



Halifax Planning Board Meeting Minutes November 21, 2019

Official

A meeting of the Halifax Planning Board was held on Thursday, November 21, 2019 at 6:30 p.m. at the Halifax Town Hall, Meeting Room #1, 499 Plymouth Street, Halifax, Mass.

Members Present: Gordon R. Andrews, Chairman; Mark Millias, Amy Troup and Karlis Skulte

The meeting was called into session at 6:35 p.m.

M/Troup, S/Millias to accept agenda with all in favor.

6:30 p.m. - Public Hearing - Walmart, Site Plan Approval

Present: Seth Chates, Boston Representative for Walmart Halifax

Chates goes over what is requested which was discussed the last time. Requesting to remove six (6) parking spots and transform to a total of 13 parking spots dedicated for online grocery pickup. Crosswalk from store to parking spots. Two directional signs to direct traffic around and away from general parking (pointed out on plan). Sign will direct people to pick-up. Increased lighting on building. No removal of handicap parking spaces. Andrews would like this site plan referenced with the original site plan.

M/Troup, S/Skulte to accept site plan review submitted 10/10/19 for the pickup area and reduction in parking spaces with all in favor.

6:45 p.m. - Interview - David Mascio for Planning Board membership

Mascio lives at 16 10th Ave, Halifax. Gives his background and reasons why he'd like to be a member of the Planning Board. Halifax resident for four (4) years. Seeks fair government. Will help instruct fellow residents to follow bylaw and keep in character with town. Would like his children to have a refreshing area to live, not over-crowded without a city feel. Active member in the town and helping the town to succeed. Heavy equipment mechanic by trade. His job requires travel but mostly at the beginning of the week. Is generally home for meetings.

7:00 p.m. - Interview - Timothy Fabroski for Planning Board membership

Fabroski does not show.

7:15 p.m. - Pasture Lane - Tina Kenyon (Farm View Estates)

Present: Tina Kenyon

Andrews informs Kenyon of his discussion with landowner Mark Comeau who expressed consideration of turning land over to town. Andrews will inform Town Counsel Larry Mayo, who is currently reviewing file with plan to inform Board of next step, of his conversation with Comeau. Kenyon informs Board she spoke to Counsel as well as she's a real estate agent and was informed that Mr. Comeau is involved in a suit with another town for the same reason. If Comeau turns land over to town it would need to go to Town meeting in May 2020. Andrews recommends that Kenyon be updated with an email/phone call and she will attend the 12/19/19 meeting.

Troup reads letter to Brian Adduci (Soep Painting - warehouse space rental) into record. Letter was signed. Motion to send this letter was made at last meeting, per Andrews.

Meeting Minutes are discussed. Secretary working on them, will be caught up by next meeting. Skulte adds that he felt the minutes were accurate and has no revisions. Troup's revisions will be updated. Agenda posting timeline is discussed. Andrews requests to review and approve the agenda before it gets posted. Will check his email on Tuesday mornings to

review and approve. Board discusses making plans digital and uploading to a separate page on the town site. IT department would need to address.

7:30 p.m. - Public Hearing - Amanda's Estates - Site Plan

Present: The Party Trust - Amanda Monti and Ed Johnson (applicants); Attorney Adam Brodsky (represents the Party Trust); Gordon C. Andrews (abutter); Engineer Joe Webby

Andrews recuses himself. Skulte becomes acting Chairman. Brodsky updates the Board on the project, most recently that the ZBA denied (needed super majority, only received majority) the modification of special permit to accept the plan with no lot lines. Brodsky explains the new request to seek site plan approval with modification showing four (4) individual lots with 150 feet of continuous frontage on Amanda's Way which is already constructed and previously approved as a private way. There are 12 units. Existing units remain the same. Lots 1 and 2 will each have two (2) units and the eight (8) unconstructed units have been shifted and connected so there will be four (4) units on Lot 2 and four (4) units on Lot 4. Same density. Distance between buildings meet setback requirements according to multifamily Bylaw. Aquifer Protection issue will be determined by Building Inspector if necessary and they will have to get special permit from Planning if he makes that determination. Septic has already been approved by Board of Health.

Webby walks through grading, stormwater and septic from beginning as requested by Skulte. Each unit has to have its own septic tanks.

Brodsky informs Board they will meet with Assessor regarding the changes made to the lots to see how it should be handled. This is all owned by one entity. Way parcel is not buildable. Planning Board has not approved private ways, per Skulte. Brodsky states that per Town Counsel, Amanda's Way has been approved as a private way and does not require subdivision control (Kwesell's response to question #4 in KP Law memo dated 11/20/19 attached to 11/20/19 email to secretary and Town Admin). Suggestion by Skulte to Webby to allow for more frontage for Lots 1 and 4 by changing the lines on the Way. Webby agrees that this can be done. Brodsky would like to get back to the judge on this, talks about timeframe.

According to abutter Andrews adds that the town and the developer call Amanda's Way a driveway. Adds that former town attorney Hucksam's opinion was the Way and frontage on the Way had to be created through subdivision control. Current town attorney Kwesell states this has been a private way all along. Lot defined in Bylaws as one thing with no different definition for multifamily development. Only way to create a private way is to lay out road before subdivision control when into effect. Brodsky disagrees and states Zoning counsel, Attorney Saillant's position in Land Court suit aligns with Brodsky's. Millias states that subdivision control doesn't fall under multifamily development. Brodsky states their position is they do not need lots or subdivision control and they're entirely consistent with multifamily development. The Party Trust faces bankruptcy and needs to move this project forward. Per abutter Andrews, the Party Trust was advised before by Hucksam and Kremer to halt building and at that time Brodsky responded that it was a business decision for his client to move forward with building. Andrews states that Amanda's Way doesn't exist and hasn't been approved. Millias states to avoid any confusion that the roadway was approved by Planning and Zoning Board and applicant has satisfied every Board. Troup references the Zoning Board's denial of modified special permit to waive lot lines on 11/4/19. Brodsky believes the ZBA was struggling with 150 feet of frontage which is why the site plan has been redesigned/modified. Brodsky adds building continued to make buildings weather tight. Work has been halted for 1.5 years. A copy of Town Counsel Kwesell's memo dated 11/20/19 is requested by abutter Andrews. Skulte reads memo into record.

Septic is discussed. Brodsky states that if the applicant needs additional authorization from Board of Health regarding disposal systems, they will get it however the design doesn't show any issues, and this was previously approved by BOH. Millias states this is a piece of land defined by meets and bounds that is on a plan which defines a lot according to Bylaws. Aquifer protection is discussed. It is stated that this project is in Zone 2. Millias adds that as a Board they should agree that this plan does not require subdivision control. Troup disagrees. Troup states Planning and Zoning Board cannot grant waivers if it is detrimental to public good. She reads from Bylaw regarding waivers. Skulte feels they need

to review plans and applications and make sure they meet requirements of Zoning code regardless of personal feelings. Skulte states Town Counsel's opinion that Amanda's Way is a private way. Troup points out Subdivision Control Section 235-21B(7) which identifies street classifications which are prohibited unless they meet public street standards. Skulte doesn't know if private streets and private ways are same. Webby confirms Amanda's Way was inspected and approved as a private way. Andrews (recused PB Chairman) adds that this private way is illusory, and they are creating frontage that's not there.

Millias feels Town Counsel clarified that Amanda's Way exists as a private way that was permitted and approved. Skulte agrees and feels it meets the needs of potential residents but struggles with what makes this a private way vs. a driveway. Millias responds that it will be maintained and owned by the condo association. Skulte doesn't feel that makes something a private way. Private ways and frontage are further discussed with conflicting opinions between the Board, Brodsky and abutter Andrews. Brodsky reads from Planning Board's decision letter/approval of Amanda's Way as a private way in 2014. Brodsky explains why he feels frontage requirement does not apply here referencing Judge Vey and 167-12 and reminds the Board of the modified site plan submitted to meet to requirements. Millias feels none of these modifications have to do with frontage and everyone in town has seen the proposal and the way things were built and were/are satisfied. Skulte appreciates the lots being created meet the frontage requirement. Troup reads from Bylaw (does not reference chapter/section) regarding frontage and dimensional requirements. On Elm Street the frontage is around 70 feet, per Brodsky. Brodsky and Troup argue over the interpretation of multifamily development frontage requirements and whether there should be a requested variance, which Troup believes is necessary.

Resident Jo-Ann Andrews expresses her opinion that the town of Halifax requires 150 feet of frontage for single-family homes and doesn't understand why this will change for this project. Skulte feels the Bylaws are poorly written and makes things challenging. He adds the Board needs to decide what is in their purview. Millias responds that the modifications are minimal - and doesn't believe there are any impacts. Modifications do not impact anything that made them approve it in the first place. Abutter Andrews states this site plan was submitted yesterday (11/20/19). Brodsky states they do not need to re-start this process. Abutter Andrews responds the other Boards have not had a chance to review this modified site plan. Brodsky adds they are not changing layout, no changes to traffic, fire safety/public safety issues. Same number of units, same number of vehicles, no line of site changes. Skulte asks about sprinkler requirements with 4 units. Webby responds there is plenty of water pressure and no problems - 8-inch water main which is for any standard subdivision. Abutter Andrews requests the Board determine if this is a substantial change on site plan and, if so, would ask this to be reviewed by all other boards. Millias doesn't understand how they can decide what is important to Zoning. Abutter Andrews requests time for his counsel to review this modified site plan.

The definitions of frontage and street are read into record and discussed. Requirements for multifamily developments are read by Skulte and deliberations on whether this project has met these requirements is discussed. Abutter Andrews states there is not a 30-foot buffer around the project. There is a 30-foot buffer around Abutter Andrews' property. Millias adds that other abutters were present when this was approved and fine with the buffer. Abutter Andrews disagrees. Webby points out hydrants - there are three (3).

Abutter Andrews believes the town has done a complete flip of opinion regarding Amanda's Way being a private way vs. a driveway. He requests the Board holds off with an extension of two weeks to give his attorney an opportunity to review this most recent modified plan submission by the Party Trust.

It is confirmed there is an extension to 12/23/19. Skulte states his concerns about the project. Brodsky explains to Skulte that un-appealed, prior approvals cannot be revisited, and those permits cannot be taken away; the current proposed changes can be denied but original decisions made six (6) years ago cannot be changed. Millias agrees. Skulte would like clarification on the Planning Board's purview etc. from Town Counsel. Troup would like further opinion from Town Counsel and her opinion is that the Board has all the information they need. Skulte would like further feedback on two (2) issues: if this project requires 150 feet of frontage and if any other issues (i.e. buffer requirements, clustering buildings, lot line modifications) would be in the purview of the Board. Millias supports Skulte needing counsel's further clarification, however, is fine with the modification being presented.

Dates are discussed for next public hearing for Amanda's Estates. Monday, December 2, 2019 at 6:30 p.m. is confirmed.

Skulte reiterates to Secretary Snow two questions for Town Counsel - Clarification on how a private way gets created and how do they determine something is a private way. Provide Town Counsel with submitted plans 11/20/19.

M/Millias, S/Skulte to continue public hearing for Amanda's Estate to December 2, 2019 at 6:30 p.m. with two (2) members (Millias and Skulte) approved, one (1) member, (Troup) abstained.

M/Millias, S/Skulte to reopen regular meeting with three (3) members (Millias, Skulte and Troup) approved.

Chairman Andrews rejoins the table.

M/Troup, S/Skulte to adjourn with all in favor.

Respectfully submitted,

Gordon Andrews, Chairman

Date Approved: 1/16/20







