



Halifax Planning Board Meeting Minutes June 18, 2020

Official

A meeting of the Halifax Planning Board was held on Thursday, June 18, 2020 via Zoom (hosted by Town Administrator Charlie Seelig at the Halifax Town Hall, 499 Plymouth Street, Halifax, MA).

Members Present: Chairman Gordon R. Andrews, Vice Chairman Karlis Skulte, Clerk Mark Millias and Members Amy Troup and Ashley DiSesa.

Chairman Andrews calls meeting into session at 6:31pm and reads the agenda into record.

The Board confirms that the next meeting will be July 16, 2020, not July 2, 2020. Also, Sharon Tavares (appointment 6:45pm) requests via Zoom chat to cancel her appointment.

Motion to accept agenda as revised: Skulte

Second: Troup

All in favor

Skulte requests that appointments be scheduled and posted at a generic time rather than at specific times. Millias and DiSesa agree. Andrews states that a hearing has to be scheduled at a specific time. There is further discussion. Andrews will look into the legal logistics of scheduling generically.

Appointment

6:30pm - Larry Costa (realtor) and Valerie Hammarberg (client) - Pine Street North

Costa and Hammarberg are not present.

Bills

Motion to pay Plympton-Halifax-Kingston Express bill dated 6/5/20 Ad #11649 for Special Permit Public Hearing Ad for Petition #923 for \$84.00: Troup

Second: DiSesa

All in favor

Meeting Minutes

Motion to accept Meeting Minutes from May 21, 2020: Troup

Second: DiSesa

All in favor

Roll call: Skulte - Yes; Millias - Yes; Troup - Yes; DiSesa - Yes; Andrews - Yes

Discussion

Comprehensive Permit "Country Club Estates" 40B Project

Andrews confirms that this hearing was moved to July 29, 2020 at 7pm in the Great Hall.

Motion to attend the Zoning Board meeting on July 29, 2020 for Comprehensive Permit Country Club Estates at 7pm:

Troup

Second: DiSesa

All in favor

Roll call: Skulte - Yes; Millias - Yes; Troup - Yes; DiSesa - Yes; Andrews - Yes

ZBA Petition #915 Amanda Estates and 167-22 and any other case law

No discussion.

Pasture Lane/Mike Goodman - updates

Andrews states that Mike Goodman's attorney's phone number was passed to Town Counsel Larry Mayo. Attorney Mayo spoke with Goodman's attorney who told Attorney Mayo that they were working on getting "the lot" back into Goodman's name and anticipate moving forward right away with construction and improvements. The intent is to turn it over to the new contractor who will then do the work. The contractor wouldn't do the work until the lot was in Goodman's name.

Correspondence

The Board confirms that they reviewed the 6/9/20 email from Office of Secretary of the Commonwealth/Robert Hyland – Public Records Division regarding Public Records Request from Amanda Monti.

Andrews states to Troup that there does not need to be a motion made regarding the 6/14/20 Public Document Request for 5/21/20 Meeting Minutes from Laurence Gogarty (Architect for Monponsett Liquors).

Andrews asks if the Board reviewed the email sent to the Planning Board dated 6/10/20 from Halifax Principal Assessor Holly Merry (with attached letter dated 6/10/20 from Ms. Merry regarding her account of Troup's visit to Town Hall on 6/9/20 and attached email correspondence with Troup). In this email, Ms. Merry requested that the Planning Board read her letter into record. Troup, DiSesa and Skulte respond yes, they have reviewed this email. Skulte asks about reading the letter into record, as requested. Andrews asks the Board's position. Millias is open to it as he states someone's voice should be heard. Troup cannot dignify the letter as she states it is full of writhe and is a one-sided story. Skulte states that as it was requested to be read, that should be respected and the Board should be willing to listen. Millias agrees. DiSesa states that if the Board wants to read it in, they can, but Troup should be given the opportunity to explain her side. There is further discussion of whether Troup was at the Town Hall on 6/9/20 under Planning Board business. Andrews spoke to Attorney Mayo who said reading the letter into record is up to the Board. Skulte confirms that this letter is public record. Troup states that she would prefer an investigation before it is read into record. After much discussion, the Board decides to table the letter until later in the meeting.

Appointment

6:45pm - Sharon Tavares - 20 Gold Street in connection with Pine Street North/Alan Dias

Sharon Tavares requested at the beginning of the meeting to cancel.

Appointment

7:00pm - Hearing - Petition #923 - The Party Trust, Amanda's Estates (off Elm Street) - Special Permit for Aquifer Protection

Attorney Brodsky (firm Drohan, Tocchio & Morgan representing the Party Trust), Amanda Monti and Ed Johnson (The Party Trust, applicants), Joe Webb (project engineer for Amanda's Estates), Gordon C. Andrews (abutter) and his Attorney Kremer are present. Chairman Andrews reads the public hearing notice into record and recuses himself as he states his son has a pending lawsuit in this matter.

Motion to open the public hearing for the application for the special permit for Amanda's Estates: Skulte

Second: Millias All in favor

Skulte is acting Chairman and introduces the project. Attorney Brodsky introduces himself and presents the application. The Zoning Board of Appeals determined the Party Trust required a special permit under 167-17F(16) for its multifamily development. Based upon their research, Brodsky states that this has been the only project in the aquifer protection district that has been required to obtain a special permit out of four multifamily development projects in the area: Old Farm Road subdivision in 1995, Lamppost Lane subdivision in 2002, Autumn Lane subdivision in 2002 and Pasture Lane subdivision in 2003. (Brodsky notes that Chairman Andrews was the Chairman when Pasture Lane subdivision was before the board as his name was on the certificate of approval for definitive plan.) Brodsky explains that the Party Trust is here for a permit for 12 proposed units, each with three bedrooms, for a total of 36 bedrooms. The Party Trust has permitted two onsite sewage disposal systems and permits were granted for those systems in 2016 in compliance with Title V and local Board of Health regulations and in reliance of those permits the Party Trust has constructed two of those systems. Brodsky references 167-17F(16) as having a clear numerical performance standard - no system may exceed a max of 800 gallons/day per one acre (40,000 sq. feet). Webby's calculations show that the Party Trust meets that requirement which makes them entitled to this special permit for Aquifer Protection. Brodsky requested Land Use Counsel Attorney Kwesell attend (request submitted to Planning Board and Town Administrator) as he felt it would be helpful because she explained to the ZBA during the remand order that this project meets the standard for this special permit. Unfortunately, however, Land Use Counsel is not present. Webby has difficulty connecting to the Zoom meeting. Brodsky provides the calculation conclusions (these can be found listed on the last page of the application for Petition #923) from Webby. All results for all

four lots are less than the required 800 gallons/day in bylaw. Brodsky states the Party Trust meets the performance standard to grant the special permit in the Aquifer Protection district. Webby joins the meeting and explains the flow of septic system into each lot which were on the plans modified and accepted by Planning and Zoning Boards and states that the daily flows are under the daily gallons required. Brodsky states that is as simple as it gets. Skulte has no questions. DiSesa, Troup and Millias have no questions.

Attorney Kremer discusses the provisions of Section 15 and states they are not complied with and cannot be complied with. She goes on to say that the Party Trust are "picking" the sections of the bylaw that they can comply with and claim that the sections of the bylaw that they cannot comply with don't exist. Section 15 states that you cannot have any use, other than a single-family dwelling, which has a capacity of 1,500 gallons/day. Here, Kremer states the capacity is greater than 1,500 gallons/day, which is not allowed. Attorney Kremer states that the fact remains that there is a provision in the Zoning Bylaw that this applicant cannot comply with. She consulted with her partners Fabrowski and Haverty, who do nothing but Land Use law, and they laughed at the thought that the applicant just decided to apply under Section 16 and ignore Section 15. This multifamily use is not allowed, per Attorney Kremer. Brodsky responds that the ZBA, with the assistance of Land Use Counsel, determined that Section 15 does not apply and that the Party Trust should apply for a special permit under Section 16. He states that that issue was already addressed by the ZBA who has the role of interpreting the Zoning bylaw. The Party Trust have complied with the ZBA to apply under Section 16 which is all that is in front of the Planning Board and the Planning Board has no jurisdiction to counteract the decision of the ZBA.

Skulte states that he agrees that the Planning Board has to consider and discuss the proposal that is in front of the Planning Board today under Section 16 and must focus on that. Abutter Gordon C. Andrews states that the applicant says that they have lots and that they meet the requirements of these lots, however they have no separate lots as they have not gone under subdivision control. Andrews goes on to say that the applicants don't meet Section 15, which the Planning Board has the authority to determine under the Aquifer Control Protection Act, not the ZBA. Skulte appreciates the comment but states that the Planning Board has to focus on the application under Section 16 that is in front of them today. If it's determined that additional provisions of the bylaws apply, that would be a subsequent application that would have to be reviewed and considered independently. Kremer asks Skulte if he's saying that a developer can pick which sections of the bylaw they can comply with by applying under that section only and ignoring the rest of the bylaw even when they're clearly not in compliance with the other sections? Skulte responds that the Board reviews the applications that are presented to them based on the merits of that application. If there is a clear provision of the zoning bylaw that apply, they evaluate those proposals under those provisions. They have already reviewed this application under previous applications and are taking advice from counsel. In this case, they don't want to piece meal and review each provision and try to identify additional regulations that may or may not apply. Skulte states that he thinks they need to evaluate these applications based on the merits that apply. Kremer asks if the Planning Board has received an opinion from Land Use counsel that the applicants don't have to comply with Section 15. Skulte responds that they have not been asked to get a determination of whether Section 15 applies nor does Skulte, upon his review of Section 15, see any particular aspect of that section that does apply. Kremer asks Skulte if this is a multifamily use or single-family dwelling, which indicates that it is not permitted under paragraph 15. Kremer reads paragraph 15 and states that this (project) is a multifamily use and is not permitted under the bylaw. She further adds that it was the same argument that the Party Trust made that they were going to file for a multifamily development special permit under Section 12, so we don't have to comply with Section 7, which the court laughed at and said was ridiculous.

Brodsky reminds the Board that it was not the choice of the Party Trust to submit this application as they do not believe they require this special permit. The ZBA, however, determined that the Party Trust did need this special permit under Section 16 which is why the applicant applied as such. Brodsky adds that if Mr. Andrews doesn't like the decision of the ZBA, he can pursue his remedies and take an appeal of that. Brodsky states that it is the Planning Board's job is to take in evidence to determine whether the application meets the requirement for a special permit within the Aquifer Protection district.

Skulte clarifies that they are not talking about Section 15 of the bylaws, it's subsection 15 (paragraph 15) of Section 16. Skulte reads this subsection. Kremer references subsection F and states that this is not a single-family dwelling and exceeds the 1,500 gallons/day and this cannot be ignored. Millias asks if they can get a number for any of the individual systems to see which system has the greatest capacity. Kremer states that you have to add them all up. Millias disagrees and says

that the bylaw says “a system” cannot be larger than 1,500 gallons/day so if you had multiple systems, he doesn’t see how that can be the same thing and believes that it’s still going to be regulated by the square footage and gallons. Kremer responds no, it’s a use. Skulte states that it’s the use tied to the design capacity of the septic system and clarifies that when he looks at this, it’s similar to the amount of flow per acreage criteria where it’s the amount of flow being generated to a single septic system and each one of these septic systems—less than 1,500 gallons/day. Skulte confirms with Webby if it’s accurate to say that the max flow from each individual septic system for Amanda’s Way is 1,320 gallons/day. Webby confirms this to be correct. From Skulte’s perspective, this meets the requirement stated in paragraph (subsec) 15 of the bylaw. Skulte goes on to say that the application is submitted under Section 16 and each criteria in that section is satisfied. Brodsky states to Skulte that the application is submitted under Section 16 and that Skulte is reading Section 15 which, Brodsky reminds Skulte that the ZBA, with the assistance of Land Use counsel, determined is not applicable to this project. Brodsky states that we are talking about something that is not applicable to this project and to re-litigate in front of the Planning Board here is not appropriate. Skulte responds that he appreciates Brodsky’s comments and states that this is a subsection of the entire Aquifer Protection in its entirety and as he reads it, it complies with the previous comment that was raised and that the question at heart is really the numerical quantification of subsection 16 for the special permit in front of the Board and whether or not the project complies with the aquifer protection subsection 16 as a whole.

Troup asks for the numbers again, as presented, in order to do some math. Brodsky states that all the calculations are in the application. Skulte responds to Troup’s question with the following: Lot 1 is 585 gallons/day/acre, Lot 2 is 719 gallons/day/acre (40,000 square feet is an acre which is on the conservative side of the calculations), Lot 3 is 304 gallons/day/acre, Lot 4 is 453 gallons/day/acre. The project, if evaluated as a whole, is 290 gallons/day/acre. Troup confirms the calculation with Skulte and Skulte adds that the result is 545,589 square feet.

Abutter Gordon C. Andrews asks Skulte if the applicant is including the non pervious areas that have been paved and will pave for the driveways in that calculation. Webby responds that it is based on the entire lot. Troup has no more questions. Skulte asks if the public has additional comments. Hearing none, Skulte asks for a motion. Troup asks if the Board is staying open for discussion or closing discussion.

Motion to close the public hearing: Millias
Roll Call: Troup, Millias, DiSesa, Skulte

Second: Troup

All in favor

Motion to approve Petition #923 for the Party Trust Amanda’s Estates special permit for Aquifer Protection under Section 16: Millias
Second: Skulte

Two in favor; Two opposed. (Millias and Skulte are in favor; Troup and DiSesa are opposed)

Motion does not carry as unanimous votes (with at least four (4) yes votes) are needed for approval of special permit.

Brodsky thanks Skulte for his patience. Skulte thanks Brodsky and wishes his team the best of luck.

Motion to return to the regularly scheduled Planning Board meeting: Millias
All in favor

Second: Troup

Roll Call: Troup, DiSesa, Millias, Skulte

Chairman Andrews resumes the meeting.

Correspondence (continued)

The Board resumes discussion regarding the email dated 6/10/20 from Halifax Principal Assessor Holly Merry with attached letter to the Planning Board with request to be read into record. Three members - Skulte, Millias and DiSesa - are in favor of reading the letter into record giving Troup her chance at rebuttal. Two members - Andrews and Troup - are opposed to reading the letter into record. Skulte reads the letter into record. Troup shares her letter of rebuttal to Ms. Merry’s letter by showing it on the screen and reading it into record. The Board discusses how they should get information/research for their agenda moving forward. Millias states that they should discuss as a Board what is needed. DiSesa shares that she was informed she needed to pay for the information she requested as it was a public document request. Andrews doesn’t understand why they (the Planning Board) are not considered employees that can go into the

Town Hall when something is needed as he has always been able to do so in the past. Skulte states that they should have the ability to get documents if needed but wonders if Covid-19 is the reason for not allowing members into the Town Hall. There is discussion regarding Troup's visit to Town Hall on 6/9/20. Discussion for getting information for future meetings ensues. Clerk Barbara Gaynor speaks and states her account of Troup's visit to Town Hall on 6/9/20 as Gaynor was present. Andrews states that there will be no further discussion as they are not running a hearing. Skulte agrees to move on. DiSesa asks the procedure for an investigation. Clerk Gaynor adds that her account was not hearsay and that she was brought into the discussion as she was part of Troup's letter of rebuttal and so Gaynor wanted a chance for rebuttal also.

Public Document Request dated 6/11/20 from Ashley DiSesa with Charlie Seelig's 6/15/20 response has been reviewed by members and public document requests are discussed. Millias states that the Planning Board doesn't normally request information from other Boards/committees, especially in this volume. Skulte states that it seems counterproductive for the town to charge for document requests from the Planning Board. Troup states she didn't need to have copies of the documents, she just wanted to take photos/review the information. The Board further discusses how best to get documents. Skulte suggests there should be consideration to what information is relevant to an application in front of the Planning Board to know what is needed. Millias suggests discussing as Board first if the information thought to be needed would take hours to be retrieved. DiSesa thought the process was to go through the secretary. Skulte asks if there is a way the secretary can act on the Board's behalf making the request and provide the files to the group as a whole. Andrews and Millias agree this would be reasonable. Troup states that they could just go with their civil rights, go in and look at public records without asking for copies, take pictures of what is needed and move on.

6/14/20 Public Document Request from Laurence Gogarty (Monponsett Liquors) for 5/21/20 Planning Board Minutes was reviewed and taken care of, per Andrews.

Andrews states that the Decision letter (Petition #923) will need to be drafted. Skulte adds that each member should provide their rationale for their vote to be included in the Decision letter.

Andrews states that the hearing for the Zoning Bylaw Changes will be July 16, 2020.

Adjourn:

Motion to adjourn: Millias

Second: Skulte

All in favor

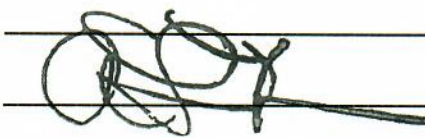
The meeting was adjourned at 8:39pm.

Respectfully submitted,

Gordon R. Andrews, Chairman

Date Approved: 7/16/20





ZOOM CHAT

00:10:08 Jo-Anne Snow: Sharon Tavares canceled - see your emails
00:19:26 Jo-Anne Snow: Email #7
00:19:40 Jo-Anne Snow: Has invoice and bill
00:20:23 Jo-Anne Snow: Sorry #3
00:20:29 Jo-Anne Snow: The attachment is labeled #7
00:20:54 Jo-Anne Snow: Thank you
00:24:14 Jo-Anne Snow: July 29th
00:24:24 Charlie Seelig: July 29 at 7pm probably the Great Hall.
00:24:25 Jo-Anne Snow: July
00:24:58 Charlie Seelig: It's not. I was there last night when the ZBA voted. It is July 29. That's when they could have everyone together.
00:25:09 Jo-Anne Snow: Arlanna is here with me, she is confirming July 29th
00:32:20 Sharon Tavares: Can Holly's email be read into the record?
00:34:32 Concerned Tax Payer: The truth is often disturbing isn't it?
00:35:37 John: what is being covered up here? it could of been read already but why the hesitation?
00:36:34 Sharon Tavares: I agree!
00:37:23 John: if this is planning board related it should be read.
00:37:49 Concerned Tax Payer: Read the letter already.
00:37:55 Sharon Tavares: Again I agree, why the hesitation to keep everyone informed?
00:38:19 Sharon Tavares: Where is transparency?
00:38:29 John: every meeting I've attended certain members of this board seem to shy away from the terms full transparency
00:40:17 Concerned Tax Payer: Daisy Gal is scrambling. Daisy Gal, very professional!
00:41:03 John: it's a letter no different than a letter from an abutter. like last meeting where you didn't want to have property owners be notified. that's one sided but the board was ok with it. however this involves a different person so it's now viewed differently by this board
00:41:48 Concerned Tax Payer: I'm told there were many witnesses.
00:42:18 Concerned Tax Payer: Your there to defend yourself.
00:43:28 Concerned Tax Payer: How many defamatory comments has Daisy Gal made on the record.
00:44:06 Concerned Tax Payer: The letter is already public record.
00:44:32 Sharon Tavares: Again I agree!! How many times Daisy Gal? I have heard these same defamatory comments!
00:44:36 Concerned Tax Payer: Everyone should submit a request for information.
00:44:47 Sharon Tavares: I will!
00:44:56 Concerned Tax Payer: Your right there!
00:45:16 John: I think the investigation should be on this board. every meeting more and more people attend which tells me that this board is gaining the interest of the residents..... last week you were letting abutters come in for a one sided conversation without notifying the property owner they are complaining about. why now are you concerned about one sided complaints.
00:45:37 Sharon Tavares: Perhaps the rules are different for Daisy Gal?
00:45:50 iPad: this is so unprofessional. Someone is tap dancing!! Me thinks tho does protest too much.
00:46:20 John: read the email
00:46:31 John: the public needs to know what's going on
00:46:34 Sharon Tavares: Read the email!!
00:47:01 Sharon Tavares: wow, unprofessional!
00:47:04 Halifax: Read the letter already
00:53:52 Charlie Seelig: I have unmuted him from my end.
01:16:48 John: I'm confused is this board the review engineer for the board of health or are they the planning board. is this septic design approved by the BOH?
01:18:22 ed.johnson1959@yahoo.com: yes two have been approved and installed!
01:21:52 Charlie Seelig: Yes it needs four yes votes.

01:23:57 Tax payer: it meets all specs! this is not right

01:24:39 Concerned Tax Payer: Were the police that escorted Daisy Gal out of the building not really the police.

01:34:12 John: why is this board acting on their own agendas and doing things secretly? they don't seem to be on the same page.

01:35:16 Sharon Tavares: Clearly, they are not on the same page.

01:36:53 Concerned Tax Payer: Assessors records can contain confidential information that needs to be reviewed before being released. I'm told this is the law.

01:41:47 John: if the boards needs something shouldn't they be requesting via email as a board not single handedly with no other board members knowledge demanding items in person during a pandemic

01:44:08 Sharon Tavares: So noone is telling the truth but Amy?

01:46:14 jprat: In my opinion, if the board would make the request, then the request would be granted. If an individual board member makes the request, it is just a resident making a request.

01:47:01 jprat: you must make the distinction between a board making a request and an individual resident making the request.

01:47:52 Jo-Anne Snow: I'd just like to say that the email sent to me from Ashley on a Thursday was information she was requesting from other Boards/departments, not the Planning Board, which I sent along to Charlie as I am not in the building.

01:50:17 Concerned Tax Payer: I admire Ms. Snows endurance. Thank you!

01:51:34 John: Every meeting a certain member of this board demonstrates in one way or another such unprofessional, and childish behavior. She was ranting last meeting about attendees log in names being listed as "iPhone" or "resident" however she sees it professional to use "Daisy Gal"?

01:53:07 Halifax Resident: why not just ask nicely for the records?

01:53:57 rosiebee: records need to be prepared and can't be given out immediately

01:54:30 jprat: Is there any sort of recourse given the behavioral issues of a board member? Could a recall exist and the board member removed?

01:55:31 John: assessors info does not mean anything to a property being buildable. it simply means the tax bill is being charged at things of importance would be deeds, zoning bylaws, zoning districts, allowed, water supply, sewer or septic,

01:55:37 Sharon Tavares: Was there an issue before the planning board that required these records?

01:55:52 Halifax Resident: Were there any other employees in the Assessor's Office at the time of the request? Maybe she was busy with mass.gov like stated?

01:56:37 Concerned Tax Payer: I just confirmed that MA Gen Laws requires that all Assessors documents need to be reviewed for confidential information prior to viewing or copying.

01:57:05 John: if I had a nickel for every time an assessors card stated a property was buildable but it wasn't I could retire. it sounds like this is a cover up story to a hidden agenda?

01:57:28 Jo-Anne Snow: I can pull Planning Board files, but if any of you want files from other Boards or Departments, you must go to those Boards or Departments. Ashley's request were for files from other Departments and Boards.

01:57:30 Concerned Tax Payer: Viewing Property cards and entire files are different.

01:57:51 rosiebee: no hidden agenda, some records ARE

02:02:28 Concerned Tax Payer: Daisey Gal likes to read. Read the laws concerning confidentiality.

02:03:30 rosiebee: the planning board needs to know that town employees just can't stop everything and do what they want to get what they want immediately. town employees have other things to do to and have other people in front of them.

02:04:01 John: that sounds reasonable to have a statement from each member that supports their votes

02:04:28 Concerned Tax Payer: In particular the no votes.

02:05:00 iPad: Everyone should write why they voted the way that they did and the letters are then attached to the decision letter.

02:05:57 Jo-Anne Snow: Everyone needs to write an individual reason why you voted the way you did. I will incorporate that into a letter draft.

02:06:33 Jo-Anne Snow: It can be as short or long as you'd like.

02:06:54 Sharon Tavares: Please state your reasons on the record now...

02:07:42 Halifax Resident: yes, when it meets all the requirements? please explain your reasoning..

02:07:55

John: I don't think they have reasons to support the no votes so they need time to research

02:08:03

Sharon Tavares: Exactly!
