



# 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, January 11, 2016

The Halifax Zoning Board of Appeals held a public hearing on Monday, January 11, 2016 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Robert Gaynor, Kozhaya Nessralla, Peter Parcellin, Gerald Joy and Robert Durgin were in attendance.

Chairperson Gaynor called the meeting to order at 7:03 pm and reprised the audience that this public hearing/meeting is being audio taped.

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The Board reviewed the mail and other matter/issues:

#### Procedural Matters

I Correspondence/Mail/Email/Fax – N/A

II \*Bill(s) – N/A

III Approval of Minutes - N/A

IV New Business

- 7:15pm - Petition #839, Herbert E. Mayo & Edward B. O'Donnell (on behalf of KJ Realty Trust), 546A Plymouth Street, Halifax, MA

V Old Business – N/A

VI Other Matters

- ZBA to Town of Halifax Boards, Committees & Departments – re: “Resignation of Board Member, Debra Tinkham; Reorganization of the Halifax Zoning Board of Appeal” memo [dated 12/15/15]
- ZBA Secretary to BOS – re: “Recommendation of an Associate Member” memo [dated 12/16/15]
- Charlie Seelig to ZBA – re: “Town of Halifax-IRS Mileage Rates for 2016” email [12/21/15]
- PB to ZBA – re: “Form A Distribution Map 113, Lot 2” memo [dated 12/21/15]
- PB to ZBA – re: “Form A Distribution Map 64, Lot 10 & 11, Map74, Lot 3” memo [dated 12/21/15]
- PB to ZBA – re: “Site Plan Approval” memo [dated 12/22/15]
- PB to ZBA – re: “69 Summit St” memo [dated 12/22/15]
- Bldg Inspector to ZBA – re: “Revocation of Building Permit 17 First Avenue, Halifax, MA” memos to contractor, Stephen Danner & property owner, Deborah Harding [dated 12/22/15 & emailed to ZBA members on 1/4/16]
- Selectmen Assistant to ZBA – re: “Appointment-ZBA Associate member” memo [dated 12/30/15]
- Petition #839 – 2 memos to be addressed during the opening of the public hearing:
  - Bldg Inspector to ZBA – re: 546A Plymouth Street [dated 1/5/16]
  - ZBA Secretary to ZBA – re: “Petition #839” dated 1/6/16]

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**Zoning Board of Appeals**

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

Page 2 / January 11, 2016

- ConCom to ZBA – re: “Violations of the Wetland Protect Act, 413 Plymouth St, Halifax, MA...” memo [dated 12/24/15]
- VII Upcoming Hearings, Seminars &/or Conferences  
VIII Open Comments /Open Business  
IX Possible Executive Session  
X Adjourn

**Petition #839, Herbert E. Mayo & Edward B. O’Donnell (filed by Jason M. Rawlins, Esquire, on behalf of the property owner of Trustee of KJ Realty Trust) 546A Plymouth Street, Halifax, MA**

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, January 11, 2016 at 7:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application for Herbert Edward Mayo and Edward Bosworth O’Donnell (filed by Jason M. Rawlins, Esquire, on behalf of the property owner, Karen M. Salters, Trustee of KJ Realty Trust) for a Special Permit to lease the use of the property, located at 546A Plymouth Street, Halifax, MA. Said property is owned by KJ Realty Trust (Karen M. Salters, Trustee), as shown on Assessor’s Map #71, Lot #12. The Special Permit requested, require the following: Enumeration of Districts, specifically “ B Commercial and Business District” (Section 167-4(B); page 167:13), Schedule of Use Regulations, under section “C. Table of Use Regulations”, specifically “Light industrial uses, including manufacturing, storage, processing, fabrication, packaging and assembly; page 167:19 & 23) and Board of Appeals, specifically (2), where it states that “...the use involved will not be detrimental to the established or future character of the neighborhood or the town...” (page 167:64) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned Commercial and Business Zone. Petition #839

Applicants Mr. Mayo, Mr. O’Donnell, Jason M. Rawlins, Esquire, Mr. & Mrs. Salters were present to speak to the petition.

The secretary read aloud the two memos pertaining to the petition and passed along a copy to the applicants for their records (-see attached-):

- Bldg Inspector to ZBA – re: 546A Plymouth Street [dated 1/5/16]
- ZBA Secretary to ZBA – re: “Petition #839” dated 1/6/16]

Attorney Rawlins explained that the business is approximately 80%-90% retail. The process is a gel based spray that adheres to the fiberglass gutters. A sample of the gutter was shown to the Board members. The applicants comply with OSHA (Occupational Safety and Health Administration) regulations. The applicants informed the Board that the EPA (Environmental Protection Agency) does not get involved with their business.

As for the spraying process, it is not a vapor but a particulate down draft system with two fans that pushes to the air to the rear and down. A mask is required during the process and as such, falls under the light industrial use portion of the by-law and not by-law section 167-9.

## **Zoning Board of Appeals**

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

Page 3 / January 11, 2016

Mr. Mayo spoke to the Board explaining that he is a distributor. He explained the process to the Board and how the procedure is to cure the pieces of gutter. He goes onto explain that the gutter sometimes come in fully cured if that is what the customer wants. If it is not what the customer wants, then the gutter is just painted which is a less controlled process. A section of the building that he is looking to lease would be solely for painting. The sized of the room used for painting was similar in size to meeting room #1 (which is where the public hearing is being held in the town hall). There is a full ventilation system that will be equipped where the carbonation filter will be changed every month and monitored by Mr. Mayo himself, with a clipboard, visible in the room, in order to adhere to the criteria by OSHA. The procurement process is approximately twenty minutes where normally it would be two employees spraying and a total of five employees on staff. The procurement is related to the season, meaning that currently the workers would be spraying once every two weeks but expect in the Spring season, that the spraying would be approximately once per day.

Mr. Mayo submitted a picture (-see attached-) of a collection box that is currently being produced with the gutters for the purposes of storing/collecting water of fiber glass. This item is also being made in the same facility. Last year approximately 50 of these collection boxes were made.

Discussion of storing of any hazardous materials was addressed. At the proposed building to lease currently exist a room approximately four feet by six feet for the purposes stated and storage containers are placed in said room. The gel coat applied to the gutter hardens up when not in use so it does not cause much wastage. The gel forms a solid mass, turns hard and can be disposed of legally in the trash.

On site will be two powering fans that ventilate air in and out with filtration. Board member Peter Parcellin asked what would occur should the ventilation seize for some reason. Mr. Mayo explained that should for some reason the filtration does not work, it would be more noticeable to the interior of the building versus the exterior. Vice-Chairman Kozhaya Nessralla asked if the approval from the Board of Health is required and Mr. Mayo said it does not require the Board's approval.

Chairman Robert Gaynor re-acknowledged addressed the letter submitted by the Office of the Building Commissioner, dated January 5, 2016, to the applicants and audience regarding his concerns, particularly section 167-9, prohibited uses of the towns by law.

Storage of any explosive devices were discussed where explosion proof light is required in the room. Eagle containers with a storage capacity of twenty feet will be placed in a certain area that will house the materials. The containers are bomb proof. The material should be stored in a heated place, mainly where it will be sprayed. Five gallon buckets will be used for storage and placed in storage proof containers.

Chairman Gaynor opened the petition to the audience for any questions.

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**Zoning Board of Appeals**

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

Page 4 / January 11, 2016

Abutters Janet Williams and Thomas Williams of 546 Plymouth Street, Halifax, MA said that based on the explanation of the business, they were okay with the use of the building. The abutters are the owners of Halifax Glass, which is located next door to the proposed site.

Motion (P.Parcellin) and seconded (K.Nessralla) to waive an on-site inspection. Voice vote passed: 5-0-0

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It was duly moved (P.Parcellin) and seconded (K.Nessralla) to grant your petition (#839) for Special Permit for the following: Enumeration of Districts, specifically “ B Commercial and Business District” (Section 167-4(B); Schedule of Use Regulations, under section “C. Table of Use Regulations”, specifically “Light industrial uses, including manufacturing, storage, processing, fabrication, packaging and assembly and Board of Appeals, specifically (2), where it states that “...the use involved will not be detrimental to the established or future character of the neighborhood or the town...” to the property at 546A Plymouth Street, Halifax, MA, in accordance with the Zoning By-Laws of the Town of Halifax. Said property is owned by KJ Realty Trust (Karen M. Salters, Trustee), as shown on Assessor’s Map #71, Lot #12.

The Zoning Board of Appeals granted this petition due to the fact that this business will not be detrimental to the neighborhood. The building is located in a commercial-business zone and will not derogate from the intent of the bylaw.

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

- Letter from the Office of the Building Commissioner (dated January 5, 2016) was completely addressed with understanding with the applicant(s), specifically town by-law section 167-9, prohibited uses.
- Hours of operation will be Monday through Saturday, from the hours of 8:00am to 5:00pm.
- The special permit runs with the applicant(s) only and is not transferable.
- The applicant(s) must maintain an acceptable practice of cleanliness on the property.
- The applicant(s) must maintain a removal practice of discarded material from the property.
- The applicant(s) must adhere to the regulations/criteria set forth by the Occupational Safety and Health Administration (i.e. “OSHA”), a division of the United States Department of Labor.
- The applicant(s) must maintain storage of material in storage proof containers, along with storage material that require heated containment and changing of the filter monthly to the ventilation system.
- 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/or special permits shall comply with all the rules and regulations and codes of the Town of Halifax.

**Zoning Board of Appeals**

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

Page 5 / January 11, 2016

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 (1/12/2016) 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 Gaynor called for a Voice Vote: R.Durgin, YES; P. Parcellin, YES; K.Nessralla, YES; G.Joy, YES; R.Gaynor, YES;

The motion to grant petition #839 passed 5-0-0

Chairperson Gaynor reprised the applicants, attorney and Mr. Salters 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

Robert Gaynor  
Zoning Board of Appeals, Chairman

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