



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, May 19, 2014

The Halifax Zoning Board of Appeals held a public hearing on Monday, May 19, 2014 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Board members Debra Tinkham, Kozyhaya Nessralla, Robert Gaynor and Robert Durgin were in attendance.

Chairman Tinkham called the meeting to order at 6:47p.m.

Board member, Peter Parcellin, was in attendance at 6:49p.m.

The Board reviewed the mail and other matter/issues:

Correspondence/Mail/Email/Fax

1. OCPC – “Agenda for Meeting No. 508 April 30, 2014” [received 4/28/14]
2. DHCD – “Subsidized Housing Inventory Biennial Update [received 5/12/14]
3. Alan Dias – “Town of Halifax-Talent Bank Form” [emailed on 3/11/14, 3/26/14 & 5/12/14]

II Bill(s)

1. Revolving: “Express Newspaper” – Legal Notices for Petitions #810 & #811 = \$140.00
2. Expense: “Robert Durgin” – Gas Mileage for CPTC Conference on 3/15/14 = \$74.98
3. Revolving: “Halifax Postmaster” – Stamps = \$276.00
4. Revolving: “Gatehouse Media MA” – Legal Notices for Petitions #806, #807 & #808 = \$300.00

III Approval of Minutes

1. January 14, 2013

IV New Business

1. 7:30pm – Petition #810, Tami St. Andre, Danielle & Ryan Johnson, 99 Hudson Street, Halifax, MA
2. 8:30pm – Petition #811, Halifax Trails Co. Inc., Map 74, Lots 3+3A & Map 64, Lots 10+11, Halifax, MA

V Old Business

1. 6:45pm – Petition #744, Jennifer Harmon (Choate), 7 Plymouth Street, Halifax, MA
2. 7:15pm – Petition #806, Robert & Debra Durgin, 8 Bourne Drive, Halifax, MA
3. 7:45pm – Petition #802, 340 Monponsett St. Realty Trust, 340-348 Monponsett Street, Halifax, MA
4. 7:46pm - Petition #808, 340 Monponsett St. Realty Trust, 340-348 Monponsett Street, Halifax, MA

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 2 / May 19, 2014

VI Other Matters

1. BOS to ZBA – “Notes from “How to Hold a Hearing” Workshop” [dated 3/6/14]
2. Secretary to ZBA – “Incomplete Application Packet Checklist”/Petition #808 [dated 4/8/14 & 3/26/14; please refer to the Petition #808 packet]
3. PB to ZBA – “Form A Distribution – Map 103, Lot 3A” memo [dated 4/7/14]
4. PB to ZBA- “Site Plan for 934 Plymouth St.” memo [dated 4/7/14]
5. BOA to ZBA – “Address Change Notification” memo [dated 4/16/14]
6. ZBA to PB – “Line Item Transfer for Fiscal 2013-2014” [dated 5/5/14]
7. PB to ZBA – “Site Plans for Review” [dated 5/8/14]
8. ZBA to All Depts – “Change to the Public Hearing Date for the month of June 2014” memo [dated 5/12/14]

Petition #744 – Jennifer Harmon (Choate), 7 Plymouth Street, Halifax, MA [continuance...]

BOARD/COMMITTEE: ZONING BOARD OF APPEALS
MEETING PUBLIC HEARING (Please circle appropriately)
DATE: MAY 19, 2014 TIME: 6:45PM
LOCATION: TOWN OF HALIFAX, 499 PLYMOUTH ST., HALIFAX, MA, MEETING ROOM #1/2ND FL
PURPOSE: PETITION #744
REQUESTED BY: MARION WONG-RYAN, SECRETARY

NOTE: All meeting notices must be filed and time stamped in the Town Clerk’s Office and posted on the Municipal Bulletin Board no later than 48 hours in advance of meetings (excluding Saturdays, Sundays and legal holidays). Please keep in mind the Town Clerk’s hours of operation and make the necessary arrangements to be sure posting is made in an adequate amount of time.

*Per changes to the Open Meeting Law effective 7/1/2010, “A listing of topics that the Chair reasonably anticipates will be discussed at the meeting” are to be listed on the agenda.

LIST OF TOPICS TO BE DISCUSSED

Per an email received by the Office of the Zoning Board of Appeals [on 5/5/14], the applicant stated the following:

- “At this meeting I am asking that I be granted a renewal of my special permit under petition #744 for the purpose of "kennel for breeding or boarding of dogs” Thank you, Jennifer r Harmon”

Mrs. Harmon (Choate) was present to speak to her petition.

Mrs. Harmon began by updating the Board as to how things have been going since her last visit to the Board. Business is going fine and she requested a change to the breeding of her dogs from two breeds to three breeds. There is no change to the kenneling of the dogs. Currently she is breeding German Shepherds and Polmeranians and would like to add Jack Russell Terrier. She is fine with the keeping the number of a maximum litters to twenty six but among the three breeds.

The Animal Control Officer for the Town of Halifax did visit Mrs. Harmon’s property on two occasions to inspect the process and all was found to be satisfactory. The Board asked how Mrs. Harmon found the Officer to be, meaning if she was strict with her approach. Mrs. Harmon said that she did not find the Officer to be strict so much as her approach was different from former Animal Control Officers. Mrs. Harmon said whatever her approach may be is fine with her, so long as the standard is the same for all dog breeders in town.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 3 / May 19, 2014

It was duly moved (R.Gaynor) and seconded (R.Durgin) to grant your petition (#744) for a special permit to continue the "Kennel for the breeding or boarding of dogs" with the following conditions to remain intact from the original &/or any ongoing amendments of the petition. The below **boldfaced & underlined are the amendments granted by the Board:**

1. There will be no boarding of outside animals allowed on the premises.
2. There will be no breeding of outside animals allowed on the premises.
3. The special permit is to run with the applicant and is not transferable.
4. If the newborn puppies do not sell within 6 months of being born, they are to be removed from the property.
5. **A maximum of twenty six (26) litters allowed per year, among the following three breeds: (1) German Shepherd, (2) Pomeranian and (3) Jack Russell Terrier.**
6. There may only be a maximum of fifty (50) adult dogs on the property. The applicant will need to come before the Board for an annual evaluation/status regarding the increased number of adult dogs permitted on the property & may represent to the Board on the same petition. **The applicant is to return at the June 8, 2015 Zoning Board of Appeals meeting & is responsible for being placed on the agenda by contacting the office of the Zoning Board of Appeals.**
7. The applicant must maintain the soundproofing; and dogs must stay within the applicant's property line.
8. The applicant must adhere to Massachusetts General Laws, Chapter 140 (Licenses) and its particular sections of the law as it pertains to the applicant's "Kennel for the breeding or boarding of dogs" special permit.
9. Records must be maintained.
10. The special permit was granted based on the presentation and plans presented at the hearing. Any changes from what was presented and approved must be brought back before the Zoning Board of Appeals.

Please be advised that all variances and special permits shall comply with all the rules and regulations and codes of the Town of Halifax.

This decision shall not take effect until:

- (a) A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerks (5/20/14) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- (b) A certified copy indicating such Registry Recording has been filed with the Board.

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

The motion to grant petition #744 passed 5-0-0

Chairperson Tinkham reprised Mrs. Harmon of the procedure following approval of the petition.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 4 / May 19, 2014

Meeting Minutes for January 14, 2013

Motion (K.Nessralla) and seconded (P. Parcelling) to accept the meeting minutes of January 14, 2013. Voice vote passed: 5-0-0

Petition #806 – Robert & Debra Durgin, 8 Bourne Drive, Halifax, MA [continuance...]

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, April 14, 2014 at 7:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Robert & Debra Durgin to request a Special Permit build a detached twenty eight (28) feet by thirty eight (38) feet garage & a Variance of the rear setback from forty (40) feet to thirty (30) feet to their property, located at 8 Bourne Drive, Halifax, MA. Said property is owned by Robert & Debra Durgin, as shown on Assessor's Map #98, Lot 5X. The applicants seek a Special Permit under Section 167-12.F(4), which states: "No garage or barn shall have a ground floor area of greater than 884 square feet unless authorized by special permit from the Zoning Board of Appeals" & a Variance of the setback requirements, under Section(s) 167-11 Table of Dimensional and Density Regulations (page 167:43) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned residential. Petition #806

Mr. Durgin recused himself from the Board and was present to speak to his petition.

Mr. Durgin spoke to his petition. He explained to the Board that he would like a place to store his antique cars and motorcycle. He would like to construct a twenty eight (28) feet by thirty eight (38) feet wooden structure and paint it the same color as his primary home. He does not want a pop up garage as it would look unattractive. The reason for the request of the variance is due to the amount of puddling of water within the variance sections of his lot. If it was graded, rain would run back toward the house.

Mr. Gaynor proceeded to speak that the hardship is the topography of the land. He spoke to the applicant to confirm that the work of the cars would only be in the proposed structure, that the applicant is looking to store three antique cars, a motorcycle, lawn mower, yard work tools and that the applicant is not going to solicit outside work and that the garage is for personal use only.

Mr. Parcellin asked if there are other detached garages in his neighborhood and Mr. Durgin replied that there is not.

Chairperson Tinkham read aloud a letter from abutter, Michael Ballerini of 6 Danson Lane, Halifax, MA [-see attached-]

Chairperson Tinham opened the petition to the audience for comments.

Abutter, Patrick MacPherson of 7 Bourne Drive, Halifax, MA was present for the petition and was fine with the project.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 5 / May 19, 2014

Mr. Durgin stated that the builder of his house will be the builder of the proposed garage.

Attorney Megan Bridges (of 72 Main Street, Bridgewater, MA) was present, representing neighbors against the proposed project. Attorney Bridges posed the following questions aloud:

- The applicant recently was granted a two-car attached garage to his home. Why was the detached garage not addressed then?
- The proposed structure is large and the neighbors she is representing are concerned.
- The proposed structure may decrease the value of the homes in the neighborhood due to the potential noise and tinkering of cars.
- There are legal arguments, specifically for the special permit request = why one hundred fifty to two hundred feet? It's 25% larger than the average.
- The legal argument for a variance – enforcement of the hardship criteria; substantial hardship; this structure does not appear to conform; it's a small lot; the shape of the topography is not a hardship; as for the grading easement, there is no other issue; confused about the shape of the lot argument and the puddle argument; applicant claims his lot is unique while his lot is similar to the other lots in the development.

Mr. Parcellin asked Attorney Bridges how many neighbors/abutters she was representing and she replied that she is representing two of the neighbors/abutters.

In closing, Attorney Bridges said that the neighbors/abutters are opposed the petition as it's seen as the garage will serve as a place to service muscle cars.

Mr. Gaynor asked the applicant to describe the cars he is proposing to keep in the proposed garage. Mr. Durgin said that they are not race cars or drag strip cars. Mr. Nessralla said whether the cars are or are not, it's the size of the cars that should be reviewed.

Motion (K.Nessralla) and seconded (P.Parcellin) for an on-site inspection for Saturday, June 14, 2014 at 9:00am. Voice vote passed: 5-0-0

It was duly moved to continue the public hearing to Monday, June 16, 2014 at 7:15 pm.

Petition #810 - Tami St. Andre, Danielle & Ryan Johnson, 99 Hudson Street, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, May 19, 2014 at 7:30 p.m. in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax MA on the application by Tami St. Andre, Danielle Johnson & Ryan Johnson for the use of an existing addition to be converted to an In-Law Apartment at 99 Hudson Street, Halifax, MA. Said property is owned by Maureen & Harold Berger, as shown on Assessor's Map 14, Lot 7B. The applicants seek a Special Permit for an In-Law Apartment in accordance with the Zoning By-laws of the Town of Halifax under Section 167-7 Schedule of Uses, page 167:38-39. Area is zoned residential. Petition #810

Applicants Ms. St. Andre, Mr. & Mrs. Johnson were present to speak to their petition.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 6 / May 19, 2014

Ms. St. Andre addressed the Board by explaining this different situation. She is looking to purchase this house with her children and live in the “in-law” section of the house. When the house was listed for sale, this was a selling detail that attracted them. However, they were informed that the “in-law” apartment was never legalized by the current owners or permitted by the Town of Halifax. Their intention is to legalize the in-law apartment before continuing on with the purchase of the property.

The applicants submitted pictures to the best of their ability to show the interior of the home. As for the home in its current shape, there is no shared living space, no shared laundry room, shared electric, oil heat is in the main house, electric heat is in the in-law apartment, one septic system for a four bedroom house (main house has three bedrooms and in-law apartment is a one bedroom). As for the square footage of the house, the first floor is approximately one thousand three hundred eighty (1,380) square feet and the in-law apartment is approximately five hundred eighty four (584) square feet. When the in-law apartment was built, there were no stipulations at that time to review so whether this is a “grandfathered” situation is neither here nor there.

The applicants said that they worked with the Building Inspector regarding the building of the in-law apartment and since there were never any permits pulled, the Building Inspector highly recommended that they have a licensed electrician and plumber to review the current status of the house to speak to the legitimacy of the work done within the house. The applicant included such paperwork in their petition application.

The Board appreciated the applicants’ diligence in applying to legitimize the in-law apartment. The Board felt that the applicants have done a great job in the matter.

Motion (R.Gaynor) and seconded (K.Nessralla) to waive the on-site inspection. Voice vote passed: 5-0-0

It was duly moved (R.Gaynor) and seconded (P.Parcellin) voted to grant your petition (#810) for a special permit for the existing in-law apartment to the existing home on 99 Hudson Street, Halifax, MA, in accordance with the Zoning By-laws of the Town of Halifax, under Section 167-7.D.12, Schedule of Use Regulations, page 167:38-39. Said property is owned by Maureen F. Berger & Harold F. Berger III, as shown on Assessor’s Map #14, Lot 7B.

The permit was granted as the home had a pre-existing in-law apartment and due to the time period the in-law apartment was built, met the criteria of the by-law for in-law apartments. The due diligence of the applicants to legitimize the in-law apartment by filing for a special permit was appreciated by the Board. This petition was granted as it does not derogate from the intent of the bylaw and will not be detrimental to the established character of the neighborhood.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 7 / May 19, 2014

The conditions for granting the special permit for the in-law apartment are as follows:

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- The in-law apartment cannot become an income producing apartment.
 - The special permit shall run with the owner and not with the property. The special permit is not transferable.
 - The special permit for the in-law apartment is granted for a period of 5 years. Upon expiration of the permit, the applicant(s) shall come back before the Board and apply for an extension.
 - The special permit was granted based on the plans and testimony presented at the hearing. Any changes from what was presented and approved must be brought back before the Zoning Board of Appeals.

Please be advised that all variances &/or special permits shall comply with all the rules, regulations, and codes of the Town of Halifax.

This decision shall not take effect until:

- (a) A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerk (5/20/14) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- (b) A certified copy indicating such Registry Recording has been filed with the Board.

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

The motion to grant petition #810 passed 5-0-0

Chairperson Tinkham reprised Mrs. St. Andre, Mr. & Mrs. Johnson of the procedure following approval of the petition.

**Petition #802– 340 Monponsett St. Realty Trust, 340-348 Monponsett Street, Halifax, MA
[continuance....]**

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, February 10, 2014 at 8:00 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. As stated & typed on the application: “Applicant seeks Special Permit per M.G.L.c.40A§6 and per Halifax Zoning By-Law Section 167-8 (A), (B), and/or (C) to extend a pre-existing nonconforming multiple family use of four dwelling units in two structures to six dwelling units in two structures, and/or restore both structures at a possible cost exceeding fifty (50%) of the real market valuation of each structure, but without increasing the nonconforming nature of the structure themselves.”

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 8 / May 19, 2014

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), 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" &/or an Extension (section 167-8C) a non-conforming use, along with 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 #802

Mr. Piccirilli and Attorney Richard Serkey were present to speak to the petition.

Chairperson Tinkham reviewed the response from Town Counsel [-see attached-].

It was duly moved to take petition #802 under advisement and to continue petition #802 following opening Petition #808. So VOTED by VOICE 5-0-0

The public hearing notice for Petition #802 was read aloud again to continue, following the continuance of petition #808.

Board member Mr. Gaynor began by saying the "abandonment" issue of the property is still something that needs to be addressed. By the former owner of the property not renewing their special permit of the property, can be a basis of abandonment. It appears the intent of the former owners was to sell the property. Attorney Serkey agreed with the assessment as it appears that is exactly what the former owner did.

The special permit issued to the former owner of the property was not transferrable and a condition was placed on the special permit that the owner need to renew every five years.

The Board discussed that there are no additional changes to the size of the structure, but a change to the amount of bedrooms on the property consisting of two structures.

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to grant your petition (#802) for a Continuation (section 167-8A), 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" &/or an Extension (section 167-8C) a non-conforming use, along with in accordance with the Zoning By-laws of the Town of Halifax Non-Conforming Uses, page(s) 167:39. Said property is owned by 340 Monponsett Street Realty Trust, Robert J. Piccirilli -Trustee as shown on Assessor's Map #52, Lots #424 & 425.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 9 / May 19, 2014

The Zoning Board of Appeals grants this petition with the following conditions:

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1. **The Special Permit shall run with the owner and not with the property. The Special Permit is not transferable.**
 2. **The Special Permit was granted with a total of six (6) dwelling units in two (2) existing structures on the property. (The breakdown of the six (6) dwelling units are as follows: five (5) of the dwelling units are one (1) bedroom units and one (1) dwelling unit is a two (2) bedroom unit.) No changes, additions or usage to the dwelling units and/or property will be permitted.**
 3. **The Special Permit is granted for a period of 5 years. Upon expiration of the permit, the applicant shall come back before the Board and apply for an extension. The applicant is to return for the public meeting in May of the year 2019 (either May 6, 2019 or May 20, 2019) and is ultimately responsible for being placed on the agenda by contacting the office of the Zoning Board of Appeals. [Note: As the expiration of the permits draws near, the applicant should confirm actual date of the public meeting by contacting the office of the Zoning Board of Appeals.]**
 4. **The Special Permit was granted based on the presentation and plans presented at the hearing. Any changes from what was presented and approved must be brought back before the Zoning Board of Appeals.**

Please be advised that all variances and/or special permits shall comply with all the rules and regulations and codes of the Town of Halifax.

This decision shall not take effect until:

- (a) A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerks (5/20/14) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- (b) A certified copy indicating such Registry Recording has been filed with the Board.

Chairperson Tinkham called for a voice vote: R.Durgin, YES; P. Parcellin, YES; R.Gaynor, YES; K.Nessralla, YES; D.Tinkham, NO

The motion to grant petition #802 passed 4-1-0

Chairperson Tinkham reprised Mr. Piccirilli of the procedure following approval of the petition.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 10 / May 19, 2014

**Petition #808– 340 Monponsett St. Realty Trust, 340-348 Monponsett Street, Halifax, MA
[continuance....]**

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, April 14, 2014 at 7:50 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. As stated & typed on the application: “Applicant seeks Special Permit per M.G.L.c.40A§9 and per Halifax ZBL Section 167-7(C) (Use Regulations) and a Variance per M.G.L. c.40A§10 of Halifax ZBL Section 167-7(D)(2)(a) (Specific Use Regulations) and Section 167-12(A) (1),(2),(3),(5), and (6) Density Regulations) for multifamily development comprised of six dwelling units in two structures.” 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(s) & Variance(s) under Schedule of Use Regulations (Section 167-7, Page167:25-39) & Variance(s) under Density regulations for specific use (Section, 167-12, Page 167:43-47) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned Commercial-Business. Petition #808

Mr. Piccirilli and Attorney Richard Serkey were present to speak to the petition.

Mr. Piccirilli submitted exact square footages of the units as requested by the Board. The Board reviewed the submitted information.

Attorney Serkey touched upon the petition’s filing under the bylaw section 167-12A, Multifamily development. The criteria cannot meet the requirements set forth as there are already pre-existing and unique circumstances to the lot itself. There are already topography issues, along with two pre-existing structures on a single lot. There is not a way to meet the perc testing standard in this particular part of the bylaw, except perhaps one section of the lot on the upper right hand corner.

Mr. Piccirilli spoke to the conditions of the pre-existing structures on the lot and the extensive termite damage that is not visible until you begin gutting the building. He was taken aback and did not know it was going to be that bad. As for the other criteria, Mr. Piccirilli said respectfully that he does not believe he is derogating from the public good as there is a need for rental housing. He went onto state that the rehabilitation of the structures will be good for the neighborhood and it will not be a nuisance. No residents and/or abutters, have come to speak again the petition which is not the reason for granting but does show a favorable way.

Board member Mr. Gaynor said that the applicant is not increasing the non-conformity of the lot and structures. In Mr. Gaynor’s opinion, setting aside the fact that the property is zoned commercial-business, he believes putting in two single bedroom apartments, converting the former garage to a single bedroom apartment are all improvements to the property and he would be in favor. However, the concerns are the significant amount of variances required as it pertains to the density regulations and the multi-family development sections of the by-law. He said that he does not believe that the proposed project would be detrimental but only improvements.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 11 / May 19, 2014

Board member, Mr. Parcellin spoke that he would be in favor but has a seriously difficult time granting this as it requires several grantings of variances. Discussed was the lack of acreage, frontage, setbacks and the reasons for granting a variance is to find the hardship and that what is being asked does not derogate from the intent of the by-law. There is a possibility, from a reality standpoint, that if this gets granted, that the Board has just destroyed the by-laws set forth. That was Mr. Parcellin's major concern in setting a precedence and sending out a negative message.

Attorney Serkey responded to the comments made and asked that the Board keeps in mind that although he agrees with the size of the lot and setback issues which are very apparent, no two petitions are alike and that each petition case would have to prove their individual points.

Mr. Parcellin replied that the by-law was created to literally prevent what this lot currently is.

Attorney Serky said that multi-family developments built from the beginning is what the current by-law is doing with preventative measures. This parcel is from old inventory and cannot fall within the current criteria. Also, he did not feel that this would be setting a precedence for other multi-family developments.

Mr. Parcellin said that he is still wrestling with all the variances required yet would like to see the property improved. He would prefer special permits, instead of variances, be requested as variances should be more challenging to get.

Mr. Piccirilli commented on Mr. Parcellin's point and said upon his research, the property was used as a multi-family before up to a certain period. The questions is how to allow that use versus how to not allow that use is where he believes the decision should be heading.

Mr. Gaynor said that the Board cannot deem a property useless and what is best for the town. The petition should be based on its own merit.

Board member, Mr. Nessralla asked how does the Board proceed that without harming the by-law and/or the applicant.

Mr. Parcellin agreed with Mr. Nessralla's concern by adding that the variances requested are hard to connect.

Mr. Gaynor agreed by saying that it's a hard pill to swallow.

Attorney Serkey requested to hold concurrently petitions #802 & petition #808 but Chairperson Tinkham said that each petition is to be treated separately.

Mrs. Picirilli was present in the audience and asked the Board what is a variance and what is the struggle the Board is having. Chairperson Tinkham replied that it's the hardship of the applicant and readdressed the conversation she had with Mr. Picirilli outside the public hearing when she asked about the apartments but no response.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 12 / May 19, 2014

Mr. Picirilli said that he did not think it would be this hard to get this granted and doesn't want to sound threatening but he would just assume sell the property.

Audience member, Edmund DeAbreau of 23 Paradise Lane, began to rant aloud, declaring his years of service to the Town of Halifax and tenure of service should mean something. Mr. & Mrs. Picirilli asked Mr. DeAbreau to keep his comments to himself.

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to take petition #808 under advisement and continue following re-opening and continuing petition #802. So VOTED 5-0-0

The public hearing for Petition #808 was read aloud again to continue, following the voting of petition #802.

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to accept a "Letter of Mutual Agreement for Withdrawal" of Petition #808 (-see attached-). So VOTED 5-0-0

Petition #811– Halifax Trails Co. Inc., Map 74, Lots 3+3A & Map 64, Lots 10+11, Halifax, MA [continuance....]

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, May 19, 2014 at 8:30 p.m in Meeting Room 1, 499 Plymouth Street, Halifax, MA on the application by Jacobs Driscoll Engineering Inc., on behalf of Halifax Trails Co., Inc. (c/o Richard Allan Comeau, President) for a Special Permit for a Multifamily development, as stated by the application: "The project consists of twenty-six (26) townhouse units, in five (5) building, each consisting of two (2) or three (3) bedrooms. The lot on which the project is proposed consists of approximate twenty-six (26) acres". A request for Variances of the lots is required for the project & goes as follows: Front setback from seventy-five (75) feet to a minimum of ten point seventy five (10.75) feet; Frontage from one hundred fifty (150) feet to seventy point five (70.5) feet; Lots depth from two hundred (200) feet to a minimum one hundred (100) feet; Rear setback from one hundred (100) feet to sixty-nine point seventy-five (69.75) feet. Said properties are owned by Halifax Trails Co., Inc., as shown on Assessor's Map #64, Lots 10 & 11, along with Ryan P. Nelligan, Robert & July Cummings, as shown on Assessor's Map #74, Lots 3 & 3A. The applicant(s) seek Special Permits in accordance with the Zoning By-laws of the Town of Halifax under Section 167-7D(2), Specific Use Regulations. The applicant(s) seek Variances in accordance with the Zoning By-laws of the Town of Halifax under Section 167-11, Table of Dimensional and Density Regulations, page 167:43. The applicant(s) seek both a Special Permit & Variances under Section 167-12, Density Regulations for Specific Uses, Specifically Section A, Multifamily development, pages 167:43-45 &. Area is zoned Residential & Conservancy. Petition #811

Mr. Gregory Driscoll, Mr. Edward Jacobs (both from Jacobs Driscoll Engineering) and Mr. Richard Comeau (President of Halifax Trails, Inc. Co.) were present to speak to the petition.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 13 / May 19, 2014

Chairman Tinkham began the public hearing by stating the audience that this petition is not a Chapter 40B project, nor has it ever been submitted, presented and/or advertised as a Chapter 40B project. She said it's a shame that rumors spread so wrongfully in the town when a simple phone call to the office of the Zoning Board of Appeals would have absolved any miscommunications. Upon making that declaration aloud, some of the audience members left the public hearing.

Mr. Driscoll & Mr. Comeau addressed the Board and began the presentation that the multi-family development project is on approximately twenty six acres of land for a proposed twenty six unit townhomes.

Mr. Driscoll referred to the submitted layout plans on an easel while reviewing the project. The following discussions occurred:

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- The general layout for the townhomes with both a foundation layout and a private backyard area for each unit.
 - Soil testing with the Board of Health was submitted.
 - The applicants made the Board aware that they are working on the grading design.
 - Each unit will have a one car garage and there is still room on the driveway for another vehicle. Basically each unit will have one and one half parking per unit.
 - The applicants also are proposing a community garden area where each unit will be deeded a plot of land approximately twelve feet by fifteen feet for a vegetable garden area.
 - Currently, there are approximately fourteen acres of mixed upland and conservation. This is the reason for the multiple requests for Variances.
 - Board member, Mr. Parcellin requested Mr. Driscoll go over where each Variance request is being asked in detail from the layout plan on the easel so all attendees can better understand.
 - As for the septic system, Chairperson Tinkham asked if a central septic system is being proposed. Mr. Driscoll explained that their intention is to have a single tank for every two units.
 - As for the square footage, each unit will be approximately one thousand five hundred seventy four square feet of living space.
 - There are no affordable units proposed for this multi-family project.

Chairperson Tinkham opened the petition to the audience for any questions.

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

Page 14 / May 19, 2014

Two abutters from the Halifax Meadows condominium complex were present but refuse to state their names. They were concerned about the proposed project but after seeing the presentation by the applicants, they were fine with the layout and more so, the location. They left after voicing their opinion.

Abutter, Ryan Nelligan of 227 Monponsett Street addressed the Board that he was in favor of the multi-family project.

Mr. Comeau said that the Board of Health agent, Cathy Drinan wanted areas of the project with the leaching field to be completely gravity fed, which will last forever. He also stated that they are working diligently with Ms. Drinan.

Mr. Comeau stated that he is proposing two fire hydrants for the project and placing the hydrants on each curb.

It was duly moved to take the petition under advisement as the applicants' intention was to meet with the Planning Board on June 5, 2014 for a site plan review. So VOTED 5-0-0

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to grant a continuance for petition #811 to a public hearing date of Monday, June 16, 2014 at 7:30pm, which will be posted with the Halifax Town Clerk. So VOTED 5-0-0

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
