



Halifax Zoning Board of Appeals

Meeting Minutes

Monday, August 10, 2020

The Halifax Zoning Board of Appeals held a public hearing on Monday, August 10, 2020 via Zoom hosted by Town Administrator Charlie Seelig in Halifax Town Hall, 499 Plymouth Street, Halifax, MA with the following Board members in attendance: Chairman Robert Gaynor, Vice Chairman Kozhaya Nessralla, Member Gerald Joy, Member Robert Durgin and Alternate Member Dan Borsari. Clerk Peter Parcellin is absent.

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

Appointment:

7:00pm - Hearing - Petition #924 – Gordon C. Andrews – Amanda’s Estates - Administrative Appeal of ZEO Denial of Halifax Bylaws

Gordon C. Andrews (applicant), Town Land Use Counsel Amy Kwesell are present. Andrews presents his appeal. States the Party Trust does not have their Aquifer Protection permit so doesn’t understand why their building permits haven’t been revoked. Attorney Kwesell states that the reason the building permits were not revoked is because the Party Trust sought and obtained a “Stay” on action. Judge gave them time to obtain all permits necessary and why the Building Inspector determined that the appeal was moot at the time. The Party Trust sought a special permit in the Aquifer Protection District as a result of Kwesell’s memo to the ZBA when determining if there were any outstanding permits. The plan being looked at showed the property (Amanda’s Estates, off Elm Street) in the Aquifer Protection District. However, that plan was superseded by a 2003 plan when the Aquifer Protection District Bylaw was amended and the 2003 took effect, approved by the Attorney General. The 2003 Overlay Map does not show Amanda’s Estates being in the Aquifer Protection District. The Party Trust and the Town entered into an agreement for judgement today where the special permit is no longer necessary because of this 2003 plan (overlay map) that Attorney Kwesell missed. If the Judge agrees, the special permit for Aquifer Protection is not necessary. Andrews asks if the Party Trust appealed the ZBA’s remand decision. Kwesell responds that the Party Trust does not fall into the jurisdiction of bylaw 167 Section 17, therefore there is nothing left for the Zoning Board to do. Kwesell explains that the agreement for judgement will end the Party Trust vs. the Planning Board case. Attorney for the Party Trust, Anthony Panebianco states that these appeals are moot, as Kwesell explained and agrees with Kwesell’s opinion.

The Board agrees that this appeal is moot.

M/Joy, S/Nessralla. Unanimously Approved (5-0-0) to deny Petition #924.

Voice Vote: Joy - Yes; Nessralla - Yes; Durgin - Yes; Gaynor - Yes; Borsari - Yes

Attorney Ginny Kremer (representing Gordon C. Andrew) joins the meeting. Kwesell reiterates what she has already said regarding The Party Trust/Amanda’s Estates no longer required to obtain a special permit in the Aquifer Protection District. 1997 was the original change in the bylaw for the Aquifer Protection District, the only thing changed in 2003 was the plan itself, as confirmed by Town Administrator Charlie Seelig.

Meeting Minutes

M/Nessralla, S/Joy. Unanimously Approved (5-0-0) to accept the Meeting Minutes for July 13, 2020.

Voice Vote: Nessralla - Yes; Joy - Yes; Durgin - Yes; Borsari - Yes; Gaynor - Yes

M/Durgin, S/Nessralla. Unanimously Approved (4-0-1) to accept the Meeting Minutes for July 29, 2020.

Voice Vote: Nessralla - Yes; Joy - Yes; Durgin - Yes; Gaynor - Yes; Borsari - abstained (was not present for this meeting)

Appointment:

7:30pm – Continued Hearing – Petition #922 – Gordon C. Andrews – Administrative Appeal of Building Permits, Occupancy Permit and Site Plan Review for Amanda’s Estates (continued)

Gordon C. Andrews (applicant), Town Land Use Counsel Amy Kwesell are present. Andrews reads the appeal aloud. Kwesell reiterates same information as above (in Petition #924).

The Board agrees that this appeal is also moot and that the Party Trust has every permit necessary to proceed with Amanda's Estates project.

M/Joy, S/Nessralla. Unanimously Approved (5-0-0) to deny Petition #922.

Voice Vote: Joy - Yes; Nessralla - Yes; Durgin - Yes; Gaynor - Yes; Borsari - Yes

Appointment:

8:00pm – Discussion - Jeanne Donahue – 87 Plymouth Street – addition to garage (one bay to two bays)

Jeanne Donahue (owner/applicant) is present. Explains there was a fire in their garage and as they put it back together, they are looking to expand with a second bay. Explains that they are exactly 30 feet from their abutter. Property is located near Halifax Estates. Gaynor explains that as long as they are within the 30 feet, they are within the setback requirements. The garage will be 24 x 24 with an unfinished room above. They are well within the rear and front setbacks. Donahue asks if they are required to get their property surveyed if they are within the required setbacks. Durgin explains they will need to get part of the property surveyed to get the building permits and an as-built. The Board agrees it is not necessary for the Donahues to apply for a variance at this time.

Appointment:

8:15pm – Discussion – John Estes – 35 Ocean Ave – proposed “deck” in the water (dock)

Estes (owner/applicant) is present. Estes explains that he built a platform/dock/deck over the water where his dock was. Main support parts are from the dock that was there already. If it is considered a dock, he would need to contact Conservation to confirm that it doesn't affect or endanger any species in the water or if he has to get the ZBA to approve the addition to his property. Estes states that the Building Inspector told him that the use matters. If it's being used as a deck, it's a deck; but the way that the structure is built points to a dock. According to Estes, the Building Inspector asked Estes to go to the ZBA for approval depending on the measurements and that Estes would need to hire a surveyor to determine if this deck is on the property. Conservation told Estes the deck was fine and isn't harming anything. The deck hasn't been there for more than a month. The previous owner removed the previous dock. Secretary reads input from Building Inspector to the Board: Estes built a deck without a permit in the water. The backside of the deck sits on the rear of Estes property. Building Inspector told Estes that he would need an engineer to determine where his back-property line is. If it's on Estes property, it's in violation of his rear setback line. If it's totally in the water, it becomes a Conservation/DEP issue. Estes asks the Board if he will be able to keep the dock/deck on his property if it is determined by engineer to be on his property as he is concerned with costs. Town Admin Charlie Seelig explains to Estes that he will need to get a Variance from the ZBA if deck/dock is determined to be on his lot but that the ZBA cannot make a determination tonight, only informally give Estes their thoughts. Estes asks, because he has a smaller lot, what the Board's thoughts are on having a platform on the water. Both of his neighbors are okay with it. The deck/dock is not in the ground, no concrete or anything. Gaynor explains that without a plan and measurements the Board cannot give him an answer. Gaynor explains what criteria Estes will need to present to the Board. Suggests going to Conservation and Building Inspector first. If Conservation is okay with it, go to Building Inspector followed by applying to the ZBA for a variance. Joy agrees that there is not enough information to make an opinion or determination. The Board agrees.

Adjourn:

M/Durgin, S/Joy. Unanimously voted (5-0-0) to adjourn the meeting at 8:15pm.

Documents:

1. Agenda
2. Public Hearing Notice – Petition #922
3. Application Packet – Petition #922
4. Meeting Minutes - 7/13/2020 and 7/29/2020
5. Public Hearing Notice - Petition #924
6. Application Packet - Petition #924
7. Photos of garage/property - 87 Plymouth Street

Respectfully submitted,

Date: 09/14/2020

A handwritten signature in black ink, appearing to read "Robert Gaynor". The signature is fluid and cursive, with the first name "Robert" and last name "Gaynor" clearly distinguishable.A handwritten signature in black ink, appearing to read "Kozhaya Nessralla". The signature is cursive and somewhat stylized, with the first name "Kozhaya" and last name "Nessralla" being the primary components.

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