

# Halifax Planning Board Meeting Minutes July 7, 2022

APPROVED

A meeting of the Halifax Planning Board was held on Thursday, July 7, 2022, at 7:00pm in the Selectmen's Meeting Room at the Halifax Town Hall 499 Plymouth Street, Halifax, MA.

These minutes are an abstract of the Planning Board meeting held Thursday, July 7, 2022, which are on file with the Planning Board Department and posted on the Town of Halifax website and Area58 Halifax's YouTube page.

Members Present: Chairman Mark Millias, Vice Chair Amy Troup, Clerk Rick Merry, Members Robert Gaynor and Brendon Elliot

Chairman Millias calls Halifax Planning Board meeting into session at 7:00pm, states all members present and reads agenda into record.

**MOTION to approve the agenda as read:** Troup

**SECOND:** Elliot

**All in favor (5-0-0)**

### Appointment

7:00pm – ARCOR, LLC / Barbara & Kozhaya Nessralla - 69 Summit Street Proposed Solar Array – Site Plan Review

No one is present. The applicant has requested an extension of 60 days and to continue their site plan review to July 21, 2022.

**MOTION to accept the 60-Day Extension for ARCOR, LLC 69 Summit Street's Site Plan Review**

**So Moved:** Troup

**SECOND:** Merry

**All in favor (5-0-0)**

The Board signs the Extension.

### Discussion

Isabel Simoes – 12 Sherwood Drive – Drainage Easement for Highland Woods

Per developer Don Gillespie's phone call, the Town accepted the road and the Homeowner's Association takes care of maintenance. Elliot states he lives in this development and there is no Homeowner's Association. Millias states this may be an attempt of the developer to remove himself from his responsibilities. Gaynor states that, per the highway department, there is a lot of work to be done on these streets. Millias states that he believes the Town has \$10,000 in a bond for this project. (*Note: the bond is not fully dispersed.*) The Board discusses road acceptance procedure. It is clarified by the secretary that, per developer Don Gillespie/Welby Builders, Welby was responsible for Sherwood Drive Extension, 8 houses. The Board discusses who is responsible for the enforcement of completing the development, which they agree is most likely the Zoning Enforcement Officer.

**MOTION to contact the Zoning Enforcement Officer to ask if he is responsible for the enforcement of the bond for completing Sherwood Drive Extension. If so, the Planning Board would like the ZEO to enforce. If he is not, the Board would like the ZEO to inform them of who is responsible and what the protocol is to enforce the completion of Sherwood Drive Extension:**

Elliot

**SECOND:** Troup

**All in favor (5-0-0)**

**Stacey Voight – Park Plaza – Bath essential manufacturer – Park Plaza**

Voight and partner are present. Voight informs the Board that they would like to have a manufacture only, no retail business at 418 Plymouth Street in Park Plaza, to the right of Rodney's. This business would be bath bombs, bath truffles and body lotions. The Selectmen informed them that, as there is no processed food being made, they would need to come before the Planning Board for approval before applying for a license. Chairman informs Voight that they would have to confirm adequate parking and the prior use. Voight states that it was going to be a café but no longer. There will be a bath bomb machine and some equipment, no overhead costs. There will be no traffic, per Voight. Chairman confirms that these will be cosmetic products, high-end luxury cosmetics with dry mixing, no ovens, heating apparatus or open flames. Light process packaging, bath bomb machine makes bath truffles, just compression. Four to six employees maximum, no retail. Small delivery trucks which would deliver at the back door behind building. Standard working



hours would be 10am – 5pm. Could possibly be some nights and weekends, just themselves with no employees to get things going. Partner has THC license. Chairman states it will come down to what type of use this is, amount of traffic flow, any safety issues that the building should provide. Currently this building is zoned commercial. Chairman states that Voight would need to put in writing their business plan – number of employees, process from beginning to end, equipment – and the Board can then see how to apply this. Troup asks if they could just apply for a special permit for light manufacturing. Gaynor states light industrial use would require a special permit, in his experience, as it may be spot zoning. Voight will send information to the Board for clarification of business and hope to get on the next meeting. Voight confirms there will be no toxic materials involved in their business. Troup reads by-law definition of Light Industrial Use which requires a special permit. The Board agrees Voight will need to apply for a special permit for Light Industrial Use.

#### **Curtin Brothers Oil – 6/25/22 email from Tony Curtin – skid mounted fuel tank, not a permanent structure**

Tony Curtin and his wife are present. Curtin confirms this non-permanent skid mounted fuel tank would be on the ground surrounded by blocks and would be hard-wired. Curtin presents a drawing of an unfinished tank for scale which is basically 6 x 4 feet. It would be filled by Curtin in his trucks. Chairman states Curtin isn't constructing anything, and this would only be for storage, which isn't really under Planning Board's jurisdiction. Curtin informs Board that the fire chief nor the building inspector knew what to do so sent Curtin to Planning Board. Chairman believes Curtin would have to discuss this with the fire chief as there is nothing being built. Troup disagrees and believes this is storage of a gas or toxic fuel. Chairman argues this is not for an industrial use. Troup states it is still industrial use in a business district. Chairman doesn't see how this is an industrial use. Chairman states there are a few of these tanks in town. Troup argues that this is storage of fuel in a business zone and requires a special permit. Elliot references a similar tank located at the end of the street, they should see how that tank was approved so the Board will know where to send Curtin, per precedent. Troup disagrees and states that the previous tank at a different location may have been done incorrectly and they should follow the by-laws.

Audience member Karen Fava asks the difference between this tank and the previous tank that was denied by the Zoning Board of Appeals as it did not meet what the town aesthetics and by-laws are. Chairman is assuming this is not the same proposal. Fava argues that this is still above ground and Curtin only has a permit for underground. Chairman states this proposal sounds significantly different from the prior tank proposal. Curtin asks Fava her concerns. Fava responds there are property value, health, noise and smell concerns. Curtin states that Fava has been awful to them, standing in front of their house at night taking photos of their home. Mrs. Curtin states they have been here for 40 years and never had a problem and feel that some neighbors are trying to take everything away from them. Mrs. Curtin expresses her disappointment. Fava responds that she never stood in front of the Curtin's home, only took a picture from her car window and states Curtin threatened her on record at the ZBA meeting. Curtin states this is false. Fava states that this tank only belongs in the industrial zone and shows the Board the signature petition for a previous Curtin proposal in front of the ZBA in 2021 and believes this proposal requires a special permit.

Chairman asks the Board if they feel this is an industrial use. Troup states that it is. Chairman states this storage is not for an industrial use. Troup disagrees and states there will be lawsuits if the Board doesn't require Curtin to apply for a special permit. Not all of the Board agrees that storage is an Industrial use. Elliot asks what the downside is, due to conflict of interpretation, to have the Curtins apply for a special permit. Chairman responds that they would be imposing things that are able by right which isn't right to do. Curtin confirms to Troup that he is using this tank to fill the trucks for his business. Chairman states that is commercial use. Troup states when it's oil, that is light industrial use. Troup re-reads by-law definition of light industrial use [167-3: *Definitions: LIGHT INDUSTRIAL USE – An industrial enterprise such as manufacturing, storage, processing, fabrication, packaging and assembly that does not create a nuisance from noise, vibration, smoke, glare, radiation, flashing or other emissions to adjacent properties. Further, said "light industrial use "shall not be a hazard to public safety or health nor have noxious or toxic waste by-products]* and states they cannot ignore this. Elliot does not see what the issue is with requiring the application for a special permit. Chairman states that it's taking away a person's right to tell everyone to apply for a special permit when it's not necessary. Chairman states the Board needs to decide if this is a light industrial use. Gaynor does not think this is a reapplication of what was turned down previously, this is completely different as there are no trucks coming in for refueling, big tanks on the ground, this is just refueling his own trucks. Gaynor believes this is strictly storage and not an industrial use, only commercial use. Troup continues to make the argument this is an industrial use which requires a special permit. [167-7: *Schedule of Use Regulations chart: Special Permit is required for Industrial Use in the Business District.*] Elliot doesn't see a problem with Curtin applying for a special permit.

Chairman gets Curtin's agreement to give the Board more time to get information from the fire department, etc. on what is required – a special permit, building code, regulations and so on before making a decision on the skid mounted fuel tank. Fava asks if the Board will contact Town Counsel for their opinion of if light industrial use applies here. Chairman does not want to spend money on contacting Town Counsel on this when the information can be found within the Town. Fava asks Gaynor to recuse himself as he spoke in favor of Curtin's application for an above ground storage tank in front of the Zoning Board last year. Chairman responds that Gaynor does not have interest in this and does not need to recuse himself from this just because he was a ZBA member on a different petition on a different Board. Fava insists this is light industrial use and requires a special permit.



**Pasture Lane - status and messages/emails from concerned residents**

Elliot goes over Pasture Lane resident Tina Kenyon's email which stated that it's the Town's job is to enforce the covenant. Elliot states his view that the Planning Board does not have the right to enforce the next step.

**MOTION to move this issue up to the Board of Selectmen in order to enforce the completion of Pasture Lane to move forward as the Planning Board does not have the ability to do so: Elliot**

Chairman states that the only way for the Town to take over the Pasture Lane property is for the owner/developer to default on his taxes. Elliot asks if there is something in writing that they can get from the owner stating he is abandoning the property. Chairman responds that they have his email and agrees that they should move this to the Selectmen as they have more resources than the Planning Board does. Chairman states the Planning Board has no power in this case. Troup suggests sending this to Zoning Enforcement Officer as well as Selectmen. Gaynor states that only holding a bond makes sense going forward as holding lots doesn't seem to work. Merry agrees that holding lots doesn't seem to have ever worked.

Tim Riechert, 4 Pasture Lane asks if Paquette, Pasture Lane developer, ever had a permit or work order before he butchered the street and cut down trees that he left on the side of the road or did he do this on his own. Chairman doesn't know but if he owns the land where he did that work, that is covered under the development of the road. Stephanie Reichert asks the Board why they let Paquette do this. Elliot states the Board did not let him do anything. Stephanie Reichert states Gordon R. Andrews told Paquette if he did the work, he would give him his permit. Troup states that this is a five-member Board. Elliot responds to the Reicherts and explains that there was a to-do list reviewed by the Town's peer engineer given to Paquette by the Board to complete. Paquette only got through one or two items of that list before he abandoned this project. The Board, however, does not have the right to enforce anything on Paquette. Elliot and the Board would like to kick this up to the Board of Selectmen as they have more power and more resources.

**The Chairman will accept a MOTION to notify both the Selectmen and Zoning Enforcement Officer that the Planning Board would like cooperation to move forward with Pasture Lane's completion.**

**MOVED:** Troup

**SECOND:** Elliot

Troup makes a point that this to-do list went to peer review. Troup also states a second point that the Board was going to make the developer get a bond.

**All in favor (5-0-0)**

Elliot asks the Board if they give him the right to have a conversation with the Selectmen on this issue. The Board agrees. Elliot confirms this with the Reicherts. Reicherts respond that this is a good start. Stephanie Reichert accuses the Board of being a "bunch of liars." Chairman asks her to leave. Tim Reichert asks Chairman to come outside. The Reicherts depart.

Chairman asks for adjournment.

**MOTION to move bills and meeting minutes and all other business to next meeting: Gaynor**

**SECOND:** Elliot

**All in favor (5-0-0)**

**Adjourn**

**MOTION to adjourn at 8:45pm: Gaynor**

**SECOND:** Elliot

**All in favor (5-0-0)**

Respectfully submitted,

Date Submitted: 07/21/2022

Mark Millias, Chairman

*Mark Millias*  
*Elliot*  
*Gaynor*  
*Reichert*

*attachment  
6 pages*



§ 167-6

§ 167-7

- D. Wherever any dispute arises on district boundaries as to the exact location of a district boundary line, the location of such line shall be determined by the Planning Board.
- E. Where a district boundary line divides a lot, the regulations applying to the portion of such lot in the less restricted district may be considered as extending not more than fifty (50) feet into the more restricted portion, but only if the lot has frontage on a street in the less restricted district

ARTICLE III  
Use Regulations

**§ 167-7. Schedule of Use Regulations.**

- A. In residential, commercial and industrial districts, no building or structure shall be erected or used for any purpose other than those set forth in the Table of Use Regulations (§ 167-7C) below and in the special use regulations (§ 167-7D) below.
- B. Permitted uses, which are allowed as of right, and specially-permitted uses, which may be allowed by a special permit from the Board of Appeals or other designated special permit granting authority, shall conform to the provisions of §§ 167-10 through 167-17 hereinafter.
- C. Table of Use Regulations. [Amended 5-11-1992 ATM, Arts. 33, 40; 5-13-1996 ATM, Arts. 50, 57, 58, 59, 60; Amended 5-12-2014 ATM, Art. 51, 52; Amended 5-08-2017 ATM, Art. 48]

Y = Permitted use

N = Prohibited use

SP = Use allowed under special permit by the Board of Appeals or other designated special permit granting authority as provided in § 167-21 hereinafter

Note:

AR = Agricultural Residential Zone

B = Business Zone

I = Industrial Zone

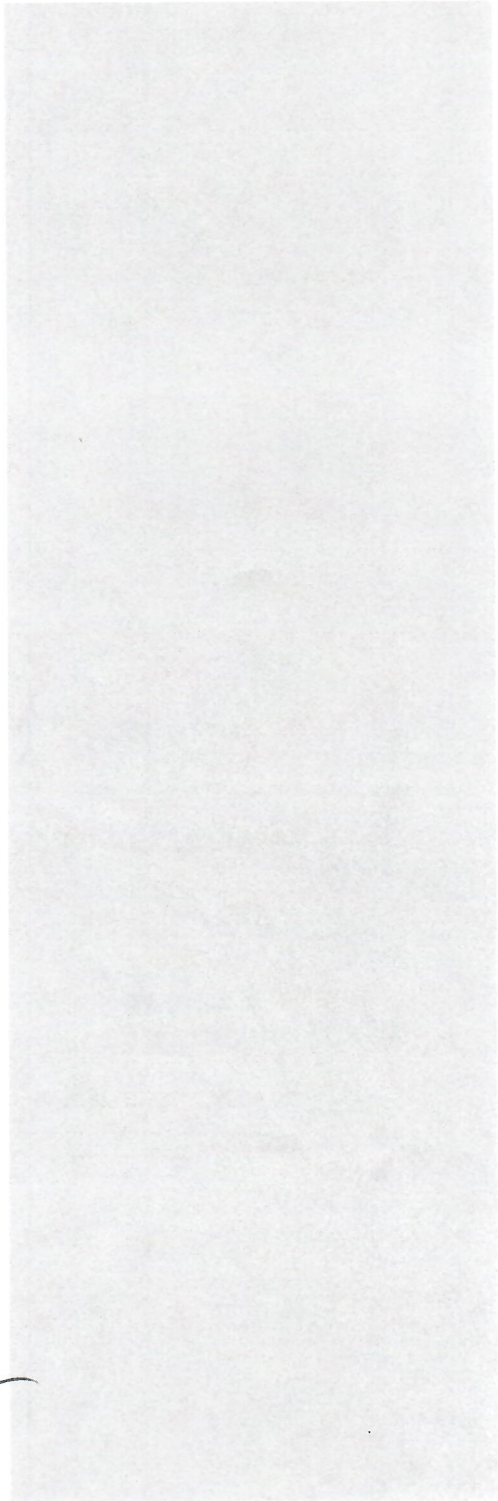
I-2 = Industrial 2 Zone

C = Conservancy Zone

167:20

05-14-2018

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**Summary of Use Regulations**

Use	AR	B	I	I-2	C
<b>Agricultural uses</b>					
Farms: Agricultural, orchard, plant nursery, greenhouse or cranberry or vitaculture [See § 167-7D(1).]	Y	SP	SP	N	Y
Salesroom or stand for the display or sale of horticultural and/or floricultural products, the major portion of which is grown or produced on the premises	Y	SP	SP	SP	Y
Farms: livestock and poultry	Y	SP	SP	N	Y
Farms: Piggery and/or swine	N	N	N	N	N
Breeding, sale or boarding of dogs, cats or fur-bearing animals	SP	SP	N	SP	SP
Kennel for the breeding or boarding of dogs	SP	SP	N	SP	SP
Medical Marijuana Treatment Center as a primary or accessory Use [See § 167-D(14) [Added 5-12-2014 ATM, Art. 51]	N	N	SP	N	N
<b>Residential uses</b>					
Single-family detached dwellings	Y	Y	N	N	SP
Two-family or duplex dwelling	SP	SP	N	N	SP
Multifamily dwellings or apartments [See § 167-7D(2).]	SP	SP	N	N	SP
In-law apartment/immediate family member accessory apartment [See § 167-7D(12).] [Added 9-28-1998 STM, Art. 24]	SP	SP	N	N	SP
Accessory building or enclosure for keeping domestic pets or animals [See § 167-7D(7).]	Y	Y	Y	N	Y
Trailer camps, parks or courts, designed for trailer coaches or mobile homes used as dwellings. [See §§ 167-7D(3) and 167-12B.]	SP	N	N	N	N
Renting of 1 or 2 rooms and the furnishing of board by a resident family to not more than (3) non-transient persons	SP	Y	Y	Y	SP

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**Summary of Use Regulations**

Use	AR	B	I	I-2	C
Customary home occupation conducted by a resident of the premises; accessory uses [See § 167-7D(5).] [Amended 6-23-1997 STM, Art. 5; 5-11-1998 ATM, Art. 58]	Y	Y	Y	N	Y
Home business or professional office/studio, conducted by a resident of the premises; accessory use [See § 167-7D(11).] [Added 5-11-1998 ATM, Art. 58]	SP	Y	Y	N	SP
Tourist homes, but not including over- night cabins, motels or hotels [See § 167-12C.]	SP	N	N	N	N
Garage or barn (See § 167-12F.) [Amended 5-14-2001 ATM, Art. 49; 5-12-2003 ATM, Art. 49]	Y	Y	Y	Y	SP
Accessory building or structure [See § 167-12E.] [Added 5-14-2001 ATM, Art. 48]	Y	Y	Y	N	Y
<b>Institutional uses</b>					
Churches or other places of worship, parish houses, rectories, convents and other religious institutions	Y	Y	Y	Y	Y
Schools: public, religious, sectarian or private	Y	Y	Y	Y	Y
Colleges and buildings accessory thereto	Y	Y	Y	Y	Y
Public buildings and premises for government use	Y	Y	Y	Y	Y
Libraries, museums or civic centers	Y	Y	Y	Y	Y
Public recreational uses	Y	Y	Y	SP	Y
Country or tennis clubs or other social, civic or recreational lodges or clubs [Amended 9-23-1997 STM, Art. 1]	SP	Y	N	N	SP
Nursery schools or other uses for the day care of children	Y	Y	Y	Y	Y
Cemeteries	SP	N	N	N	SP
Hospitals, sanatoriums, nursing, rest or convalescent homes, charitable institutions or other non-correctional institutional uses	SP	N	N	N	SP

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**Summary of Use Regulations**

Use	AR	B	I	I-2	C
Camps for children, private or publicly organized	SP	N	N	N	Y
<b>Commercial uses</b>					
Retail stores, not including drive-ins, adult bookstores, adult paraphernalia stores and adult video stores	N	Y	SP	N	N
Open air business/outside sales	N	SP	SP	SP	N
Banks or other financial institutions	N	Y	Y	N	N
Craft, consumer, professional or commercial service establishments dealing directly with the general public, not including massage service establishments or body art establishments [Amended 5-14-2001 ATM, Art. 44]	N	Y	Y	N	N
Restaurants or other places serving food or beverages only to persons inside a building <sup>1</sup>	N	Y	Y	N	N
Retail or commercial businesses with drive-through, drive-in or open-air sales or operations and their appurtenant buildings or structures [See § 167-D(10).] [Added 5-11-1998 STM, Art. 27]	N	SP	SP	N	N
Body art establishment [Added 5-14-2001 ATM, Art. 45]	N	N	SP	N	N
Undertaking establishments or funeral homes	SP	Y	N	N	N
Wholesale offices or showrooms, including indoor warehouse facilities.	N	SP	Y	N	N
Hotels, motels or overnight cabins [See § 167-12C.]	N	SP	N	N	N
Animal or veterinary hospital	SP	SP	N	N	N
Motor vehicle service or filling stations	N	SP	N	N	N
Repair garages for motor vehicles	N	SP	Y	N	N
Commercial parking lots or parking garages	N	SP	SP	N	N

<sup>1</sup>[Editor's Note: The entry regarding drive-through restaurants, which immediately followed this entry, was deleted 5-11-1998 STM, Art. 27. See now next entry below.]

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**Summary of Use Regulations**

Use	AR	B	I	I-2	C
Salesrooms for motor vehicles, trailers, farm implements or machinery with repair services and storage permitted	N	Y	SP	N	N
Auto body, soldering or welding shops	N	SP	Y	N	N
Marinas, boat liveries, sales, storage and repair of boats and other marine accessories <sup>2</sup> [Amended 5-14-2001 ATM, Art. 47]	N	SP	Y	N	N
Commercial indoor amusements, recreation places or places of assembly, excluding adult clubs, adult mini motion-picture theatres and adult motion-picture theatres [See § 167-7D(6)]. [Amended 5-14-2018 ATM, Art. 57]	N	Y	SP	N	SP
Commercial outdoor amusements, recreation places or places of assembly, excluding outdoor movie theatres, adult clubs, adult mini motion-picture theatres and adult motion-picture theatres [See § 167-7D(16)]. [Amended 5-14-2018 ATM, Art. 57]	SP	Y	SP	N	SP
Adult motion-picture theatres [See § 167-7D(9).]	N	N	SP	N	N
Adult bookstores [See § 167-7D(9).]	N	N	SP	N	N
Adult paraphernalia stores [See § 167-7D(9).]	N	N	SP	N	N
Adult clubs [See § 167-7D(9).]	N	N	SP	N	N
Adult mini motion-picture theatre [See § 167-7D(9).]	N	N	SP	N	N
Adult video stores [See § 167-7D(9).]	N	N	SP	N	N
Massage service establishments [See	N	N	SP	N	N

<sup>2</sup>[Editor's Note: The entry for drive-in or open-air businesses, which immediately followed this entry, was deleted 5-11-1998 STM, Art. 27. See now the entry regarding retail or commercial businesses with drive-through sales, above.]

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§ 167-7

§ 167-7

**Summary of Use Regulations**

Use	AR	B	I	I-2	C
§ 167-7D(9).]					
Recreational campground for transient tenting and/or mobile camp use from May 1 to November 1	SP	N	SP	N	SP
Commercial riding stables	SP	N	N	N	SP
Outdoor movie theatres	N	SP	SP	N	N
Car/truck wash	N	SP	SP	N	N
All commercial building or structures 15,000 square feet or greater in area. [See § 167-7D.] [Added 5-12-2003 ATM, Art. 48; Amended 5-12-14 ATM Art. 52]	N	SP	SP	SP	SP
Medical Marijuana Treatment Center as a primary or accessory Use [See § 167-D(14) [Added 5-12-2014 ATM, Art. 51]	N	N	SP	N	N
Marijuana Establishment [See § 167-D(15)] [Added 05-08-17 ATM, Art. 48]	N	N	SP	N	N
<b>Industrial uses</b>					
Light industrial uses, including manufacturing, storage, processing, fabrication, packaging and assembly	N	SP	Y	N	N
Public utility structures and appurtenances	SP	SP	SP	SP	SP
Transportation company	N	SP	SP	N	N
Sanitary landfill	N	N	N	Y	N
<b>Miscellaneous (or accessory) uses</b>					
Exterior portions of any alternate energy system [See § 167-7D(8).] [Amended 05-14-2018 ATM, Art. 56]	Y	Y	Y	Y	Y

**D. Specific use regulations.**

- (1) Agriculture. Under MGL c. 40A, the Zoning Enabling Act, agricultural uses are allowed on any parcel of five (5) or more acres (even if divided by a road), regardless of the zoning district. Accordingly, the specific use regulations in the table above apply only to parcels of under five (5) acres.
- (2) Multifamily development use is allowable by special permit from the Zoning Board of Appeals in the AR, B and C Districts.

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