



# HALIFAX ZONING BOARD OF APPEALS

## Meeting Minutes

### Monday, June 12, 2017

The Halifax Zoning Board of Appeals held a public hearing on Monday, June 12, 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 Robert Durgin are in attendance. Daniel Borsari is absent.

Chairperson Gaynor calls the meeting to order at 7:00pm and reprised the audience that this public hearing/meeting is being audio taped. He also explained the procedure and the protocol at the public hearings.

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#### **Meeting Minutes:**

Motion to accept Meeting Minutes for Monday, June 8, 2015:

MOTION: Kozhaya Nessralla  
SECOND: Peter Parcellin      AIF  
Passes 5-0-0

Motion to accept Meeting Minutes for Monday, March 14, 2016:

MOTION: Gerald Joy  
SECOND: Kozhaya Nessralla      AIF  
Passes 5-0-0

Motion to accept Meeting Minutes for Monday, April 11, 2016:

MOTION: Kozhaya Nessralla  
SECOND: Gerald Joy      AIF  
Passes: 5-0-0

Motion to accept Meeting Minutes for Monday, May 2, 2016:

MOTION: Gerald Joy  
SECOND: Kozhaya Nessralla      AIF  
Passes: 5-0-0

Motion to accept Meeting Minutes for Monday, May 1, 2017:

MOTION: Kozhaya Nessralla  
SECOND: Peter Parcellin      AIF  
Passes: 5-0-0

#### **Correspondence/mail/notices:**

Chairman Gaynor reviews and discusses mail items.

In-law Permit Renewal – Petition #676 - Silke Vistner, 89 Chestnut Road, Halifax, MA. Mr. Gaynor reads the application into record. There have been no changes.

Motion to accept the application for in-law apartment at 89 Chestnut Road, Halifax, MA:

MOTION: Gerald Joy

SECOND: Kozhaya Nessralla AIF

Passes: 5-0-0

In-law Permit Renewal – Manual and Dorothy Lopes, 40 Oak Street, Halifax, MA. Mr. Gaynor reads application into record. There have been no changes.

Motion to accept the application for in-law apartment renewal at 40 Oak Street, Halifax, MA:

MOTION: Robert Durgin

SECOND:- Gerald Joy AIF

Passes: 5-0-0

Mr. Gaynor reads a letter from the Planning Board to Bertin Engineering, 64 Summit Street, into record. This letter advises the Zoning Board of an amendment to a fence.

### **Appointments:**

#### **7:10 – Petition #867 – In-law Apartment - J. Schneider, 39 Hemlock Lane, Halifax**

Present: Joseph Schneider and Margaret Schneider

Chairman Gaynor reads the May 1, 2017 Public Hearing Notice into record.

Margaret and Joseph present the new and improved plans to the Board for review. Mrs. Schneider points out the six (6)-foot openings, the mud room and the entry-way. Explains the platform in the entry-way as needed for her husband's easy entry due to his blindness. Mr. Gaynor confirms with the Schneiders that there have been no changes, they will share the utilities, there will be a new heating system (oil) for the in-law apartment. Electric and water will be shared. The square footage is okay. The Board has no further questions.

Motion to accept Petition #867 - In-law Apartment – J. Schneider, 39, Hemlock Lane, Halifax:

MOTION: Gerald Joy

SECOND: Robert Durgin AIF

Passes: 5-0-0

Mr. Gaynor explains to the Schneiders that if there are any changes, they would need to present them to the Board. The application is signed by the members of the Board. Margaret submits one large plan and two small plans.

#### **7:20 – Petition #744 – Special permit renewal - J. Choate, 7 Plymouth Street, Halifax**

Present: Jennifer Choate

Chairman Gaynor reads Ms. Choate's email to the Zoning Board into record regarding her request for a continuance of her meeting to renew her permit. She is asking for this continuance until the potential sale of her property or when there is a conclusion in her lawsuit with the Board counsel and Mr. Scott Clawson.

Mr. Gaynor voices his concern about time constraints. The Zoning Board secretary presents a letter that was sent to Ms. Choate from the ZBA dated October 17, 2017 stating Ms. Choate's responsibility to notify the abutters and advertise for the renewal of the special permit which was up for review to renew on June 8, 2017 (four days ago). Ms. Choate did not complete/supply this information. Ms. Choate does remember receiving this letter and explains she understood it as being something she would have to do to reinstate and revisit the

kennel permit that was originally in place. Mr. Gaynor asks if she were to get a continuance, would Ms. Choate have to do this again? The Zoning Secretary answers that it (getting the abutter's list and advertising) is something Ms. Choate would have to do to renew the permit as it was one of the conditions that the Zoning Board set last year. Mr. Gaynor asks if Ms. Choate until when would she like to continue with this. Ms. Choate answers that she doesn't know when. She has an offer pending on the house. In order to better understand Ms. Choate's letter, Mr. Gaynor asks Ms. Choate to clarify: if the sale goes through, she would not be renewing the permit? Ms. Choate answers that is correct, she would not renew the permit if the sale goes through. Mr. Gaynor asks Ms. Choate if the sale does not go through, she is asking to wait for the results of the lawsuit to renew the permit? Ms. Choate answers that she isn't sure, as she is in the middle of a lawsuit with land court. She is asking for a timeframe. She is back at 25 adult dogs on the property as an order via the Board of Selectman and she wants to keep that as is but would like to ask the Board to put a timeframe on renewing her permit.

Mr. Parcellin interjects saying that the permit, at this time, has expired. She would have to re-petition for a new special permit. Mr. Parcellin doesn't think the Board has the authority to continue this even if they wanted to. She would need to submit the abutter's list and advertise. Ms. Choate asks why, then, would she be put on the agenda after the expiration date? Mr. Gaynor answers that when the process began, the permit had not expired yet. Mr. Parcellin reads a portion of the letter (10/17/16) stating "as a reminder to myself I will need to begin this process at the end of April...beginning of May of 2017 at the latest to be put on the June ZBA public hearing." Ms. Choate responds that she does understand, but she is under different circumstances. Mr. Parcellin states that as far he knows, the Board does not have any authority to continue this, maybe he is wrong. ZBA Secretary adds that the only possibility she sees is to let it continue until the next meeting, to get the abutter's list out, get the advertisement out and file the petition for July for an actual vote.

Ms. Choate is happy to go back to what she committed to and understands she will need to immediately get the abutter's list and advertise, as it needs to be posted before the next meeting. The ZBA Secretary informs Ms. Choate this needs to be done by Monday (June 19, 2017). If Ms. Choate had completed this before the meeting, the Board could have voted to renew.

Mr. Gaynor states that the Board will continue "it" until the next meeting, in the meantime send a letter to Deutsche-Williams advising them of the situation and Ms. Choate's request to renew the application process, pending the sale of her property and any new development with 7 Plymouth Street. Ms. Choate will notify the Board of any changes in status and would like to request if, in fact, the expiration and renewal dates can be processed through normal procedures at the next ZBA meeting. The Board agrees. In the meantime, Mr. Gaynor advises Ms. Choate to put together everything she needs. He doesn't feel the Board can continue this indefinitely, but this will give the Board and Ms. Choate a continuation until they find out more information from Deutsch-Williams. There is no motion to continue, as Mr. Parcellin points out that there IS nothing to continue, but the Board will put her on the next agenda if she gets the abutter's list and advertisements. Ms. Choate agrees and thanks the Board.

### **7:30 - Petition #858 – J. Podgurski, 37 Carver Street, Halifax**

Present: Joseph Podgurski and David Mascio (housemate/friend); Building Inspector Robert Piccirilli

Chairman Gaynor reads a letter from the Zoning Board to Mr. Podgurski explaining that the Business Inspector, Mr. Piccirilli was requested to inspect 37 Carver Street due to an abutter's complaints that the property, zoned as residential, was being used as commercial into record. Mr. Gaynor confirms that Mr. Podgurski received Mr. Piccirilli's letter. Mr. Gaynor reads Mr. Piccirilli's response with his findings into record. Mr. Piccirilli feels that 37 Carver Street is in violation of the special permit that the Zoning Board approved.

Mr. Gaynor: What are we going to do? Have you spoken to the Building inspector?

Mr. Podgurski: Yes, briefly before the meeting. The vehicle for sale has been sold. The boat is a personal thing that you can have on any property. When the permit was written, it was said that there could be three commercial vehicles registered to my personal business, which there are. There was one other one that was louder than the others and he thought that it would be an issue, so I sold it. In the February meeting minutes there were complaints that I was hiding equipment behind my property, which is a motorcycle trailer which has nothing to do with business. The skid steer and excavator are no longer on the property, they were there only for renovations done to the property.

Mr. Gaynor: The front-end loader, backhoe and skid steer?

Mr. Podgurski: There was never a backhoe, sir. There was a mini excavator, a skid steer and a loader. The loader was there to remove the large pile of stumps that was talked about the last time I was here, which was completed this spring. The loader was also used for applying a whole new gravel driveway and is no longer on site. The excavator is there to do some digging in the front yard, there was a field that was overgrown when I bought the property. I removed all of the stumps there and ended up putting in a large garden. I also used it to construct a stone wall. I have a photo album that you can go through and see the pictures of the property from the last time we spoke and the current pictures. You can kind of see where we've gone since then. I have done a large amount of work this Spring, I was out of work on an injury so I've been trying to really get a lot of things done and get the property the way I would like it.

(The Board views the photo album presented.)

Mr. Podgurski (referring to photo album): You can see last year from the street view, the loader and the pile of stumps there. Below you can see that the stumps are gone, you can see the garden is now put in place. I haven't done it yet but next weekend I plan on grassing in that whole other area in front of the house so it matches, so it looks good. There was just equipment going through there. In the next one you can see that it's kind of overgrown in the front, I'm trying to trim that out. I'm actually going to bring in loam and try to make that whole front hill match into the yard. On the other page you can see how we've done the whole side yard, I've done woodchips along the side of the property. I've cleaned up all of the woods on my property, removed all of the undergrowth and put in woodchips and tried to make it look good. On the next picture you can see the large vegetated area between my property and the abutter's property. There are other pictures following of where the stumps have been removed. In the next picture is a current street view from the abutter's side. As you can see it's overgrown and not able to be seen through to my property. On the next one you can see I've been re-doing that part of the yard, too. I've just had bad luck every time I put loam there, it washes out but I think I got it this time. And in the final photo, you can see that this Spring we built a stone wall with a raised front yard. I also used a loader to bring in material for that and graded it off. The excavator and skid steer were used for that also.

Mr. Gaynor (referring to photo album): The trucks here in this picture...?

Mr. Podgurski: Those trucks are currently...all the vehicles on the property that stay there are parked in the back right corner of the property. I have the three vehicles that are registered to my company.

Mr. Gaynor (referring to photo in album): These three here? Plus this trailer?

Mr. Podgurski: Yes, those three there. Dave lives with me and drives a service truck also for a different company and he has a personal vehicle.

Mr. Gaynor opens discussion up to the members of the Board.

Mr. Joy: What are the hours of operation because we've had complaints about diesel running...

Mr. Podgurski: I've been keeping it running less than 15 minutes, well besides equipment, obviously. The hours I start working on the property, you mean?

Mr. Joy: When you start up in the morning, and you start your vehicles what time do you start them up—

Mr. Podgurski: What time do I go to work? I am in the service industry, I work 24 hours a day whenever I can. But my average start time is around 6am when I leave with one vehicle myself.

Mr. Joy: And how long do you run the vehicles for?

Mr. Podgurski: Less than 15 minutes.

Mr. Joy: And that's consistently?

Mr. Podgurski: Yes.

Mr. Gaynor (to Mr. Mascio): How about you? What time do you leave in the morning and are you warming up diesel engines also?

Mr. Mascio: I generally leave anywhere from – excuse me, about 24 hours a day. We both have different jobs. I work all over New England so I leave 2, 3, 1am.

Mr. Gaynor: So you have one business vehicle and one personal?

Mr. Mascio: I have a company vehicle, it is owned by the company I work for. It is commercial however it's not labeled or lettered. We did park all the vehicles so they would be less seen from the street view, alongside the right rear property line so that you can't see them. We try to keep them consistent, always park in the same spot so it's fluent and kind of forgot. There's no intention for any type of over-idling time. Fuel's expensive, it comes off the top every time. We understand the diesel fumes are not pleasant, I'm around them 24 hours a day sometimes when I'm working and we are not trying to intentionally harm anybody or cause any infliction at all.

Mr. Gaynor: What about these trailers, are they permanent trailers? You mentioned one about the motorcycle one and storage trailers out there. How many are there, first of all?

Mr. Podgurski: Currently I have one trailer that I use for landscaping. It's enclosed and you can see it in that picture. It's parked in the far back of the property, I only use it maybe once a week. The other trailer you're speaking of is actually, like a storage container that I use for, like, a shed. I kinda collect car parts and motorcycle parts and anything interesting and it's full.

Mr. Mascio: There was a white trailer that belonged to me. It was on the property and I have taken that out as well because I have no need for that anymore. So that is now gone so, again, you have my two vehicles, his vehicles and whatever else he has for the business.

Mr. Nessralla: Whatever construction you're doing to the property is already done?

Mr. Podgurski: For the most part, right now. I have to do more work to the back grass.

Mr. Nessralla: You're going to put in a new lawn?

Mr. Podgurski: Yes, I'm going to wait until the fall, it's already too hot for that. I'm also hoping to pave the driveway, probably won't happen until next spring. As far as construction for the rest of this year I'm pretty much...done.

Mr. Gaynor: so there are no construction parts, tires, anything abandoned along the property lines—

Mr. Mascio: If I may, I have small children that live with me part-time, part with their mother. I wouldn't be there if there was. I don't want a place that is unsafe for my kids.

Mr. Gaynor: So all of that stuff has been removed for the most part?

Mr. Podgurski: The only thing on the edge of my container are some chairs...party stuff.

Mr. Mascio: And one spare tire for your car.

Mr. Gaynor (to the Board): Any other questions?

Mr. Parcellin: I'm thinking back to when we first talked about this, which was a while ago. If I remember correctly, you guys were saying that sometimes you bring the trucks home because you come straight home. Are they there every day? Are they parked there permanently? I remember you guys saying the business is somewhere else, this isn't the business.

Mr. Podgurski: Yes, yes. The shop that I work out of is in Canton.

Mr. Parcellin: The impression that I got was that they were somewhere else but occasionally they were going to be there. If it's every morning at 5, 6am that might be...

Mr. Podgurski: I drive a commercial service truck for work every day, no matter if I'm working for my father's company or if I'm working for myself. Either way I'm driving a commercial truck, whether it be, like we talked

about last time, under a one-ton sized vehicle. Could be a one-ton dump truck that I have or it could be a small F350 service truck.

Mr. Mascio: There are no differences in those trucks then a personal pickup truck somebody would buy off a lot, it's the same thing. The fumes, the smell, the noise is the same from a similar year truck that somebody owns whether it's commercial or private.

Mr. Podgurski: It is the same truck.

Mr. Gaynor (to the Board): Anybody else have any questions?

Mr. Mascio: I have a question, if you don't mind.

Mr. Gaynor: Hold on one second. Mr. Piccirilli, you've been out there for a while. What's your feeling?

Mr. Piccirilli: I have been out the last couple of days. It does look nicer, the heavy equipment is gone. I have a question – you said you are running a 24-hour business out of your home?

Mr. Podgurski: No. We all work in the service industry.

Mr. Piccirilli: A service industry. And this gentleman lives with you and he also works in a separate service industry?

Mr. Podgurski: Yes.

Mr. Piccirilli: So that's two businesses we're talking about? They're unrelated?

Mr. Podgurski: Yes, completely unrelated, yes. He works for a mechanic, I work as a welder and I also do landscaping.

Mr. Piccirilli: I wanted to clarify.

Mr. Gaynor: But if I understand this correctly, these businesses are not located on Carvery Street, they're elsewhere and these trucks are trucks they take home, they're take-home vehicles. (To Mr. Piccirilli) Is that your impression?

Mr. Piccirilli: If that's the impression you got the first time.

Mr. Gaynor: That's what was stated with the application.

Mr. Piccirilli: What I'm hearing now is...I don't know, it's a 24-hour, on-call. That's not take the truck home, leave it, get up the next day. That's saying "well we can come in and out whenever we want because that's our business."

Mr. Podgurski (to Mr. Piccirilli): Okay and do you have your own property? You can't leave whenever you want?

Mr. Piccirilli: I'm posing a question to the Board just like you were talking, that's all I'm saying. He asked me for some input, I'm giving him some input so they can make a determination. They have the right under Subsection D11A that they can vary at the discretion of the Zoning Board of Appeals the home business professional office studio, but they have to take into consideration that it's not a business property. And it specifically says there should not be any effect on a neighborhood in terms of noise, fumes, vibration, glare or admissions. If this is bothering people in a non-commercial atmosphere than that is a problem. How we address the problem I'm not saying, whether you're allowed to do it or not. I'm just saying it's been a problem, is it going to continue to be a problem? I don't know if there were stipulations put on the special permit as to separate entities coming in at 24 hours, are there stipulations on operating time frames? I don't know. These are things I'm asking the Board, putting in my input. Obviously I've gotten complaints that I have to address and when I drove by, in my letter, it states what I saw.

Mr. Gaynor: Okay, but the property itself has been cleaned up anyway.

Mr. Piccirilli: It looks like it's been cleaned up, the heavy equipment is gone. Are they going to have three vehicles, are they going to adhere to that, is it still going to be a complaint with the neighbor, trucks leaving at 2am? I don't know. That's in the future.

Mr. Gaynor: I don't know how the other Board members feel but what it's not going to turn into is an annex of the company you're working for. In other words, you're based in Canton and that's where you go to work – and I'm addressing you (to Podgurski) because you're the property owner – and no different if you have somebody living with you that's also bringing a truck home, commuting back and forth to work, that's

altogether different than running an annex business out of Carver Street to coincide with the business that's in Canton.

Mr. Podgurski: I understand what you're saying.

Mr. Gaynor: And while you're doing that, you cannot be detrimental to the character of the neighborhood. And if having that business, you know, reporting from the property at Carver Street, is causing problems in the neighborhood, we're going to have to address that. We're going to have to resolve that.

Mr. Podgurski: The business is not reporting from the property. It's basically me leaving the property to go to work. I also do use the business vehicles to do work on the property on the weekends and after work sometimes, but that's really what I'm doing. I'm leaving the property to go to work.

Mr. Parcellin: I think, for me, that seems totally reasonable. I get it. What it's also doing is having an effect on your neighbors, the people who are affected by it. What we are supposed to do is try and set you guys up so you guys can succeed and allow them to enjoy the property that they purchased. I understand what you're saying, but it also seems like that activity early in the morning, sometimes prior to sun-up, is causing an issue in a residential neighborhood which is against what the by-law says. That's what we're getting at.

Mr. Gaynor: Let me ask you (Podgurski) this - aside from removing and not allowing the trucks to be there, what would you come up with for suggestions to appease your neighbors?

Mr. Podgurski: The easiest thing would be to not park the vehicle I'm using (to leave for work) at the far back of the property, which is next to the abutter's house. That's probably the reason for his complaint, but he also caused his own complaint by bringing me to the Board meeting and having me get a special permit which said that I had to have any commercial vehicle out of sight of the property. So, the problem was kind of created by the permit so abiding by the permit is also not helping my cause because the most out of sight place on the property is the far back right corner which is right next to the abutter's house.

Mr. Gaynor: So if you didn't come get the permit, none of the neighbors would be complaining about what's going on over there?

Mr. Podgurski: I think there would be less complaints because any vehicle that I have is directly next to the abutter's house per the permit that I have to follow.

Mr. Piccirilli: But what you're doing is specifically not allowed without a special permit, that's the whole reason for coming to get a special permit.

Mr. Podgurski: Correct, no I know, I understand that.

Mr. Piccirilli: But what you're saying is that the special permit has caused you problems.

Mr. Mascio: Caused him problems.

Mr. Piccirilli: Caused who problems?

Mr. Mascio: The abutter.

Mr. Piccirilli: No, there were problems before.

Mr. Podgurski: It seems that no matter what I've done on the property there has been a problem.

Mr. Piccirilli: It's been a problem because you're not adhering to the residential character of the neighborhood. It's a residential neighborhood.

Mr. Podgurski: I understand that. When I bought the property, it was in absolute disrepair and I've done a massive amount of work to it with the vehicles and equipment that I brought there.

Mr. Piccirilli: Nobody has brought that into question. Nobody has brought the status of the house on the property into question - the problem is you live in a residential neighborhood that has specific rules. You came to the Board, they saw your plight, they said 'This is a business guy. He's trying to come home and park some trucks.' They agreed with you, they were good enough to give you a special permit but yet the problem continues. If you just came home and parked three vehicles and there was no issue of noise, or fumes or anything, there would be no problem. You'd be parking three vehicles.

Mr. Gaynor: Do you see where bringing your vehicle home and doing work at the property, after hours and on the weekends is totally beyond the scope of a residential property? You're doing commercial business on a

residential area. You just got through saying that not even ten minutes ago. You bring work home, you work on it at night and sometimes you work on it during the weekends.

Mr. Podgurski: No, no, no. You misunderstood me. I use my vehicles and my equipment to work on my property at night and on the weekends. I do not bring any of my work home.

Mr. Gaynor: Oh, I did misunderstand you then.

Mr. Podgurski: Everything we work on would not fit on my property. We work on very large equipment. No, nothing I work on goes home. I come home with a business vehicle.

Mr. Nessralla: So, you're using your business vehicle for transportation?

Mr. Podgurski: Yes because we also do field work.

Mr. Nessralla: I understand that but you're bringing your vehicle home as transportation?

Mr. Podgurski: Yes.

Mr. Nessralla: And that's it?

Mr. Podgurski: Yes, I don't even own a personal vehicle right now.

Mr. Nessralla: Can you park it somewhere else on the property? Far away from the neighbor?

Mr. Podgurski: Yes.

Mr. Nessralla: Is there any way you could, instead of on the right-hand side, you can park it on the left-hand side to eliminate the noise?

Mr. Podgurski: Yes.

Mr. Nessralla: You gotta be neighborly.

Mr. Podgurski: Yes, absolutely. I completely agree.

Mr. Mascio: We weren't looking for any turmoil out of this. I'm here as support for this and also to make things right with the abutter. I'm not here to dispute with anybody other than, I've been to the town meetings, I understand what Town of Halifax is representing. The last town meeting I went to, one of the things that was brought up was a lot of the dilapidated properties in Halifax – do you guys remember hearing this?

Mr. Gaynor: Yes. It wasn't just the – you keep referring to “and abutter” -- he's not the only abutter. There were other abutters that were complaining about the noise, the fumes and whatnot. To just to dump it on one person isn't fair, either.

Mr. Mascio: I read the transcript from February and it only had one person there that was complaining with a formal complaint.

Mr. Nessralla: So all of the construction that you've done on this property is all done? Other than putting a new lawn in?

Mr. Podgurski: Yes.

Mr. Nessralla: And you don't need to bring in any heavy equipment in like the skid steer or anything like that for anything else?

Mr. Podgurski: Not really, no.

Mr. Mascio: Like he said in the fall he was going to do the backyard.

Mr. Podgurski: I plan on doing the backyard. I kinda want to remove all the rest of the stumps from that small field in front of the house so I can get a natural lawn there.

Mr. Nessralla: And when you do that can you notify your abutter that you're going to be there doing that and be neighborly and that's it?

Mr. Podgurski: Absolutely. Not a problem.

Mr. Nessralla: And you're bringing your truck home as a vehicle of transportation to your house?

Mr. Podgurski: Yes.

Mr. Nessralla: And in the morning you're taking it out and going to your work site?

Mr. Podgurski: Yes.

Mr. Nessralla: You're not doing any work on the property?

Mr. Podgurski: No.



Mr. Nessralla: And if Mr. Piccirilli goes in next week or two weeks from now he's going to find you just bringing that truck home and taking it out of there in the morning?

Mr. Podgurski: Mmhmm.

Mr. Gaynor: The other things that you mentioned that were included in the letter about the boat and the other car are permanently gone and are not going to be replaced?

Mr. Podgurski: The boat is still there.

Mr. Gaynor: Oh, I had thought you said the boat was sold.

Mr. Mascio (to Mr. Piccirilli): You saw where the boat was, right? It's down by—

Mr. Gaynor: Sir! Please.

Mr. Podgurski: I still have the boat. There was a white truck that was a personal vehicle that is gone and won't be replaced.

Mr. Gaynor: And the front-end loader and...?

Mr. Podgurski: I only need that to work on the property if I decide to do the driveway next spring, I would use it for that. Other than that...

Mr. Gaynor: And other than that it's going to stay there, it's yours or it's somebody else's...or it's going to go?

Mr. Podgurski: It's already gone. I don't need it there. I used it to remove the stumps and do the driveway. That was it's purpose.

Mr. Gaynor: Okay. Any other equipment that was made mention of that you went through before?

Mr. Podgurski: Yes. There's a skid steer and an excavator that I had there that won't return until I do more work on the property which wouldn't be probably until fall.

Mr. Gaynor: And there is no backhoe?

Mr. Podgurski: I don't have a backhoe.

Mr. Piccirilli: And there's a front-loader, small loader.

Mr. Podgurski: There was just a skid-steer, excavator and the loader.

Mr. Piccirilli: There were three pieces of equipment.

Mr. Podgurski: Yes. Yes.

Mr. Piccirilli: And when you come in to do your grass or whatever, I'm assuming it would be done in two or three days, a week, it's not going to sit there for months at a time?

Mr. Podgurski: No.

Mr. Piccirilli: I think the thing is, from my concern, you were granted a special permit. We just need to make sure you adhere to that special permit.

Mr. Podgurski: That's what I'm trying to do.

Mr. Gaynor: Are you good with that, Rob?

Mr. Piccirilli: If the Board is okay with it and nobody else wants to speak, but they know that if there's an issue and you come back before the Board, you'll have to do whatever the Board decides.

Mr. Gaynor: Okay. Thank you.

Mr. Podgurski: Thank you.

Mr. Soroko (direct abutter): I'm a direct abutter, 31 Carver Street. It's not any kind of surprise. My name is Jonathan Soroko. If you look in the by-laws right now, home office is two commercial trucks. You guys granted three. I'm okay with having three trucks. Last thing I want to do is limit someone from making money because these guys have all the right to live there, they have all the right to be part of Halifax. I wanted to try and make it work because I'm trying to be a good neighbor. We're all trying to be neighborly on Carver Street within Halifax. The one thing that I kinda want to put out there is that normally speaking in a neighborhood is neighbors try and resolve things. I tried to do it the nice way, the owners have my number. I told them to give me a call on another issue. Never gave me a call, don't know if they still have my number. Seems like the gentleman over here, Dave, has approached me, very nice gentleman. Had a nice conversation with him while I was out in the backyard. Then he also approached one of my neighbors across the street. Both have addressed the fact that there have been fumes. The trucks are backed up, tail pipe close to my property line

which is right on my backyard. I pay my property tax in order to enjoy my yard, have family out there and the last thing I want to do is smell diesel or hearing a truck idle for 15 minutes...within a maximum of 15 minutes. I have a regular car, I don't have a diesel truck. I'd love a truck but I can't afford the gas for it. My question is why does it have to be a 15-minute idle time for a diesel truck? I know friends that have a diesel truck, 5 minutes in and out, done. I know in the winter time it may take a little bit more to warm up a little bit, but why does it have to be so long for a normal truck to run that long? That's what I'm concerned about because it was set forth by you guys, the Board, I just want to wrap it all around. If it's 15 minutes, and it needs to take 15 minutes the last thing I want to do is ruin the truck because that's an investment. The other thing is, if they do move it out of the way, out of sight with the tail pipe against my property maybe it's not going to go into my yard as much. But I want to be able to enjoy, have family and friends over to enjoy my backyard and it's just not a pleasant experience. Especially with some of the containers and tires back there. I can't have kids back there. I know Dave says he has his kids but I won't bring my own relatives way back in my own backyard. I just want that to be on record.

Mr. Mascio: What do you mean by—

Mr. Gaynor: Hey, hold on. Every question and everything goes through the Board. Dave, why don't you have a seat.

Mr. Mascio: Okay.

Mr. Gaynor: Thank you. (To Mr. Podgurski) Would you like to address that? Do you think that's being unreasonable? You said yourself that you might be able to move the truck someplace.

Mr. Podgurski: Absolutely. Moving the vehicle that I'm going to be operating the next day? Absolutely not an issue. I believe, it's kind of an odd thing, but there's a couple of spare tires that I have and we talked about the chairs that are leaning against the container that are over his property line on my property and I'm not really sure how they would be an issue to anybody. I can move them, that's not a problem. I just don't really understand why that would be an issue to anybody but I can absolutely move them.

Mr. Joy: Do your trucks need to run 15 minutes?

Mr. Podgurski: Recently? No. in the summertime? No. And I don't let them run for 15 minutes in the summertime, there's no need for it. In the colder weather, yes. Older diesel vehicles do take longer to warm up. That's just the nature of the vehicle. But I'm not waiting for my truck to sit there and run for no reason. Day like today, start it up in two minutes, I'm gone.

Mr. Gaynor: What's the pleasure of the Board? Do you think the petition itself is where he—definitely shown where he has cleaned up and done a lot of the improvements. Definitely all of the equipment and the machines have been taken off of the property. It looks great. I don't mind telling you, it does look so much better than it did before and it's well appreciated. And I'm sure your other neighbors too, that maybe weren't on the minutes of that particular meeting but were here and expressed their opinions about that property prior or after that, anyway. So I ask what is the pleasure of the Board? Do we need to revisit the petition or do we take the petitioner's word that compliance will continue in the near future and hopefully and let me ask—yes, Rob?

Mr. Piccirilli: Just to reiterate because I don't know whether we want the trucks that were parked up against the fence— they're not going to be trucked up against the property line anymore?

Mr. Podgurski: I'm not going to leave them there when I'm not using them but I would say the issue would be with the idling of the vehicle that whatever vehicle I'm going to use the next morning I'm going to put on the other side of the property out of the way...

Mr. Piccirilli: I think the biggest problem is the fumes from the trucks and the noise from the trucks. If we could move those trucks so that they're further away I think that some of that angst and concern would go away also.

Mr. Gaynor: Is that being unreasonable, Joe?

Mr. Podgurski: No, no, absolutely not. I don't think it'd be an issue to park personal vehicles there like a boat, cars, stuff like that?

Mr. Gaynor: Something non-diesel I shouldn't think would be a problem. (To Mr. Soroko) Sir, would that be eliminating 9/10<sup>th</sup>s of the problem, moving the diesels over to the other side of the property?

Mr. Soroko: Yeah, we can always give it a shot. I'm always willing to work with a neighbor. I just wish that one thing is if we can work something out, if we can just talk to each other, walk over and say hello because, like I said, I've only talked to Dave. I think if we are able to talk with each other and work it out to become neighborly so we can resolve these small disputes so they don't have to be brought in front of everybody, I think that would be a better option.

Mr. Gaynor: I agree. (To Mr. Podgurski) How about you?

Mr. Podgurski: Absolutely.

Mr. Soroko: I'm willing to let bygones be bygones but I would really wish that it's a residential community, it needs to follow the residential bylaws even though they have a special permit, it's granting them something that they're technically not allowed to have on a residential property on a plot of land. I think that something like this needs to be tread very carefully.

Mr. Piccirilli (to Mr. Podgurski): Just one more comment from me. You need to realize that a special permit is giving you permission but it's also an enforcement. It can be taken away.

Mr. Podgurski: Yes, I understand that.

Mr. Gaynor: Alright why don't we try that. Moving the trucks over... Joe, do you need this in writing?

Mr. Podgurski: I don't think so, not a problem.

Mr. Parcellin: They have to come back in December to renew.

Mr. Gaynor: Alright, let's do that in the meantime.

Mr. Podgurski: Okay.

Mr. Podgurski's father, the owner: If you move the trucks back to where they were originally parked, they will be in view of the street.

Mr. Gaynor: I thought you were just moving them away from the property line, still in the back.

Mr. Podgurski: Okay, I can do that. I was talking about the far extreme of the other side of the property. The only real area to do that is the front of the house which would be visible from the street.

Mr. Joy: Talk with your neighbors. If you park them on spot and it's detrimental to someone else, work it out.

Mr. Gaynor: Rob, would that be a problem being visible from the street like that?

Mr. Piccirilli: If it was a stipulation you put in that it's not visible from the street. The only other option is if you've got to idle your trucks, start them up, move them from the property line and idle them in your driveway. Whatever's going to work.

Mr. Podgurski: Okay. Right, we can discuss that

Mr. Soroko: I've been on that property since the previous owner has been there. Granted, they did have regular cars and whatnot. They did have three cars on their property, no big deal. They literally parked them right directly in the driveway. So your left side driver's door was facing their entranceway on the side of the house. Then they parked them side-by-side, one right behind. Nothing's ever been done. That's why I'm stating that, if it's not parked right up against the property line with the tailpipes, I don't think, I'm going to use that word lightly, I don't *think* it's going to cause any kind of issue. But the over-idling time would definitely do that because the wind carries it.

Mr. Gaynor: Okay, Joe, it does say, as Peter brought up, the vehicles under 167(7)D-11 A-H the vehicles are not to be visible from the street according to that particular section. But again, moving them to the other side or moving them—

Mr. Podgurski: Moving them is not an issue at all. I had some of them parked on the side and other ones I had in the front before because I didn't have a reason to put them all in one area to block them from visibility.

Mr. Gaynor: And we understand, too, you've got things moving around, things are improving on the property and whatnot. But just keep in mind that we are revisiting things in December so let's hope that everything is all resolved by then. And in the meantime, as long as the building inspector knows that you're going to conform to the requirements, let's try that. Unless somebody else wants to—

Mr. Podgurski: So I just want to clarify. If I were to put some of the vehicles on the farther side of the property and they were visible from the street, that would be okay for the time being to try to work with that and keep them away from—

Mr. Piccirilli: Is there lettering on any of the trucks?

Mr. Podgurski: Three of them, yes.

Mr. Piccirilli: They all have lettering on them?

Mr. Podgurski: Yes.

Mr. Piccirilli: Advertising what sort of business you have?

Mr. Podgurski: My three do, yes. Just has the name of the company and phone number on them.

Mr. Piccirilli: Okay I'm just going to say business trucks with advertising on them. I wouldn't be as concerned if they had no lettering on them but...

Mr. Podgurski: If you'd like to look where I'm talking about. (Referring to photos in album)

Discussion with photos of where the trucks could be moved. Behind this wall of trees, this is a whole parking area. Approximately 200 feet away from the property line.

Mr. Gaynor: There's no room behind the house to the opposite side?

Mr. Podgurski: There's a whole septic system there in the backyard.

Mr. Gaynor: The septic system wouldn't take the weight of the cars and trucks, I would imagine.

Mr. Podgurski: No. (To Mr. Piccirilli) I'm talking about where we put in that line of trees. I know they're still small.

Mr. Piccirilli: You're not going to stack them one, two, three so you're not going to see all three from the road?

Mr. Podgurski: No, you can put them in one line. It's wide enough to put all three of them there all the way to the back, other side of the property.

Mr. Piccirilli: If that's the only place to put them, if it takes them off of the property line then...

Mr. Gaynor: Let's try that. We'll revisit the permit come December and see where it goes from there. Hopefully it will satisfy him, the other neighbors and the building inspector.

Mr. Podgurski: Absolutely.

Mr. Mascio: I apologize for blurting out in the middle of the meeting. I did reach out to Mr. Soroko because I don't want to have any troubles with this at all. I came to help, that's why I'm here.

Mr. Gaynor: Thank you very much. Appreciate it.

## **Discussion**

Present: Gordon C. Andrews

Chairman Gaynor greets Mr. Andrews. Mr. Gaynor reads into record the request letter from Mr. Andrews to Building Inspector regarding enforcement of Zoning issues and Building Inspector's response letter of refusal.

Mr. Gaynor: Gordon, why don't you bring us up to date on this. What are we doing here?

Mr. Andrews: So, the special permit that you guys gave Petition #823 which requires the lots to be subdivided, that's the what the proposed plan shows, that has not been recorded yet. So that's what I'm bringing forth. The plan that you guys approved has not been recorded. So I don't know how you can get the building permit...

Mr. Gaynor: And you (Mr. Piccirilli) sent the letter off on May 24<sup>th</sup> 2017?

Mr. Piccirilli: Yes, I did.

Mr. Gaynor: Okay, Rob what are we doing? What's your take?

Mr. Piccirilli: I was given a letter to deny some permits and I believe you have my response.

Mr. Gaynor reads Mr. Piccirilli's letter of response to Mr. Andrews' request to enforce zoning laws into record.

Mr. Gaynor: So the building permit has been issued under the decision rendered under the Board of Appeals. And you're saying it has not been issued?

Mr. Andrews: So I have hired an attorney and I will be filing an official appeal tomorrow on both of these things. I don't know how deep you want to get into it but basically they presented you a plan that showed individual lots, they don't have individual lots yet. They presented a plan that shows Amanda's Way as a road, Amanda's Way has not been approved as a road so there's no frontage there. They don't have any frontage, the road doesn't exist. They presented you a plan, and if they meet that plan, there's nothing for me to appeal. But what they have hasn't met that plan yet so that's why tomorrow I'll be appealing the building permits.

Mr. Piccirilli: The plan was recorded.

Mr. Gaynor: That was my next question.

Mr. Andrews: The plan has not been recorded as a subdivision. A site plan has been recorded.

Mr. Piccirilli: The definition of a lot under our bylaws is an area of land in one ownership—

Mr. Andrews: But that plan that shows the individual lots that you guys gave the special permit because that's a requirement? They had to have individual lots with continuous frontage. That doesn't exist.

Mr. Nessralla: But they have the frontage, they met the frontage.

Mr. Adnrews: No.

Mr. Nessralla: Okay the Zoning Board approved the plan. Two years ago, yes?

Mr. Andrews: Yup.

Mr. Nessralla: Why didn't you file it then?

Mr. Andrews: Because there's nothing for me to appeal.

Mr. Nessralla: What are you appealing now?

Mr. Andrews: I'll be appealing the building permits.

Mr. Nessralla: On what grounds are you appealing the building permits? Can you tell me that?

Mr. Andrews: Under the zoning bylaws. That there's no frontage and the lots don't exist.

Mr. Nessralla: But the Building Inspector just quoted you what's going on.

Mr. Andrews: I've hired an attorney and he can speak at the next meeting and tell you guys what I'm appealing...

Mr. Gaynor: So basically you're just informing us that you're taking action on the appeal even though the appeal period has expired.

Mr. Piccirilli: I've made my decision. He can file his appeal and we can discuss it then.

Mr. Nessralla: But our decision was made two years ago.

Mr. Andrews: I'm not appealing the special permit. I'm appealing the building permits.

Mr. Nessralla: Have any foundations been poured?

Mr. Andrews: I don't know. But that's not my problem if they poured and they went ahead and didn't wait the 30 days.

Mr. Nessralla: And you want the town to fight this?

Mr. Andrews: I'm fighting this, yes.

Mr. Nessralla: You're fighting this personally?

Mr. Andrews: Yes. I hired an attorney.

Mr. Piccirilli: He's appealing my issuance of the building permits.

Mr. Gaynor: How many building permits, Rob?

Mr. Piccirilli: He's been issued two buildings.

Mr. Gaynor: And what has been conducted on the property?

Mr. Piccirilli: The road is in and he's got two foundations in.

Mr. Gaynor: Okay.

Mr. Nessralla: And the man can go and build them?

Mr. Piccirilli: He has permits from me, he can continue.

Mr. Nessralla: He can continue. Until he gets stopped by the court.

Mr. Piccirilli: If the court chooses to stop him, sure. But the court would have to find him—

Mr. Gaynor: Again, that would be a civil matter at this point, correct?

Mr. Parcellin: Are they within the special permit two years, when they applied for the building permits?

Mr. Andrews: The building permits were applied for in November of last year (2016) and they weren't granted until May of this year so it's not like I'm dragging my feet on appealing the building permits. If the special permit was met there would be nothing for me to appeal.

Mr. Piccirilli: How is it not met?

Mr. Andrews: They don't have continuous frontage. Each one of those lots has to have continuous frontage.

Mr. Piccirilli: Based on what?

Mr. Andrews: Based on the special permit.

Mr. Nessralla: That's not our fight.

Mr. Andrews: I don't understand. Each one of those lots—

Mr. Nessralla: I'm just saying, the building inspector issued the permit. You want to fight the building inspector's decision.

Mr. Andrews: Yes, so I have to bring that to you.

Mr. Nessralla: For what reason?

Mr. Andrews: Because you hear the appeals.

Mr. Piccirilli (to Mr. Nessralla): You're hearing the appeals. So it comes to you.

Mr. Nessralla: That's fine, no problem. Two years gone by and he issued the permit in May. I mean...

Mr. Andrews: What I'm saying is he presented you guys a plan.

Mr. Nessrsalla: The Planning Board agreed with the plan. The Zoning Board agreed with the plan.

Mr. Piccirilli: You've been notified, he's going to appeal. I would leave it at that.

Mr. Gaynor: I was just going to say (to Mr. Andrews) you haven't appealed any decision from the Zoning Board, it's just an informational letter that you're sending us, making us aware of what's going on.

Mr. Piccirilli: So there will be an appeal coming before you.

Mr. Gaynor: Okay. Until then there's really nothing for the Board itself to act on until such date that such an application comes before us.

Mr. Andrews: It showed up as discussion on the meeting that's why I came tonight.

Mr. Gaynor: Okay.

**Adjourn:**

Motion to adjourn meeting.

MOTION: Kozhaya Nessralla

SECOND: Gerald Joy

AIF

Passes: 5-0-0

It was unanimously voted to adjourn the meeting at 8:19 p.m.

Respectfully submitted,

Robert Gaynor

Chairman, Zoning Board of Appeals