



HALIFAX ZONING BOARD OF APPEALS

Meeting Minutes

Monday, December 12, 2016

The Halifax Zoning Board of Appeals held a public hearing on Monday, December 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, Robert Durgin and Daniel Borsari 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.

The Board reviewed the mail and other matter/issues:

Procedural Matters

Bills: Invoice for Express Newspaper for advertisements of Petitions # 836, 858 & 860 total of \$240.00

Chairman noted letter received from Deutsche/Williams regarding the Clawson v. Town of Halifax.

Meeting Minutes: Oct. 17, Oct. 24, 2016

Members did not have a chance to review. Oct. 17, 2016 and Oct. 24, 2016 minutes have been requested. Members would like more time to review and will wait until next meeting. Will be sent out as DRAFT.

Reminder that there is a meeting with the Board of Selectman at 9:15 p.m. on Tuesday Dec. 13, 2016

Petition #787: Irene Alden:

Letter dated November 15, 2016. (copy attached)

Chairman read into record. Irene Alden owner of Relish the Dog, will not be seeking renewal of her Special Permit. Members agreed to allow Special Permit to expire.

7:15 p.m. Notice of Public Hearing

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, December 12, 2016 at 7:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Joseph B. Podgurski, as a determination that the applicant's "...business more appropriately falls into the category of Home Business / Professional Office or Studio requiring a Special Permit..." to the property located at 37 Carver Street, Halifax, MA. Said property is owned by Joseph B. Podgurski and Joseph M. Podgurski, as shown on Assessor's Map #71, Lot 17A. The applicant seeks a Special Permit in accordance with the Zoning By-laws of the Town of Halifax, under the following: Section 167-3 Definitions, specifically "Home Business or Professional Office/Studio (page 167:7) and Section 167-7.D(11)(a-h) Specific Use Regulations, "Home business or professional office/studio, conducted by a resident of the premises..." (page 167:26) and Section 167-7 Summary of Use Regulations (page 167:20). Area is zoned Residential. Petition #858.

Present Joseph B. Podgurski and Joseph M. Podgurski –

Mr. Podgurski advised the board that he does not have a business running at the home. He stores commercial vehicles that he and his father have. Depending on his activities for the day will depend on what commercial vehicle he will use. He believes the issues were based on noise complaints, as he was using heavy equipment that he owns. Have had equipment there and WILL in the future. As he is redoing the landscaping. Just would like to store it and use it going forward. Occasionally will drive father's vehicles. They are not used on or for the property

Mr. Gaynor asked what the names of the business' are. Mr. Podgurski stated: Underhill Inc. and Diversity Welding. Neither use the address as their business address. No mailing or office work is done at the house. They have offices in Canton.

The Building Inspector determined to have a commercial vehicle on residential property he would need a Special Permit and all vehicles would need to be out of sight. There would be three vehicles and would be parked in the back right hand corner. (pictures were provided) The vehicles would be 1 ton or smaller, and a loader was used to remove stumps.

Members continued discussion. Letter dated Sept. 13, 2016, Mr. Gaynor read into minutes along with restrictions for Customary In-home Business and/or Home Business- Professional office/studio.

It was discussed that Mr. Podgurski met with Mr. Piccirilli and that complaints regarding the business activity was that more of renovations to the property, but no business is being run out of home. The vehicles were used in conjunction of that. It was also discussed to be courteous of times. Members questioned if there was a business Mr. Podgurski said no, just that the trucks are being brought to the Carver St. for overnight and used the next day.

The members and petitioner went thru all the restrictions of Customary Home Occupation. The main issue was noise complaints thru the summer until late at night. Mr. Podgurski (elder) said that if there was a welding truck seen on the property it belongs to him. Usually garaged in Canton, but do a lot of work in Plymouth, so will drive to Halifax, leave truck and pick up in morning.

Abutter: Linda Parent: 54 Carver St. Just wanted to know what was going on, as it was noticed that it is noisy at 11 pm at night during the summer.

Mr. Gaynor: How long have you lived there?

Mr. Podgurski: a year and half.

Other Comments/Questions:

Mr. Soroko: 31 Carver St., direct abutter: stated that the noise has been a definite problem, sometimes late at night, can be 11 p.m. or so. Early in the morning hears diesel trucks running for 30 minutes or more.

Sometimes also on the week-ends for long periods of time, fumes have been a problem with the wind and nauseating when outside.

Mr. Gaynor asked if that was while they were doing work on the property.

Mr. Soroko: advised it was sometimes with the excavator, and sometimes with the front end loader. Basically can hear a diesel truck, the best I can describe it for long periods of time. 167-7 does state one commercial lettered truck for Special Permit. Also speaking to that, there has been 2 companies parking their equipment there with multiple lettered trucks.

Mr. Gaynor: how many?"

Mr. Soroko: At one time, the welding truck, landscaping trailer and also a pick-up truck.

Frank Federico, 22 Carver Street: Stated that he has heard the noise, late at night a lot, just worried about the esthetics of the neighborhood, that is looks abandoned and the trucks. Looks more like a heavy business and adding more and more to it.

Mr. Joy: Are the vehicles visible from the street, out front.

Mr. Soroko: they are growing the arborvitaes in the front, but you can still see a visible, driving by you can see. Especially now the vehicles are parked in back, the storage container in the back of the yard as well.

Mr. Joy: Are the vehicles running early in the morning?

Mr. Soroko: Yes, I understand diesel takes idles 10 – 15 minutes or so to start up and run, especially in the winter months, sometimes running for an hour. Recorded on my phone one time and just hearing diesel equipment running on idle speed. To answer your first question, it's visible from the street. Maybe not in 5 or 10 years when the arborvitaes have grown out a bit more, but at this point in time, it's still visible.

Aldene McGee, 50 Carver St: Bringing up about parking commercial vehicles, I didn't know there is a law, I know in Milton, people in residential area cannot park commercial vehicle. If they have a sign on the vehicle they have to cover it.

Mr. Nessralla: Their business' their just driving the trucks home. That's the only way they go back and forth to work. To go in the morning to the job site and driving them home. What's the difference to having a regular car?

Mr. Parcellin: If they have a separate car and parking their trucks the company truck there, that's a little different.

Mr. Nessralla: But if they are taking the truck to the job site the next morning.

Mr. Parcellin: Still parking a commercial truck that is part of their business on the property.

One member asked if the trucks were primary transportation.

Inaudible, but Mr. Podgurski said no need for personal vehicle.

Mr. Gaynor: We have a choice, issue a special permit as recommended by the Building Inspector with stipulations., number, visibility, arborvitae to be increased to protect from visibility from the street, even restrict idle time of the diesel trucks. Again, if the Building Inspector had received complaints about that. Yes it is transportation back and forth to work, that's why the number of trucks is important, if it's occasional, why go north to pick up the truck to head south. To the point as long as it's not being taken advantage of and deemed detrimental to the neighborhood. Restrictions would protect the neighbors too.

Mr. Parcellin: I agree with you, there is a noise, pretty strict noise stuff in the bylaws already regardless of what type of truck it is.

Mr. Gaynor: I think a diesel truck idling for a couple of hours is unnecessary.

Mt. Borsari: what about working on the trucks there, sometime they said sometimes they do welding and stuff there.

Mr. Gaynor: No, they bring the welding truck home.

Mr. Soroko: I have a question, so, their work is basically, main hub is Canton, let's not lose the focus of work truck, because their work is in that truck. So they bring their work truck on that property regardless of if it's in a house or on property, the still do work out of that truck so basically it's a second location to go from Canton, from Halifax to Plymouth their using their mobile work station to go to this other unit, versus using a telephone unit in Canton. We can lose focus of the fact that a mobile work station is still parked on their premises.

Mr. Gaynor: That's correct, but I think the use is important also, if the use, whether is commercial vehicle or a personal vehicle if its use for transportation and just that as opposed to doing work on the property. They're not working not a business being conducted on property no work being done on the property other than getting into the truck and going to the job site, its transportation.

Mr. Nessralla: It is a mobile, movable, bring home, take home then to job site, not doing any work on Carver St. Are they doing welding on Carver St.? The pay loader was brought in to fix the property, then they moved it out. And the bobcat, when you're doing landscaping for someone, you do the job, then leave.

Mr. Gaynor: You have no use for a bobcat or pay loader for your business?

Mr. Podgurski: I use it for my business, on job sites. If I don't need it on a job site, I bring it to my house and continue the work on my house. The reason why the work has been slow is because I work a lot. I'm not home very often to do things in my yard.

Mr. Gaynor: But the work that you're doing with the bobcat and the stumps, that's going to be concluded in the near future, once the stumps are removed, the landscaping is done, the arborvitae is all put in, Then there is no need.

Mr. Podgurski: Yes, there is no need, nothing to do with it. We do not do any, the welding work that we do it's all heavy equipment repairs, extremely loud, and not something that would ever be done there.

Mr. Parcellin: The work you do at job site, is that similar to the work that you're doing to the house.

Mr. Podgurski: No.

Mr. Parcellin: But you use the same equipment?

Mr. Podgurski: There's two separate things. The welding work that I do, we would be rebuilding an asphalt plant or concrete plant, or working on a piece of binding equipment, it's not something that could fit on my property. I also do landscaping work, yes.

Mr. Parcellin: I think that's what the connection is.

Mr. Podgurski: Yes, and once the yard is concluded then, that's it.

Mr. Gaynor: Normally it's the practice of the Board, we do a site inspection, do I have a motion, do we want to set a date, people want to go out and take a look at this?

Mr. Nessralla: I make a motion to waive the onsite.

Mr. Parcellin: Second

It was duly motioned and seconded to waive the on-site, Mr. Gaynor asked for voice vote:

Mr. Nessralla – Yes; Mr. Parcellin – Yes; Gaynor – Yes; Mr. Durgin – Yes; Mr. Joy – Yes

Mr. Gaynor: I would accept a motion regarding #858

Mr. Parcellin: I make a motion to accept petition#858 as a Special Permit with certain conditions.

-To limit the number of trucks to 2 trucks,

Mr. Gaynor: two trucks or three trucks?

Mr. Podgurski: three

Mr. Gaynor: It's mostly 2 but occasionally there's the third one.

(identify vehicles?)

Mr. Parcellin: Lettered trucks, you're not parking the bobcat there all the time, right, its trucks for the welding company right?

Mr. Podgurski: yes

Mr. Parcellin: Are they large trucks?

Mr. Gaynor: 1 ton – F350

Mr. Podgurski: yes

Mr. Parcellin continued:

-3 pick-up trucks (no larger than 1 ton).

- Not to be visible from the road according to the restrictions of a Home Business or profession office/studio Section 167-7 (D)(11)

- Meeting the requirements of the noise.

- Should not be any increase in traffic or automobiles

- Two key things that is important: limiting idle time to a certain period of the day, 8 am to 7 pm

Mr. Podgurski: I don't think that is feasible, I'm usually at work between 6 and 7

Member: How long to you generally let them idle for?

Mr. Podgurski: 15 minutes is fine.

Mr. Parcellin: from sun up to sun down?

Mr. Nessralla: what if he leaves the job site at 5 in the morning?

Mr. Parcellin: I mean the bobcat stuff

Mr. Podgurski: oh.... No, that's not used, there will be none of that, not the equipment.

Mr. Parcellin: so heavy equipment, between sun up and sun down, and idle time of trucks to 15 minutes.

Mr. Gaynor: and a maximum of 3 trucks you said or 2 trucks.

Mr. Parcellin: maximum of 3 trucks, pick-up trucks.

Mr. Gaynor: And they said the bobcat and trailer isn't normally stored on the property

Mr. Podgurski: no, the bobcat there, it was just there because I was doing work to the property. It's not here no.

Mr. Parcellin: 3 pick-up trucks related to the business

Mr. Podgurski Sr.: They do not have pick up bodies on them, flat beds and one's a dump truck, people size to a 1 ton.

Mr. Parcellin: 3 trucks related to the business

Mr. Gaynor: Not to exceed 1 ton.

Mr. Podgurski: Ok, that's not a problem.

Mr. Gaynor: So that would eliminate 18 wheelers, no heavy duty trucks. Anyone else want to add anything or anything like that? Now, we put restrictions on this that has to be agreeable to you, if it's not and you don't think you can live with them, you can withdraw your application, and those are the restrictions the Board has decided to put on. You have to be accepting to it. Is that ok?

Mr. Podgurski: Yes.

Mr. Durgin: Time limit, for permit... year, 2 years?

Mr. Parcellin: Come back within 1 year from now to renew the permit.

Mr. Gaynor: I don't think that's unreasonable, we'll see how it works, and manage. If there's any other feedback or complaints in the neighborhood to the building inspector then we can address them. And the permit would be to run for one year.

Seconded by Mr. Nessralla

Mr. Gaynor: There's been a motion and second to accept petition #858 with restrictions (noted) : asked for a voice vote: Mr. Nessralla – yes; Mr. Parcellin – yes; Mr. Durgin – yes; Mr. Joy – yes; Mr. Gaynor – yes.

Opinion of Mr. Borsari - I think it's a good compromise. Passes 5-0-0

Mr. Gaynor explained the process of the special permit, recording and such.

Petition #836: Public Hearing

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, December 12, 2016 at 7:30 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the **renewal application by Ralph Smith to continue the following** (as stated in the original public hearing back on November 9, 2015) : “ Owners request permission to sell mulch, loam + other landscaping supplies. There are no sales made to the public on-site. Orders are taken verbally (via phone) & deliveries are made” from the property located at 40 Carver Street, Halifax, MA. Said property is owned by Ralph & Mabel Smith, as shown on Assessor's Map #71, Lot 23. The applicant(s) seek a **renewal of a Special Permit** under Commercial Uses for “Open air business/outside sales” in accordance with the Zoning By-laws of the Town of Halifax under Section 167-7 Schedule & Summary of Uses, page 167:25 & 29. Area is zoned Commercial & Residential. Petition #836

Present: Ralph Smith, Joanne Smith:

Mr. Gaynor asked if there were any changes, and any conditions have completed and up to date.

Mr. Smith advised that he had paved the driveway, put the bins up, the fence instead of the arborvitae.

Mr. Gaynor: Any questions from the board? From the audience?

Abutter: Aldene McGee: Our only concern is from the on-site, which we know, from the place. A pick-up truck comes in, loads up and goes out. It's not often, but it does happen.

Mr. Smith: It was a friend of mine, if I want to give him some mulch, I should be able to if I want to.

Mr. Gaynor: Alright, anyone else that wants to make a statement or anything?

Mr. Federico, abutter: 22 Carver St. I don't hear any noise, I don't have problem with him, does operations during the day, I hear anything at night, never have a problem with him.

Mr. Soroko: 31 Carver St: Model of what a business should run on the street, absolutely beautiful from the street view, yes you see mulch piles, but there are just there. Respectful guy, respectful business, respected his neighbors by putting up a fence to deal with the situation.

Will accept a motion for petition #836 for renewal.

Mr. Nessralla: I make a motion to accept Petition #836 for renewal for 3 years.

Mr. Parcellin: Second

Mr. Gaynor: Only condition would be a 3 year permit instead of the 1 year.

Voice vote: Nessralla: Yes; Parcellin: Yes; Durgin: Yes; Joy: Yes; Gaynor: Yes; Borsari opinion: Yes
Passes 5-0-0

Mr. Gaynor reminded petitioner of the 20 day appeal, to see the Clerk and record decision with the Registry.

Petition #847: Continuance of Public Hearing: 314 Plymouth St. Multifamily Development

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 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 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

Letter received from Mr. Edmund Brennan Jr. of BRCSM on behalf of R&J LLC and Country Club LLC. Mr. Gaynor read letter into minutes. (copy attached) Request to withdraw without prejudice.

P. Parcellin - Motion to accept letter to withdraw without prejudice. Seconded by R. Durgin AIF
Motion passes 5-0-0

Petition # 859 John Walsh, Renelle Walsh: In-law Apartment

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, December 12, 2016 at 8:00p.m. in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax MA on the application by John Walsh & Renelle Walsh to acquire a Special Permit for an In-Law Apartment at 105 Wood Street, Halifax, MA. Said property is owned by John Walsh & Renelle Walsh, as shown on Assessor's Map 130, Lot 3. The applicant seeks a Special Permit for an In-Law Apartment in accordance with the Zoning By-laws of the Town of Halifax under Section 167-7(C), Summary of Use Regulations (page 167:20) & Section 167-7(D)(12) Specific Use Regulation, page 167:27. Area is zoned residential. Petition #859

Present: John Walsh, Renelle Walsh

Chairman Gaynor read letter(s) send by Building Inspector to Mr. Walsh dated 10/6/2016 and letter dated Nov. 15, 2016 to the Zoning Board from owners.

Mr. Walsh advised that he did meet with the Building Inspector, they bought the house in 2012. Everything was there and finished the rough plumbing for bathroom. Added cabinets and tiled floor. It is a split level, raised ranch. He is upstairs with family, mother is downstairs. Both own the home. There is a separate entrance in the back of home to basement. 1 bedroom downstairs, 3 bedrooms upstairs.

Mr. Gaynor asked if there were separate utilities. Mr. Walsh advised everything is shared, heat, water, electricity. There is a separate heat zone for basement. Full kitchen downstairs.

Mr. Gaynor asked if the Building Inspector went over requirements for an in-law apartment.

Mr. Walsh advised that they had. The downstairs is about 400+ sq. feet.

Members asked a few questions about the house and basement. Mr. Walsh advised the basement was 95% completed when they bought the house and did not believe it to be an "in-law" because they both own the house together. They did agree to take out the kitchen if needed to not be an in-law. Mr. Gaynor asked if the prior owners rented out the space. Mr. Walsh advised that the house was vacant when they viewed the house, so no one was living in it at the time.

It was asked if there is a door at the bottom of the stairs. Mr. Walsh said there is, but can be removed. And there is no shared living space. Mostly spends her time with the family upstairs. It is more just used as a sitting area and bedroom. Mr. Walsh said they do not want to have an in-law, they will remove the stove and or refrigerator. It was also asked if she uses the refrigerator. Ms. Walsh advised she does for soda, drinks, etc.

Mr. Parcellin stated that in-law apartments do not have a door creating separate living areas, which they do. It matters if there is a separate apartment that could be rented out.

Mr. Gaynor read the In-law Apartment requirements and restrictions from the Zoning By-Law. Major concerns would be the door separating the areas and the full kitchen. Under 900 sq. ft., and under 50%. Mr. Gaynor asked the board if they had any other concerns to be addressed.

The Building Inspector requires a Special Permit for the In-law Apartment, but if the stove would be removed it would eliminate a duplex or two family home. It would also no longer be an "in-law" apartment as the owners of the home occupying on two separate floors. With the removal of the stove then a Special Permit would not be required. Members feel the Building Inspector would have to re-inspect if that were to happen.

Board requests to ask the Building Inspector if the parties are listed as owners of the property and listed on the deed would removal of the stove still require a Special Permit for an In-law by definition. As a result of the hearing of December 12, 2016 the applicant has agreed to remove the stove and any other utilities or appliances that would meet the requirements of the definition of a kitchen and therefore were both parties are owners and listed on the deed, the board would like to know his opinion of whether or not this would still meet the requirements of an in-law apartment.

Motion to continue petition #859 to January 9, 2017 @ 7:15 p.m.

Motion K. Nessralla, (upon receipt of opinion of the building inspector), seconded P. Parcellin AIF
Passes 5-0-0

Petition #860 590 Monponsett Street, Appeal of Zoning Enforcement Decision

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, December 12, 2016 at 8:15 p.m. in Meeting Room 1, Town Hall, 499 Plymouth Street, Halifax, MA on the application by Robert Kraus, Esq. and Kraus & Hummel, LLP (on behalf of Daniel Macauley, C-Mac Realty LLC) to the property located at 590 Monponsett Street, Halifax, MA. Said property is owned by Monponsett Street LLC (c/o Managers: Francis G. Vacarro of 7 Bryant Ave., Shrewsbury, MA 01545 and Daniel Macauley of 140 Wood Road, Suite 410,

Braintree MA) as shown as Assessors Map #19, Lots 63, 64 65B, 71B, 73, 74, 75, 76, 77 Map #30 Lots 16, 17, 24 & 25. The applicant(s) seek to Appeal the notice of violation from the Inspector of Buildings/Zoning Enforcement Officer, letter dated October 20, 2016, which states the following: "...You are hereby given notice you are in violation of Section 167-7.A, Section 167-7.D(2) and Section 167-7.D(12) of the Zoning Bylaw. You are hereby ordered to cease and desist such multifamily use at the property...". The applicant(s) seek an Appeal of the Building Inspector's decision in accordance with MGL Chapter 40A, section 8 and 15, along with the Zoning By-laws of the Town of Halifax under Section 167-21.A (page 167:64). Area is zoned Residential. Petition #860

Chairman Gaynor read into record letters dated Oct. 14, 2016 & Oct. 20, 2016

Present: Robert Krause Attorney representing C-Mac Rlty. Bob McCourt, Stephen Jankins

Mr. Krause: Yes, There are a couple letters including the chief who is with us tonight with respect to the property. Just by way of brief, explanation, description. Our client bought the property in 2008, at the time There were two apartments on the top floor, second floor. One of the tenants has been there for 15 years, since that time he bought it he has gone thru four (4) tenants. Originally there were three commercial properties or tenants on the first floor, there was the hair dresser, that is still there. There was an account, now gone, and there was the trading post, or a motorcycle accessory store. The tenants didn't pay, the place went thru some changes and he converted the entity converted commercial to a residential.

Mr. Gaynor: On which floor?

Mr. Krause: On the first floor Mr. Chairman. There is no, to the best to my knowledge permitted for that, and we understand that's and issue. I've gone thru the file and talking with Mr. Piccirilli the building inspector about it. I'm hard pressed to understand and I know, Mr. Piccirilli understands it better than me, but there's a lot of history to this property. What really brings us tonight, here, is some things fell thru the crack which we have addressed and we need to continue to address. The property manager went into the National Guard so this property went into some holes and addressing some of the issues.

Mr. Gaynor: Mr. Low?

Mr. McCourt: No

Mr. Gaynor: Who was the original special permit issued to?

Mr. Piccirilli: Mr. Lowe

Mr. Gaynor: So, Mr. Lowe to a second owner to now

Mr. Krause: That right, we had nothing to do with Mr. Lowe.

Mr. Piccirilli: Yes but that is who the special permit was issued

Mr. Gaynor: originally, 91?

Mr. Krause: Again, my client bought it with 2 residential(s) on top and 3 commercial on the first. What happened ultimately is we've gone thru a number on tenants, my client has put in over \$100,000 dollars since he had the property. He's trying to improve it. One next door to it is partially torn down, burnet out place and the next one, or the other property right next to it is another multifamily. Let me address the Fire Chiefs letter first. Mr. Krause read into record. (copy attached)

(as to gasoline stored) You should know that is all gone, all been removed. (as to apartment) I don't know when that renovation occurred, but it was some time ago. Mr. McCourt: Yes. (continued reading from letter) (3 apartments) This goes back to when my client bought it. (continued letter ; as to the Building code concerns) The exit signs have been addressed. The egress and fire alarms, it's a work in progress by dialog between the parties. I hope to think that effective progress is being made. In fact we just had an opportunity to talk about it in Mr. Piccirilli's office about the fire alarm system . When the last renovation occurred there was a new fire system or alarm system put in the property.

Mr. Jankins: Yes, there is a fully addressable alarm that's functioning that () monthly and it's been that way for a couple years.

Mr. Krause continued with letter: I think the chief was referring to this applications. There is no present application for any zoning relief before the Board. We're trying to address the most immediate issues, and the most immediate issue for us is safety. Period. So, Mr. Jankins, Mr. McCourt and the chief can obviously speak

to that, but we have addressed the recited items in the letter, and we are working on the fire alarms system and egresses. Chief is that a fair statement?

Chief Viveiros: Last time we were out there we had to move some doors, there was some signage added Making immediate concerns.

Mr. Gaynor: when was the last time you were there?

Chief Viveiros: The day of the letter. December 6. So there was some progress made, but the building wasn't originally designed to be used like that, so...

Mr. Piccirilli: It's a temporary fix until we can come up with some sort of life safety. Obviously, on the first floor there was no permit pulled for that apartment. The second floor, I agree it has probably been there for years, who knows when it went in. I think the Assessor's Office might have had sometime, 2010, 2011 I don't know. Again, unpermitted so no plan review, can't tell you if it meets the requirements of life safety or not as it stands.

Mr. Krause: I can tell you that, and I believe that my client, I think we have documentation that the two apartments on the second floor predate his acquisition. I think it's the intent of our client to get rid of the residential on the first floor, to go back to the way it was, subject to the appropriate permitting. To get rid of the residential unit. Right now there are four. Two apartments, (2 second floor) apartment on the first floor and the hair dresser. That's what's presently there. Again, we haven't had enough time to brain storm this and think this all the way through. But, more than likely, subject to getting that tenant out of the first floor. Go back basically the way we had it, subject to permitting. Obviously, if we don't have the permits, then we have to get some relief. It's subject to further review of the file, because there is a number of documents about site plan waiver from the planning board. Sign permits for all the commercial properties. There's a lot of confusing information. I know there's a special permit in the file that was gotten by Mr. Lowe some time before our client bought it.

Mr. Gaynor: special Permit for what?

Mr. Krause: The commercial space.

Mr. Piccirilli: It was a special permit for one apartment, owner occupied.

Mr. Gaynor: On the second floor?

Mr. Piccirilli: The second floor.

Mr. Krause: Again, that goes back to well before when our client bought the property. It was occupied, he bought it, we can demonstrate it in evidence that it was bought with two apartments and three commercial. You can see it from the signs. We actually went in for a sign permit and has a sign up for the different businesses located on the property. There's no excuse for safety concerns, we understand that. There's only explanations. I know that Mr. McCourt and Mr. Jankins are working very closely with the chief and his department to address those. We're willing to establish deadlines and timelines to address all those concerns. To address the Zoning issues, we have to address the person on the first floor, and we'd like some time to be able to address any zoning issues we might have with the town on this property. The letter from Mr. Piccirilli, we're fair game, we just need a little more time, particularly given the holidays. Not with the safety concerns, But the zoning issues to address it more fully and intelligently with the board. We don't want to have a cease and desist, we don't want penalties per day. We're working closely. My client is, he's put in a lot of money on this, he's lost a lot, more than he's put into it. That's not an excuse for safety concerns, it's just an explanation of where he is, and the frustrations he's experienced.

Mr. Gaynor: Ok, thank you Mr. Krause. Mr. Piccirilli, what are your views.

Mr. Piccirilli: I understand the time constraints, he has tenants, we don't want to make people homeless obviously.

Mr. Gaynor: Are they there now?

Mr. Piccirilli: Yes, there are two up, and a tenant on the first floor. I can't speak to when it was converted to an apartment. When you say it was some time ago, I don't know, my best guess would be when the Trading Post left, which was the business that was there before. Obviously if the Trading Post was there, there was not apartment, so whenever they left, that would be an accurate time.

Mr. Gaynor: So was the first floor apartment, is that in the back or is that the whole left side.

Mr. Piccirilli: It's the whole left side of the building. It used to be, the whole left side had a demising wall approximately down the middle, and different businesses, Pentax, a motorcycle or engine repair shop at one point, and a few other small ones. I think when the Trading post took over they took out the demising wall.

Mr. Krause: This is in your permit file, you can see the sign applications for all the commercial.

Mr. Piccirilli: Correct, so the Trading post took over, made it one business, and when they left, I don't know when the apartment came in, but obviously it was some time after that.

Mr. Gaynor: Ok, let me ask you this, when was the last time a special permit was in effect. If one was issued in 1991.

Mr. Piccirilli: that's all I have on record

Mr. Gaynor: Is it a five year permit... It was a five year, so from, so it expired on or about 1996.

Mr. Piccirilli: that would be my best guess.

Mr. Gaynor: Was never renewed and when did we go from one to two apartments upstairs? Your best, before or after the permit expired?

Mr. Piccirilli: He may dispute it, but I can only go by the Assessors records because there are no records in my file.

Mr. Gaynor: What did they say.

Mr. Piccirilli: If they have information on the sale of the property.

Mr. Krause: We can show you rent records of the two residents above. We've received.

Mr. Gaynor: Dating back to when? Prior to 96

Mr. Krause: Well we may not have a copy of the check but we can show you probably a record of receipt of payment from the tenants. Hurley's been there for 15 years. The lady that lived in one of the apartments, and the other one, she can give an affidavit because, we've gone through, since we've owned it, four tenants.

Mr. Gaynor: For the most part Rob, you can go back 200 maybe.

Mr. Piccirilli: It didn't predate 96 because that's when the special permit would have ended. Any time from 96 on is anyone's best guess.

Mr. Jenkins: When Dan bought the property those two tenants were there.

Mr. Piccirilli: When did they buy the property

Mr. Krause: 2008

Mr. Jenkins: And the hair dresser can attest to that.

Mr. Krause: We didn't have time to get an affidavit because what we were trying to do with something this contentious. Trying to work with the Fire chief and Mr. Piccirilli.

Mr. Gaynor: Now the original permit was for one apartment upstairs.

Mr. Piccirilli: The special permit was for owner occupied apartment.

Mr. Gaynor: As far as you know, either when it was single apartment upstairs owner occupied or when the second apartment was put in. Is there anything or any notations that it complied with Zoning, safety, fire, exits, that it complied with the building code.

Mr. Piccirilli: No, there's nothing there,

Mr. Gaynor: no building, permit, occupancy permit as of records or anything to that? As far as we know.

Mr. Piccirilli: No, just a determination.

Mr. Gaynor: so from `1996, there's been no permits?

Mr. Piccirilli: No

Mr. Krause: Mr. Chairman, I would say that if you look at the record, it's a scattered file. There's not a completeness on anything in there. There's a lot of request of waivers from the planning board approval. There's a special permit, but nothing following it up. It's confusing at best.

Mr. Jenkins: I think there's a permit in there for the addressable fire alarm.

Mr. Piccirilli: That was 2013, it was noted under the previous Fire Chief, they wanted the fire alarms put in.

Mr. McCourt: We upgraded the entire fire alarm in the building.

(inaudible discussion of time frame of alarm system)

Mr. Piccirilli: so in 2013 must have been when they changed the use, and to that open up that whole left side to the Trading post.

Mr. Gaynor: There was some type of fire permit taken out?

Mr. Piccirilli: Because there was a permit pulled for the Trading Post on the first floor. That triggered the fire alarm, so we need to have a fire alarm in this building.

Mr. Gaynor: and did that meet all the requirements back then as far as egress and the system.

Chief Viveiros: Only for the first floor.

Discussion throughout--- that it was also for the basement and second floor.

Mr. Gaynor: As far as the safety issues with the gasoline, are you all happy with that?

Chief Viveiros: All of that has been removed, Rob and I did a walk through. They removed a door, put some exits signs up. My biggest concerns being here today is to make sure that if you do grant a permit for the two apartments, that they be brought up to today's code. (two apartments on the second floor) And to know you're going to do throughout. I don't know what's going to happen with the first floor, basically the whole building, will have to start from scratch with the alarm system, to make sure it's in compliance to whatever its going to be used for. I spoke to them earlier, the alarm company, we're going to do some alarm testing hopefully this week.

Mr. Gaynor: Rob, what are you going to require? As far as mixed use, what are you going to require on the special permit.

Mr. Piccirilli: I'm not sure what we have, the two apartments upstairs, would require a two family. If we get into a third, we're multifamily. But we also have a mixed use with the two apartments and business, so I don't know what we're going to end up with, I don't know what they're going to be requesting. That's to be determined.

Mr. Gaynor: What is on your application Mr. Krause, what are you looking for?

Mr. Krause: Mr. Chairman, tonight all we're here for is to address the zoning and building inspectors letter. We wanted to come tonight to get a sense, to work with Mr. Piccirilli, the Board, the Fire chief, and then we'll figure out what kind of zoning relief we need our application. I'm talking with my clients whether what we're going to seek is two commercial, two residential, which it sounds like the direction this is heading in. get rid of that first floor apartment completely, maintain the two apartments correctly that have been there since we bought it and we'll show you the evidence of it and take the hair stylist.

Mr. Gaynor: So Rob, what will you need for that then if we go

Mr. Piccirilli: If does what he's taking about its going to have to come before the Board, for a special Permit

Mr. Gaynor: for multi-use. Mixed use

Mr. Piccirilli: For mixed use, whatever the determination going to be, however, if it's going to fit or not fit into the mold and whatever waivers or requirements it's going to take.

Mr. Krause: Right because what we would do, is suggest to the building inspector of what we want. He would give us an opinion letter as to where under....

Mr. Piccirilli I can either, if it's going to need a special permit, if you're going to give me an application, I'll have to deny it and send you to the zoning board for a special permit.

Mr. Krause: Right, it's incumbent upon us to tell you precisely what we're going to do.

Mr. Gaynor: Absolutely, we're talking abstract here right now.

(secretary advise right now all we want to is either uphold the BI decision or overturn it.)

Mr. Gaynor: that is what you applied for.

Mr. Krause: Can I make a suggestion Mr. Chairman thru you to your board. What we'd like to do and I talked to Mr. Piccirilli about this, is if we can just continue this matter into the new year. That will give us time to rec and order to figure out what we're exactly applying for. At that point we might, probably be in a position to withdraw our appeal of the BI decision and move forward with something that's sensible. Whether it's mixed use, multifamily, depending upon where we feel on the grid.

Mr. Gaynor: As far as safety is concerned chief are you.

Chief Viveiros: We'll I'm going to move, if we go, if I meet with the alarm company and it's not, I'm going to handle that separately.

Mr. Gaynor: Will issue a cease and desist... immediate

Chief Viveiros: Yes

Mr. Krause: We understand that completely. Safety is not an issue, it's not up for discussion. It is safe or it's not safe. I know Mr. Jankins and Mr. McCourt were talking to the chief about the alarms.

Chief Viveiros: Where were at is kind of a little gray area, but only because we don't know when it was constructed meets the building code.

Mr. Piccirilli: I'll speak for myself, I don't know if the chief agrees or now, here's where we stand with this. We're basically asking for time and understand where your coming from. Our intension is not to make people homeless, we don't want to kick them out and put them on the street, but on the other hand we have to make them safe while they're there. He has been put on notice that at this point it's an illegal use as far as the Town is concerned. WE can't say whether it's safe or not because, it hasn't been brought up to code obviously. They are asking for time so at this point for us to agree to that, we would have to agree to a temporary solution. Now a temporary solution is not a best case scenario, but it's only what we can do at this point, without putting people on the street.

Mr. Krause: Mr. Chairman as you know, to get someone out of an apartment, is a bit time consuming. I think tenant from what I understand may want to be out. If you give us this time, we will make whatever efforts necessary to address the chiefs concerns. I know that Mr. Jankins and Mr. McCourt have been in touch with the chief and continue to be, and any time the chief gets concern about it, he has his own way of addressing the issues, by bringing a cease and desist and dragging us into court.

Chief Viveiros: Most of the things that have been done we're trying to give a little bit of time, but I think me and Rob had talked and we felt 30 days was. ..

Mr. Piccirilli: You meet once a month, I think it would be reasonable request to ask for 30 days, we go, we meet with the, see if we can come up with a temporary solution for safety and at the next meeting we see where we stand and if they need another 30 days, we address it at that point. But at some point they have to come up with what they are applying for, this isn't just going to continue.

Mr. Krause: No, we're not going the patient bleed out, we're going to come up with a plan, we're going to submit it, Rob will deny it and tell us where we have to get the relief, and it's from this board. And he's going to tell us what we need by way of relief.

Mr. Gaynor: Is that good with you?

Mr. Piccirilli: I think that's the only solution we have at this point.

Mr. Gaynor: And what we have is at least temporarily or what's there now is safe enough to leave the tenants there.

Chief Viveiros: We address a lot of the immediate safety concerns when we were there in October. We want to go back this week.

Mr. Gaynor: not putting anyone at risk or anything?

Chief Viveiros: Right, but we want to go back this week and meet with the alarm company, test the alarms system again, make sure it's still working, make sure they have the carbon monoxide detectors in both the apartments. They had some egress issues, with blocked hallways and doors that shouldn't be there.

Brief discussion of the gasoline in the basement and who's it was. Was a commercial landscaper but is all cleaned up.

Mr. Gaynor asked if the board had any questions.

Mr. Parcellin: A lot of homeowners come in here with a precarious situation... you guys have owned this since 2008 and you came in with a honest may couple, but you came in with a team of staff and an attorney, the Fire Chief had to come in, and the Building Inspector had to come in. the BI wrote a letter for three or four of the permits that we had tonight and came in for this one. I think it's a little outrageous that you would ask for more time since this is October 20th, I'm surprised it's not already done. Meanwhile, you're going to continue to collect rent checks for apartments, that in 1991 there was one special permit for, they asked for two apartments and the board in 1991 said No to two apartments and said yes to one. So it limited them to one apartment, you've now stated already that you're going to try and, because they already existed when you bought the property, that you're going to kind of try and bully the board to just giving you the two, because the person already lives there. When you spent 20 years, or almost 10 and a dangerous place that the Fire Chief had to walk into and is still coming to meeting for a month and half later, I just don't think this couldn't have been fixed before. I think, I would be, if when we meet January 9th, not of his concerns are meet and there isn't a plan in place, I for the first time I've been on this board to be open to using the \$300 a day violation, for when

your collecting rent checks from a commercial business and three apartments in an unsafe building, to use that \$300 a day to fund what they're doing for their job, while you guys are not providing the safety and the necessity of the Town. For you in Braintree that has a bunch of real estate that they own, to not think to themselves... Hey we need to meet certain requirements of Zoning in the Town of Halifax, to not look that up. I think to pretend that you didn't know is a little crazy I think. And to put the Town in the situation and your residents in that situation I think is a lot.

Mr. Krause: I don't, I have no answer for your outrage other than to understand it. I will say this, is if the concept is that we're making a ton of money on this place, that we just let it go to hell in a hand basket, and not concerned about people. Again, my client bought it with the two apartments, there were three commercial spaces below. He converted to a residence, because he wasn't getting paid, as I said he's put a lot of money... I regret that the chief, I apologized to the chief for coming out tonight, same thing for Mr. Piccirilli. I'm sorry it's come to this, but it's a complicated situation, and were all... the bad news is they're here, the good news is we're cooperating and we're working closely with them, and I think you get that sense from listening to them and I apologize that they're here. We're all working towards something rational, we're not bullying the board. We can't tell you what to do we understand you have the power to say yes, no, maybe or any conditions that you want. That's not what's on for tonight, what's on for tonight is trying to be in a position we're we can justifiably ask you for something.

Mr. Nessralla: you're looking for an extension of 30 days?

Mr. Krause: I'd like 30 days. During that time, we're going to work out all this stuff and get a plan as to what we're going to do with this property.

Mr. Nessralla: If there's no plan in place in 30 days, what's going to happen then, another extension?

Mr. Krause: I'm hoping, look the next two weeks, I'm asking 30 days because that's all I can get. Two weeks is tough, you can't get an engineer, you can't get anyone in the next few weeks. We will, if we're not perfectly ready when we come back, we will have a very good idea and documentation as to where we are going. We'll have, be on a track to get to the end result.

Mr. Nessralla: And the people renting on the first floor, they going to be evicted?

Mr. Krause: If we go thru this process, that's the only way to do it because, converting it, or abandoning it...

Mr. McCourt: The fellow on the first floor is a former C-MAC employee recently divorced, didn't have a place to stay, has two young boy, that are hardly ever there. Just hard, because he doesn't really pay rent. He was supposed to watch the property to make sure this didn't happen. The terms we have with him are good. He knows he has to find another place to live.

Mr. Nessralla: You're going to evict him.

Mr. Krause: Yes... at will

Mr. McCourt: Honestly there not even a stove in there. It's a place for him to go to visit his kids. He lives in Plymouth or down towards the cape.

Mr. Krause: It sounds like we can take care of it

Mr. McCourt: It was an interim solution.

Mr. Gaynor: I personally, they only thing I'm having trouble with is, when you said you (he) suck a \$100,000 dollars into the property, I'm kind of amazed that a loan from a bank would even grant money without, after 2008 without have permits in effect, a Special Permit or anything in effect knowing it was required, a bank or finance officer would look into that.

(inaudible too many talking)

Mr. McCourt: It was not a smart business decision, it wasn't, but it was literally cash out of his pocket, he fell in love with the property and his emotions got the best him. It was the smart decision to make.

Mr. Krause: So, we're trying to address what is,

Mr. McCourt: \$118,000.... He'll never recover it and he is very disappointed that his neighbors.... It's a scramble.

Mr. Gaynor: what is the pleasure of the board?

Member: The only choice we have, is we have to go with what's presented to us tonight.

Mr. Gaynor: Right, which is... the applicant seeks an appeal of the building inspectors decision in accordance with MGL 48 section 8 and 15 along with the Zoning by-law of the Town of Halifax under section 167-21A the Area is zoned residential

Mr. Krause: I'm asking for a continuation of this hearing until

Mr. Parcellin: Our next meeting is January 9th.

Mr. Krause: So, we'd like to be on your agenda Mr. Chairman with respect.

Member: I think we have to uphold the Building Inspector...the letter. And if we want to give an extension of 30 days we can, that will be the condition of it.

Mr. Gaynor: How is that agreeable with you? You continue the petition for 30 days.

Mr. Piccirilli: I mean, it's been a number of days now, as this is ongoing. I've met with Mr. Jenkins and Mr. McCourt to try and get this thing resolved. It's not going to be resolved to today's standards immediately, our concern is we have tenants there. If something happens at this point, we've all been notified that this is an illegal use as well as them. And we are allowing these tenants to stay in subpar conditions. Now we can bring it up to the best we can, but still we are not going to have fire separation of walls, we got what we got, other than maybe an alarm system that's going to be more compliant.

Mr. McCourt: In addition to the addressable alarms, we have 10 combination smokes, CO fire alarms, per the latest code. They don't communicate to each other.

(in audible)

Mr. Parcellin: I think the only person to say its ok is the Fire Chief

Chief Viveiros: Some of the things that we... Haven't expressed everything, but some of.. it was frustrating when we went back there the second time. We asked for exit signs, there were exit signs posted on every single door. We opened a closet, marked as an exit, we had doorways blocking exits. So we had, you told me there were smoke detectors that were hardwired, we pulled them down, they were battery operated detector. Not painting a rosey picture, but that was not the case. I was waiting to hear back from you guys up until the day I wrote the letter, still had not hear anything which prompted letter saying I was supposed to hear a couple weeks ago, and now I'm giving til this deadline until I take other action. We spoke tonight, it was a good meeting I want to meet your alarm company out there. Make sure at least the alarm is safe, but it doesn't change, like Rob said, it meets the building code, do we have the right fire separation. I don't know hat.

Rob: I don't know, I can't tell because again, it all comes down to plan review. We were never given a review on anything.

Mr. Gaynor: Can it at some point meet a restriction.

Mr. Piccirilli: Sure it can. If they want to open it up and gut it and meet today's codes, I'm sure they could, but as it stands I don't know what's there. I don't know what the separation from the commercial unit to the residential unit above. I don't have a clue, there's nothing in the records. I'm just putting facts out there so everyone knows what's going on. That's all I'm doing.

Mr. Krause: All we're suggesting is, before you make a decision upholding, denying, of course we know what you're going to do. Give us until the 9th to come up with a plan. Just continue this hearing to the 9th to give us the time to make the Chief happy and you have a letter saying they did this, this, and this. Because that's what we're going to be looking for based upon our actions. And to follow up with Mr. Piccirilli.

Mr. Nessralla: I think the bottom apartment should be vacated. No one should be living in the bottom apartment.

Mr. Gaynor: By January 9th.

Chief Viveiros: We had noticed, because of everything going on, we didn't bring in the Health department.

Mr. Piccirilli: We haven't even talked to the Board of Health yet as far as what there or what they need to.

Chief Viveiros: It's certainly being used as an apartment, but there was no stove in the apartment.

Mr. Piccirilli: There's a microwave.

Mr. Krause: We'll do our best efforts as Kozhaya suggested to get that tenant on the first floor out of there. So we can start addressing or continue to address that Mr. Piccirilli and the Chief indicated.

Mr. Parcellin: Can I ask a question... So this letter came out on the 20th, he said you have to cease and desist multifamily use within 30 days (October 20th). So it's now December 12th.

Mr. Krause: How do you do that, with, the problem is, no offense, under summery process.

Mr. Gaynor: Mr. Krause, let him finish the sentence first.

Mr. Parcellin: I guess my question is, other than exit signs and closets, what effort have you made in the last month & half or two months almost other than...

Mr. Krause: We removed all the hazardous materials, we changed the signage, the smoked detectors were brought up to what we thought would be, we haven't done any structural work, how can you without a building permit, without a real plan.

Mr. Parcellin: Your asking for less than 30 days to come up with a plan, when you've had almost two months, to come here tonight with a plan.

Mr. Krause: Well tonight, with respect, tonight, I had a brief opportunity to speak with Mr. Piccirilli, I hadn't spoken to the Chief, I haven't because of the holiday and I was at trial last week. I haven't had the time unfortunately I'll be honest with you to address putting in a document what the plan is. I told these guys today, I typically come in with a written plan for the meeting, because I was confused by the file in the building Inspectors Office. If you look at it, I know Mr. Piccirilli can make sense of it, but it takes a lot of time.

Mr. Piccirilli: You have to understand the file is confusing because there are no permits or anything.

Mr. Parcellin: There is nothing in there that you need to ask for the apartments that you made.

Mr. Krause: If for instance, as we contend that there were tenants on the second floor from 2008 when we got it. Even though the record doesn't reflect that, and we have evidence of the fact that that's the way we bought it. Now that may not comply to Zoning, but it goes towards a grandfathering, potential grandfathering issue as to the use of the property. What I need, is to have until January 9th to come up with a conservative plan, to address all the problems with 590 Monponsett Street. That's what I'm looking, whether that includes having gotten the tenant out of the first floor or providing a notice to quit. Or dealing with Mr. Piccirilli as to what the final, what we would like the final to look like. 2 Apartments, 2 commercial, back to the way it way, in fact less than the way it was, because there were 3 commercials allowed on the first and 2 residential. We're talking.

Mr. Parcellin: There were never 2 residential allowed upstairs.

Mr. Gaynor: There was never 2 legal

Mr. Krause: I understand, I'm just talking about the historical use from the time we bought it, I'm not talking about the file, I'm talking about the historical use of the property when we got it. That's what I'm talking about, and if we have to go back and resurrect this, or resurrect the special permit it's going to be different, because ...then that's what we're going to have to do.

Mr. Parcellin: I guess my concern is, you've had this long period of time to come with a plan, and instead of adhering to the Building Inspectors letter, you immediately appealed the thing to extend this out, and my real concern is that, you kind of didn't do anything to address his concerns, other than safety stuff which you kind of needed to, to come up here. And now after a month and a half, or two months, really nothing has been done, and you're asking for less than a month now, when you had a month and a half or two months, less than a month with a week of holidays in there, to come up with that plan. I don't want to meet in January and have more time needed. I think we could uphold his decision now and move forward with it and kind of force you to do it if..

Mr. Krause: If you uphold his decision, even though... I'm talking a short period of time, that you're putting me in a difficult legal position. Honestly, this was brought to my attention a couple weeks ago while I was on trial. I haven't had a lot of time to review this. I called Mr. Piccirilli once then I got tied up in the trial. Then I'm trying to figure out what's in this zoning file, to figure out what is the actual permit, permitted use. If you give me 30 days without making a decision, because time standard start once you make that decision. I don't

think Mr. Piccirilli from talking to him personally wants to punish us, he'd much rather and this, and I called him and talked to him that I have to appeal because I don't have time. I think I said that to you on the phone, that I'm jammed up, so I didn't have a lot of time to address it. If we come back by the 9th and we have a plan, hopefully we withdraw the application there's nothing on file about the appeal of his decision and now we come with a zoning application. We say that we're putting together a plan for a zoning application. It's a much cleaner approach to helping us get a plan, and there's not, I'm not asking you for a lot of time, and I know I got to do a lot of things in a short period of time, so if we don't do it, then you do what you want. I'm only asking on behalf of my client to give us this tiny window so we can expeditiously put together a plan. That addresses not only the Chief, address Mr. Piccirilli's concerns and come in with a zoning application.

Mr. Gaynor: What is the feelings of the board, want to continue this to January 9th, or deny the request of the application, or address the applications that's before the board tonight/

Mr. Piccirilli: Just one last thing and I understand their position, obviously they're a company that buys properties, that have other properties, bought properties before, you're putting us in a jam, because you didn't do your due diligence and find out what the property was before you bought it. Now, there might have been two apartments there, but theoretically you should look to see if there're legal apartments. So you're jamming us up because you didn't do your due diligence and putting us in a hard situation. My ultimate thing, is I want to work with everybody, but there are people there that need to be protected, that's my job, that's the Chief's job, that the Towns job, now what's the solution to protect them is I can't tell you at this point, I mean obviously we all know what there....

Mr. Nessralla: Is 30 days agreeable with you for them to come up with a plan.

Mr. Piccirilli: Again, like I said, my choice is to kick people out now or kick them out 30 days from now.

Mr. Nessralla: The first floor guy has to go immediately.

Member: If this petition is denied and we uphold the Zoning Officers decision, what happens? Do they just start paying a fine, or do people have to be evicted, what happens?

Mr. Gaynor: all of the above I think.

Mr. Parcellin: they probably have 30 days to do it, because that's what the letter said, and he appeals the letter.

Mr. Krause: we still have to comply with summary process. I can suggest to you that very clearly we have all the motivation necessary, because by Jan. 9 if we don't have a conservative plan, we very well know the temperament of the board is.

Member: I agree with Pete, that time has been passed.

Mr. Parcellin: From my perspective, if we continue this, and I'm also concerned that we're going to come back January 9th and there is, and now we're going to withdraw the appeal, bring in the application for whatever is going to be planned, we're going to go thru that process which could take multiply months, and when is it going to be the way we want it. It could be a year before all this is done. This is the stuff that frustrates us I think. From my perspective, if we come back here on January 9th, and this is only me, and if there is still a tenant in the downstairs apartment, and not every single concern that the fire chief has been addressed in person, and hopefully a letter, and all the Building Inspectors concerns are alleviated through the application, then I would not hesitate to deny the appeal and move for the cease and desist. I think is what he's staying is also a lot to ask for it's also a lot to ask for, people have Christmas trees in apartments that are not meeting fire code. That's in the back of every bodies head.

Member: So it would be 30 day for the eviction to start if we deny.

Mr. Nessralla: No, the eviction on the first floor would start immediately. He can't stay in there.

Mr. Krause: We're responsible if something happens. The idea is, between now and Jan. 9th, we're going to address all of the safety concerns. If the chief is not satisfied that we haven't addressed all the safety concerns, then as you heard him say earlier, he has a process that he can take immediately, regardless of the board...

Building inspector.

Chief Viveiros; That's with the alarm system, all of the safety concerns would encompass,

Mr. Gaynor: do I have a motion of the board to continue to the January 9th meeting.

P. Parcellin moved , Seconded by R. Durgin : Chairman called for voice vote: KN: yes, PP: yes, RD: yes,

GJ: Yes, RG: yes. Motion passes 5-0-0

Mr. Gaynor: As a matter of concern, there will be no hearing on January 9 unless real estate taxes are brought up to date. Copy of taxes given to Mr. Krause

Motion to adjourn

Motion: K.Nessralla Second: R. Durgin

Mr. Seelig briefly discussed with the board in reference to Mr. Hucksam about representing the Board regarding the Appeal of the Bergstrom case and if ye is aware.

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

Respectfully submitted

Robert Gaynor
Zoning Board of Appeals, Chairman
