



Halifax Zoning Board of Appeals

Meeting Minutes

Monday, July 12, 2021

The Halifax Zoning Board of Appeals held a public meeting/hearing on Monday, July 12, 2021 in the Great Hall of Halifax Town Hall, 499 Plymouth Street, Halifax, MA with the following Board members in attendance: Vice Chairman Kozhaya Nessralla, Clerk Peter Parcellin, Members Gerald Joy, Robert Durgin and Alternate Member Dan Borsari. (Robert Gaynor was not reappointed, Nessralla is acting Chairman for this meeting.)

Chairman Nessralla calls the meeting to order at 7:06pm.

APPOINTMENT

7:05pm – (Continued) Hearing – Petition #938 – Anthony Curtin / Curtin Bros, 640 Plymouth St – Amendment to Special Permit for existing underground fuel storage to above ground fuel storage (Filed: 4/1/21, Continued on 5/3/21 to 7/12/21)

Applicant Anthony Curtin and engineer Robert Coluccio (Webby Engineering) are present.

Parcellin reads Public Hearing Notice into record. Curtin states he visited with the Building Inspector who suggested he apply for a special permit for an above ground storage tank. Coluccio goes through the narrative of the proposed project. There will be a 30,000-gallon tank of #2 fuel oil, 10,000 gallons of on-road diesel fuel and 10,000 gallons of off-road diesel fuel. The facility is going to be thoroughly vetted by the State Fire Marshall and the local fire department, construction plans will be drawn up before any of them have anything to look at. Tanks will be inside a concrete containment dyke which will be designed to contain the largest tank plus a 100-year storm, per the Board of Selectmen's request. The dyke will be recessed below-grade and the truck used to transfer oil to the tanks will be pitched into the dyke so that if any drips happen during loading and unloading, the whole thing is one self-contained unit. The tanks will have 90% alarms on them. If it gets to 95% the pump will shut off which is a fail-safe way of preventing an overflow. The vents will be within the confines of the containment. Anything beyond that will stay in the containment dyke. Coluccio discusses fuel oils and describes that it is difficult to ignite these vapors. They will write a spill-prevention plan defined by the EPA as though it will be audited.

The Board asks questions. There will be no outside carriers providing fuel, per Curtin, and this facility will only be used by Curtin. Delivery will drop the fuel off, and Curtin will deliver to customers. All business takes place within a three-month period with bulk tanks. One or two trucks coming in a week in the off-season and maybe one or two a day depending on the schedule during the winter season. Per Coluccio, there is no plan for foam suppression system since it is not required as there is no gasoline involved. Joy asks for a time frame of delivery. Per Curtin, since they are an essential service, the deliveries could come in the middle of the night in the wintertime and he cannot guarantee time frame. Curtin reiterates that delivery hours will be between 4am and 12am in the celestial wintertime. In the heating oil business, demand is dependent on temperature. Planning Board has approved the site plan. Board of Selectmen gave Curtin a path forward. Trucks are currently on site now. These types of sites are very common, per Coluccio. 30-40,000 and 50,000 gallons are common. Curtin has the license now for 50,000 gallons to operate for the storage of combustible, inflammable liquids which is required in MA. Turning radius is okay. For pumps, it will take about 15 minutes to load truck from tanks - 400 gallons a minute. Tanker truck will be about 20-25 minutes. There will be a tanker a day, maybe two in cold weather. Borsari would like to see truck flow pattern reflected on a site plan. Traffic study showed no issues for entering or exiting facility; no reason to back out onto street, per Colluccio. Truck traffic

will be reduced with this fuel storage. Parcellin asks about concern for size of tanks and comparable local tank locations. Coluccio states normally they start a lot larger than what Curtin is proposing here. Examples of above ground fuel storage tanks close to Halifax are East Bridgewater, Duxbury and Hanover. Hours will be about 4am to midnight. Most likely only local deliveries on Sundays, Curtin will not schedule bulk deliveries. Transfer pump is 20 horsepower. All electrical pumps. Decibel readings were in the 80s for the trucks and the pumps. The number of trucks may be reduced with this proposal, per Curtin. The tree line on property belongs to the Town, the trees Curtin owns are already down.

Open to audience. Karen Fava informs the Board she has a petition of signatures opposing this fuel storage until Curtin Oil's location is moved to Industrial zone, away from residents. Fava insists this is located in the Historic District, Curtin disagrees. Fava adds additional health concerns and turning radius concerns. Justin Silva speaks (Clyde O Bosworth Dr) of his concerns with storage and transportation of fuel 250 feet from neighborhoods and possible spillage and asks Board to deny the special permit. Steve Adams (Cranberry Dr) states his concerns with proposed project including truck numbers, times of arrival and operating and traffic concerns before route 105. Rick Greeley of Greeley Oil disagrees with Curtin's statements about noise level of pumps and timing of truck loads: pumps will "scream" no matter what time of the day or night and truck loads are coming at all hours of the day and night. Amy Troup speaks on behalf of Planning Board informing the ZBA that she voted no on site plan review due to turning radiuses not included on site plan. Kevin Kane, works for Clean Harbors, speaks of possible spill concerns no matter what alarms are installed.

Nessralla asks Greeley how long he's had his tanks up and how many times he's had a spill. Greeley responds since 2001 and states he has never had a spill as the design of the project is great and it is safe. Both were done by Webby Engineering.

Steve Adams asks about a written plan regarding maintenance of tanks and moving forward. Coluccio states that the State Fire Marshall requires monthly inspections on tanks and every five years a 3rd party inspector will make sure that Curtin is following declared standard, must have records of in-house inspections, and will judge what kind of housekeeping is going on. Coluccio also addresses hoses bursting and states that if hose fails, it will suck in the air. Everything is done by a loading arm which has a deadman switch installed which is all inside this containment structure under a canopy protected from rain exposure. Coluccio performs these inspections. Parcellin asks if this setup is typical. Coluccio responds that it is and that these systems are designed in areas that are zoned for them and adds that all Alvin-Hollis above-ground fuel storage locations are in rural areas, just like gas stations. 10,000 gallons may sound like a lot, but it's not gasoline. Coluccio has never found a horizontal tank leak when he's done inspections. Coluccio explains that above-ground fuel storage tanks are much safer than gas tanks inside residential basements. Further concerns are addressed between residents, Board and applicant. Containment dyke is about 2,000-3,000 square feet.

Board asks Curtin for plan showing trucks going in and out of property. Board would like to see where the driveway would be, the dimensions of the entire facility and the percentage for lot coverage (limit of 25% coverage according to bylaws).

- M/Parcellin, S/Durgin. Unanimously approved (5-0-0) to schedule on-site inspection for Saturday, August 7, 2021 at 9am.
- M/Parcellin, S/Joy. Unanimously approved (5-0-0) to continue Petition #938 to August 9, 2021 at 7:15pm.

APPOINTMENT

7:05pm – (Continued) Hearing – Petition #944 – David & Laura Gibbons, 70 Oak St - Appeal of Building Inspector's Denial of Building Permit for Wood-Burning stove (Filed: 5/4/21, Extension: 7/22/21)
Applicants David and Laura Gibbons are present.

Parcellin reads Public Hearing Notice into record. David Gibbons explains they had an existing pellet stove and these don't work for them for a number of reasons. Would like to replace pellet stove with wood stove and still use current fireplace for ambiance. It is vented into sunroom and out the wall of sunroom and ends there. Pellet stove passed inspection. Gibbons states this is all a misunderstanding and it's been very difficult to get a wood stove. A photo of wood stove is shown to Board from Plymouth Fireplace who recommended a local license installer and applied for the building permit, which was denied. Gibbons states there is some confusion for denial due to the permit being filled out incorrectly, which Gibbons states it wasn't, or that there's a zoning issue, which Gibbons states there isn't. Gibbons states that on his property there was approximately 20 cord of firewood, enough for a couple of winters, not very much, and not for sale. Gibbons states they use firewood for a lot more than just heating their home. They like to have outdoor fires, BBQ pit, etc. Firewood is strictly for the Gibbons' own use, not for sale. Gibbons states that the Building Inspector's position is that there's a zoning issue on their property, which is the firewood itself and therefore they won't get any permits for anything to do anything. Parcellin responds that that is not what the Building Inspector's letter says. Gibbons disagrees and states that the code he's citing is saying that if the applicant who wishes to obtain a permit has a zoning issue, the ZEO has the right to refuse that permit until such zoning issue has been cleared up. The zoning issue is the firewood, per Gibbons. Gibbons asked multiple times if there's a limit to how much firewood he can have.

Gibbons states he does tree work and does not run his business out of his house. Gibbons confirms that the only trees he brings back are for personal use, only a fraction of the material he removes from customers' properties. Gibbons states that Gibbons Tree Service does not own any equipment. They personally own a very small amount of equipment - a chipper and a big pickup truck which are parked at home. These are registered in the Town under his name. Their business address is 74 Summer Street in Kingston, MA which is where their business mail goes. The Gibbons thought it would be appropriate to have a business address to streamline and organize. They do not keep any equipment at this address and do not have an office, it's just a place to get mail for the business. It is a Post Office box. Gibbons states they do not recycle chips, store chips, they do not have lots of bucket trucks or big pieces of equipment, do not do any recycling or processing end of tree work. Gibbons states that he removes tens of thousands of yards of material from customers' properties every year and don't have the equipment to process this type of material on their property. It goes to J&J Materials in Plymouth, Taylor Lumber in Marshfield, Carver, it depends on where they're working. If Gibbons sees something he'd like to make a table or chair out of or burn to keep house warm, cook an animal, that's when he takes materials back to his property. Gibbons states they give away a lot of firewood and they take a lot of wood back to their house if they feel like they can use it. They have a small splitter but cannot do knotty stuff and do not have a big commercial wood splitter, just one piece at a time. Lots of odds and ends are given away. Gibbons states they don't have paperwork, that's not how they do business. They only have a PO Box. Gibbons explains that they get a phone call, the customer wants tree work done, Gibbons goes to the house, looks at the job, gives an estimate, schedules a date, does the work on that date, takes a check and it goes to the bank. Does not give a receipt. Normally it's chips which you can dump anywhere for free. If his chipper is down and he needs to stuff his truck with brush, there are only a few places he can get rid of this as it costs more and he has to pay by the load. He now has an account with J&J Material so he can dump unlimited brush there. He is a registered business, insured with state, has a Tax ID number and an accountant. Gibbons gives accountant bank records as they have a business and personal card.

Gibbons responds to Joy's question about Gibbons registering a business at his home for wood processing. Gibbons states he did not register intentionally and these are some issues he was hoping to avoid. He states that this was not done on purpose and was withdrawn. Gibbons states that he had a visit and was told that if he was to split firewood on his property he would have to obtain a business license which did not sound right to Gibbons but he adhered to this and attempted to get a business license to split firewood on their property.

He believed that they were misguided and this was not necessary just to heat their home which is why Silverlake Firewood application was withdrawn on April 2, 2021. This wood stove will be inside their home. Gibbons states this is obnoxious. Parcellin explains that it sounds like the Building Inspector and Fire Chief visited the property and felt that there was a zoning issue so not able to issue a building permit. Gibbons states that the Building Inspector said they were using their property for light industrial use. Gibbons would like it to be clarified that there is no zoning issue on their property. Nessralla states that there needs to be stipulations put on this possible approval that they cannot sell firewood from their home, etc. Gibbons shows the Board an Affidavit which they thought would clear this issue up. The Board already has a copy of this. Gibbons states that they are bringing back some logs to their property. Gibbons states that the visit from the Building Inspector and Fire Chief was not expected and he was not notified. Parcellin states that is the point of these types of visits. Gibbons doesn't want to argue the trespassing issue and would like to steer clear of that for now. At the time of their visit, Gibbons was cleaning up his property so he can see why there could have been a misunderstanding while the Chief and Building Inspector were standing in it on the property, however if he wanted to explain what he was doing. At the time of visit there were several piles of wood but since then most have been processed and turned into things. Gibbons presents photos* to Board which were taken pretty close to the time when the Building Inspector and Fire Chief visited and another photo to show these piles are gone. Gibbons feels that it was unreasonable that the Chief and B.I. did not listen to what Gibbons was going to do with this wood because it has been done since. Gibbons does not sell firewood, does not sell products he makes with wood, sometimes he gives it away. Selling firewood is not profitable for the Gibbons'. Splitting, loading and delivering firewood doesn't work for them as they have done it prior to living in Halifax. If it's a cold year, Gibbons would guess 10 cord of firewood is consumed. The Board states this is excessive. Gibbons states he's been begging someone to tell him how much firewood he's allowed to have on his property so he never goes over. Laura Gibbons states that when they were visited by the Chief and B.I. they had just cut a bunch of trees down. David Gibbons responds that he wouldn't say it was a bunch of trees. Shows the Board comparison photos of property.

Gibbons agrees with the Board that they cannot bring business stuff into a residential zone. Gibbons states that once he brings this material to his home, it's for personal use, not business. He puts this material into his wood stove, turns into mushrooms, cooks animals, makes tables, etc. Gibbons states that he brings wood to Taylor Lumber to mill the wood into lumber which he stores at his property for personal use. Gibbons brought home about a cord of wood this year. He's been building a fence. He has three acres of property and for now, the fences are just going around the animal enclosures. Gibbons shows photo of fences and logs that were used to make other items for their home.*

Borsari thinks this sounds like these were just misunderstandings and if the Gibbons' have all their ducks in a row and the stove is certified, they understand no business can be run on the property, the Board can make a motion.

Board opens to the public. Durgin asks if the Board wants to do an on-site inspection. Parcellin states his concern that the Gibbons' are going to accumulate customers' wood and store it on their property. Gibbons responds that the way the property was at the time of the Chief and B.I.'s visit was driving him crazy. Gibbons states that if they never brought a single piece of wood home again, it would not affect their business. Parcellin asks for a reasonable statement for a condition to avoid these issues again. Gibbons responds with suggestions for conditions like he's not allowed to process any brush, not allowed to do any industrial recycling operations, not allowed to process mulch, cannot have multiple bays of material. Parcellin sums this up as storage.

Gordon R. Andrews states that it appears to him that Gibbons is here for wood stove permit and the zoning issue seems to be taken care of and to put a stipulation that the bylaw already takes care of doesn't make sense to him.

Gibbons responds that he is doing tree work with ropes and chainsaws as he doesn't need a bucket truck, crane or crew; it's all him.

David Mascio states Gibbons is just burning wood. If there isn't any zoning violation, it shouldn't matter and states that Gibbons has told the Board he is not running a business.

- M/Joy S/Borsari to approve the appeal of the Building Inspector's decision to install a wood stove at this property with respect to the fact that there is no business being run on this property. Durgin votes No, Parcellin votes yes, Joy votes yes, Borsari votes yes and Nessler votes yes. Motion passes to overturn the Building Inspector's decision 4-1-0.

**Copies of all photos that were presented to the Board at this meeting by the Gibbons' were not given to the secretary for filing.*

APPOINTMENT

7:20pm – (Continued) Hearing – Petition #939 – St. Peter Auto Group / Allen & Derek St. Peter, 416 Rear Plymouth St – Special Permit for change of use to auto repair, mechanical business in business zone *Email Request 6/10/21 to Withdraw from Allen St. Peter along with Letter of Agreement to Withdraw without prejudice

Parcellin reads the Public Hearing Notice into record. Nobody is present. This application is requested to be withdrawn without prejudice by applicant.

- M/Durgin S/Joy. Unanimously approved (5-0-0) to accept the Withdrawal of Petition #939.

APPOINTMENT

7:25pm – Hearing – Petition #946 – Steven Nicoletta, 19 11th Ave – Special Permit for Demo & Rebuild of Garage as an addition (Filed: 6/21/2021)
Applicant Steven Nicoletta is present.

Parcellin reads Public Hearing Notice into record. Nicoletta presents proposed project. Renovation of building from original footprint, re-doing foundation to expand bedroom, adding laundry and expanding bathroom. No increase of bedrooms, no increase of footprint. Board review plans. No changes to septic.

- M/Parcellin S/Durgin. Unanimously approved (5-0-0) to waive the on-site inspection for Petition #946.
- M/Joy S/Borsari. Unanimously approved (5-0-0) to accept Petition #946 as stated.

APPOINTMENT

7:35pm – (Continued) Hearing – Petition #942 – Gary & Stacey Villiard, 63 Carver St – Special Permit to construct pole barn and store and process wood (Filed: 4/12/21, Continued on 5/3/21 to 7/12/21)
Applicants Gary & Stacey Villiard are present.

Parcellin reads Public Hearing Notice into record. Stacey presents project to construct pole barn to store property maintenance equipment. Site plan was approved by Planning Board. Fire Chief has approved log and wood chip piles. Electricity and heat in bathroom. Perc test is complete. Webby is engineering the house on

the property that they will be moving into. Villiards cut and sell firewood. Create wood chips but a bin will be coming in, 20 x 20 feet which will hold 80 yards which doesn't require a permit processed off-site. No processor or tub grinder on property. They will hold daylight hours of operation and could work some weekends.

Board opens to public. Richard (inaudible) 50 Carver St speaks of his concern with wood chips as he feels they are everywhere. He's not against them doing business but asks if property will have driveway. Villiard responds reprocessed driveway going in and out. (Additional inaudible conversation between Villiards and abutters continues). Abutter from Carver Street speaks in favor of project as the Villiards are making area look a lot nicer.

Parking area for two employees. Not selling anything. Building used for storing equipment only. 8am -7pm hours of operation. No deliveries, everything is brought in personally. Property is in business district.

- M/Borsari S/Durgin. Unanimously approved (5-0-0) to waive the on-site inspection for Petition #942.
- M/Joy S/Parcellin. Unanimously approved (5-0-0) to accept Petition #942 with hours of operation as 8am - 7pm, no large processors and keep the noise level down.

APPLICATION

7:45pm – Hearing – Petition #947 – Stephen and Nancy Monks, 73 Hemlock Ln – Special Permit for Existing In-Law Apartment (Filed: 6/14/21, 65 Days: 8/18/21)

Applicants Stephen and Nancy Monks are present.

Parcellin reads Public Hearing Notice into record. Monks present petition. Son and his new wife will live in the home, Monks in in-law. No changes at all to in-law. All utilities are shared. All living space is shared. Monks spoke with Building Inspector who clarified this will be a review, not a renewal going forward.

- M/Parcellin S/Joy. Unanimously approved (5-0-0) to accept Petition #947.

DISCUSSION

J.P. McGrath – 100 Lake Street – Denial of building permit

J.P. McGrath is present.

McGrath explains he bought 100 Lake Street and applied for a building permit to replace roof and bad windows and was denied for zoning as he states that the Building inspector told him he had to buy the house next door, tear both down and build one new house. Secretary informs the Board that no was filed from McGrath as McGrath just wanted to speak to the Board. The Board explains to McGrath that he will need to apply to appeal the Building Inspector's determination.

BILLS

- M/Joy, S/Borsari. Unanimously approved (5-0-0) to pay all bills.

MEETING MINUTES

- M/Joy, S/Parcellin. Unanimously approved (5-0-0) to accept 5/3/21 Meeting Minutes.
- M/Parcellin, S/Durgin. Unanimously approved (5-0-0) to accept 5/19/21 Meeting Minutes.
- M/Parcellin, S/Joy. Unanimously approved (5-0-0) to accept 6/14/21 Meeting Minutes.

ADJOURN:

- M/Parcellin, S/Durgin. Unanimously approved (5-0-0) to adjourn.

DOCUMENTS

1. Agenda for 7/12/21
2. Meeting Minutes - 5/3/21, 5/19/21 and 6/14/21
3. PH Express Invoices - #12573, #12571
4. Revolving Bill Schedules for Petition #946, #947 and Pitney-Bowes Postage Meter
5. Application Packets - Petitions 938, 944, 939, 946, 942 and 947

Respectfully submitted,

Date: 8/9/2021

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

Kozhaya Nessralla, Vice Chairman
Halifax Zoning Board of Appeals