



Town of Halifax Commonwealth of Massachusetts

Zoning Board of Appeals

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

HALIFAX ZONING BOARD OF APPEALS Monday, August 22, 2016

The Halifax Zoning Board of Appeals held a public hearing on Monday, August 22, 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.

[Note: The secretary was absent from the public hearing/meeting and Mrs. Barbara Gaynor covered the public hearing/meeting on her behalf with thanks.]

The Board reviewed the mail and other matter/issues:

Procedural Matters

I Correspondence/Mail/Email/Fax

- a. BI/ZEO cc'd ZBA letter to Allan Praught [dated 7/12/16]
- b. Letter from Allan Praught to Robert Piccirilli [dated 7/16/16 & received by ZBA 7/26/16]
- c. Letter from Kurt Boetcher to ZBA [dated 7/25/16 & received by ZBA 7/25/16]
- d. Letter from BRCSM re: "R&J, LLC and Halifax Country Club, LLC/Petition No. 847" [dated 7/26/16; see below in "Other Matters"]
- e. 2 Packets from Kurt Boetcher to ZBA "US Department of Justice, Reasonable Accommodations Under the Fair Housing Act" & "Massachusetts office on Disability"[received by ZBA 8/3/16]
- f. "Information Request" form from Jennifer (Bobbi)Choate, 7 Plymouth Street, Halifax, MA [dated 7/26/16]; a response to the "Information Request" form by Secretary to Jennifer Harmon (Choate) [dated 8/3/16]

II Bill(s)

- Revolving: "Express Newspapers" Legal Notices; Petitions #849, #850 & # 851 = \$240
- Revolving: "Express Newspaper" Legal Notice: Petition #852=\$80
- Expense: "WB Mason" Office Supplies/USB & Speakers = \$59.63

III Approval of Minutes

- August 8, 2016

IV New Business

- 7:25pm: Petition #849, Stephen C. Yurewicz, 25 Oak Place, Halifax, MA
- 7:30pm: Petition #851, Phyllis & David Warren, 34 Holmes Street, Halifax, MA
- 7:35pm: Petition #850, Brookside Realty, LLC, Land of Elm Street, Halifax, MA

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V Old Business

- 7:15pm: Petition #847, R&J, LLC & Halifax Country Club, LLC, Land off Plymouth Street, Halifax, MA
- 7:45pm: Petition #744, Jennifer Harmon-Choate, 7 Plymouth Street, Halifax, MA

VI Other Matters

- a. Charlie Seelig to ZBA – re: “Town of Halifax-Open Mtg Law-Evaluations, E-mails and Distribution” memo [emailed 7/13/16]
- b. Letter from BRCSM re: “R&J, LLC and Halifax Country Club, LLC/Petition No. 847”; enclosed a “Letter of Mutual Agreement for Extension-Variance & Appeals” [dated 7/26/16]
- c. ZBA to All – re “Next Public Hearing/Meeting Scheduled for Monday, August 8, 2016 to be Continued to Monday, August 22, 2016” memo [dated 7/26/16]
- d. Secretary to ZBA – re: “Packet Drop Off to the Office of the Zoning Board of Appeals” from Chief Broderick as it pertains to Petition #744 [dated 7/20/16]
- e. Charlie Seelig to ZBA – re “Town of Halifax-Public Forum-5th Avenue Beach/4th Avenue Boat Ramp [emailed 7/28/16]
- f. BOS to ZBA – re: 7 Plymouth Street, Halifax, MA [dated 7/28/16 & received by ZBA 8/1/16]
- g. Board Member, P. Parcellin to ZBA – re: “Certification of Participation in a Session of an Adjudicatory Hearing Where the Undersigned Member Missed a Single Hearing Session” for Petition #744 Public Hearing held on July 11, 2016 [received 8/3/16]
- h. Charlie Seelig to ZBA – re “Town of Halifax-Chapter 61A Property [emailed 8/10/16]

VII Upcoming Hearings, Seminars &/or Conferences

VIII Open Comments /Open Business

IX Possible Executive Session

X Adjourn

Talent Bank Form, Dan Borsari of 175 Aldana Road, Halifax, MA

Chairman Gaynor addressed Mr. Borsari, asking if he had ever sat in any of the Zoning Board public hearings. Mr. Borsari said that he has sat in on a few of the public hearings/meetings to get a feel for how it flows and what occurs. Mr. Gaynor explained the procedure, the position available as an Associate Member and that this position does get to vote should a member of the regular five members be absent or need to be recused. He was introduced to the Board members. It was duly moved (K.Nessralla) and seconded (G.Joy) to submit a letter to the Board of Selectmen for an appointment to become an Associate member to the Zoning Board of Appeals. Passed by voice vote: 5-0-0.

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Petition #847: Continuance of Public Hearing Motioned to August 22, 2016 at 7:15pm

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

Board member, Kozhaya Nessralla recused himself from the petition.

Attorney Edmund J. Brennan, Jr. (of BRCSM LLP) and Rebecca Baptista (of Silva Engineering) were present for the petition on behalf of his client, Mr. John Peck.

Attorney Brennan addressed the Board, reminding them of a former petition filing earlier in the year on the same property by the same applicant with a different layout, needing several variances due to distance between the buildings. In this current application before the Board, his client has a different layout of four buildings, still requiring a six point seven feet frontage variance.

Attorney Brennan informed the Board that he was before the Planning Board on Thursday, August 18, 2016 and touched upon the following: Processing of the site plan review and the Planning Board has sent it out for review, using Amory Engineering.; addressed almost all the issues the Planning Board had with the site plan; offset of the driveway and central lines are a concern across Stop and Shop as there is approximately ten feet off the center lines and may result in a significant Infrastructure concerns; a traffic engineer will be hired and report to the Planning Board; will be meeting with the Planning Board on September 1, 2016.

Onward...Attorney Brennan touched upon the following: drainage concerns and what has been adjusted; similar to the first proposal as the water line does not need to be looped per Halifax Water Department for the proposed quadruplex style building; there is still a thirty feet setback, which is a buffer zone behind the abutters, the Algers; plan is to grade and landscape in hopes that this will satisfy the bylaw; there is a retaining wall in existence.

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Questions raised by this project is how it sits where one section of the bylaw states that each building must sit on its own land but another section of the bylaw states that a multifamily must have 10 acres. Attorney Brennan submitted this application as a sixteen acre parcel with one unit per parcel to meet the density regulations and meeting the continuance frontage on Plymouth Street. Planning Board raised it as an issue but did not seem to have a problem with the explanation as to how it lays out right now.

Landscaping would be okayed by the ZBA as a condition as it pertains to the thirty foot buffer zone, remembering there is a retaining wall with the thirty foot buffer already and needs to be address.

Drainage was a topic of discussion as there are two parts: first is the drainage that needs to be handled from the proposed project and the other is the drainage that the Algers and the bank has which is not the cause of the proposed project but the petitioner is willing to help fix the matter. It's a matter of the draft layout and capturing the runoff on the sites that go to the bank to the Algers and vice versa. The problem with the Alger's drainage is being worked on and the issues being incorporated as suggested by the survey. Mr. Gaynor wanted to know the opinion of the Planning Board on this matter. Attorney Brennan said that he did not discuss the Alger's plan with them as it would not be something that would be in the site plan. The engineer from Silva Engineering said that if this needed to be addressed, it would perhaps be with the Conservation Commission. The Board discussed and thought, should the time present itself, to list this as a condition or contingency to the petitioner to relieve the abutter's problem and not to add to it. Attorney Brennan said that is well within the criteria for the Board to list as a condition.

Chairman Gaynor addressed Mr. Alger (in the audience) asking for his opinion. Mr. Alger replied that John (Peck) said he would take care of it. The engineer has not had a moment to show Mr. Alger. Mr. Alger said he hopes this can be issued and the bank is not the issue but may have been a source of the problem. Attorney Brennan wants it known that this is not on bank property. The engineer showed the overflow to Board members to get a better understanding. Mr. Gaynor asked that Attorney Brennan show the aligning with Stop and Shop. The engineer showed the Board from the plans the entire infrastructure that would have to be moved (main utility lines and poles) and explained that a traffic engineer is to review the offset situation and what is the center line. As for emergency vehicle access, it meets the town's standards. There are many curb cuts to the land/property; it's like a free for all. Mr. Gaynor said if that's the situation, is a variance needed for the frontage. Attorney Brennan said that where the frontage is proposed is on two lots with limited ability. Mr. Gaynor asked if this development is sitting how many lots or is it just one lot. The development sits on sixteen acre lot and comprised of different ownership; it's not one lot. It will be a sixteen acre piece, not to be subdivided and that is not being proposed as a subdivision. It will be a single sixteen acre lot eventually. It will never be a private or public way but owned by the association.

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The discussion of the water looping arose briefly and the attorney explained that there is a provision in the by-law, section 167-12, specifically subsection (7)(b) where it states: “Every multifamily development, whether condominium or rental, built after 1984, shall have a hydrant system which is capable of supplying the required fire flow, plus 50%. The water main shall not be less than eight inches in diameter, and the system shall be looped with no dead ends. All hydrants shall be set at 500 feet apart within the development.” Attorney Brennan said that the Planning Board has communication from the Water Department that they are not interested in looping this project. Sprinkler & any fire prevention systems will still need to go before the Fire Chief.

The next round of questions stemmed around the request for the frontage variance. Based on the plans submitted, it appears that there are two conforming lots, one that could be used for the frontage, thus eliminating the request for a variance, which could be the sacrificial lamb. Both lots are owned by John Peck and both are commercial lots. By only needing six feet for the frontage, it would not permit that balance of the lot to be developed and could conclusively turn into non-compliant lot(s). The country club does have frontage and change the access with a better layout. But it is not conducive to an access way as it would go through the golf course.

The layout of the buildings was the next discussion. Board members wanted to see the thirty foot vegetated area, going back to the issues with the direct abutters, the Algers, as the buildings appeared close together. Attorney Brennan showed a colored layout of the design of the building and the floor plan of the two-bedroom units, having four units in each building, totaling sixteen units.

Issues arose and may be conditions, should this petition continue onward; one being Mr. Alger’s matter. As far as Chairman Gaynor is aware, the Board has not gotten any correspondences from the Planning Board regarding this project. It was suggested was to submit a letter to Planning Board, asking to be kept up-to-date on anything pertaining to the project. Attorney Brennan suggested he be allowed to close the loop on the traffic safety situation and report with the Planning Board on the upcoming next public meeting, scheduled for September 1, 2016 so that information can be available for the Zoning Board at the next public hearing continuance in September. The Board agreed that would be an acceptable course of action. Attorney inquired about the next ZBA public hearing date in September. The Board informed him that it will be the 12th of September. Attorney Brennan gave the Board the “heads up” that he will be away and will check with his client as how he would proceed.

The Board discussed the property and the Board members felt that they are very familiar with the property.

It was duly moved (R.Durgin) and seconded (P.Parcellin) to waive an on-site inspection. Voice vote passed 4-0-0.

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It was duly moved to continue Petition #847 to the next public hearing date of Monday, September 12, 2016 at 7:15pm.

Petition #849: Continuance of Public Hearing Motioned to August 22, 2016 at 7:25pm

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, August 8, 2016 at 7:25 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Stephen C. Yurewicz to request a Special Permit to raze the existing house and rebuild a twenty seven point six (27.6) feet by sixty (60) feet two-story single family house to 25 Oak Place, Halifax, MA. Said property is owned by Stephen C. Yurewicz, as shown on Assessor's Map #11, Lot 12. The applicant seeks a Special Permit for a Continuation & Extension of a Non-Conforming Use (Section 167-8A & 8C) & an Alteration to exceed 50% of the Real Market Valuation of the Structure (Section 167-8B) in accordance with the Zoning By-laws of the Town of Halifax, page 167:28. Area is zoned residential. Petition #849

Mr. Yurewicz was present to speak to his petition, along with Peter Lyons of Collins Engineering.

Mr. Lyon's addressed the Board and described the project as a raze and rebuilt of a three-bedroom house on a nonconforming lot. The existing septic will be tied in so there will be no need for any modifications. The project has already been presented to the Conservation Commission and approved as submitted. The project is quite straight forward. Mr. Gaynor asked about the location and asked about the existing topography. Upon hearing the description, it was better understood that, although this is a 3.88 acre lot, this is a retreat lot that pre-dated zoning as it's believed that the current home has been there since the year 1932 and Mr. Yurewicz has owned it for approximately ten years. Mr. Lyons said the proposed house will sit on the same location as the existing home but just wider. Mr. Yurewicz is currently residing in the home.

The Board reviewed the plans and what the applicant is in need of from a special permit standpoint. There is no request for any/all variances and the original home will be torn down. The major reason for the necessity for the special permit is the real market value after restoration.

Mr. Gaynor asked Mr. Yurewicz if he showed the proposed plans to the Building Inspector. He said he did personally and that is when the Building Inspector rendered the decision that it was a nonconforming lot.

The Board asked why he is tearing down the existing house. Mr. Yurewicz said that based on concerns about the conditions of a house built in 1932, it would cost more to restore the existing house versus building an entire new house. It will be a two story house, 3 bedroom and the septic system meets the criteria. The setbacks for the tanks and leaching meets and a relatively new system, approximately the year of 2007 and did that when he bought the house. The existing house is 1200 square feet and new home is 1600 square feet. The Board reviewed the value of the existing house.

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Chairman Gaynor believes the reason for this lot being considered nonconforming lot is that there are two frontages because it's a corner lot, so technically it is not a retreat lot. The Board appreciated understanding the reason for this special permit request.

It was duly moved (K.Nessralla) and seconded (R.Durgin) to waive an on-site inspection. Voice vote passed 5-0-0.

It was duly moved (K.Nessralla) and seconded (P.Parcellin) to grant your petition (#849) for a Special Permit to raze the existing house and rebuild a twenty seven point six (27.6) feet by sixty (60) feet two-story single family house to 25 Oak Place, Halifax, MA, as shown on Assessor's Map #11, Lot 12. The Special Permit was granted for the following: a Continuation. Alteration and Extension of Non-Conforming Uses (Sections 167-8A, 167-8B & 167-8C; page 167:28) in accordance with the Zoning By-laws of the Town of Halifax.

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.

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

1. The special permit was granted based on the presentation and plans presented at the hearing. Any changes from what was presented and approved must be brought back before the Zoning Board of Appeals.

This decision shall not take effect until:

- (a) A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerk (8/24/16) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- (b) A certified copy indicating such Registry Recording has been filed with the Board.

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

The motion to grant petition #849 passed 5-0-0.

Chairperson Gaynor and Mrs. Gaynor reprised the applicants of the procedure following approval of the petition, verbally and said the secretary will be contacting you upon her return.

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Petition #851: Continuance of Public Hearing Motioned to August 22, 2016 at 7:30pm

The Halifax Zoning Board of Appeals will hold a public hearing on Monday, August 8, 2016 at 7:30 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Phyllis & David Warren for a Special Permit to build a shed on the front of their property, located at 34 Holmes Street, Halifax, MA. Said property is owned by Phyllis & David Warren, as shown on Assessor's Map #54, Lot 1. The Special Permit requested are, as follows: a Continuation and Extension of Non-Conforming Uses (Sections 167-8A & 167-8C; page 167:28). The applicants seek Variances for the following: "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 forty three (43) feet, along with the left side set back from thirty (30) feet to six point six (6.6) 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 #851

Mr. & Mrs. Warren were present to speak to their petition.

Mrs. Warren explained that she caught an error and brought it to the attention of the Building Inspector's office regarding the left side set back as it is not a thirty feet but a ten feet set back requirement when it comes to sheds. The Office of the Building issued a memo (dated July 26, 2016) explaining the typo error.

Mr. & Mrs. Warren addressed the Board and explained that they have a small lot, consisting of 6800 square feet and in need of this proposed twelve feet by fourteen feet shed. The existing two sheds on the property will be torn down and replaced with the proposed. Their home does not have a basement and storage is challenging. The shed cannot go over the other side of the property as the septic system is located there. The existing in the deck has been there since March 2013 and parts are fixed and some parts need updating. The shed may be sitting on slab but definitely not sonar tubes per the Conservation Commission. The shed is a pre-fab shed and will match the exterior of the existing home. There will be no electricity. There is one other location where it could have been placed but an existing retaining wall makes it an unlikely location.

Chairman Gaynor said that 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 applicants would be limited to the location and the locale that it could be placed

It was duly moved (K.Nessralla) and seconded (G.Joy) to waive an on-site inspection. Voice vote passed 5-0-0.

It was duly moved (R.Durgin) and seconded (K.Nessralla) to grant your petition (#851) for a Special Permit to build a shed on the front of their property, located at 34 Holmes Street, Halifax, MA, as shown on Assessor's Map #54, Lot 1. The Special Permit granted are, as follows: a Continuation and Extension of Non-Conforming Uses (Sections 167-8A & 167-8C; page 167:28).

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The applicants seek Variances for the following: “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 forty three (43) feet, along with the left side set back from ten (10) feet to six point six (6.6) 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.

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

2. The special permit and variance were granted based on the presentation and plans presented at the hearing. **Any substantial changes** from what was presented and approved must be brought back before the Zoning Board of Appeals.

This decision shall not take effect until:

- (c) A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerk (8/24/16) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- (d) A certified copy indicating such Registry Recording has been filed with the Board.

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

The motion to grant petition #851 passed 5-0-0.

Chairperson Gaynor and Mrs. Gaynor reprised the applicants of the procedure following approval of the petition, verbally and said the secretary will be contacting you upon her return.

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Petition #850: Continuance of Public Hearing Motioned to August 22, 2016 at 7:35pm

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. Petition #850

Mr. Johnson was present to speak to his petition.

Mr. Johnson introduced himself and proceeded to the reason for his petition filing. He took a moment to remind the Board that a previous petition was granted on this property to the property Corrie Merritt with a single building design plan. Mr. Johnson is before the Board to present three separate building design plans/styles. The footprint of all three proposed building designs is a little smaller than what Mr. Merritt applied for. Mr. Johnson showed to the Board each of the three building design plans, called Building 1, Building 2 and Building 3. The purpose is to not make the buildings look apartment style but make it aesthetically pleasing.

Mr. Gaynor asked for the number of bedrooms and Mr. Johnson responded that it remains three bedroom units with a single car attached garage.

Mr. Johnson presented the Board with what he believed to be the site plan originally submitted. Mr. Gaynor asked if there was a correction to the opening of the entranceway. Mr. Johnson said that he was not part of this originally and unsure Mr. Johnson could not confirm that this was the last approved plan as he got the information from the engineering company that was on the project, Mr. Webby. There is no roadway change. In fact, all is installed except the pavement and even the pavement is ready to go in. His intention is to change nothing about the project except the façade of the buildings. Mr. Johnson explained how the three different architectural plans would be placed at the site. The distance between the buildings needs to be one hundred feet.

Mr. Parcellin asked about the waiver requested in the petition as it pertains to the bylaw section 167-7(2)(a). The submitted plan has drawn in lot lines and that should not be the case as this is not a subdivision. Mr. Gaynor asked if this was waived by the Planning Board and Mr. Johnson said that he was told to start with the Zoning Board of Appeals. Mr. Gaynor read the bylaw aloud. Mr. Johnson said that this is a private way.

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Mr. Gaynor opened up the petition to the audience.

Mr. Gordon Andrews Jr. (of 244 Elm Street, Halifax, MA) came forward to speak and read his memos aloud (-see attached, listed "Memo A").

Mr. Gaynor asked Mr. Johnson again if the Planning Board approved a sit plan. Mr. Johnson reiterated that he was not part of the original petition filing. In fact, he does not own the property, he is an interested party looking to purchase the project and in turn, would like to change the façade of the buildings.

Mr. Andrews explained that the Board must deny this as there is no frontage nor is there the thirty foot buffer zone with the abutters. Mr. Andrews did not have pictures but wanted to inform that Board that the heavy equipment has caused damage to his house from the vibrations. He has made complaints to the Board of Selectmen's regarding construction starting at 6:00am. Mr. Andrews continues to reiterate the lack of buffer and frontage for this project and must be rejected.

Mr. Gaynor said that the status with the Planning Board needs to be researched.

Mr. Johnson reiterated that he is ONLY looking to change the architectural plans from original submission.

Mr. Gaynor said that reaching out to the Planning Board and potentially Land Counsel may need to be required.

Mr. Andrews continues to make claim that the petitioner cannot meet the requirements of the special permit granted by the Board. Mr. Johnson asked what if this was presented as a retreat lot and again, this project would not meet the retreat lot criteria, nor was it ever applied for.

Mr. Gaynor informed the audience that upon further information that this petition will be continued to the next regularly scheduled public hearing date of Monday, September 12, 2016. In turn, he will have the secretary reach out to the Planning Board and Town Counsel regarding the matter.

It was duly moved (K.Nessralla) and seconded (R.Durgin) to continue petition #850 to Monday, September 12, 2016. The continuance was granted by voice vote: 5-0-0.

Petition #744: Continuance of Public Hearing Motioned to August 22, 2016 at 7:45pm

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.

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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.

Petition #744

Chairman Gaynor read aloud a letter from the Board of Selectmen, dated July 28, 2016 (-see attached-).

Chairman Gaynor proceeded to read aloud a letter from Attorney Michael P. O’Shaughnessy, representing the petitioner Jennifer (Bobbi) Choate, dated August 20, 2016 (-see attached-).

Mr. Gaynor discussed the matter with Mr. Nessralla and agreed that the issues before the Board of Selectmen’s should be resolved so there are no duplicating and/or conflicting efforts from the Zoning Board of Appeals. As the Board of Selectmen (i.e. the “BOS”) has not resolved the issues addressed to that BOS regarding her property, should this Board wait to see how it plays out. Mr. Gaynor said that he had been present for some of the public hearing/meetings, along with Mr. Joy. There were twenty five petitioners that signed a noise complaint. The abutters were the only that could speak, meaning four direct abutters. The balance of the signatures was from residents that lived further away. They discussed the amount of public hearing/meetings regarding the property of 7 Plymouth Street that the BOS have held. Mr. Joy said that it was left to Selectman Kim Roy to handle this matter. Mr. Gaynor did his best to recap the BOS public hearing/meeting he attended regarding 7 Plymouth Street and is unaware of where the BOS stand. A recap of the public hearing/meetings held by the BOS was recapped by Mrs. Gaynor.

The discussion continued as to whether the Board should let the BOS continue onward before this Board renders any type of decision, as the BOS has the noise complaints before them and this Board has the doubling of the adult dogs and litters.

It was suggested to reach out to Town Counsel to see if the Board can modify the permit due to the violations of existing permit and the lack of compliance by the petitioner, especially after the onsite on May 2, 2016.

Zoning Board of Appeals

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It was duly moved (R.Durgin) and seconded (Gerald Joy) to continue Petition #774 to the public hearing date of Monday, October 17, 2016. Voice vote passed 5-0-0.

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

Respectfully submitted,

Marion Wong-Ryan
Zoning Board of Appeals, Secretary

Robert Gaynor
Zoning Board of Appeals, Chairman
