



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, December 8, 2014

The Halifax Zoning Board of Appeals held a public hearing on Monday, December 8, 2014 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

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

Chairperson Tinkham called the meeting to order at 7:02 p.m.

Peter Parcellin was in attendance at 7:07p.m.

The Board reviewed the mail and other matter/issues:

- 7:10pm – Talent Bank Form – Amy Troup Greeley, 193 Holmes Street, Halifax, MA
- 7:14pm – Petition #818, Kristen & Raymond Lofstrom, 88 Summit Street, Halifax, MA
- 7:15pm – Petition #823, The Party Trust, Land Off Elm Street, Halifax, MA
- 7:30pm – Petition #820, Lawrence A. Woodbury, 35 Eighth Avenue, Halifax, MA
- 7:45pm – Petition #821, Raymond Kingston, 204 Plymouth Street, Halifax, MA
- 8:00pm – Petition #824, Patrick & Jennifer MacPherson, 7 Bourne Drive, Halifax, MA

Procedural Matters

I Correspondence/Mail/Email/Fax

- OCPC: “Agenda for Meeting No. 514, December 3, 2014[received 12/1/14]
- Talent Bank Form – Submitted by Resident Amy Troup Greeley [received 11/10/14]
- Letter to ZBA – Residents Monica & Donald Irish of 21Eighth Avenue, regarding Petition #820 [received 12/1/14]

II Bill(s)

- Revolving: “Express Newspaper” – Legal Ads for petitions #823+#824 = \$140
- Expense: “WB Mason” – Office Supplies = \$215.46
- Expense: “Landlaw Specialty Publishers” – 2015 MA Land Court Reporter Subscription Renewal Municipal Rate = \$230

III Approval of Minutes – N/A

IV New Business

- 7:15pm – Petition #823, The Party Trust, Land Off Elm Street, Halifax, MA
- 8:00pm – Petition #824, Patrick & Jennifer MacPherson, 7 Bourne Drive, Halifax, MA

V Old Business

- 7:14pm – Petition #818, Kristen & Raymond Lofstrom, 88 Summit Street, Halifax, MA
- 7:30pm – Petition #820, Lawrence A. Woodbury, 35 Eighth Avenue, Halifax, MA
- 7:45pm – Petition #821, Raymond Kingston, 204 Plymouth Street, Halifax, MA

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VI Other Matters

- *ZBA to ZEO – re: “40 Carver Street, Halifax, MA” memo [dated 10/14/14]
- *ZBA – re: “Solar Farm Proposal” Public Meeting on 12/9/14 [posted 11/17/14]
- *BOS to ZBA – re: “2015 Board of Selectmen Meeting Schedule” memo [received 12/1/14]
- BOS to ZBA – re: “Submission of Information-Important Dates” memo [received 12/1/14]
 - *ZBA to Town Clerk & Finance Committee – re: “Inventory of Equipment-December 31, 2014” [released on 12/2/14; placed on the agenda for acknowledgement]
 - Secretary to ZBA – re: “Fiscal 2015 Budget Request to the Town Accountant” report [ZBA to review & request for a motion on decision, as it is due 1/8/15]
 - Secretary to ZBA – Question: Is there any article(s) to submit from the ZBA to BOS? [ZBA to review & request for a motion on decision, as it is due 1/8/15]
 - *Secretary to Chairman Tinkham – re: “Annual Town Report to the Selectmen”
DRAFT

VII Upcoming Hearings, Seminars &/or Conferences

VIII Open Comments /Open Business

IX Possible Executive Session

X Adjourn

Talent Bank Form – Amy Troup Greeley, 193 Holmes Street, Halifax, MA

Resident, Amy Troup Greeley came before the Board to discuss her interests in joining the Zoning Board of Appeals. The Board asked why her interest in the Zoning Board of Appeals. Mr. Greeley was present last month for an abutter’s petition filing and the Board mentioned to the audience that if anyone was interested in joining, it would be welcomed. Mrs. Greeley has been in real estate for almost eleven years. Informed Mrs. Greeley about the process and attendance in zoning classes would be required. The Board explained about the importance of the position, petitions and how it affects the town. This is a quasi-judicial board and although each board member has his/her own opinion, the opinions are accepted. The protocol was explained to Mrs. Greeley. The Board believed that there may be other applicants down the pipeline so will hold off at this point ‘til further notice.

It was duly moved (R.Gaynor) and seconded (P. Parcellin) to continue the interviewing process and will forward a letter to the Board of Selectmen’s upon a decision to nominate for appointment. So VOTED 5-0-0

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Petition #818, Raymond & Kristen Lofstrom, 85 Summit Street, Halifax, MA

*Re-Advertising & Continuance of this Public Hearing is November 10, 2014 at 7:15pm

(*Note: See below for the amendments to the original Notice of Public Hearing)

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, October 6, 2014 at 7:45pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Kristen Lofstrom to request the following: a Special Permit to construct a twenty four (24) feet by thirty-six (36) feet In-Law Apartment, along with a Variance of the front set back from fifty (50) feet to forty seven (47) feet ***to an amended forty three (43) feet** and the right side set back from thirty (30) feet to sixteen (16) feet ***to an amended nineteen (19) feet** to the existing home at 85 Summit Street, Halifax, MA. Said property is owned by Raymond & Kristen Lofstrom, as shown on Assessor's Map #88, Lot 5 (Note: Previous owners of said property were Raymond & Maureen Kingston). The applicant seeks a Special Permit for an In-Law Apartment, under Section 167-7D(12) Specific Use Regulations (pages 167:38-39) & 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 #818

Board member, Kozhaya Nessralla, recused himself as he is a direct abutter to the property.

The secretary took a moment to recap to the audience how the Board got to this point from October 6, 2014, November 10, 2014 and tonight's public hearing. As Mr. Nessralla is a direct abutter and the absence of Mr. Gaynor at the November 10, 2014 public hearing, the petition was continued due to a lack of a voting quorum and as such, sufficient time to re-advertised this public hearing with the amended measurements submitted by the applicant.

Chairman Tinkham proceeded with the public hearing. The Board reviewed the old plans versus the update plans with the amended measurements and the manner that the measurements were changed...that Mrs. Lofstrom was unaware when she submitted the architectural plans after submitting the balance of the application, that changing measurements is something that needs to be re-advertised as the Board can only vote on what is advertised and her measurements were increasing the nonconformity on the right side set back. All in all, the placement of the proposed in-law apartment was changing but not the size of the addition.

The Board wanted to verify that the applicants are aware of the by-laws for an in-law apartment as it was discussed back in October. As for the deck, it will only be a deck to tie into the existing deck. It will not be a three season porch. As for the shared living space, the archway to the den will be opening and increasing to six feet with no glass. Little brush will be removed. The existing barn has animals in them and storage/workshop for the father (in-law). The animals the applicants have on-site are two pigs and chickens.

Chairman Tinkham explained the voting process and as there are no alternate members serving on the Board, the applicants will have to decide if they would like to proceed with a four member vote and all must be in the affirmative. The applicants said they understood and proceeded.

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The secretary explained to the applicants and Board the options available to the applicants. The secretary verified giving the by-laws of an in-law to the applicants and the criteria.

Chairman Tinkham opened the petition to the audience.

Abutter, Kozhaya Nessralla of 69 Summit Street, spoke in favor of the applicants' in-law apartment and is okay with the addition.

It was duly moved (R.Gaynor) and seconded (P.Parcellin) to grant your petition (#818) to your existing home at 85 Summit Street, Halifax, MA, as shown on Assessor's Map #88, Lot 5, for the following: a Special Permit to construct a twenty four (24) feet by thirty-six (36) feet In-Law Apartment, under Section 167-7D(12) Specific Use Regulations (pages 167:38-39) and a Variance of the front set back from fifty (50) feet to forty three (43) feet and the right side set back from thirty (30) feet to nineteen (19) feet 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.

The permit and/or variance were granted as the home met all the criteria of the by-law for in-law apartments. 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. 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.

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

- The in-law apartment will share all utilities.
- The layout of the in-law apartment is to remain as the submitted plans presented at the meeting.
- The in-law apartment kitchen appliances are to be removed when no longer occupied by a family member.
- The in-law apartment cannot become an income producing apartment.
- If any change in tenancy takes place, the applicant is to come back for review.
- The Board shall be notified if the in-law apartment is no longer needed.
- The special permit shall run with the owner and not with the property. The special permit is not transferable.
- Should the conditions for granting the special permit for the in-law apartment no longer exist, the special permit shall become null and void.
- 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 and special permits shall comply with all the rules, regulations, and codes of the Town of Halifax.

This decision shall not take effect until:

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- (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 (12/9/14) 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; D.Tinkham, YES

The motion to grant petition #818 passed 4-0-0

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

Petition #823, The Party Trust, Land Off Elm Street, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, December 8, 2014 at 7:15 p.m. in Meeting Room 1, 499 Plymouth Street, Halifax, MA on the application by Webby Engineering Associates, Inc., on behalf of The Party Trust (c/o Corrie S. Merritt, Trustee) for a Special Permit for a Multifamily Development, as stated by the application:

“The applicant is proposing to construct 6 duplex style units with a total of twelve, 3 bedroom residential buildings with a single attached garage for each of the units. The proposed development will be situated on 12.52 acres, located westerly side of Elm Street”. Said property is owned by The Party Trust, as shown on Assessor’s Map #14, Lot 9 & Map 15, Lot 6 & 13. The applicant(s) seek a Special Permit in accordance with the Zoning By-laws of the Town of Halifax under Section 167-12.A, Multifamily Development under Density Regulations for Specific Uses. Area is zoned Residential. Petition #823

Stephen Kotowski of Webby Engineering spoke to the petition on behalf of his clients. Present were Corrie Merritt, Amanda Monti and Joe Webby.

Mr. Kotowski began by describing the location of the land, informing the Board that Mr. Merritt has owned the property for approximately 10 years and have made several attempts through the Planning Board to develop the land. Now, the applicants are here to request a special permit for a multi-family development, with land totaling 12.52 acres. The clients are proposing to construct 6 duplex building, 3 bedrooms in each of the twelve units, with single car attached garages and to refer to the architectural plans. He refers to the submitted site plans to review location, roadway. It will be a private road and the responsibility of the association. Reviewed with the Planning Board several times on different options as once proposed was a subdivision, but there were some sticking points regarding the frontage, interpretation of the bylaws, informal discussions with the Planning Board and then, new Planning Board members on board and had conflicting opinions. After all that, this is the project that is going forward. The applicants have met with the Water and Fire Department and reviewed their project to both Boards, along with reviewing safety issues. The applicants have filed with the Conservation Commission regarding the vegetated wetland area where the road may need to cross. The Commission took a vote to continue until the Planning

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Board has acted. The Planning Board requested that each building on its own 40,000 square foot lot with the 50 foot frontage.

Petition #820, Lawrence A. Woodbury, 35 Eighth Avenue, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, November 10, 2014 at 7:45 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Lawrence A. Woodbury to request a Variance of the left side setback from thirty (30) feet to ten (10) feet and the front setback from fifty (50) feet to eight (8) feet to build a twenty four (24) feet by twenty six (26) feet car port to the property located at 35 Eighth Avenue, Halifax, MA. Said property is owned by Lawrence A. Woodbury, as shown on Assessor's Map #52, Lots 348-352 & 382-386. The applicant seek a Variance for a Continuation (section 167-8A) & Extension (section 167-8C) a non-conforming use (page167:40) and 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 #820

Petitioner, Mr. Woodbury was present to speak to his petition.

Chairman Tinkham began by addressing the on-site inspection, where members, Robert Gaynor and Robert Durgin were present. Chairman Tinkham stated that she did a drive by of the property.

Mr. Gaynor explained what he saw at the premise and a description of what the car port will look like. He also stated that Mr. Woodbury would like to eventually put up side walls. There will be no slab or foundation but an aluminum shelter for storage.

Chairman Tinkham addressed the matter of Mr. Gaynor, who did miss the initial public hearing of petition #820 but has sworn that he has listen to the recording of that particular public hearing held on November 10, 2014 and signed an affidavit under MGL chapter 39, section 23D. By doing so, this permits Mr. Gaynor to vote on the petition.

Chairman Tinkham read aloud a letter from a direct abutter (Monica Irish of 21 Eighth Avenue, Halifax, MA), dated November 26, 2014 (-see attached-). Overall, the abutter is not in favor of the placement of the carport.

Mr. Gaynor stated that Mr. Durgin asked if

Petition #821, Raymond Kingston, 204 Plymouth Street, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, November 10, 2014 at 8:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Raymond W. Kingston to request Special Permits to the property, located at 204 Plymouth Street Halifax, MA, for the following: build a forty (40) feet by twenty five (25) feet detached garage which would be in excess of 884 square feet, the ground floor area will be greater

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than the foundation size of the house and build a sixty (60) feet by forty (40) feet detached barn which would have a ground floor area greater than the foundation size of the house. Said property is owned by Raymond & Maureen Kingston, as shown on Assessor's Map #603/Lot 17. The applicants seek Special Permits under Section 167-12.F (4) & (5), authorized by special permit from the Zoning Board of Appeals page (167:47) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned residential. Petition #821

Petitioner, Mr. Kingston, was present to speak to his petition.

It was duly moved (R.Gaynor) and seconded (K.Nessralla) to grant your petition (#821) to your property located at 204 Plymouth Street, Halifax, MA, as shown on Assessor's Map #603/Lot #17, for the following: a Special Permit to build a forty (40) feet by twenty five (25) feet detached garage which would be in excess of 884 square feet, the ground floor area will be greater than the foundation size of the house and build a sixty (60) feet by forty (40) feet detached barn which would have a ground floor area greater than the foundation size of the house under Section 167-12.F (4) & (5), authorized by special permit from the Zoning Board of Appeals page (167:47) 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.

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

1. The garage and/or barn are to be used for personal use only. No commercial and/or office use will be allowed.
2. A maximum of five (5) livestock animals can be located on the property.
3. The manure must be stored in the owner's container and/or dump trailer when situated on the property.
4. The manure must be removed at a minimum of once per month from the property.
5. The special permit runs with the applicant(s) only and is not transferable.
6. 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:

- (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 Clerk (12/9/14) 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.

It was duly moved for a continuance of Petition #821 to the next public hearing date of Monday, December 8, 2014 at 7:45pm. So VOTED 4-0-0

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Petition #824, Patrick & Jennifer MacPherson, 7 Bourne Drive, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, December 8, 2014 at 8:00 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Patrick & Jennifer MacPherson to request a Variance to build a detached garage in the front of their property, located at 7 Bourne Drive, Halifax, MA. Said property is owned by Patrick & Jennifer MacPherson, as shown on Assessor's Map #98, Lot 8X. The applicants seek a Variance under Section 167-12.E(3), which states: "No accessory building or structure shall be located within an area with the following sides: the front lot line, and lines drawn perpendicular from the corners of the side of the house closest to the front lot line to the front lot line" and requires a Variance from the Zoning Board of Appeals, under Section 167-12.E(8) (page 167:46-47) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned residential.
Petition #824

Board member, Robert Durgin, recused himself as he is a direct abutter to the property.

It was duly moved (R.Gaynor) and seconded (K.Nessralla) for a continuance of Petition #824 to the next public hearing date of Monday, January 12, 2015 at 7:14pm. So VOTED 4-0-0.

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
