



HALIFAX ZONING BOARD OF APPEALS

Meeting Minutes Monday, June 13, 2016

The Halifax Zoning Board of Appeals held a public hearing on Monday, June 13, 2016 in the Great Hall of the Town Hall with the following Board members in attendance:

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

Peter Parcellin was in attendance at 8:06pm.

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

The Board reviewed the mail and other matter/issues:

Petition #844, Joseph Stack, 71 Ridge Road, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, June 13, 2016 at 7:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Joseph & Jacqueline Stack to construct a sixteen (16) feet by twenty (20) feet single car garage & to their home, located at 71 Ridge Road, Halifax, MA. Said property is owned by Joseph & Jacqueline Stack, as shown on Assessor's Map #42, Lot 65. The project requires a Special Permit for the Continuation & Extension of a Non-Conforming Use (under Section 167-8A & 8C, page 167:28). The project also requires the following Variances: a violation of the setback requirements, Table of Dimensional and Density Regulations (under Section 167-11, page 167:31), a violation of the front setback from fifty (50) feet to twenty eight point six (28.6) feet (under Section 167-12(F)(1)) and a violation of the left sideline setback from thirty(30) feet to twenty four point eight (24.8) feet (under Section 167-12(F)(3)) of the "Garage or barn" (under Section 167-12(F), page 167:33) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned Residential. Petition #844

Applicant Mr. Stack was present to speak to his petition.

Chairman Gaynor informed the petitioners that there are only four members on the Board this evening and if the Board proceeds to go to a motion, then the decision must be unanimous in order to be granted. The other option is to continue the petition to the following month where there will be five members. The petitioner understood and said that he would like to move forward with his application tonight.

Mr. Gaynor opened the petition to questions from the audience/interested parties.

Mr. Stack explained his project to the Board that he would like to build a single car detached garage. The garage is solely for personal use. He will only have electricity in the garage and reiterated that there will be no access to the house.

Mr. Gaynor asked Mr. Stack if he has spoken to his neighbors and he said that his neighbors are aware and all appear to be fine with his proposal.

The Board informed the applicant need to comply with the Office of the Treasurer/Collector by paying any/all taxes overdue more than a year, specifically in the name of "J Stack Construction". Submission of bill was given to the applicants at the public hearing. This must be completed prior to any permits issued, should the petition be granted. The applicant understood.

The Board reviewed the submitted plans and location of the garage.

It was duly moved (K.Nessralla) and seconded (Gerald Joy) to waive an on-site inspection. Voice vote passed 4-0-0.

It was duly moved (K.Nessralla) and seconded (Gerald Joy) to grant your petition (#844) to construct a sixteen (16) feet by twenty (20) feet single car garage to your home, located at 71 Ridge Road, Halifax, MA, as shown on Assessor's Map #42, Lot 65. The Special Permit for the Continuation & Extension of a Non-Conforming Use was granted. The variances granted from the front setback from fifty (50) feet to twenty eight point six (28.6) feet (under Section 167-12(F)(1)) and the left sideline setback from thirty (30) feet to twenty four point eight (24.8) feet (under Section 167-12(F)(3)) of the "Garage or barn" (under Section 167-12(F), page 167:33) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned Residential.

The Zoning Board of Appeals granted this petition 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 applicant was given a "Recording a Decision with the Registry of Deeds" form by the Board's secretary

Chairperson Gaynor called for a Voice Vote: R.Durgin, YES; K.Nessralla, YES; G.Joy, YES; R.Gaynor, YES.

The motion to grant petition #844 passed 4-0-0.

Chairperson Gaynor and the secretary reprised the applicants of the procedure following approval of the petition, both verbally and handing "Recording a Decision with the Registry of Deeds" form to the applicants.

Petition #843, R&J LLC & Halifax Country Club, LLC, Halifax, MA

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, April 11, 2016 at 7:45 p.m. in Meeting Room 1, 499 Plymouth Street, Halifax, MA on the application by

Attorney Edmund J. Brennan, Jr., on behalf of R&J, LLC and Halifax Country Club, LLC (c/o John Peck, Manager) for a Special Permit for a Multifamily development, to build eight (8) buildings, with two residential units per building (16 units in total); a condominium development on land located on the southeasterly side of Plymouth Street. Said properties are owned by R&J, LLC, as shown on Assessor's Map 63, Lots 31 & 6 and Halifax Country Club, LLC, as shown on Assessor's Map 73, Lot 5. The applicant seeks a Special Permit in accordance with the Zoning By-laws of the Town of Halifax under Article III, §Section 167-7D (2) (a)-(d), Specific Use Regulations, page 167:23.

The applicant seeks Variances of the Units for the development & are, as requested:

- Reduce the frontage from the 150 feet required to 143.3 feet requested.
- Unit 1. Rear yard from 100 feet required to 44.8 feet provided
- Unit 2. Rear yard from 100 feet required to 44.7 feet provided
- Unit 1/Unit 16. Building separation from 100 feet required to 80.5 feet provided
- Unit 2/Unit 3. Building separation from 100 feet required to 22.4 feet provided
- Unit 3. Rear yard from 100 feet required to 52.9 feet provided
- Unit 4. Rear yard from 100 feet required to 73.3 feet provided
- Unit 4/Unit 5. Building separation from 100 feet required to 22.0 feet provided
- Unit 8/Unit 9. Building separation from 100 feet required to 29.6 feet provided

- Unit 5/Unit 15. Building separation from 100 feet required to 95.5 feet provided
- Unit 6/Unit 14. Building separation from 100 feet required to 84.0 feet provided
- Unit 9. Rear yard from 100 feet required to 23.4 feet provided
- Unit 10. Rear yard from 100 feet required to 21.1 feet provided & Side yard from 30 feet required to 9.4 feet provided
- Unit 11. Side yard from 30 feet required to 25.8 feet provided
- Unit 12/Unit 13. Building separation from 100 feet required to 22.0 feet provided
- Unit 14/Unit 15. Building separation from 100 feet required to 21.9 feet provided
- Unit 1/Unit 10/Unit 11. Vegetated buffer of 30 feet required; propose to landscape the side yard area between the development & adjacent properties. To the extent a landscaped area does not satisfy the requirement for a vegetated buffer, variances are requested.

The applicant seeks Variances in accordance with the Zoning By-laws of the Town of Halifax under Article IV, §Section 167-11, Table of Dimensional and Density Regulations, page 167:31 & under Section 167-12, Density regulations for specific uses, under (A) Multifamily development, page 167:31. Area is zoned Residential & Commercial-Business. Petition #843

Board member, Kozhaya Nessralla recused himself from Petition #843.

Attorney Edmund Brennan was present for the petition should there be any questions. Otherwise, Chairman Robert Gaynor read aloud a submission of a “Letter of Agreement for Withdrawal” from Attorney Edmund Brennan on his client’s behalf requesting to withdraw Petition #843 without prejudice.

It was duly moved (R.Durgin) and seconded (G.Joy) to accept the withdrawal of petition #843 without prejudice. So voted by voice: 3-0-0.

Petition #845, Allan Praught, 75 Hayward Street, Halifax, MA (Continuance...)

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, June 13, 2016 at 7:31 p.m. in Meeting Room 1, Town Hall, 499 Plymouth Street, Halifax, MA on the application by Allan Praught (of 80 Spring Street, Boston, MA) to the property located at 75 Hayward Street, Halifax, MA. Said property is owned by Allan & Priscilla Praught, as shown as Assessors Map #121, Lot 1A. The applicant seeks to Appeal the Building Inspector’s decision of the following: (A) a determination that the structure in its current state is in conflict with the “Single Family Dwelling” definition (under Section 167-3, page 167:10); (B) a violation of the Town of Halifax

Zoning By-law Section 167-7D(2) Multi family dwelling or apartment (page 167:25-26) and/or Section 167-7D(12) In-Law Apartment/Immediate family member (page 167:27), and/or Section 167 Schedule of Use Regulations, “Renting of 1 or 2 rooms and the furnishing of board by a resident family to not more than (3) nontransient persons” (page 167:20). These uses are only allowed by Special Permit from the Zoning Board of Appeals. No such Special Permit has been issued for the property. The applicant seeks an Appeal of the Building Inspectors decision in accordance with the Zoning By-laws of the Town of Halifax under Section 167-21A (1) (page 167:64). Area is zoned Residential. Petition #845

Chairman asked for Building Inspectors opinion first.

Mr. Piccirilli advised that there were several complaints from abutters about the property in regards to trash. He read aloud the letter sent to the property owner Mr. Praught. On-site inspection with Local Inspector Mr. Wm. Kelly. It was found that there were two possibly three distinct dwelling units. He did receive a letter of response from Mr. Praught, and was advised that a meeting could take place on 4/21/16. The meeting was cancelled, however and rescheduled for May. A letter of determination was sent.

Mr. Praught present and presented his case. He stated the property was bought in the 60's and the house at #75 is built on 3 acres, "which is essentially 3 house lots". He continued to advise of the units in the house. He stated that the kitchens do not need to be removed according to case law.

Basement area no occupant so point is moot. The other occupant at the time had no cook stove, common heat, washer & dryer, utilities, unlocked interior connecting door. Non independent lodging for two single non-transient rather than a multifamily dwelling, renting of one or two single rooms as of right.

Mr. Gaynor asked the Building Inspector how he determined it was multiple dwellings.

Mr. Piccirilli quoted from 167-10, Basically the plans that were submitted were for a single family dwelling. The "wing" to the left had full kitchen, except for the stove, but did have cabinet layout and countertop with a cut out for a stove to be installed with a receptacle in the back. It was designed for a stove. A bedroom area, living room, kitchen sink, all amenities for a dwelling unit. A separation wall between that unit and the main structure, and an independent bathroom. Same for the basement area, full bathroom, door at the top of steps, kitchen with cabinets, bathroom, opening for a stove, everything indicative to a single dwelling unit.

Mr. Gaynor advised that the Zoning Board went out there, had no partitions, one kitchen, no kitchen downstairs, or layout. Where did this all come from? It was asked how many people are in the house at this time?

Mr. Praught first stated only one. Then advised there are three people living there.

Mr. Gaynor asked if they have their own section.

Mr. Praught advised they have access to the whole house. He went on to say that court case says it makes no difference how many kitchens or bathrooms there are, only when being used.

Mr. Piccirilli stated in a case of a single family dwelling, does not apply when it is a multifamily dwelling.

Mr. Praught said there was a notice of approval according to the permit obtained.

Mr. Gaynor had never heard of the expression "notice of approval."

Mr. Boettcher (occupant of main house then responded) no substantial changes from what was seen. Didn't get approval for an in-law and did not move forward with it. Never put a stove on the other side for the in-law apartment, never proceeded with that. We rented a bedroom to a girl and another bedroom upstairs rented out to a gentleman, three people in the house. Everyone has access to everything in the house. Basement in walkout, finished off basement, had permit for a bar sink and shower stall (downstairs). Only thing was put cabinets in the basement. Everything else is exactly the way as on the plans, measurement for the kitchen walls in the basement, approval for the bathroom, shower stall, toilet & sink. There was nothing illegal about that place, it's a single family house, living as a single family house.

Mr. Nessralla: You're renting rooms right now?

Mr. Boettcher: right.

Mr. Nessralla: Supposed to be a single family house, but your renting rooms, then it's not a single family home anymore.

Mr. Boettcher: as a roommate, I'm not allowed a roommate? I have two roommates.

Mr. Nessralla: Supposed to be a single family home, not to be rented to anybody.

Mr. Piccirilli again stated that they are individual dwelling units. That is not a roommate.

Mr. Boettcher stated the only thing that's separate is the bedrooms, the only room doors that have locks on them is the bedrooms, and the bathrooms too.

Mr. Nessralla asked if he would have any objection if they go to see, the Zoning Board?

Mr. Boettcher: No you've already seen it, come out and take another look.

It was stated by Mr. Praught that he thinks it is important that the determination made, that you may not have not have renters in a single family dwelling, and wanted it on the record.

Secretary asked to state again.

Mr. Praught "I want it on the record that you may not have other occupants in a single family dwelling".

It was asked by Mr. Gaynor to Mr. Piccirilli if there were other SFDwellings that were turned into apartments, or partitioned off?

Mr. Piccirilli advised that he did not believe so, and could not comment. If so would be in violation.

Mr. Gaynor then read a decision letter of the ZBA #813 as a motion to accept as presented the ZBA unanimously voted to deny 5-0 to modify a SFD to a two family or duplex dwelling.

Mr. Gaynor then asked what they are looking for at this time.

Mr. Praught wanted to state that there are 3 or 4 in-law apartments on the street, applied for a two family because he did not want to get involved with an illegal in-law apartment, it was denied,

Since then, two people with no claim by the town, elderly, and with less intensive of use for the building. The alternative is that I'm going to be much more aggressive.

Mr. Gaynor asked what much more aggressive means?

Mr. Praught stated that he may have the state get involved, I'm just trying to do something. There's no law against someone renting a room and having a refrigerator, microwave oven. I'm not trying to make the building inspector look bad, either.

Mr. Piccirilli what he's asking for is different than what he has. He's asking for ability to have two or three non transient people to renting a dead space, a room, which is not what he has. He's asking for a special permit he would have to apply for a permit. He has distinct dwelling units, which is not what he's asking for. It was presented as a single family and Explains what a non-transient or multi-dwelling would require.

Mr. Boettcher explains he has original and modified plans approved by town.

Mr. Gaynor asks board if any questions.

Mr. Gaynor asks public if any questions/comments.

Mr. Scott (neighbor) states that it seems they did something they were told they weren't supposed to do. He was told no but kept on doing it.

Kim Roy (selectman TOH) If gentleman does not get proper permit, should be penalized.

Mr. Gaynor presents that the board would like to do a site inspection along with Building Inspector.

Letter from Abutter William Voss (unable to attend) was read by ZBA secretary. Letter stated that the structure is being used as a multi-family dwelling under a single-family permit. Total disregard for ZB's decision. Several apartments. Encourages

Mr. Boettcher asked if he was allowed to have two roommates.

Board responded no, not unless there is a special permit in a single-family house.

Mr. Gaynor motioned for onsite inspection on July 9, 2016 at 9:30am. Tentatively booked. AIF.

Petition #744, Jennifer Harmon-Choate, 7 Plymouth Street, Halifax, MA (Continuance...)

The Halifax Zoning Board of Appeals held its original public hearing back on May 17, 2010 at 8:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Jennifer R. Harmon to request a special permit to "Kennel for the breeding or boarding of dogs" to her property at 7 Plymouth Street, Halifax, MA. The Halifax Zoning Board of Appeals will hold a continuance of this public hearing on May 2, 2016 at 7:15pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the same application by Jennifer R. Harmon to continue a special permit to "Kennel for the breeding or boarding of dogs" to her property at 7 Plymouth Street, Halifax, MA, as shown on Assessor's Map #66, Lots 1A, 1B & 17. The applicant verbally stated (at the public hearing continuance on March 14, 2016) that she would like to amend the existing conditions currently set forth (conditions #5 & #6) to the following: increasing the existing condition of a maximum of fifty (50) adult dogs to a proposed maximum of a hundred (100) adult dogs, along with increasing the existing condition of a maximum of twenty- six (26) litters allowed per year to a proposed maximum of fifty two (litters) per year, among the

following two (2) breeds (German Shepherd & Pomeranian) on the property. Said property is still owned by Jennifer R. Harmon as shown on Assessor's Map #66, Lots 1A, 1B & 17. The applicant continues to seek a

special permit in accordance with the Zoning By-laws of the Town of Halifax under Section(s) 167-7 (C), Schedule of Use Regulations, Agricultural Uses, pages 167:20. Area is zoned Residential.

Chairman Gaynor explained the procedure and the protocol at the public hearings.

ZBA Secretary read all communication (memos and letters) regarding this petition.

Mr. Gaynor asks Ms. Harmon where she stands and if all information has been received by the board that was needed and asks if the property was inspected. Ms. Harmon replies yes, by Noreen (full name is inaudible).

Noreen discusses her findings during her most recent inspection. Explains continuing issues with dog crates. They are still in direct sunlight. Mr. Gaynor asks if this is a violation to which Noreen responds there must be proper shelter from rain, snow and direct sunlight. This has not been corrected. Mr. Gaynor asks Bobbi if this is something being worked on. Mr. Gaynor asks if application is being modified. Bobbi responds yes.

ZBA Secretary reads more communication (memos/letters) that was received.

Mr. Gaynor asks Bobbi to give a brief description of what has been dropped off today, what is being changed and what her plans are. Bobbi does this (inaudible).

Mr. Gaynor opens discussion up to board.

Ms. Harmon is asked about breeds, if German Shepard only. Ms. Harmon replies not necessarily, German Shepards, Pomeranians (inaudible). Mr. Gaynor asks if another breed mentioned is on the property or in Halifax, Ms. Harmon replies they are not.

Mr. Parcellin asks Ms. Harmon how many of the 60 dogs were boarded at the property as of the last inspection. She responds that it fluctuates due to activity (classes) during the day where people bring their dogs. Parcellin confirms that when the inspector was there later, those dogs were not there.

Mr. Nessralla asks how many adult dogs and how many puppies are currently on the property. Ms. Harmon responds 49 adult and 35 puppies. Mr. Nessralla confirms how many Ms. Harmon is asking for now. Mr. Nessralla confirms with Ms. Harmon that she wants 100 adults ("to come and go," Ms. Harmon responds) plus 27 litters (x5)? She confirms. Mr. Nessralla comments that is a lot of dogs, there is no room for that many dogs.

Sound-proofing the area was mentioned. Seems impossible, wonders how.

Mr. Gaynor discusses his visit with Mrs. Roy to Mr. Clawson's property. He comments that it is hit or miss with sound – lots of barking vs. dead quiet. Because of doubling the amount of dogs, the noise increase has to be addressed.

Ms. Harmon feels the iPad that was brought into the last meeting with time stamps of noise activity was inaccurate.

Mr. Nessralla comments that the 9 dogs that had bark collars on the night of the inspection were barking loud. He comments that the two women he was with when they pulled in can also confirm the barking with the collars on. Ms. Harmon agrees.

Mr. Parcellin is concerned with all of the serious concerns of the neighbors. He explains that he would feel more comfortable if he had some other examples of a similar situation where there are 100 dogs on 3 acres with similar neighbor setup. He is concerned that there is no plan for abating the current noise, let alone the noise increase with double the dogs. He doesn't have any examples where this is commonplace.

Ms. Harmon responds “certainly” and that these concerns are something that she can look into.

Mr. Gaynor wants Bobbi to clarify her letter dated 5/05/16 regarding permit stating “I am allowed to breed outside dogs on the premises. #2.” A condition of the permit 6/9/15 #2 was “There will be no breeding of outside animals allowed on the premises.” Bobbi responds that on 6/12/13 the board changed lines 1 and 2. Mr. Gaynor confirms that the letter he is reading is dated 6/9/15. It seems like a direct contradiction but it is discussed, explained and clarified.

Mr. Gaynor opens up discussion to public. Mrs. Roy clarifies that the driveway time with Mr. Gaynor was when there were only 25 dogs. She asks if the hole in the wall of the barn has been fixed. Ms. Harmon confirms it has. Mrs. Roy talks about insulation in the barn and believes it hasn’t been done. She also comments that her board (Board of Selectman) listens to these complaints and it is concerning to have a kennel that large in this town. She confirms the BOS has not received any complaints.

Chief of Police has not received any complaints recently but have in the past.

Mrs. Roy was present at the 4/30/16 onsite. Discussed the overhang on the floor and wants to make sure there is refuge from the weather in outside shelter.

Shawn Clawson (name inaudible) asked if there’s a reason why the abutters haven’t been notified of the special permit changes (dog number increase). Scott Clawson confirms he was at a meeting in 2010 but he wasn’t notified. ZBA secretary explains that when something is amended it does not need to be re-advertised. Abutter feels that there were many calls/complaints made to the police station.

Scott Clawson 21 Plymouth St., voices his concerns of constant barking and how it interferes with his life. He has recordings from morning to middle of the day to night. He talks about no sound-proofing, about how his neighbors feel the same (Tom). Asks the board to please consider this.

Tom Heikel 19 Plymouth St., talks about increased dog barking noise. All day and all night. After the last meeting, noise declined but is increasing again.

Ms. Harmon confirms that all barns/buildings are insulated since the last couple of weeks with fiberglass. Mr. Joy saw no insulation. Ms. Harmon explains where there’s insulation. Mr. Joy saw no double wall, no insulation.

Mr. Gaynor asks Noreen about her inspections – asks if she saw any insulation. All she saw was wood, doesn’t know if it’s doubled or not. She’s not a building inspector.

Mrs. Roy on-site 4/30/16 did not see any insulation. Mentions hole in the wall. Only saw finished walls in office area.

Tom Heikel comments that with or without insulation, he can hear dogs barking, inside and outside. Shawn Clawson comments Ms. Harmon is not abiding by the rules.

Mr. Gaynor reads letter from ZBA after last hearing on 5/2/16 with requests of the ZBA that was sent to Harmon. If all of that was received, he’d like to set up a time to do another inspection of the property to see if the issues have been addressed. Feels an inspection is in order.

Motion for on-site inspection 07/10/16 @ 10am. Pass 5-0-0

Motion for continuance 07/11/16 @ 7:45pm. Pass 5-0-0

Motion to adjourn. Pass 5-0-0

It was duly moved, seconded and VOTED to adjourn the meeting.

Respectfully submitted,

Arlanna Snow
Zoning Board of Appeals, Secretary

Robert Gaynor
Zoning Board of Appeals, Chairman
