



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, June 16, 2014

The Halifax Zoning Board of Appeals held a public hearing on Monday, June 16, 2014 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Board members Debra Tinkham, Robert Gaynor, Peter Parcellin and Robert Durgin were in attendance.

Chairman Tinkham called the meeting to order at 7:10 p.m.

Board member, Kozhaya Nessralla, was in attendance at 7:12p.m.

The Board reviewed the mail and other matter/issues:

I Correspondence/Mail/Email/Fax

1. *Letter from Bill & Joyce Hay of 10 Lantern Lane – Re: Petition #812 & acknowledge letter at the time of the opening of this public hearing [received 6/3/14]*

II Bill(s)

1. Revolving: “Express Newspaper” – Legal Notices for Petitions #810 & #811 = \$140.00

III Approval of Minutes

1. June 2, 2014

IV New Business

1. 7:45pm – Petition #813, Allan & Priscilla Praught (Kurt Boettcher), 75 Hayward Street, Halifax, MA
2. 8:00pm – Petition #812, Debra Coghill, 89 Cedar Lane, Halifax, MA

V Old Business

1. 7:15pm – Petition #806, Robert & Debra Durgin, 8 Bourne Drive, Halifax, MA
2. 7:30pm – Petition #811, Halifax Trails Co. Inc., Map 74, Lots3+3A & Map 64, Lots 10+11, Halifax, MA

VI Other Matters

1. ZBA Secretary to ZBA – re: “Incomplete Application Packet Checklist” for Petition #813 (acknowledge memo at the time of the opening of this public hearing [dated 6/2/14])
2. “2014 Elected Officials” listing
3. Selectmen Assistant to ZBA – re: “Reorganization of the Halifax Board of Selectmen” [dated 5/28/14]
4. Town Accountant to ZBA – re: “Amendment to Article 5 of the 5/12/14 Annual Town Meeting” [dated 5/29/14]
5. ZBA to All Boards/Committees/Departments – re: “Proposal for a Chapter 40B Training Course/Seminar” memo [dated 6/9/14]
6. PB to ZBA – re: “Site Plans for Review” on 265 Monponsett Street [dated 6/10/14]
7. Selectmen Assistant cc ZBA – re: “Line Item Transfers” memo [dated 6/11/14]

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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.

Chairperson began by asking if any of the Board members attended the on-site inspection, scheduled on June 14, 2014. Mr. Gaynor said he was there, at the property, the proposed structure was staked out and can see the concerns from the petitioner regarding the sloping of the land and the location which is being proposed to place the structure. Chairperson Tinkham stated that she had done a drive by of the property that very morning.

Mr. Durgin submitted photos to the Board to show the water puddling on the property and his concerns about placing it elsewhere versus his proposed location. The Board reviewed the photos.

The Board addressed to Mr. Durgin the question about the attorney that was present for the past public hearing, representing a couple of his abutters and if there were any further discussions. Mr. Durgin said that there is no opposition from the other abutters as he has spoken to that attorney and the abutters she represented. All is good as the major concern of the structure was that it was going to become a commercial use. Mr. Durgin stipulated to the abutters and attorney that this structure will not be a commercial use.

It was duly moved (R.Gaynor) and seconded (K.Nessralla) grant your petition (#806) for a Special Permit to 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 your property, located at 8 Bourne Drive, Halifax, MA, as shown on Assessor's Map #98, Lot 5X 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.

This project does not derogate from the intent of the By-law and will not be detrimental to the neighborhood.

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The following conditions must be adhered to in order for the special permit & variance to remain in effect:

1. The garage is to be used for personal use only. No commercial or office use will be allowed.
2. No outside vehicles repaired for hire will be allowed.
3. No living space permitted.
4. No running water or drainage will be installed in the garage.
5. Electricity will be allowed
6. The special permit runs with the applicant(s) only and is not transferable.
7. 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.

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 (6/17/14) 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; D.Tinkham, YES

The motion to grant petition #806 passed 4-0-0

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

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.

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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.

The secretary read aloud two memos (-see attached-): 1) memo from the Zoning Board of Appeals to the Planning Board, dated May 21, 2014 & 2) memo from the Planning Board to the Zoning Board of Appeals, dated June 10, 2014.

The memo from the Planning Board was a site plan review for the 265 Monponsett Street, Map 64, lots 10, 11 & 3. This memo stated that it will be reviewed for comments by June 18, 2014 (as there is a schedule meeting at the next Planning Board meeting on June 19, 2014).

The Board asked the petitioners if they had met with the new Fire Chief and they replied that they had met with him and he stated that an auxiliary road is unnecessary. The petitioners are working on looping the water line. The Planning Board thought one fire hydrant would suffice but the petitioners said they will put two fire hydrants.

The petitioners said that they have reviewed with the Board of Health the septic plans and that there are still some septic issues that need to be refined based upon the submission of a rough design.

The Board and the petitioners reviewed the plans once again. The Board felt this multi-family development was going to be good for the town. The Board questioned why the lots were being cut into forty thousand square foot lots. Mr. Driscoll said that the petitioners were adhering to the bylaw section 167-7.D(2)(a), which states the following: "It is required that any multifamily development complex proposed hereunder shall locate each building on an individual lot which shall have continuous frontage on a public or private way". The Board said that is not a practice used in past multi-family projects but on the other side, those projects that had been granted never moved forward with the project thus causing the special permits to elapse. Mr. Driscoll said if it pleased the Board to not cut the lots into a minimum of forty thousand square foot lots, the petitioners would be open. However, this could cause for the current petition to be re-advertised as the requests for relief would change. This was tabled for review on both sides and seeing how things move with the project.

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It was duly moved to take the petition under advisement as the applicant was scheduled to meet with the Planning Board on June 19, 2014 at 7:45pm. 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, July 14, 2014 at 7:15pm, which will be posted with the Halifax Town Clerk. So VOTED 5-0-0

Petition #813 – Allan & Priscilla Praught (Kurt Boettcher), 75 Hayward Street, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, June 16, 2014 at 7:45pm in Meeting Room 1, Town Hall, 499 Plymouth Street, Halifax, MA On the application by Kurt Boettcher for a Special Permit to modify an existing single family home to a “Two-family or duplex dwelling”, located on 75 Hayward Street, Halifax, MA. (Note: only the proposed altered portion of the “Two-family or duplex dwelling” is approximately five hundred seventy six (576) square feet). Said property is owned by Allan Praught & Priscilla Praught, as shown on Assessor’s map #121, Lots 1A & others. The applicant seeks a Special Permit under Table of Use Regulations (Section 167-7C), in accordance with the Zoning By-laws of the Town of Halifax, Schedule of Use Regulations (Section 167-7), pages (s) 167:25-26. Area is zoned Residential. Petition #813

Owner of the property, Mr. Allan Praught (of 80 Spring Street, West Roxbury, MA) and applicant, Mr. Kurt Boettcher were present to speak to the petition.

Mr. Praught proceeded by presenting his application for a two-family or duplex dwelling, in hopes to have a 1 bedroom apartment. Currently the property does have a temporary occupancy permit, to expire in August of 2014.

As for the utilities, shared will be electrical, water, heating. There is no thought to having two separate electrical meters. The house has a septic system for a four bedroom house. There will be no shared living space between the proposed two-family or duplex dwelling.

The Board asked the following:

- What has currently been completed on the property?
- What was the intent of the property?
- When did the project commence?

The Board was informed that a good portion of the current single family home has been constructed, permissible to acquire a temporary occupancy permit. The project commenced back on December of 2012.

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Mr. Tom Millias (Building Inspector/Zoning Enforcement Officer for the Town of Halifax) was present at this public hearing. Mr. Millias informed the Board that the current single family home could be set up as a two-family, upon meeting the necessary building permit requirements, such as a fire rock wall and other technical things. His opinion was that the current single family home does not lend itself as a duplex or two-family.

At first, during a routine inspection during construction of the project, Mr. Millias noticed there was additional wiring and plumbing, making it suspect for a potential kitchen with appliances and believed that the intent was for an in-law apartment. He explained to Mr. Boettcher a year ago that if that is the intent, he will need to file for a special permit with the Zoning Board of Appeals. If this project turns into a duplex or two-family dwelling, a fire wall would be required and would have to revisit what has been structural done to assure compliance. As for the egress, there would need to be two means of exits for each of the dwellings. Currently there is a single door in the main part of the house, one slider so that could suffice but he believed an additional door may need to be required. For a two-family dwelling, it can be made to comply but a duplex with a shared wall, this may vary...again will revisit and assure compliance of the building code(s). Mr. Boettcher has done the minimum necessary to ascertain a temporary occupancy permit, valid for six months...to expire in August of 2014.

Chairman Tinkham proceeded to open this public hearing to the audience. The following abutters to the property and resident were present:

- Kathy & Robert McGrath of 84 Hayward Street
- Nancy Gonsalves of 102 Hayward Street
- Cheri & William Fox of 78 Hayward Street
- Diane Bradford of 131 Hayward Street
- William Scott of 108 Hayward Street

Abutter, Mrs. McGrath, addressed the Board wanting to know when it was planned as an in-law apartment, how many bathrooms and what the house was approved for regarding the amount of bathrooms. She was provided with the response that the Board did not receive an application for an in-law apartment, based on the submitted architectural plans, the proposal is three full bathrooms and a half bathroom and the house is septic approved for four bedrooms.

A general question arose within the audience regarding the garage and the accessibility from the interior. The answer was that the garage is only accessible from the main part of the house.

Abutter, Mrs. Gonsalves addressed the Board and her concern of a two-family dwelling in the neighborhood, that this is a sneaky way to get this two family in during construction and most of all, what it does to home value and her neighborhood.

Abutter, Mr. McGrath, addressed the Board, stating that he believed that everyone should have a home. However, if the property was sold, can the number of people, be controlled and can he sell it as a two-family? The Board said, as for the number of people entering/exiting the property that would be hard-pressed to police and as for the selling of the property, should it become a two-family, then it can be listed /sold as such.

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Seeing that the property owner owns a decent amount of property and lots on Hayward Street, what is to become of those was the other major concern of the abutters.

Mr. Praught addressed the Board about the property and the reason for proposing a two-family dwelling and thought this was a way to bring in some rental income.

Chairman Tinkham asked Mr. Praught what are his intentions for the remaining properties and lots he owned on Hayward Street and if his intention was to convert them to two-family dwellings. Mr. Praught did not respond.

Abutter, Mr. Scott addressed the Board about his concerns, about the two-family dwelling, the overall condition of the property and the neighborhood.

Abutter, Mrs. Fox addressed the Board that this project has been going on for well over 2 years and it has been difficult to watch the property, how long this project is taking, the property is unkept, the concern of the value to her property and what a two-family dwelling would do to the neighborhood.

Abutter, Mr. Fox, addressed the Board that this project has been an eye sore from his home, across the street, for so long and may now become an eye sore if it becomes a two family dwelling because they would never know who the owner is renting to and the safety of the neighborhood.

Resident, Mrs. Bradford, addressed the Board, based upon Mr. Millias' findings, why this project was suppose to be an in-law and now, a two-family dwelling. The Board explained that it was never applied as an in-law but only as a two-family or duplex dwelling.

Abutter, Mrs. Fox, readdressed the Board, explaining that she lives directly across the street from this property, so very tired of looking at dumpsters and the overall mess. She asked the Board to put themselves in her family's shoes and understand her concern now and going forward.

Chairman Tinkham thanked the abutters and resident for their attendance and their opinions/concerns regarding this project.

It was duly moved (R.Durgin) and seconded (R.Gaynor) to proceed with an on-site inspection. So VOTED 5-0-0

The on-site inspection was scheduled for Saturday July 12, 2014 at 9:00am.

It was duly moved to continue the public hearing to Monday, July 14, 2014 at 7:30pm.

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Petition #812, Debra Coghill, 89 Cedar Lane, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, June 16, 2014 at 8:00 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Debra Coghill to request a Variance of the front set back from fifty (50) feet to thirty eight point four (38.4) feet and the right side set back from thirty (30) feet to two point eight (2.8) feet; a Special Permit to construct a nineteen (19) feet by twenty-two (22) feet addition to the existing home at 89 Cedar Lane, Halifax, MA. Said property is owned by Eugene & Debra Coghill, as shown on Assessor's Map #43, Lot 1B. The applicant seeks a Special Permit for a Continuation & Extension of Non-conforming uses (Section 167-8A & 8C, page 167:39) & 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 #812

Mr. & Mrs. Coghill were present to speak to her petition.

Chairperson Tinkham asked Mr. & Mrs. Coghill what they would like to do with their home. Mrs. Coghill explained that they have a five year old grandson with special needs and are in need of adding to their home. The addition is nineteen (19) feet by twenty two (22) feet to square off the lot. The current house is a three bedroom and one bathroom. The goal is to add a bedroom and remove one of the existing bedrooms to increase the living room space and add a bathroom.

The Board reviewed the submitted plot plan and can see that the existing dwelling is an already pre-existing, non-conforming lot. The addition is limited to location and can see how the petitioners are proposing to square off the addition to the existing dwelling. The petitioners submitted color photo copies for the Boards' review. The Board can also see that the petitioners are not increasing the non-conformity of the right side lot line.

The Board reviewed the architectural plans and all seemed to be in order. Mr. Gaynor thought an inspection may be in order.

It was duly moved (K.Nessralla) and seconded (R.Durgin) to waive on-site inspection. So VOTED 4-1-0

Chairperson Tinkham read a letter by direct abutters, William & Joyce Hay of 10 Lantern Lane, Halifax, MA, aloud to the audience (-see attached-).

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to grant your petition (#812) for a Variance of the front set back from fifty (50) to thirty eight point four 938.40 feet and the right side set back from thirty (30) feet to two point eight(2.8) feet; a Special Permit to construct a nineteen (19) feet by twenty-two (22) feet addition to their existing home at 89 Cedar Lane, Halifax, MA, as shown on Assessor's Map #43, Lot 1B, under Special Permit for a Continuation & Extension of non-conforming uses (Section 167-8A & 8C, page 167:39) & a Variance of the

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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)

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. As for the topography conditions to this lot, the applicant(s) would be limited to the location and the locale that it could be placed. The home is pre-existing non-conforming and will not derogate from the intent of the bylaw.

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

The special permit and/or variance 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:

- (c) 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 (6/17/14) 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
- (d) 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, YES

The motion to grant petition #812 passed 5-0-0

Chairperson Tinkham reprised Mr. & Mrs. Coghill of the procedure following approval of the petition.

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
