



# Halifax Zoning Board of Appeals Meeting Minutes Monday, October 4, 2021

The Halifax Zoning Board of Appeals held a public meeting/hearing on Monday, October 4, 2021 in the Great Hall of Halifax Town Hall, 499 Plymouth Street, Halifax, MA with all Board members in attendance: Chairman - Kozhaya Nessler, Clerk - Peter Parcellin, Members - Gerald Joy, Robert Durgin, Tina Kenyon and Alternate Member - Dan Borsari.

Chairman Nessler calls the meeting to order at 7:01pm.

## **APPOINTMENT**

**7:00pm – (Continued) – Petition #949 – Daniel Harding, 46 Paradise Lane – Special Permit and Variance for addition to existing house**

*Applicant Daniel Harding is present.*

Parcellin reads the Public Hearing Notice into record. The Board discusses their findings at the on-site inspection on 10/2/21. Joy, Borsari and Durgin attended the on-site inspection. Joy states that the physical characteristics of the property are a definite upgrade to the neighborhood. There are no problems with setback requests. Neighboring property is not going to be built upon. Durgin agrees with Joy and adds that this will not be moved any closer to the road and side setback has an empty lot. Board agrees that the hardship is the size of the lot. Kenyon agrees that this will be a nice upgrade to the neighborhood.

Board opens to public. No comments.

- M/Joy, S/Durgin. Unanimously approved (5-0-0) Petition #949.

## **BILLS**

- M/Parcellin, S/Joy. Unanimously approved (5-0-0) to pay Plympton-Halifax Express Invoice #12748 for Pet #955 for \$90.00

## **MEETING MINUTES**

- M/Parcellin, S/Joy. Unanimously approved (5-0-0) to accept the 9/13/21 Meeting Minutes.

## **DISCUSSION**

**Selection of (2) members to join the Zoning By-Law Committee – (re: 8/11/21 email from Charlie Seelig/BOS)**

Board nominates / Joy and Kenyon volunteer to join.

## **APPOINTMENT**

**7:15pm – (Continued)– Petition #950 – Thomas Smith, 434 Thompson St – Special Permit and Variance for garage addition with 2<sup>nd</sup> floor In-Law apartment**

*Applicant Thomas Smith and wife Carol Smith are present.*

Parcellin reads Public Hearing Notice into record. Board reviews updated plans submitted to the Board on 10/4/21. Smith presents updated plans. Shared living space is dining room, stairs and mudroom. Shared entrance into mudroom. There will be no door on dining room, five foot opening. The addition was made four feet smaller, so the setback is now 30.5 feet. This addition fits within the setback and the square footage of the in-law apartment was shrunken down to 889 sq. feet, therefore no variances are required for setbacks and it no longer exceeds 900 square feet. Smith only needs a special permit for in-law and addition. All utilities will be shared. Plans do not show a door at the top of the stairs but would like a door to maintain heating/cooling zones. Board has no problem with this.

- M/Kenyon, S/Parcellin. Unanimously approved (5-0-0) the Special Permit (167-F4) for the garage and the Special Permit (167-7D(12)) for an in-law apartment, Petition #950.

## **APPOINTMENT**

### **7:30pm – (Continued) Hearing – Petition #952 – Bonnie Fistel & Patricia Conn, 16 Old Farm Rd – Special Permit for Commercial Kennel License**

*Applicants not present.*

Parcellin reads the Public Hearing Notice into record. The Board attended the on-site on 10/2/21 and Joy explains that this property was sold to a different buyer, whom the Board met at the on-site. Applicants Fistel and Conn were not present at the on-site. Conn emailed the Board to inform them that they are no longer interested in the property.

- M/Joy, S/Kenyon. Unanimously approved (5-0-0) to deny Petition #952.

## **DISCUSSION**

### **Chris Winiewicz (129 Circuit Street) – 450 Industrial Drive (Cled’s Tree Service), Halifax, MA – Zoning complaint regarding placement of machine on property**

Winiewicz is present and informs the Board that he was referred to Zoning by the Building Inspector. Explains there is a tub grinder that can be heard a mile and a half away which reverberates when being operated. He states that he complained to the Planning Board over a year ago and nothing has been resolved. He moved on to the Board of Health who informed him that they would be consulting with Zoning. Winiewicz shows the Board a video with noise of grinder recorded from his property. Winiewicz informs the Board that when he contacted Cled’s Tree they denied having the machine and referred him to Newcomb’s Tree. Newcomb’s denied it was them and referred Winiewicz back to Cled’s. Cled’s Tree eventually informed him that he needed to go to the Town with his complaint. He originally started with Board of Health where Cled (owner of Cled’s Tree) agreed he would move the machine to another part of the property. Winiewicz states that the grinder doesn’t seem to operate during the summer. Winiewicz was referred to Planning Board by the past Building Inspector. Fire Chief informed Winiewicz that he should keep a log. Winiewicz was informed by DEP that there are state laws (MGL Ch 111, 31-C and 310 CMR 7.52) that empower the Town to enforce bylaws regarding noise.

Winiewicz informs the Board that he saw the (current) Building Inspector a week ago for the third time regarding his complaint. The Building Inspector asked Winiewicz what he wanted from this and Winiewicz informed him that he wanted the noise mitigated. Winiewicz explains that he was told that it has taken months for Cled to get in compliance with the Fire Chief. In order to do so, Cled must continue to grind. It was supposed to last four days. During those days the Board of Health was supposed to do sound meter readings. Winiewicz agreed to this but states that it never happened. The Board agree that they would like Winiewicz to return to the next Zoning Board meeting with his police logs, and requests the ZEO attend the next ZBA meeting. Winiewicz adds that Cled has stated at past meetings with other Boards that he has a valid, signed site plan from the Planning Board which doesn’t include the grinder. Winiewicz produces an updated site plan from Cled that was given to the Fire Chief that shows all new structures on the property including the grinder that has not been approved by the Planning Board. Kenyon asks Amy Troup, Planning Board member sitting in the audience, if she has seen this updated site plan. Troup states that there was a site plan approved in July of 2019 and they didn’t go over equipment as that is not part of the site plan. Winiewicz states that the updated site plan shows all new uses.

- M/Parcellin, S/Durgin. Unanimously approved (5-0-0) to send a letter of request to the Zoning Enforcement Agent to go to the property (450 Industrial Drive) within the next week to find out who the owner is, enforce any Zoning By-Laws that need to be enforced on said property and, if needed, impose the \$300 daily fine on any Zoning infractions found and send a report back.

Parcellin confirms with the secretary that the Building Inspector be asked to attend the next meeting.

## **APPOINTMENT**

**7:45pm – Hearing – Petition #955 – Emile Bussiere, Jr. “True Storage”, 314 Plymouth St – Special Permit**

*Applicant Emile Bussiere, Jr. and Joe Webby, Webby Engineering are present.*

Parcellin reads the Public Hearing Notice into record. Kozhaya Nessleralla recuses himself and Parcellin becomes acting Chairman.

Webby presents project. Explains Bussiere would like to purchase the property at 314 Plymouth Street which currently occupies Nessleralla Farm stand to construct an indoor, climate-controlled storage building. Applicant has been going through site plan approval with the Planning Board as well as for a special permit as the building exceeds 15,000 square feet. Webby explains drainage and points out wetlands stating that they have received an Order of Conditions from Conservation subject to all other approvals. Amory Engineers, the peer engineer for Planning Board, has reviewed and cleared the site plan apart from the lighting plan. Bussiere adds to Webby’s comments by describing the design of the building and the changes made per the Planning Board’s requests like changing from a flat to a pitched roof. Explains there is no burden on school system, minimal effect on traffic, tax revenue and a good fit for the community. Webby informs the Board they are below the 25% building coverage of lot. Proposed building is all indoor storage, no retail component, no auctioning. There will be 475 units with 60% being 10 ft. x 10 ft. Joy states his concerns with flooding of abutting properties and the lack of coordination between the projects in the area. Webby informs the Board that abutting resident Tina Alger has been present at all meetings and explains drainage on plan which was reviewed and okayed by peer engineer Amory Engineers. Webby confirms he has been present at abutting properties (i.e. O’Reilly’s Auto) for rain events and drainage is done very well, no problems as is the coverage for True Storage.

Winiewicz, 139 Circuit St is informed by Webby that the height of the proposed storage facility cannot exceed 2.5 stories.

This is a 2-acre lot, footprint is 24,000 square feet and total 61,000 square feet. In relation to Walmart and Stop & Shop, the footprint of proposed building is much smaller. Bussiere still needs special permit from Planning Board (exceeds 15,000 square feet) and site plan approval and Board of Health approval. OOC from Conservation is subject to all other approvals. Webby confirms distance of proposed building from property lines.

John Shea, resident, states that Walmart is about 95,000 square feet but is also a half mile off the road whereas this proposed building is 50 feet off the road. Kenyon asks how far off the street Nessleralla’s Farm stand is. It is guessed around 70 feet or more.

Parcellin states that the proposed building is within compliance with all bylaw requirements, but the Board must decide if the Board feels this proposed building is within the established character of the neighborhood. Parcellin adds that similar buildings are on much larger lots in this neighborhood. There are 18 parking spots for proposed building. He goes on to say that there are similar concerns that were present with O’Reilly’s. Parcellin believes it would be an easier decision with more comparisons to other buildings’ square footage, lot sizes, etc. Bussiere states that he is before the Zoning Board for a special permit for the use, not the size of the building, which is under the Planning Board’s jurisdiction, and he doesn’t want this to get confused. Parcellin informs Bussiere that, among other things, the size of the building has everything to do with his vote. Borsari agrees as the size has to do with fitting within the established character of the neighborhood which is determined by the ZBA. Bussiere doesn’t anticipate having any type of auctions on this site that Parcellin is referring to and is comfortable with the condition of no on-site auctions. Bussiere is also fine with the Board adding a condition of no outside storage. Joy confirms with Bussiere that True Storage has other buildings of this size in other areas (Woonsocket, RI) and that 18 spaces is completely normal for this size building. Bussiere states that storage places have hardly anyone there. Kenyon states that there are a lot more people parking at Nessleralla’s than there probably would be at True Storage. Durgin asks if the proposed building can be pulled further back away from the road. Bussiere states it cannot be pulled back because of the wetlands and drainage. Durgin likes the pitched roof, but he doesn’t think all the glass fits within the character of the neighborhood. Kenyon adds that Walmart had to have a more rustic design. Bussiere confirms that all their other facilities look the same. Resident John Shea is mainly concerned about the size of the building. Bussiere states there is a need for storage in this community.

Parcellin states that the reason it's sensitive is that it's in the center of town. Borsari's concern is that it's close to the road. Kenyon discusses other True Storage facilities she shows to the other members on her phone that have a more hometown feel (Bourne, MA). Parcellin confirms that Grille 58 is more than two stories but more than 50 feet off the road. Kenyon states that she thinks this storage facility could work on this lot if the architecture could be changed to appear more like the Bourne, MA location as it would give a downtown feel and wouldn't be such a deviation from the farm stand that the town is used to. Bussiere asks the Board to give him an example of another building in town that they think fits within the character of the neighborhood. Kenyon responds that Walmart does. Parcellin reiterates that the size of building, proximity from road and size of the lot are the main issues as they are drastic changes. Bussiere confirms that cutting it down to 1.5 stories is not viable for their group. Board agrees along with client that they'd like to continue to see if the architecture can be changed to give the building a more hometown feel.

- M/Durgin, S/Borsari. Unanimously approved (5-0-0)\* to continue Petition #955 to 11/8/21 at 7pm. (Voting members: Tina Kenyon, Robert Durgin, Peter Parcellin, Gerald Joy and Dan Borsari)

Kozhaya Nessralla returns as acting Chairman.

## **DISCUSSION**

### **Supervision of Zoning Board Secretary – Discussion with Board of Selectmen 10/12/21 at 7:15pm**

The Board agrees that the Zoning Board secretary will stay under the supervision of the Building Inspector.

## **CORRESPONDENCE**

The Board reviews mail.

## **OTHER BUSINESS**

Borsari brings up a resident's concerns that were brought up at the last (ZBA) meeting regarding two properties on Plymouth Street. The concern is that there is a possible business being run out of a residential property (648 Plymouth St) as well as a multifamily or two-family being run by the same owner at the other (688 Plymouth St). Borsari shares his findings from the property card. Borsari is not sure what the zones are but believes one property is zoned residential where all kinds of equipment have been stored. Borsari thinks the ZEO should inspect 648 and 688 Plymouth Street to find out if there are zoning violations. To be fair to everyone in town, Borsari thinks this should be looked at. Permitting and zoning must be clarified for both properties.

- M/Parcellin, S/Durgin. Unanimously approved (5-0-0) to send a letter to the Building Inspector asking him to check out 648 and 688 Plymouth Street properties for possible zoning violations.

Bosari adds that the former Zoning Enforcement Officer had requested that the Board of Selectmen investigate these two properties for these reasons. The Board of Selectmen tasked a different Zoning Enforcement Officer, Chris Carmichael, to investigate these properties and he was never heard from, and the issues went away as the Selectmen never followed up on it. This information will be included in the letter to the current Zoning Enforcement Officer.

## **DISCUSSION**

### **Location of Zoning Board files**

The Board discusses location of Zoning Board files and a process to put in place to secure and request these files going forward.

- M/Parcellin, S/Joy. Unanimously approved (5-0-0) to take the steps to secure Zoning files and create a log of who has accessed Zoning files using a sign-out sheet.

## **ADJOURN:**

- M/Joy, S/Durgin. Unanimously approved (5-0-0) to adjourn at 9:14pm.

**DOCUMENTS**

1. Agenda for 10/4/21
2. Application Packets – Petitions #949, 950, 952 and 955
3. Meeting Minutes – 9/13/21
4. PH Express Invoice #12748
5. Revolving Bill Schedule for Petition #955
6. Correspondence – 9/15/21 and 9/27/21 emails from Charlie Seelig/BOS, 9/29/21 email from Theresa Renaud

Respectfully submitted,

Date: 11/8/2021

A handwritten signature in black ink, appearing to read "Kozhaya Nessralla". The signature is fluid and cursive, with a large, stylized initial 'K'.

Chairman, Kozhaya Nessralla  
Halifax Zoning Board of Appeals