



HALIFAX ZONING BOARD OF APPEALS

Meeting Minutes

Monday, February 11, 2019

The Halifax Zoning Board of Appeals held a public hearing on Monday, February 11, 2019 in Meeting Room #1 of the Town Hall with the following Board members in attendance: Chairman: Robert Gaynor, Co-Chairman: Kozhaya Nessralla, Clerk: Peter Parcellin, Member: Robert Durgin and Associate Member: Daniel Borsari. Member: Gerald Joy is absent.

Chairman Gaynor calls the meeting to order at 7:10pm and reprises the audience that this public hearing/meeting is being audio taped. He also explains the procedure and the protocol at the public hearings.

Meeting Minutes:

Motion to accept the Meeting Minutes from Monday, January 14, 2019:

MOTION: Robert Durgin
SECOND: Peter Parcellin AIF
Passes: 3-0-0*

*Dan Borsari and Kozhaya Nessralla were not present at 1/14/19 meeting.

Appointment:

7:05pm – Petition #886 – Thao, Mai and Hiep Pham, 395 Plymouth St - Special Permit to continue, alter and extend the existing apartment from a four-dwelling use to a six-dwelling use

Present: Mai Pham (owner/applicant) and Quat Tran (spokesperson); Charlie Seelig (Town Administrator); Rob Piccirilli (Building Inspector)

Chairman reads the 1/14/2019 Public Hearing Notice into record. Mr. Piccirilli shares that Mr. Pham came in and spoke with him after the last Zoning Board meeting. Mr. Piccirilli feels there is some confusion as to what needs to be done at the property. Mr. Piccirilli explains that to meet the building code, going from a four-dwelling to a six-dwelling unit, the size of the building exceeding 35,000 cubic feet requires a registered design professional to be involved. Originally there was an architect and now there is not. An architect is a necessity to move forward with the building permit process. To this day, nothing has been done to the building.

Mr. Pham confirms that nothing has changed with the property since last month's meeting.

Mr. Seelig explains that without an architect he doubts anything has been incorporated into the plans that have been presented for this Petition at this time. His recommendation is the Board approve it tonight with the Building Inspector's stipulations but also place time frames. For example, have an architect working on this plan within 30 days and submit a plan to the Building Inspector for approval by a certain date. The reason for this suggestion is that the town would like to continue to work with the applicants on this, however the Phams have been given much time and nothing has changed. If the applicant does not meet those deadlines, the Zoning Enforcement Officer (Mr. Piccirilli) will have to enforce the building and zoning codes with penalties.

Mr. Gaynor asks Mr. Seelig if the decision can be worded to say, "if these stipulations are not met by their deadlines, the special permit will become null and void." Mr. Seelig responds that the Board can talk to Land Use counsel to find out if it's legally possible to take away a permit due to a violation of its stipulations. Revoking a permit would take away legal property rights which he would need to talk to Town Counsel about.

Mr. Piccirilli reminds the Board that the Phams currently have a special permit for a four-family multi-family. Mr. Piccirilli is looking for the Zoning portion to be taken care of because they don't have a six-family multi-family permit. The Building code end of it will happen one way or the other as it applies to either the four or six-family.

Mr. Nessralla feels that there is confusion due to the language barrier. Mr. Piccirilli responds that an architect would help with this situation.

Mr. Pham requests an extension so that they may get an architect.

Mr. Parcellin states that nothing has changed on this property since the applicants applied the first time. From his perspective, six units are currently not being occupied. Mr. Piccirilli reminds the Board of his inspection in November 2018 with the Fire Chief. The second floor has more building code issues than the four occupied units on the first floor such as numerous water infiltration and more. Mr. Piccirilli and Chief Viveiros' main concern during this inspection was to make sure the four occupied units had basic life-safety requirements: They have two egresses and smoke detectors and carbon monoxide detectors. With that being said, Mr. Piccirilli and Chief Viveiros are concerned with how the detriment of the top two units effect the four occupied units. The top two units do not have proper means of egress, it's too narrow, they don't have two means of egress, the house has water infiltration coming in which can cause structural issues, wiring issues and cause a problem for the current inhabitants of the four downstairs units. Mr. Piccirilli confirms that the second floor is one proposal and the main structure (house) is another - two floors with multiple issues.

Mr. Gaynor asks Mr. Piccirilli if it's possible to bring the property, in its current condition, to code. Mr. Piccirilli answers that anything is possible depending on the scope of the work and the amount of money the applicant has. It can be done but may be a major undertaking.

Mr. Parcellin, again, states that not only have the lots not been merged but there hasn't been any growth since the applicant originally applied on 4/24/18. Mr. Gaynor asks Mr. Piccirilli about the pool house at the time of his inspection with the Fire Chief. Mr. Piccirilli explains that during inspection it appeared to be empty. There was a mattress on the floor, an old television and canned goods in the kitchen. It was not completely emptied out and cleaned. Mr. Gaynor asks about the chicken coop/barn. Mr. Piccirilli answers that the barn was deemed unsafe by both himself and the Fire Chief. There's a partial roof collapse, a lot of rot inside with water infiltration. The applicants were issued a letter from the Building Inspector informing them that this structure was deemed unsafe and had the choice of tearing the structure down or bringing it up to code.

Mr. Gaynor asks Mr. Pham if there are plans to take down the building in the back as he reminds Mr. Pham that he said it would be taken down within a year. Mr. Pham answers that they need money to do these things. Mr. Gaynor explains to Mr. Pham that in order for the Board to vote on this, there will need to be a specific time frame required as much time has passed. Mr. Pham answers that he would like a date for these issues to be completed.

Mr. Parcellin confirms with Mr. Piccirilli that if the Board doesn't approve the six units, which the Phams don't have the lot for as it stands, they would still need to meet the building code requirements as the four remaining, occupied units will need to be kept safe. Mr. Parcellin asks Mr. Pham/Mr. Tran if anything has been done to the property in the last year. Mr. Pham answers no.

Mr. Gaynor reminds Mr. Pham of the discussion at the last meeting regarding the lot line repositioning and registration and asks if this has been done. Mr. Pham doesn't know and answers that he would need to check.

Mr. Borsari feels it is time to do something whether it's fines...if this were his responsibility and he was unsure of what was being discussed, he would make certain he would find out. There has been plenty of time to act. He is sympathetic to the fact that the Phams bought it, thinking it was a six-unit building, and if they can make it safe he would be okay with that, but to do nothing for the four tenants that live there is not right. Mr. Borsari feels the Phams are only misunderstanding what the repercussions will be. Mr. Piccirilli responds that if the four units are brought up to code, it would be his suggestion that these four units not be occupied until they are made safe.

Mr. Nessralla suggests giving another 30-day extension to get the architect. Mr. Piccirilli responds that initially there was an architect who drew some plans. The architect felt that the building exceeded 35,000 cubic feet and would require a registered design professional. They did not get any further with what's there and how they would remedy what's there.

Mr. Durgin feels that quite a bit of time has passed, and they have done very little. At this time, he would not be in favor of approving a special permit. Mr. Piccirilli doesn't think the applicants understand that they need to wait for the special permit to do the work and get the architect. He tells the applicants that if an architect is involved, the work can only be done by a licensed contractor. The Phams understand and know that they cannot do the work themselves.

This property was brought to the Building Inspector's attention because Mr. Piccirilli saw there was work being done at the property. The Board of Health had some issues with the pool and found out that some people were illegally living in the pool cabana and it snowballed from there.

Mr. Gaynor feels that the Board has two choices: The Board can approve the special permit for six (6) units with specific terms with time limits to get an architect, meet the building codes in 90 days, raise the barn/chicken coop and require a licensed contractor to be hired for the work to meet code. The other choice is to deny the permit, wait for the applicants to bring the four (4) occupied units up to code and reapply after two years for the six (6) units or the Board can waive that time frame, according to the law (read by Mr. Seelig). Mr. Piccirilli responds that the only question is whether the applicants can meet or want to argue all the stipulations.

Mr. Piccirilli states that he cannot start the building process for six (6) units without approval from the Board. His choice is to make the four units safe now and for the future or tell the applicants they need to vacate.

The Board agrees to give the applicants an extension with the following stipulations:

Stipulations Required for Continuance:

- 1. An architect needs to be hired and meet with the Building Inspector**
- 2. Licensed contractor under agreement**
- 3. Proposal to correct lot lines and submitted to Registry of Deeds**
- 4. Steps taken and completed by April meeting to meet Building code requirements**
- 5. Date for chicken coop to be raised (must get a demolition permit)**

A copy of these requirements was given to applicant by the secretary.

The Board agrees that they would like the Phams to attend the March 11, 2019 meeting for an update on the progress of the (above) stipulations. Mr. Seelig informs Mr. Pham that they will need to get an architect and strongly advises him to get an interpreter to help them understand what needs to be done.

Associate Member Dan Borsari signed a certified statement that he reviewed the 12/11/18 and 1/14/19 Meeting Minutes as he was absent.

Motion to continue Petition #886 to March 11, 2019 with presented stipulations:

MOTION: Robert Durgin

SECOND: Peter Parcellin AIF

Voice Vote: Kozhaya Nessralla – Yes; Peter Parcellin – Yes; Robert Durgin – Yes;
Dan Borsari – No; Robert Gaynor - Yes

Passes: 4-1-0

Mr. Seelig and Mr. Piccirilli leave the meeting.

Appointment:

7:15pm – Petition #888 – Shanon Walsh – 20 Fourth Ave, Special Permit and Variance to raise and rebuild home

Present: Shanon Walsh (owner/applicant), Kevin Tonsberg (contractor); Steve Kotowski (Webby Engineering)

Chairman Gaynor reads the Public Hearing Notice into record. Mr. Kotowski presents the petition. He informs the Board that the applicant wishes to raise the existing dwelling (it has not been raised yet) and build a new single-family house. It is a pre-existing, non-conforming lot and there are only 19,200 square feet, about half of what is required in this district. There is already a single-family dwelling and the applicant is proposing to replace with a new single-family dwelling. They are 55 feet from 3rd Ave, 55 feet from 4th Ave and 31 feet from side-yard property line because the front pitch comes in off of 4th Ave. Driveway comes in off of 4th Ave. Technically, they have three frontages. They must be 50 feet from all three streets and the best they can squeeze it in is to be 48.42 feet where they are pushing the house back, centering more on the lot rather than favoring where it might be too close to one of the abutters or too close to one of the streets. The square footage of the existing house is 600 square feet, which is about 3% lot coverage. The proposed house with decks is going to be 1,565 square feet which is only 8% lot coverage. Mr. Kotowski confirms that there were eight (8) lots combined onto one deed long before this. There are absolutely no plans for a subdivision. Mr. Kotowski provides plans of the old Bonney Estates to the Board for review.

The Board reviews photos of the current home and property submitted by Mr. Tonsberg. Mr. Kotowski confirms there will be a full basement – seven feet down, about two feet higher than the water table.

The Board agrees that the size, shape and location of the lot meets the requirements of a hardship, the position of the house is the best it can be given the area available, the project will not be detrimental to the established character of the neighborhood and it will not derogate from the intent of the bylaw.

There are no stipulations.

Motion to waive the on-site inspection for Petition #888:

MOTION: Peter Parcellin

SECOND: Dan Borsari AIF

Passes: 5-0-0

Motion to accept Petition #888 as presented:

MOTION: Peter Parcellin

SECOND: Robert Durgin AIF

Voice Vote: Robert Gaynor – Yes; Kozhaya Nessralla – Yes; Peter Parcellin – Yes;
Robert Durgin – Yes; Dan Borsari - Yes

Passes: 5-0-0

The Board signs the Decision Form.

Bills:

The Board signs all bills.

1. Plympton-Halifax Express, Petition #888 Advertisement = \$84.00
2. W.B. Mason, Office Supplies = \$107.58

Correspondence:

Chairman Gaynor and the Board review and read into record all mail items.

- Memo from the Planning Board dated 1/15/19 regarding the Mudfest Site Plan Review
- Memo response from the Building Commissioner to Board of Selectmen dated 1/16/19 regarding Twin Lakes Liquor & Convenience
- Memo from the Planning Board dated regarding Dunkin Donuts withdrawal of their Special Permit application for Petition #884

- Memo from the Planning Board dated 2/8/19 regarding Form A Distribution on Fuller Street

Other Business/Discussion:

- Conflict of Interest form is signed by Associate Member Dan Borsari and returned to Secretary.

Adjourn:

Motion to adjourn meeting:

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

It was unanimously voted to adjourn the meeting at 8:25 p.m.

Documents:

1. Agenda – 2/11/2019
2. Meeting Minutes – 1/14/2019
3. Public Hearing Notice – Petition #886
4. Application packet – Petition #877
5. Application packet – Petition #886
6. Zoning Board’s Stipulation Requirements for 30-day Continuance – Petition #886
7. Dan Borsari’s signed certified statement of 12/11/18 and 1/14/19 Meeting Minute reviews
8. Application packet – Petition #888
9. Public Hearing Notice – Petition #888
10. Decision Form – Petition #888
11. Memo from the Planning Board dated 1/15/19 regarding the Mudfest Site Plan Review
12. Memo response from the Building Commissioner to Board of Selectmen dated 1/16/19 regarding Twin Lakes Liquor & Convenience
13. Memo from the Planning Board dated regarding Dunkin Donuts withdrawal of their Special Permit application for Petition #884
14. Memo from the Planning Board dated 2/8/19 regarding Form A Distribution on Fuller Street
15. Invoice – Plympton – Halifax Express advertisement for Petition #888
16. Invoice – W.B. Mason – Office Supplies
17. Signed Revolving Bill Schedule – Petition #888
18. Signed Expense Bill Schedule
19. Signed Conflict of Interest form for Dan Borsari

Respectfully submitted,

Date: 4/8/19

Arlanna Snow
 Zoning Board of Appeals Secretary

[Signature]
D. Borsari
[Signature]
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