



# Zoning Board of Appeals Meeting Minutes Monday, September 12, 2016

The Halifax Zoning Board of Appeals held a public hearing on Monday, September 12, 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 7:00 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.

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The Board reviewed the mail and other matter/issues:

Chairman Gaynor asked the secretary to send a letter to the Board of Selectman regarding the appointment of Mr. Borsari.

Members went thru the notices and correspondence.

## **Petition #850: Edward Johnson, Multifamily Development: Continuance from 8/22/2016**

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, August 8, 2016 at 7:35 p.m. in Meeting Room 1, 499 Plymouth Street, Halifax, MA on the application by Brookside Realty, LLC (c/o Edward G. Johnson of 4 Margot Lane, East Bridgewater, MA) Inc., for a Special Permit for a Multifamily Development, to continue to do the following, as stated by the application: (A) to continue to construct 6 duplex style units with a total of twelve, 3 bedroom residential buildings with a single attached garage for each of the 12 units; (B) to request to change the original design plan to three (3) different proposed design plans; (C) to continue to keep within all the setbacks necessary to comply with the local by-laws; (D) to request a waiver of bylaw section 167-7(2)(a). The proposed development will be situated on 12.52 acres, located westerly side of Elm Street". Said property is owned by The Party Trust (c/o Corrie S. Merritt, Trustee), as shown on Assessor's Map #14, Lot 9 & Map 15, Lot 6 & 13. The applicant seeks a Special Permit under Section 167-12.A, Multifamily Development (page 167:31) and under Density Regulations for Specific Uses and Section 167-7D (2), Specific Use Regulations (page 167:23-24) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned Residential. Pet. #850

Secretary: Applicant has submitted on August 25, 2016 letter of Mutual Agreement for Withdrawal. The petitioner has hereby withdrawn Petition #850 without prejudice:

It was duly moved (K. Nessralla) and seconded (R. Durgin) to accept the letter of Withdrawal without Prejudice for Petition #850. AIF Voice vote passed 5-0-0.

Mr. Gordon Andrews (abutter): Asked if there was any correspondence back on questions he had regarding Special permit and variance = wavers cannot be permitted in multi-family 167-21 2C.

Mr. Gaynor advised that they have not received any correspondence on this matter at this time. The attorneys would not have been notified at this point regarding the withdrawal request.

Secretary advised there were no variances requested on the application. Mr. Andrews advised that the petitioner asked for waiver, as by-law states you cannot grant, reduce or waive anything in the chapter in regards to a Special Permit. Mr. Andrews stated that even though this is now withdrawn it would still apply to any multifamily in general.

Mr. Parcellin stated the varying power of the Zoning Board is from the State. Petitioners would ask within one application, but asking separately for a Special Permit, and variance. Petitioner asks the board to vary based on hardship and topography. Don't know if bylaws have to say that. (In the minutes from last meeting).

**Petition #852: Manuel Tavares – Special Permit & Variance**

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, September 12, 2016 at 7:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Manuel D. Tavares for a Special Permit to build a twenty (20) feet by twenty (20) feet shed on the front of the property, located at 87 Paradise Lane, Halifax, MA. Said property is owned by Manuel D. Tavares & Linda S. Varitimos, as shown on Assessor's Map #53, Lot 17. The Special Permit requested are, as follows: a Continuation and Extension of Non-Conforming Uses (Sections 167-8A & 167-8C; page 167:28). The Variances requested are, as follows: "No accessory building or structure shall have a floor area that is greater than 25% of the floor area of the livable ground floor area of the principal building, not to exceed 300 square feet" under Section 167-12E(1)(page 167:33); "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" under Section 167-12.E(3) (page 167:33); right side set back from thirty (30) feet to five (5) feet, under Section(s) 167-11 Table of Dimensional and Density Regulations (page 167:31) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned residential. Petition #852

Present: Mr. Tavares and Ms. Varitimos: Spoke to his petition, that he has very little land and he is on the lake. He would like to be able to store personal equipment, a vehicle, etc. Will not have electricity, heat or water. The structure will be located 5.5 feet and 5.3 feet off the side lot lines.

Members reviewed the plot plan, and the proposed location of the shed. It was asked if he could move it over a little more. There are two "huge" trees just off the side line. He has two existing sheds at this time, however will be removing both. Trees are impeding on location of shed.

Open to audience:

Mr. & Mrs. Tinkham: 88 Paradise Ln, (abutters): spoke in favor of the petition: The size of the lot, and behind the house it drops off, topography, placement is limited. He has been improving his home and increases the value of the properties in the area. Right of way to the lake is right next to him. Most of the lot is all trees. Mr. Tavares stated he will be keeping the potting shed for personal use.

Motion to waive the on-site inspection: K. Nessleralla, seconded by P. Parcellin: motion passed 5-0-0 AIF

Motion to accept petition #852 by P. Parcellin, seconded by K. Nessleralla motion passed 5-0-0 AIF  
Based on the good explanation written in the application and the topography of the lot and the fact that it will not be increasing the non-conformity of the side lot line. With the following condition that the current shed in the proposed location is taken down before the new shed is built, I'll accept it as presented.

Voice vote: P. Parcellin: Yes; G. Joy: Yes; K. Nessleralla: Yes, R. Durgin: Yes R. Gaynor: Yes

**Motion to postpone Petition #853 to 8:00 p.m.**

R. Durgin and seconded by K. Nessleralla AIF motion passes

**Petition #847: R&J LLC, Multifamily Development: continuance from 8/22/16:**

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, July 11, 2016 at 7:30p.m. in Meeting Room 1, 499 Plymouth Street, Halifax, MA on the application by Aattorney 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 four (4) buildings, with four (4) residential units per building (16 units in total), consisting of two (2) bedrooms per unit; 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 to reduce the frontage from the one hundred fifty (150) feet required to one hundred forty three point three (143.3) feet 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.A. (1)-(7), Density regulations for specific uses, under Multifamily development, page 167:31. Area is zoned Residential & Commercial-Business. Petition #847

Mr. Nessralla recused himself.

Correspondence in relation to the petition:

Atty: Brennan confirmed he received 4 pages of fax from memos of other boards and departments regarding the property, and Atty. Brennan submitted a letter of mutual agreement for extension for petition #847 dated August 31, 2016, for a period of 90 days.

Motion to accept letter of extension for 90 days for petition #847: P. Parcellin, seconded by R. Durgin

Voice vote: G. Joy: Yes, R. Durgin: Yes, R. Gaynor: Yes; P. Parcellin: Yes motion passes 4-0

Email from Atty. Brennan: requesting the petition be moved and continue the next hearing date of October 17, 2016.

Motion to continue public hearing to October 17, 2016 by R. Durgin, seconded by G. Joy,

Voice vote: G. Joy: Yes, R. Durgin: Yes, R. Gaynor: Yes; P. Parcellin: Yes motion passes 4-0

**Petition #853:**

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, September 12, 2016 at 7:30 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Michael D. Simonetti to construct a shed on the front of their property, located at 529 Monponsett Street, Halifax, MA. Said property is owned by Michael D. Simonetti & Emanuela Cardano, as shown on Assessor's Map #31, Lots 17, 18, 19. The Special Permit requested are, as follows: a Continuation and Extension of Non-Conforming Uses (Sections 167-8A & 167-8C; page 167:28). The Variances requested are, as follows: "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" under Section 167-12.E(3) (page 167:33); front set back from fifty (50) feet to three (3) feet, under Section(s) 167-11 Table of Dimensional and Density Regulations (page 167:31) in accordance with the Zoning By-laws of the Town of Halifax. Area is zoned residential. Petition #853

Present: Mr. Simonetti: He would just like to have a small tool & storage shed, will be approx.. 8' x 10'. There is only about 12 feet from the front of the house to the street.

The Board members reviewed the plot plan and asked about the existing shed. The topography of the lot, and location of the house to the pond is challenging. Proposed location of the shed is the best area and is currently

grass. Mr. Gaynor asked if the existing shed could be made bigger and not encroach closer to the road. Mr. Simonetti advised that with the topography and location of the septic system, this would be the only place.

Mr. Gaynor is concerned about the location being 3 feet off the road. Mr. Simonetti advised that the shed will be 3 feet inside of the fence, not the street.

Motion to waive on-site inspection by K. Nessralla, seconded by R. Durgin, AIF motion passes 5-0-0

Motion to accept petition #853 as presented, with a variance of the front lot line from 50 feet to It will stay within the established character of the neighborhood and the hardship exists due to the topography and drops off of the property and distance to the lake. It does not conflict to the intent of the by-law.

By K. Nessralla, seconded by P. Parcellin AIF motion passes 5-0-0

Voice vote: K. Nessralla: Yes; P. Parcellin: Yes; R. Gaynor: Yes; R. Durgin: Yes; G. Joy: Yes

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### **Petition #854:**

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, September 12, 2016 at 8:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Robin Bellinger for a Special Permit for a home business to teach children art classes (under Purple Monkey Art Studio) for the following days and times: Saturdays from 3pm to 5pm (with a maximum of 8 students); Sundays from 9am-10am (with a maximum of 5 students, each with an adult); Sundays from 10:30am-12:30pm (with a maximum of 8 students); totaling 5 hours per week to the property located at 11 Upton Street, Halifax, MA. Said property is owned by Brian & Robin Bellinger, as shown on Assessor's Map #19, Lots 400, 402 & 404. The applicant seeks a Special Permit in accordance with the Zoning By-laws of the Town of Halifax, under Section 167-7 Schedule of Use Regulations, specifically Summary of Use Regulations, "Home business or professional office/studio, conducted by a resident of the premises; accessory use" page 167:20 & Specific Use Regulation under Section 167-7D(11), page 167:26. Area is zoned Residential & Commercial-Business. Petition #854

Present: Robin Bellinger - Would like to have Kid Art Classes, will be small, and driveway fits six (6) cars. Will also instruct the parents to drop off in the driveway, and not to use neighbor's driveways. The classes will consist of between 2 and 4 children. Class is for small children of Elementary school age.

Ms. Bellinger provided pictures of the property. The classes may be 1 to 2 hours long. There will be no employees other than petitioner. She is a certified art teacher and a stay at home mother. Goal will be to do teen groups for cartoon art.

Mr. Gaynor asked if she is required to have a state license. She advised she needed a business certificate thru the Town, and not required to have a license. Younger, toddler age students the parents are advised to stay during class. Older kids are dropped off.

Mr. Parcellin advised that she check to ensure she is covered for having children in home, a license, CORI check (minors), and if the business grows, will she add classes.

Ms. Bellinger advised it would be a very slow growth, and will wait to see as it goes. Any additional classes will stay on the week end schedule.

Open to audience:

Marilyn Lewis, 15 Upton St.: - She stated she is concerned with the parking, but she seems to answer the question regarding anyone using neighbor's property. Kevin Lewis (son) also spoke to the concern of the parking as the road is narrow.

Ms. Bellinger may not have classes during the winter as the snow may present additional problems with the roadway is narrow.

Mark Valentine, 12 Dwight St.: His property abuts to the back line of the commercial business, however has not objections to business.

Mr. Parcellin is concerned with the tight street, issue may arise in the winter, might be ok now, but as it grows, it may become too big.

Ms. Bellinger said she is just starting out, and goal is to have a few classes.

Mr. Gaynor suggested a one (1) year permit and revisit then. The business would be within the definition of the by-law for Home Business. The Board may consider with conditions as specified in the application.

Secretary explained that the applicant would need to renew after the year, with a new application, need to advertise, but the Board can waive the application fee. Petitioner would need to get a new abutters list and pay for advertisement.

Motion to waive an on-site inspection by K. Nessralla, seconded by R. Durgin AIF motion passes 5-0

Motion to accept petition #854 by R. Durgin, seconded by P. Parcellin, as presented with specific hours and number of students as presented within the petition with a time period of one year to return for review.

Voice vote: G. Joy: Yes; R. Durgin: Yes; R. Gaynor: Yes; P. Parcellin: Yes; K. Nessralla: Yes  
Motion carries 5-0-0

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

Respectfully submitted,

Robert Gaynor  
Zoning Board of Appeals, Chairman

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