. The Planning Board agreed to marry the site plan and the special permit so that they will come up together.

Mr. Gaynor asks if there has been notification from the Planning Board as far as complaints issued since December to the present date. The Secretary confirms that there have not been any objections, problems or issues as of February 10, 2014.

Ms. Tinkham reviews the nine (9) conditions listed in the decision letter dated November 5, 2013. Ms. Alden confirms that this year there will be no changes and, regarding a time frame, Ms. Alden would like an extension for another 12 months. There have been no traffic/parking issues, no more than three (3) cars at a time.

Motion to waive on-site for Petition #787:

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

Motion to extend Petition #787 for 12-month periods with conditions as of 11/4/2013;

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

7:30pm – Petition #803 - Toby & Lindley Douglas, 15 Hickory Road, Halifax, MA

Present: Toby and Lindley Douglas (Grossman) - applicant; Rob Douglas (contractor, D&Z Construction); Michael McCusker (abutter/neighbor) 20 Madison Road

Zoning Board Secretary reads the Public Hearing Notice into record.

Lindley Grossman describes the project plan. They have a small cape-style home with three children and want to do a one-story addition to add a family room and make a bigger bedroom downstairs. Ms. Tinkham asks what is on the left side of the home, if the addition were to be flipped. Toby explains that the closest house is about 100 feet from the property line on the left side. On the right side is the driveway. The septic is located behind the house. The addition would be a family room and a bedroom, no second story. The dimensions of the existing home are 30' x 24.4'. The addition dimensions will be 16' x 30'. There will not be a full cellar underneath this addition.

Motion to waive on-site for Petition #803:

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

Mr. McCusker, 20 Madison Road, is present to hear the Petition plans as he was curious and is okay with the addition.

Mr. Gaynor states that the addition is within the established character of the neighborhood and will add to the property value. Because of the size and shape of the lot, where it's a pre-existing, non-conforming lot as well as the positioning of the septic, it meets the hardship requirement and does not derogate from the intent of the Bylaw. Ms. Tinkham feels there should be an increase in the non-conformity by three (3) feet on the left side.

Motion to accept Petition #803 as presented:

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

7:45pm – Petition #804 - David Cummings, 42 Oak Place, Halifax, MA

Nobody is present for this petition.

Zoning Board Secretary reads Public Hearing Notice into record.

Motion to continue Petition #804 to March 10, 2014 at 7:15pm due to lack of appearance:

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

Correspondence/mail/notices (continued):

Chairperson Tinkham reads additional mail items into record.

8:00pm – Petition #802 - 340 Monponsett St. Realty Trust, 340-348 Monponsett Street, Halifax, MA

Present: Attorney Richard M. Serkey (representing Monponsett Street Realty Trust); Mr. and Mrs. Robert Piccirilli

Zoning Board Secretary reads the Public Hearing Notice into record.

Mr. Serkey speaks to the Petition. He explains that Mr. Piccirilli is seeking a special permit under *Ch 40A Sec 6* of the General Laws and *Section 167-8(B) & (C)* to extend the pre-existing, multifamily use of three (3) dwelling units in two (2) structures to six (6) dwelling units in two (2) structures and to alter and/or restore both structures at a possible cost exceeding 50% of the real market valuation of each structure without increasing the non-conforming nature of the structures themselves. All the work proposed would be in the existing footprint of both structures. There are non-

conforming structures because of certain dimensional non-conformities. The rear building was built in 1960 and the front building was built in 1912. It's not a structural issue, but a usage issue. The rear building has one apartment, which is occupied, and a large garage space. The apartment was built pursuant to a building permit that was issued in 1981, so that use is legal. Mr. Piccirilli seeks to replace the garage space with the second apartment. The front building was the location of a large business known as Creative Image and two (2) apartments. The first-floor apartment has one bedroom, the second-floor apartment has two bedrooms. Since those two apartments pre-date Zoning, they constitute pre-existing, non-conforming uses. The applicant wants to replace the office with a one-bedroom unit and with a studio unit. There are no occupants presently in this building. Mr. Piccirilli owns nearby land which has been the site of a percolation test that is satisfactory to accommodate all six (6) proposed units. In 1990 and 1996 the Zoning Board granted a special permit for a total of four (4) dwelling units.

Mr. Piccirilli is seeking to replace the garage of the rear building with a dwelling unit and seeking to replace the former business use of the front building with two (2) one-bedroom apartments, one being a studio. The special permit will not be substantially more detrimental than the existing uses to the neighborhood. Mr. Serkey would suggest to the Board that the first proof of that is the absence of opposition from neighbors. Also, Mr. Serkey mentions that in Halifax there is a girth of reasonably-priced rental housing.

Ms. Tinkham asks Mr. Serkey for a copy of the building permit from 1981, as there was never supposed to be an apartment in that garage. Mr. Serkey doesn't have a copy, but the apartment was built pursuant to the building permit from 1981. Mr. Serkey thinks Ms. Tinkham is referring to the condition from 1990. The issuance date of Building Permit #61 is September 1, 1981. Ms. Tinkham asks Mr. Piccirilli if there are two bathrooms in the garage-apartment. Mr. Piccirilli answers originally there was a section that came out to the front of the garage with a platform, not a second bathroom. Mr. Serkey shows the Board a 1981 floor plan of the original apartment showing two bedrooms. The Board reviews building permits #60 and #61.

Mr. Gaynor confirms that building permit #60 from 1983 expired and then permit #158 was taken out in 1989 as the renewal of permit #60, same dollar amount. Mr. Piccirilli and Mr. Gaynor compute the dimensions.

Ms. Tinkham refers to another petition that was very similar where the Board had a different perspective regarding a continuation of the apartments. The use died when George Sturdivant no longer renewed the special permit to have apartments in 1996. Mr. Serkey responds that these two units are pre-existing, non-conforming because the previous records show that there were apartments prior to the adoption of Zoning.

The two apartments on the bottom level were last rented sometime in the nineties. One apartment is occupied now; the others are vacant. The Piccirillis have owned the buildings for a year. The lot is 1.27 acres (just under 57,000 square feet).

Mr. Piccirilli states that this has already been granted as a multifamily. Instead of cutting it into three or four pieces, he'd like to cut it into six pieces, same "pie," nothing is changing. Mr. Gaynor reads aloud Zoning Bylaw 167-7D(2): *Multifamily*. Mr. Serkey responds that the issue is "use," not "structure." The applicant is asking to increase the intensity of the use from three (3) to six (6). There are no changes to the setbacks, number or footprints of the buildings. The only change being made is that the back view will be two-dwelling units and the front will be four-dwelling units. Mr. Nessralla confirms with Mr. Serkey that the two units on the bottom, the two apartments, precede Zoning, are grandfathered and do not need a permit.

Ms. Tinkham questions what was denied (building permits?) to appeal to the Zoning Board, as that is protocol. There is paperwork found containing an unaddressed denial letter dated August 2013 which the Zoning Board and Mr. Piccirilli do not remember seeing before.

Mr. Serkey states that he opened the case in November 2013. There is no substantial change to the apartments in question so no need to advertise.

Motion to continue Petition #802 to March 10, 2014 at 7:45pm:

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

Two apartments are grandfathered. Mr. Serkey explains that if there's a pre-existing, non-conforming, existing multi-family use, there is reason to ask the Board to allow the non-conformity to be increased, if necessary. The test is whether the addition of the extra apartment units will be substantially more detrimental to the neighborhood than the existing units are. As far as abandonment, it is important to know what has been done since the applicant acquired the property. Mr. Piccirilli's intent is to restore the multifamily use. The below items are what will be researched and discussed for the continuance:

- Pre-existing, non-conforming prior to the 1974 Zoning, are the front two apartments grandfathered?
- Applied to increase non-conformity from three (3) units to six (6) units/dwellings
- Reapplication required to correct application from three to four
- Abandonment, the intent to abandon, definition 167-3
- Multi-family definition is also grandfathered and does not have to be on separate lots

Meeting Minutes:

Motion to approve Meeting Minutes from October 7, 2013 and November 4, 2013:

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

Adjourn:

Motion to adjourn the meeting at 9:15pm:

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

Respectfully submitted,

Robert Gaynor
Chairman, Zoning Board of Appeals