



# Halifax Zoning Board of Appeals Meeting Minutes Monday, March 9, 2020

The Halifax Zoning Board of Appeals held a public hearing on Monday, March 9, 2020 in Meeting Room #1 of the Halifax Town Hall with the following Board members in attendance: Chairman Robert Gaynor, Vice Chairman Kozhaya Nessralla, Clerk Peter Parcellin, Member Robert Durgin and Alternate Member Dan Borsari. Member Gerald Joy is absent.

Chairman Gaynor calls the meeting to order at 7:04pm and reprises the audience that this public hearing/meeting is being audio taped. He also explains the procedure and the protocol at the public hearings.

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## Appointments:

### **7:05pm – Petition #918 – James Rodriguez - 9 Lake Street, Special Permit/Variance for restoration and expansion of structure**

James Rodriguez (owner/applicant) is present. Chairman Gaynor reads Public Hearing Notice into record. Rodriguez presents petition. Rodriguez hands out copies of a memorandum to the Board. He explains that he applied for a building permit to tear down his cottage and rebuild due to damage from broken water pipes and snow load on roof in 2015. He explains that the building permit was to remove dry wall and water damage. Rodriguez shows photos of what it looked like before dry wall was removed and intent was to do inspection. Building inspector (Rob Piccirilli) wasn't happy at inspection and was concerned that the work Rodriguez completed exceeded the scope of his permit. He asked Rodriguez to get a report from a structural engineer and advised Rodriguez to stop working without giving an official order to stop work. Rodriguez hired a consultant to go through building permit applications and understand bylaws and received a report back from engineering company. His goal was to renovate what was there without a special permit, utilizing the exemption for roof pitch for a non-conforming structure and exemption for damaged structure to expand up to 50%, which is what he applied for in the building permit application: to raise and repair foundation, put up new structure with new roof—up to code—and raise elevation to meet bylaw requirement for two feet above the line of the road, as now it is about a foot below, to make structure more conforming to bylaws. This started in late 2015. Building permit was denied and Rodriguez doesn't understand why he doesn't qualify for roof exemption or damaged structural repairs. Rodriguez states that he could apply for building permit for roof but would like to do it all in one pass; he would rather remove the structure, put up new one and move on as he's been forced to use it as a workshop and storage rather than a house but can't do it in its current condition. He states that he has exhausted all options. Building has mold and must come down but cannot do that without okay from building inspector.

Board asks questions. Gaynor clarifies location of house placement on lot. Rodriguez explains there are separate lots and the house on the right is smaller than the one behind/left. Homes are separately deeded on two lots. Rodriguez wants to change the pitch of roof, doesn't want to make a big footprint; office and bathroom on second floor as part of expansion. This is a 3,750 square foot lot. There was an 81L in 1983 to separate lots. Rodriguez confirms that there are no easements on property prior to his purchase. Since purchased, there is a landscaping easement due to shared septic system to allow maintenance of leeching field and tank. Shed is relatively new, 2014 or 2015. There were two smaller sheds in poor condition which were removed and replaced by a new one with no permit necessary, as it was under 200 square feet. Piccirilli states he wasn't the Building Inspector at that time, but Rodriguez would have had to maintain zoning setbacks for this new shed. Rodriguez spoke to Conservation who required silt fencing but he is not doing excavation and not increasing the footprint.

Rodriguez explains he secured the building permit for removal of drywall and water damage. After waste removed, Piccirilli did inspection and was concerned Rodriguez exceeded the scope of permit and asked him to cease work, which he did. Rodriguez removed drywall, carpeting and subfloor. Rodriguez did not submit a plan for restructuring. Rodriguez believes that the extensive damage would kick in exemption for restoration. He is only decreasing the footprint. It is 18 feet from the front of the road and has a rear setback of 1.4 feet, side setback of 5.6 feet which is all a function of the 81L trying to create a property line. He wants to maintain a low profile to roofline as a Gambrel cottage style to keep with the style of the neighborhood. Board reviews plans and photos of property. There is a dirt crawlspace. Board reviews plot plan.

Building inspector Piccirilli speaks to petition explaining he remembers things differently as to how things transpired. On May 10, 2016 Rodriguez pulled a building permit to remove some drywall and damaged material (carpet) and gave layout of wall removal with sheetrock only. Rodriguez was to call Piccirilli for inspection to go over things. In October an abutter was concerned that the house was being demolished. Inspection was required. Piccirilli gives copies of letters sent to Rodriguez following this inspection to the Board members. Piccirilli felt Rodriguez went beyond the scope of work: he removed structural material, the four joists were gone and he could see right down to basement, more than subfloor was removed as the floor joists were removed. Piccirilli isn't doubting there was a burst water pipe but he believes there may have been a lack of maintenance or disrepair when house was sold.

Piccirilli states that Rodriguez was going to move forward with restructuring the house as it was, which would have been a monstrous undertaking, but could have been done. Piccirilli asked for a structural report on foundation. He received this report from engineer stating the foundation was in disrepair. Piccirilli believes that fixing the house was more than what Rodriguez wanted to take on or was not worth his financing. Piccirilli explains that Rodriguez proposed to him a two-story structure replacing a one-story structure. The denial letter states that it doesn't meet the requirements in the report for exemptions or restoration as it exceeds the original height of structure and floor area (not living space). References Exemption Bylaw.

Rodriguez states that he didn't remove any floor joists as there weren't any, nor any of the structure itself. Rodriguez did not take out insurance on this property and does not have mortgage but it is not suspect. With respect to exemption, if roof pitch can change, height is immaterial. Rodriguez discusses further options of restoration to house with the Board and Building Inspector with regards to the bylaws. Rodriguez is going up about seven (7) feet with ceiling height (7 ft - 8 ft) and will raise the home two (2) feet off the crown of the ground. He does not look at the house as going from one-story to two-story but more like 1.5 stories. New structure will have to meet building codes, per Piccirilli. Rodriguez confirms that he is raising the whole building. Piccirilli states that when Rodriguez received a denial letter in 2015 to raise and rebuild the structure he was told to get a special permit from the ZBA but did not take advantage of that. Rodriguez confirms with the Board that he has done a partial demo to figure out extent of damage. Piccirilli states for the record that he was denied by Rodriguez when asked to take photos of the interior of the structure. Rodriguez responds that it was because he wasn't done and wasn't hiding anything. Gaynor reads Denial Letter to Rodriguez from Building Inspector dated 12/16/19 into record. Parcellin reads Bylaw sections 167-8D and 167-8G into record. Rodriguez feels the roof is exempt; the vertical height is satisfied by the pitch change. If the roof is exempt, the restoration (added 50%) is within the bounds of roofline, per Rodriguez. Exterior walls won't be the same height as they will need to meet the building code. Parcellin is concerned about a second story with living area. He feels the intent of the bylaw is to allow water to run off the roof, not to have a second story by using existing wall. Rodriguez adds that the issue is will he use the space he's creating by changing the pitch of the roof. He states that he is not doing that in any clandestine manner. Because of the extensive structural damage, he should be entitled to 50% floor space increase. The Board discusses the intent that increasing the pitch is not meant to increase living space, maybe storage space. Borsari asks if the original roof was single pitch because Rodriguez has created full dormers to create a second floor, which isn't the intent of the Bylaw. Rodriguez believes the bylaw allows the creation of more pitches. Borsari feels Rodriguez is stretching the intent of the bylaw. Rodriguez states he already has multiple pitches - a hip roof and an addition shed roof. He's changing a shed into a gable which he doesn't feel there is a limitation of the pitch.

The Board discusses the houses and lots around the project. If Rodriguez didn't have the damaged structure, he wouldn't consider adding additional space. He's just trying to renovate a little cottage to live in and the only way he can do that is to repair the roof and incorporate the additional restoration space within the bounds of the roof. Parcellin adds that the bylaw prohibits that additional space. Piccirilli states that the problem is with the restoration - does Rodriguez fall into the requirements, is he exceeding the height? If he is exceeding the height of the original structure, does he need a special permit or variance under 167-8D? Piccirilli states there is no cease and desist on the property but Rodriguez has stopped on his own. Piccirilli's concern is that at what point does lack of maintenance cause a restoration? Rodriguez responds that it depends who is coming in for permit. Piccirilli doesn't think the water damage caused anything to happen up above. Rodriguez responds that there were burst heating elements on the first floor due to water. Rodriguez has never put on a new roof. He purchased the property in 2013. Piccirilli states that the goal is for Rodriguez to repair his damaged structure. Borsari breaks down 167-8D and states it ties Rodriguez's hands as it is very specific. Rodriguez states he could build an addition in back and get to the same place and would prefer to do it with a new roof design. Parcellin's concern is 167-8G and feels Rodriguez has a good argument with 8D but bylaw's intent isn't to restore and add a second floor. **M/Nessralla, S/Durgin** to schedule onsite inspection for Petition #918 on Saturday, April 11, 2020 at 9:00am with **all in favor**. **M/Nessralla, S/Durgin** to continue Petition #918 to April 13, 2020 at 7:10pm with **all in favor**. Rodriguez departs. Plot Plan is located.

#### **7:20pm – Petition #919 – Oliver Orwig – 20 Baker Street, Special Permit for Two-Story Addition**

Oliver Orwig (applicant, designer), Dan Orwig (engineer), Erin Dawicki and John Rennick (owners) are all present. Chairman Gaynor reads Public Hearing Notice into record. Orwig presents application using site and plot plans. This is a pre-existing, non-conforming lot with an existing public way. Orwig points out the parcel they used to give the site it's frontage when the property was subdivided, There's no name on the public way. Original home was built in 1963. Existing house has a narrow kitchen. The addition is to create a larger, more usable kitchen off back (not increasing the non-conformity) and second story (making the home three floors) with master bedroom on top floor, art studio on main and office in basement (ground). Side setback is 24.2 feet on one side, 37.5 feet to new where existing is 12.2 feet, 45.8 feet from top of bank. This is an 18x18 foot addition with a 63.8 foot rear setback. There will be no increase in height. Lot is 22,400 square feet. They are going to Conservation tomorrow as they are within 50 feet of lake. This will stay a three-bedroom house. There will be a frost wall foundation with slab and walkout in back. Existing house is a Colonial style. No change to the front of house. In the back of the house they are coming in a foot below the existing ridge-line but well below the building height requirement. Attaching three stories on back even though it's only a two-story addition. Orwig shows Board drawings of proposed addition and layout. Cantilevered balcony off of master bedroom. Abutters are in favor, according to Dawicki, as they are not changing the view. Building Inspector states that the rear setback will have to be approved by Conservation.

**M/Parcellin, S/Durgin** to waive the onsite inspection with **all in favor. M/Borsari, S/Durgin** to accept Petition #919 as presented with a Voice Vote of “Yes” showing **Unanimous Approval** from all five (5) members present: Nessralla, Borsari, Gaynor, Durgin and Parcellin. The Board signs Decision Form.

#### Meeting Minutes

**M/Nessralla, S/Parcellin. Unanimously Approved** to accept the Meeting Minutes from Monday, January 13, 2020.

**M/Borsari, S/Durgin. Unanimously Approved** to accept the Meeting Minutes from Monday, February 10, 2020.

**M/Durgin, S/Borsari. Unanimously Approved** to accept the Meeting Minutes from Thursday, February 20, 2020.

#### Bills

The Board reviews and signs all bills.

- Plympton-Halifax Express, Petitions #902 Re-Advertisement and #917 Advertisement = \$168.00
- Plympton-Halifax Express, Petitions #918 and #919 Advertisements = \$168.00
- Plympton-Halifax Express, Petition #920 Advertisement - \$84.00
- W.B. Mason, office supplies = \$25.90
- W.B. Mason, office supplies = \$17.41

#### Correspondence

Gaynor reads Letter of Intent from John Peck regarding Country Club Estates and other mail items into record.

#### Other Business

A copy of the Comprehensive Permit for “Country Club Estates” 40B Application is given to each member along with a copy of the peer review estimate from Amory Engineers. Gaynor reads estimate into record. Gaynor is concerned with what the project will look like, aesthetically, in the center of town. Borsari states that with a 40B the Board loses a lot of control. Gaynor responds that builders of other projects have changed the outside character of buildings to look nicer. Parcellin adds this will be a big change and a permanent fixture in town. Nessralla wonders if it sits on one or two parcels of land. Borsari states that there is an issue with the road coming in as it encroaches on the building. The Board discusses this project further and states that the first meeting is scheduled for March 18, 2020 at 7:00pm.

#### Adjourn:

**M/Durgin, S/Borsari** to adjourn the meeting at 8:45pm with **all in favor.**

#### Documents:

1. Public Hearing Notice – Petition #918
2. Application Packet – Petition #918
3. Public Hearing Notice – Petition #919
4. Application Packet – Petition #919
5. Decision Form – Petition #919
6. Meeting Minutes - 1/13/2020, 2/10/2020, 2/20/2020
7. Plympton-Halifax Express Invoices - Petitions #902, 917, 918 and 919
8. W.B. Mason Invoices - 1/14/2020 & 2/25/2020
9. Expense Bill Schedules - 1/14/2020 & 2/25/2020
10. Revolving Bill Schedules - 2/10/2020, 2/25/2020 & 3/2/2020
11. Letter of Intent from John Peck - Petition #920
12. Application Binder - Petition #920

Respectfully submitted,

Date: 6/1/2020



Robert Gaynor, Chairman  
Kozhaya Nessralla, Vice Chairman  
Zoning Board of Appeals