



Halifax Planning Board Meeting Minutes April 16, 2020

Official

A meeting of the Halifax Planning Board was held on Thursday, April 16, 2020 via Zoom (hosted by Town Administrator Charlie Seelig at the Halifax Town Hall, 499 Plymouth Street, Halifax, MA).

Members Present: Gordon R. Andrews, Amy Troup, Ashley DiSesa and Karlis Skulte. Mark Millias is absent.

The meeting was called into session at 6:30pm.

Andrews opens the meeting and Troup reads the agenda into record.

Motion to accept agenda: Troup Second: DiSesa All in favor

Appointment

6:30pm - Adam Mitchell - Site Plan Review - 894 Plymouth Street

Mr. Mitchell requested that his appointment be canceled as he no longer is interested in this property.

Appointment

6:45pm - Stephen Campbell - Form A - 35 Thompson Street

Campbell is the owner of the property and is present via Zoom and presents his project. This property is a little over five (5) acres with a home built on the property. He would like to subdivide the land and make Lot 2 a Form A lot. Campbell confirms that there is well over 186 feet of frontage and the wetlands are delineated. The Board reviews the plans. The firewood station is situated on the property line. When asked about septic, Campbell responds that he spoke with engineer who said there is no issue.

Motion to endorse Form A for 35 Thompson Street, Lot 2 from Assessor's Map #116 Lot #4, Book 49301, Page 191:

Troup Second: DiSesa All in favor

Campbell will have engineer bring in mylar so it can be signed and recorded.

Discussion

Country Club Estates 40B - to be added to next agenda as Andrews states it is premature to discuss. Seelig informs the Board that the clock is essentially "frozen" until May 4th on this project for the ZBA due to State of Emergency/pandemic and both the applicant and ZBA agreed to hold the hearing on May 6, 2020 although this may be bumped again to June.

Discussion

Zoning Bylaw 167-22 and Zoning Board Decision Petition #915 Amanda's Estates and any other caselaw that may come up

Andrews recuses himself at 6:56pm and Skulte takes over as Chairman for this discussion. Troup states that the Selectmen decided at their meeting on 3/24/2020 that the Planning Board cannot ask for advice from Counsel on this item. Skulte asks if there is a reason why. Seelig informs the Board that the Selectmen decide if the Town will get involved in a lawsuit. Seelig states that the Planning Board asked to appeal the ZBA's decision on Petition #915 under 167-22 depending on Attorney Mayo's advice on whether the Planning Board has standing to appeal under 167-22. Seelig informs the Planning Board that the Board of Selectmen denied this request. Troup asks Seelig if the Selectmen gave a reason for this decision and only wants to hear what the Selectmen decided and why, not what Seelig's reasoning is. Seelig advises the Board to speak with the Selectmen. Seelig is unsure if the meeting minutes for this Selectmen's meeting in question have been completed yet. Troup states that she feels Selectman Tom Millias should have recused himself as this is a site plan for a multi-family and Troup states Millias owns a multifamily in the town and has recused

himself in the past for this reason. Skulte tells Troup that if she feels there is a violation, there are avenues to pursue. Troup responds that she tried to get this item on the Selectmen's agenda for April 14th and there was a non-meeting vote by two selectmen who decided not to allow this on the agenda with no reasoning. Troup adds no reasoning, no grievance and somebody should have recused themselves as well as an open meeting law violation as the Selectmen should have posted a meeting to vote on this. Skulte asks if there are other avenues outside of the town that one could take if they feel someone has acted improperly to pursue a grievance. Troup responds in the affirmative and that it's in process. DiSesa would like to see the Selectmen's minutes for 3/24/20. Troup would like to write a letter to the Selectmen for a meeting to ask them what their reasoning was behind the denial. Skulte would like to review the minutes first in case an explanation has already been explained before writing a letter. The Board reviews the Selectmen's meeting minutes for 3/24/2020 and discuss. DiSesa states that she feels the minutes don't give a valid reason why the Selectmen denied the Planning Board's request to consult with Attorney Mayo. Troup agrees and states that she thinks the Board should vote to get on the Selectmen's next agenda and appeal the Selectmen's decision. Skulte asks Seelig if he has any input as to who makes the decision to allow an item to be added to another Board's agenda to which Seelig recuses himself from answering. The Board discusses their options further.

Motion to request the Planning Board be put on the Board of Selectmen's agenda to discuss the Board of Selectmen's vote to deny the Planning Board to seek Attorney Mayo's advice regarding the Planning Board's grounds to appeal a Zoning Board of Appeals' decision (Petition #915 in connection with Zoning Bylaw 167-22): Troup
Second: DiSesa All in favor

Gordon Andrews re-joins the meeting at 7:27pm.

Discussion

Zoning Bylaw Changes. The Board reviews and discusses Attorney Kwesell's draft of Proposed Zoning Bylaw for Multifamily. Regarding Section D(8), Skulte wonders how one defines what the frontage is if there's no requirement on a paper right-of-way. Andrews responds that it's an internal drive. Skulte wonders where one would measure the frontage - along the curb-line, along the back of sidewalk, five (5) feet beyond the back of sidewalk? The Board would like to ask Attorney Kwesell this question. Skulte asks if there is a distinction if one does a multifamily building as opposed to a multifamily development. The Board refers to definition section. Skulte feels definition of Multifamily Development should include a provision if someone wants to do a single building with four units, or if one wanted to do three, single-family dwellings they could apply under the multifamily criteria as well. The Board would like to inquire about the lack of this provision for the possibility that an applicant might want to build one building that has three or four units. The proposed changes do not appear to allow for a single three-family or four-family structure be part of a multifamily development. The Board would like to consider adding the allowance of one multifamily structure. The Board would like to address the following concerns and questions regarding the proposed multifamily bylaw:

1. How does one define the lot line for calculating frontage to ensure that it is done consistently?
2. Ensuring that a single, multifamily building is included also as a multifamily development as something subject to the same standard. ("Is a single, multifamily building included also as a multifamily development as something subject to the same standard?")
3. Would it be beneficial to include multiple single-family buildings on a single lot for a multifamily development?

The Board reviews the FEMA/flood plain proposed changes to the Zoning bylaw. Troup reads these changes into record. Seelig has requested a waiver in case there is no Town Meeting before July 22, 2020 due to the pandemic as this is the only way a Zoning bylaw can be changed—at Town Meeting. FEMA is not issuing a blanket waiver at this time.

Zoning Bylaw change requested by Robert Maker to amend 167-7: Schedule of Use Regulations regarding Marijuana Establishments is read and discussed. It is noted that this was passed over in the fall of 2019.

Alan Dias' comments (included in an email from Charlie dated 4/13/2020) are read into record by Troup:
<<Hi folks,
Alan Dias provided the following comments:

The propose language seems to be what we discussed, I have two comments though;

(1) under (B) paragraph (5) remove Title 5 and use the CMR which is 310 CMR 15:000 which is the official name of the regulation. My argument is we in the septic field referenced the pre -1978 Code as Chapter 11, prior to 1995 we referenced it as the 1978 Code, since 1995 it's been Title 5, any major overhaul of the Code *could* change it's referenced name,

(2) This was not discussed but under (C) (1) existing public way,(D) (2) and (D) (5) these projects are only allowed on public ways, they should be allowed on public ways and "ways determined to be adequate by the Planning Board ".

The Planning Board now has the Statutory authority to have private ways improved, that or not under subdivision control.

The Town currently has 52.7 miles of accepted road and 7.6 miles of unaccepted road, It appears that some of the accepted road are paved,(2.03 miles). Any future developments could get these roads improved at no expense to the Town, not necessarily accepted.

Those are my comments.

Thanks

Alan Dias>>

Andrews clarifies that Dias, in comment (1), is referencing that the bylaw calls out Title 5 and if another change is made it might be called Title 6 and then the Bylaw wouldn't be referencing that item but CMR 310:15 is what it all comes under so the change would be made there. Town Administrator Seelig further clarifies this all has to do with multifamily and the reference to Title 5. Seelig adds Alan is recommending changing the reference to the CMR reference which has been incorporated into the version of the Bylaws the Board was shown today. Andrews and Skulte discuss if the wording is correct there with regard to the miles of accepted and unaccepted roads paved. Charlie adds that the Board of Selectmen saw this last night and felt that there was enough discussion that needed to occur for any change like that and they did not add that to the bylaw submitted to the Board today. Skulte thinks that in Dias' comment "ways determined to be adequate by the Planning Board" it is included in the language where it says it doesn't need to be a public way so Skulte thinks there is enough flexibility there. Troup adds that maybe it should be in the bylaw that the Planning Board must make sure that the internal driveway meets standards, that it would be less confusing. Andrews states that it's already incorporated in there that it's left up to the Planning Board to bring it to that standard. He adds this all refers to the statutory authority of the Planning Board; if there's a private way in town of which someone wants to build a house on, under the authority of the Planning Board that road can be made to be brought up to a higher standard before that person can do that. If Planning determines if that roadway is not adequate, that's under the state statute. Skulte asks if that has any relation to anything. Andrews states "We talked about being on a public way. I don't think we are going back to change it to do it off of a private way, that was the whole intent, that it needs to come off of a public way." Skulte adds that that is a given. Andrews adds "if you put one of these in, you cannot do an extension off of that internal driveway." Skulte confirms "not for future subdivision work." Andrews responds, "correct." Skulte suggests "if you wanted to do another multifamily development tacked onto the back and make it all part of a single lot, maybe you could do something like that? I don't know." Andrews responds that is something to be discussed at the hearing, but one cannot use that and incorporate something else off of it later, which is the whole basis of the bylaw being put together. Skulte states "you can't do that for the purpose of creating frontage." Andrews responds "right."

Andrews states that he had a couple of calls this week. First, from a gentleman that wants to build a lot on Pine Street North. The bank asked if he was on a public or private way and asked if he had the frontage to build over there. Andrews advised him to come to the Planning Board to find out if he has adequate access. Pine Street North is not where it belongs, it goes over private property and the Planning Board has never signed the plan to show where it is. The Town records should be corrected as it is in the wrong place and it shows on the maps wrong. Second, Scott Burgess called Andrews. Burgess is in the process of redrawing plans for Hilda Lane Estates. He requested a preliminary Planning Board meeting to get the Board's opinion on his new plan. The Board agrees that an additional Zoom meeting works either April 23rd or April 30th. This will be determined.

Correspondence

The Board requests that all mail be scanned and sent to the Board via email.

Meeting Minutes:

The Board would like to hold off on approval of Meeting Minutes at this time, as Skulte does not have access to his emailed copies.

Adjourn:

Motion to adjourn: Skulte Second: DiSesa All in favor

Respectfully submitted,

Gordon R. Andrews, Chairman

Date Approved: 5/21/20



