



HALIFAX ZONING BOARD OF APPEALS

Meeting Minutes

Monday, February 13, 2017

The Halifax Zoning Board of Appeals held a public hearing on Monday, February 13, 2017 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Robert Gaynor, Kozhaya Nessralla, Peter Parcellin, Gerald Joy, 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, Correspondence, Mail

Authorized Signature for the Town Accountant: Kozhaya Nessralla appointed to sign.

Public Hearing notice from Planning Board regarding Zoning changes, February 23, 2017: members briefly discussed the zoning change.

Letter received from Deutsche Williams RE: Clawson vs. Town of Halifax/Harmon: will be stay/hold on the matter for 60 days due to the property is currently for sale. (Chairman read letter into meeting)

In-law Apartment Renewals:

Board discussed the renewal process, previously the affidavits were submitted and as long as there are no changes the renewal was granted. The petitioners were not required to appear before the Board. Mr. Parcellin did suggest that if there are changes to the existing Special Permit, then they would need to appear. It was agreed to discuss at the meetings and confirm to the petitioners by letter the renewals are granted.

Special Permit #521: Whitney-10 Old Farm Road. Mr. & Mrs. Whitney present: Everything is the same, no changes.

Motion to grant renewal: AIF Motion carries 5-0

Special Permit #181: Pratt-296 Oak Street, Mr. & Mrs. Pratt present: It was discussed that there is a different tenant in the apartment, however is a relative.

Motion to grant renewal of Petition #181 for 5 years.

Motion: P. Parcellin

Second: K. Nessralla

AIF Motion carries 5-0

Bills:

Motion to pay invoice for Plympton/Halifax Express for Petitions #861 & 862

Motion: Gerry Joy

Second: K. Nessralla

AIF

Meeting Minutes:

Motion to approve meeting minutes of December 8, 2014

Motion: K. Nessralla
Second: P. Parcellin
Abstain: G. Joy & D. Borsari

Motion to approve meeting minutes January 9, 2017

Motion: K. Nessralla
Second: G. Joy AIF

Motion to approve meeting minutes January 12, 2015

Motion: P. Parcellin
Second: K. Nessralla AIF
Abstained: G. Joy & D. Borsari

Public Hearings: 7:15 p.m.

Petition # 861 - 384 Monponsett Street, Brian and Lynn Tague (PH Notice attached)

Present: Mr. & Mrs. Tague

The deck is already existing, would like to put in 9 windows and two storm doors.

Mr. Gaynor asked if the size of the deck will be increased.

Mr. Tague stated that it will not, it will remain with the same square footage and a special permit was issued about 5-6 years ago for the deck.

There will not be anything else changing, (stairways, railings, same livable square footage on the current deck)
The Tagues stated they just want to be able to go outside without the bugs, mosquitos, birds. There will not be any heat, there are two outside lights existing. Deck flooring is pressure treated, the roof will remain, open beam.

Mr. Gaynor asked if there were any other questions, or changes to side lot lines, or encroachments. Practice of the board to view the site unless it is the pleasure of the board to waive.

Motion to waive the on-site visit.

Motion: K. Nessralla
Second: P. Parcellin AIF

Motion to accept petition #861 as presented for 384 Monponsett St.,

Motion: P. Parcellin
Second: K. Nessralla AIF motion passes 5-0-0

Petitioners were given the recording procedure.

Secretarial:

Letter received January 23, 2017 at Clerks' Office from Mr. Macauley of 590 Monponsett St. Letter of withdrawal of petition #860. Mr. Gaynor read into record.

Members briefly discussed that the Board upheld the Zoning Enforcement Officers decision and that the withdrawal was not necessary. This was to advise the Board of Mr. Macauley's intension for the property. He would like to make the property as fully commercial. Mr. Gaynor also advised if the Building

Inspector/Zoning Enforcement officer needed anything, to advise the Zoning Board and they will act accordingly.

Public Hearings: 7:30 p.m.

Petition #862 – 40 Eleventh Ave, Lauren and Brian Oliveri (PH Notice attached)

Chairman Gaynor recued himself as he is a direct abutter. Mr. Nessralla will oversee hearing.

Present: Mr. & Mrs. Oliveri: Submitted a new plot plan.

Members discussed the plan showing the existing deck and where a portion of the deck will be enclosed for a 3 season porch.

Mr. Oliveri advised that there will be new footings added. It will be a portion of the deck, with a roof extended over to the deck stairway. Mrs. Oliveri advised there will not be any heat or electricity added as there is an existing light.

The footprint will not be extended. A variance for the deck (front setback) was never established, however a building permit was issued, prior to the current owners. The denial letter was submitted without exact measurements for the front setback or side setback. A variance of 50' to 39.9' will be required.

Mr. Gaynor (abutter) asked about a variance for the garage. It was stated the petitioner did receive a special permit and variance for the garage a couple years ago. The variance was for about 13' from the front line. The deck is between the garage and house, the Building Inspector requires a variance for the deck on front side because it was never established, to get it on record and in proper order. Mrs. Oliveri stated it will remain a 3 season porch and will not be enclosed as living space.

Mr. Nessralla asked if there were any other questions, it is the practice of the board to view the site unless it is the pleasure of the board to waive.

Motion to waive an on-site visit:

Motion: P. Parcellin

Second: G. Joy

AIF motion passes 4-0

Motion to accept petition #862 as presented with a variance for the front setback from 50' to 39.9' for the pre-existing deck.

Motion: P. Parcellin

Second: G. Joy

AIF motion passes 4-0

Petitioners were given the Recording procedure.

Open discussion:

Jonathan Soroko; 31 Carver Street.

Mr. Soroko is before the Board regarding the Special Permit granted on Dec. 12, 2016 to Mr. Podgurski of 37 Carver St. for commercial vehicles to be parked on residential property.. (Home business office/studio) Mr. Soroko advised that is has not been appealing or pleasant as he had hoped. He has been compliant to adhering to the guidelines the Board has set forth. He has kept track of what the neighbor has continued to do, broken the guidelines. The idle time of the diesel trucks, (3 - 1 ton) as stated at the public hearing, was working at first and not running more than 15minutes. Soon after that they have been running over ½ to an hour at a time.

Just this past Sunday, (2/12/17) was outside backyard, tow trucks running over ½ hr. Felt nauseous after smelling diesel fumes for extensive time. As stated in by-laws that if there is any deleterious effects or noise complaints or breaking of regulations that have been set forth, they are basically not complying with the guidelines. They have multiple trucks, they are not just friends coming over, as they are staying at site. The past week or so and is not sure if he runs a plow business on side, but seems to be more trucks within the past two weeks.

Mr. Gaynor asked how many more.

Mr. Soroko stated there were five (5) on this night.

Mr. Gaynor: five trucks total or in addition?

Mr. Soroko: Five trucks, two SUV's.

Mr. Gaynor: Personal cars for whom?

Mr. Soroko: I don't know as he stated in the meeting, he stated that there are no personal cars that he uses on his property. I just kept my mouth shut because I didn't want to say something I didn't really know. I've seen personal cars staying there constantly. I have better photos on my phone, as you can see here there is a flat bed, white truck that he was talking about in the meeting that he uses but doesn't have a truck to go back and forth to his business, but yet that truck has almost a foot of snow on it, so it hasn't moved.

Mr. Nessralla: Are they parking them outback? I see the vegetated fence, I've gone by a couple times, they were parked on the other side of the ... (Mr. Nessralla was interrupted - inaudible)

Mr. Soroko spoke about the distance between his property line and where they are parking the trucks... facing his back yard. Parks two trucks parallel to the arborvitae.

Mr. Nessralla; He has five trucks over there, two SUV's?

Mr. Soroko: Two SUV's going back and forth, a tan one and a black one. Both look like GMC's.

Mr. Gaynor asked about one of the pictures. Mr. Soroko advised it is to the right of the back yard, there's a steel building, about 50 feet out from his back door. Axles are on the ground as well as tires, also there is a steel container and a landscaping trailer behind that. Mr. Soroko feels he is hiding the equipment because of what was discussed at the meeting, that if it was out of site of the street view, it is basically takes the leverage from the town, out of site out, can't really say anything about it.

Mr. Nessralla asked about the bobcat. Mr. Soroko reminded the Board that at the meeting, Mr. Podgurski said he would only need to finish his own landscaping. Mr. Parcellin also recalled that it was stated the landscaping was almost finished. Mr. Soroko also advised that tree stumps still remain in the front yard, which he (Mr. Podgurski) stated would be removed.

Mr. Soroko's main concern is the idling of the diesel trucks for lengths of times. February 11th 2 trucks were idling at midnight, along with shouting. It was asked if there has been any conversation with the neighbor. Mr. Soroko advised he has tried to talk with him, and has also sent a letter to him regarding his dog, however Mr. Podgurski is not responding in any way. He went on to say that Mr. Podgurski is not respectful of his neighbors.

It was asked if Mr. Soroko has witnessed any maintenance /repairs on the trucks. He stated he has not, however has heard banging at night, and does not know what it is, also loud talking.

Mr. Gaynor asked about containers and if they are permitted or considered permanent structures. (Secretary advised there are currently no by-laws for containers or temporary structures.

Mr. Nessralla does not believe there is anything (business) running out of the home, it was granted to allow commercial vehicles to be parked at the property.

Chairman Gaynor recommends the Board send a letter to the Building Inspector/ZEO... In regards to petition #858 it has been brought to the attention of the ZBA that there has been a possible noncompliance to the special

permit that was issued to an In-Home business located at 37 Carver St, Halifax, MA. It is requested that an inspection of the property be conducted. Where we have received a formal complaint in regards to the compliance of the conditions of the Special Permit. At your convenience please respond. Enclosed please find the updated chart from Mr. Soroko in relation to dates and non-compliant activity. Pictures of the property are also enclosed.

We do have petition that was agreed upon, we will have the BI look into it. In the meantime, keep updating chart, but it is advised in regards to noise issues, the Police Department should be notified. Possibly get some video evidence. Any record of activity will be factual. In conclusion, they discussed the fumes from the property depending on the wind pattern, Mr. Soroko and the neighbors will have it at different times.

Motion to adjourn meeting at 8:02 p.m.

Motion: K. Nessralla

Second: P. Parcellin

AIF

Respectfully submitted

Robert Gaynor
Zoning Board of Appeals, Chairman
