



## Halifax Planning Board Meeting Minutes September 3, 2020

A meeting of the Halifax Planning Board was held on Thursday, September 3, 2020 in the Multi-Purpose Room at the Halifax Elementary School, 464 Plymouth Street, Halifax, MA.

Members Present: Chairman Alan Dias, Vice Chairman Mark Millias, Clerk Rick Merry, Members Gordon R. Andrews and Amy Troup.

Chairman Dias opened the meeting at 6:32pm.

### Discussion

#### **Annual Town Meeting / Special Town Meeting – How the Zoning Bylaw Change Recommendations will be reported on September 12, 2020 – who will be at the microphone and/or paper copies for distribution**

Dias states that there will be no recommendation from the Planning Board for a Multi-Family Bylaw Change as there was a 2-2 tie vote and no recommendation from the Planning Board for a Zoning - Marijuana Bylaw change as there was a 3-1 denial vote (at the 08/06/20 meeting). Dias asks the Board if they agree to him presenting this at Town Meeting. The Board is in agreement.

### Appointment:

**6:35pm – Attorney Kesten - Executive Session - Gordon C. Andrews v. Halifax (civil damages) - strategy with respect to litigation in an open meeting may have a detrimental effect on the bargaining position of the Town.**

**Motion to go into Executive Session: Troup**

**Second: Merry**

**Roll Call Vote: Troup - yes; Merry - yes; Millias - yes; Dias - yes;  
Gordon R. Andrews abstained.**

### Appointment:

**7:05pm – Form A – 72 Pond Street – Gregory Tereshko**

Tereshko is present. Millias states the purpose of the plan and the Board reviews and discusses the plan. Troup reads the purpose of the plan: to divide parcel A from map 25 Lot 5 and to convey parcel A to Tanya Little Tereshko with lot 56 map 25. There is a typo (should say lot 5G) which will be fixed by Tereshko before the Board signs the mylar.

Tereshko presents his project. The Board has no has no issues.

**Motion to endorse the plan for subdivision not required with the understanding that the Board will sign after the typo is corrected: Andrews**

**Second: Troup**

**Roll Call Vote: Troup - Yes; Merry - Yes; Millias - Yes; Andrews - Yes; Dias - Yes  
Passes 5-0-0**

The Board signs the application. Will sign the plans after the correction is made.

### Appointment:

**7:20pm – Curtin Oil (Anthony Curtin) – 640 (642) Plymouth Street – Preliminary Hearing for possible new/revised site plan for fuel storage tanks**

Anthony Curtin is present. Andrews recuses himself as he states he owns the abutting property. Joe Webby and Bob Coluccio from Webby Engineering are present and present the project. Curtin would like to place a containment center and two storage tanks to the rear of this dwelling and his existing building that would have a volume of 30,000 gallon oil

and 10,000 gallon diesel. This would be in a containment system with a canopy. This will not significantly overload the basins. Coluccio talks about 30,000 gallon fuel tank and the two 10,000 gallon fuel tanks. At one time the facility was used for an on-site fuel storage and the current underground license for that storage will probably need to be modified as they will be going above-ground. The tanks will be contained inside of a concrete containment dike. Trucks would load and unload at the loading rack and there will be containment at the loading rack and if there's spill it will drain into the dike. It's self-contained. There will be high-level alarms meeting all of the state, fire and federal-spill prevention codes. They will need to go through the local Zoning process per the State Fire Marshall before approval. Stormwater is a concern. They are building to reduce the runoff as storm water falls into that dike and if there's significant accumulation of four or five inches, it will be pumped out onto the ground as long as it's clean which decreases the runoff.

Dias states that this is strictly preliminary. Coluccio confirms that they will be making the change for the license through the Board of Selectmen. They will have the Fire Chief's signature on the application. Millias confirms with Coluccio that the tanks are suspended on legs inside the concrete box. The loading area will be canopy-covered. The containment area will not have a cover. Dias states that if it can be covered they wouldn't have to worry about a hundred-year storm. Coluccio and Dias discuss 25-year vs 100-year storm. Coluccio states 25-year storm is acceptable, Dias disagrees as he thinks 100-year storm is more of a reality. Dias and Coluccio discuss a canopy. The tanks are not double-walled. Coluccio clarifies to Troup the reduction of runoff.

Dias would like the Selectmen to approve the license before the Planning Board goes through with a site plan review. Millias states that this is a risk the applicant would take. Merry agrees with Dias. Troup agrees with Merry and Dias but also agrees with Millias that it's a risk the applicant will take. It is questioned whether Curtin has a special permit from the Zoning Board. Dias goes over the process - Selectmen, modified site plan through the Planning Board and then any other Board.

#### Discussion

##### **241 Franklin Street Solar Project – Abutter DiBona 229 Franklin St – CS Energy - determine road location and trees**

CS Energy representative is present. Rep states that the issue with the planting has been resolved and that he has an as-built. He passes it to the members of the Board for review. The digital version will be sent to the Secretary tomorrow. Dias states that this is not an as-built but more of a population showing elevation and some trees. There are no engineering or surveying stamps. Dias states he will not accept this plan as an as-built. Mike DiBona (abutter) is present and states that he is satisfied with the plan presented as the road has been located and the trees appear to be where they should be on the site plan. Troup, Andrews and Millias state that this plan will suffice to show what will be done and proof of the road.

#### Discussion

##### **Pine Street North – to determine if Planning Board has jurisdiction**

##### **Alan Dias rearranged discussions. Alan Dias Stated he got the map tonight.**

Andrews presents a plan that was sent by Troup via email, the email was sent to the secretary per the request of Attorney Day and forwarded to the Planning Board on 8/25/2020 and was also placed in each members' folders for the meeting. Andrews explains that Pine Street on this map does not say "Pine Street North" as it was changed because there is another Pine Street in town. So Pine Street is Pine Street North on this map. Halfway between Cedar and Pine Street on this map is the town line. Pine Street does not go through to Gold Street and stops at Bow Street, takes a left to go to Gold Street, cross the town line and come back. The other street is shown as Church Street which was changed by the town to Bow Street. Andrews goes on to explain that if you look at the Town Map in the Town Hall, it shows Pine Street going straight across those lots out to Gold Street which is not the way the subdivision is. Andrews' concern is that the Town Map should depict the street (Pine Street North) the way it's laid out in the subdivision. The lots that cross have an easement to Alan Dias' for those lots but doesn't create legal access to Pine Street. Legal access would be Gold St to Bow St to Pine Street, per Andrews. Andrews states that this should have come to the Planning Board to review that the road should have been constructed so the people on Pine Street have legal access to their lots as they do not have legal access to their lots which is depicted as Pine Street North on some of the plans at the Town Hall. Andrews is concerned that if somebody buys the house up on Pine Street North, they don't have any legal access over that. It appears that they do, but they don't. If there's a change in the subdivision, it should have come back to the Planning

Board for that modification. The only other access to Pine Street is through Snow Street which comes through the Town of Hanson, per Andrews. There are a bunch of streets that have never been accepted, per Andrews. Millias asks Andrews "does the corner lot exist?" Andrews states that the corner lot does exist. Lots of discussion is happening between Millias and Andrews.

Dias states it is on the agenda to determine if the Planning Board has jurisdiction on the paved streets and states that Andrews hasn't shown proof of how the Planning Board has jurisdiction. Dias doesn't see a Planning Board issue unless you cite a specific subdivision control law.

**Motion to contact Town Counsel to verify that the Planning Board has jurisdiction over subdivisions and the layout of the roads: Andrews**

Dias states that the Planning Board does have jurisdiction over public and private ways so there isn't a need to go to Town Counsel. Andrews states that the town map needs to show things correctly, not to rebuild the road. Millias states that they would need an as-built to prove where the road is as there is no other way. Andrews states that the Town Map needs to show where the roads are actually laid out. Millias is trying to figure out what the intention is. Alan How can you do that you would need to do a new subdivision?

The plans are determined not to be the same.

**Motion to contact Town Counsel to advise the Planning Board whether or not they have the authority to change the Town Map to depict the subdivision as it was laid out: Andrews**  
**Second: Troup**

Attorney John Day (representing Paradise Properties, owner of 58 Pine Street North) is present and speaks. The Board discusses Troup's email with attachments sent on 08/25/2020 regarding Pine Street North. Again, Attorney Day asked Amy L. Troup at a meeting prior to this one for these documents to be sent to him through the secretary of the planning board. Troup explains that on June 9, 2020 she went into the Town Hall to sign a Planning Board bill and also pulled Pine Street North public records to better understand how it was developed to prepare for the June 18, 2020 Planning Board meeting. Day states that Paradise Properties' parcel (Map 10 Lots 965, 966 and 967) seems to be singled out. Troup got everything from each department. Day states that his client deserves an explanation why his property is being discussed as the Planning Board has no jurisdiction at this point. Amy L. Troup states to Attorney Day that the property on the agenda was the abutting lot. There is an email from the abutting lots realtor. Amy obtained all the files from all the lots on Pine Street North to get a full understanding of how the lots would be buildable. Day asks Troup why Map 10 Lots 965 - 967 were on the agenda. Troup responds that she had nothing to do with the agenda and that this was not her doing. Day asks when the official Town Map was formally adopted by the Town Meeting pursuant to the statute. Dias responds that Zoning, which was established in 1952, and this being an 1888 subdivision plan/map, Dias would say maybe in the 30s. Day states that the Assessor's map shows Pine Street North going right into Bow Street, not into Gold Street.

Day asks what is the flaw in the Town Map, as adopted by Town Meeting, that needs to be corrected at this stage by the Planning Board. Andrews responds that the problem is that this section of town falls in between three maps so it's listed as a detail. Dias asks Andrews what he considers the official map. Dias asks if Andrews is asking the Planning Board to change Map 10, which is an assessor's map which is not an official map, only informational. Dias states that the subdivision in question is not going to change. The layouts of the road are another issue. Andrews wants to change the map to show what the 1888 map shows which is not what you see at the Town Hall. Dias responds no, you're seeing assessor's maps as the 1888 map reflects Halifax and Hanson. 60% of this 1888 map is in the town of Hanson, which doesn't reflect the assessor's map. Day asks Andrews again, what on the official Town Map falls within the Planning Board's jurisdiction to be corrected with regard to Pine Street North? Andrews responds that he will get back to Day, which Day states "speaks volumes."

Day explains what he thinks is going on here. Day states that it seems like every Planning Board meeting his clients have been brought before this Board or there has been continuations made with regard to his client's property on Pine Street North which needs to end. Back in March his client's property received a determination of build-ability by an outside official Chris Carmichael (Norton, MA). On June 19, 2020 his clients received a building permit for their property on Pine Street North. The property is fully permitted. Day would suggest there is no jurisdiction before this Board with regard to his clients' property. Day goes on to say we've been hearing that the Town Map has to be fixed for the last two weeks. He states this establishes that this is nothing more than a vendetta by some members, not the whole Board, and is a pattern of harassment of his clients to constantly come to the meetings, listen to innuendos made, anonymous letters written about their property. Day adds this is an abuse of the Planning Board's power to be exercising extra jurisdictional authority over his clients' property. Day states this is getting dangerously close to working outside the scope of the planning board and subjecting members to personal liability because there is no planning board business to be had with regard to his clients' property. Day would like the Board to make sure that until there is some jurisdiction that his clients' property isn't presented on any agenda, brought up or discussed. He adds that this Board and his clients' property have no involvement with each other whatsoever.

Attorney Day Stated that "This Board has jurisdiction over to make corrections to private ways on the official town map."

Troup states that this was not ever put on the agenda. The neighbors lot was on the agenda. There is an email from the neighboring lots Realtor to be on the agenda. She adds as a result numerous abutters placed items on the agenda. The agenda item was for realtor Larry Costa and his clients, never about Paradise Properties. She responds to Day, who reads correspondence item listed on the agenda "08/25/20 – Email from Amy Troup with four attachments regarding property Assessor's Map 10 Lots 965, 966 and 967," that is because Day asked Troup at the last meeting for this information. Day asks Troup why she sent a document that only pertained to his clients' property. Troup responds that Attorney Day Asked for the documents and I sent them. Day was talking about it and had a question at a previous meeting, so she gave him the answer but can give the property information for the whole street. Day states that his clients have done nothing wrong and he suggests the Planning Board do not bring this up again.

Day States that anonymous letters should not mention his clients property Paradise Properties.

Dias asks Town Administrator Charlie Seelig about an official Town map and states he is not aware of an official town map being developed. Seelig responds that he is not aware that the Town has an official town map according to Mass General Laws. Seelig has never seen any trace that the town has approved an official town map according to those laws. Day references Chapter 41 Section 81E as it defines the official town map. Day anticipates that what will be found is that Halifax created the ZBA in lieu of creating an official town map.

Andrews would like to continue the previous motion:

**Motion to contact Town Counsel to advise the Planning Board whether or not they have the authority to change the Town Map to depict the subdivision as it was laid out: Andrews**

**Second: Troup**

**Roll Call Vote: Andrews - Yes; Troup - Yes; Merry - No; Millias - No; Dias - No  
2-3-0 Motion denied.**

Millias states for the record that the assessor's map is a rough, general idea, a good reference that is not used to determine lot lines or any of those things which makes it useful but not there for this type of information.

Dias apologizes to Attorney Day about Correspondence item

"08/25/20 – Email from Amy Troup with four attachments regarding property Assessor's Map 10 Lots 965, 966 and 967" being placed on the agenda and adds that this property will no longer be discussed at a Planning Board meeting. The item emailed was asked for at a previous meeting by Attorney Day.

## Discussion

### Verbatim Hearings in Meeting Minutes

**Alan Dias started this off with Amy I believe you asked for this**

Troup confirms she would like hearings to be verbatim, not the entire set of meeting minutes and states it was a vote by the former Board. Dias explains his thoughts on issues that can arise when things are verbatim and states that the best practice is to follow the Open Meeting Law which explains that meeting minutes are to be a summary. Troup, we had a vote to have hearing minutes be verbatim from the previous board before Rick and Alan were on the board. Dias states that creating verbatim minutes can be very challenging and can leave a lot to be desired and feels that this Board should be doing basic minutes, especially when it comes to litigation. Dias and Troup further deliberate. Troup states that the hearing on 8/6/20 is still not done verbatim.

Amy Stated "there seems to be some segments missing"

Dias: "they seem to be verbatim"

Amy asks Dias "did you watch the meeting on You Tube and go over the minutes?"

Alan: "no"

**Motion to think on it some more but we did not vote to make our regular minutes verbatim, only the hearings: Andrews**

The Board decides to discuss at the next meeting.

**Discussion**

**John Parquette – 1 Pasture Lane**

Nobody is present.

**Discussion**

**8/24/20 Open Meeting Law Complaint filed by Amy Troup against Chairman Alan Dias – review and response**

Dias has no problem with speaking with Town Counsel to respond to this complaint as it was brought against him. Troup states that it was not on the agenda. Dias wanted to make the Board aware of the request which is why he read it into the meeting.

Amy Stated there were other letters that were sent to us that were not on the agenda and never mentioned

Amy Stated that Alan Began the meeting on 8/24/2020 with an apology for a possible open meeting law violation that was not an open meeting law violation as the public brought up the topic

Yet, you later bring up a non agenda item

Who wrote the letter?

Who told you to read the letter out loud?

Dias it was in the mail and that is none of your concern

**Motion that Chairman Alan Dias pursue this Open Meeting Law Complaint:**

**Millias**

**Second: Merry**

**Voice Vote: Merry - Yes; Troup - abstained; Millias - Yes; Andrews - No; Dias - Yes**

**3-1-1 - Motion passes**

Dias reads into record a letter (unknown sender) regarding responding to an Open Meeting Law complaint. He then moves ahead with reading another anonymous letter out loud. See below

**Discussion**

**Complete Streets Program, Green Seal Environmental, Grant funds availability**

Dias explains that there is \$400,000 worth of funds available to the Town through the highway department. Dias states that Green Seal Environmental will make a presentation regarding this grant to the Planning Board at their meeting on

September 17, 2020. This program covers sidewalks, crosswalks, etc. Seelig explains that this is a courtesy so that the Planning Board, even though they may have no jurisdiction over the program, can find out more information.

### Discussion

#### **The Party Trust v. Town of Halifax Planning Board – conclusion**

Dias states this matter has been concluded. A judgement was entered and the case was dismissed.

### Discussion

#### **Adding four Anonymous Letters/emails received by the Planning Board to a future agenda**

Dias would like to input from the Board wants to handle anonymous letters. Millias states he doesn't think they should ever be read. Andrews states that they should be acknowledged by adding them to the agenda under Correspondence but not necessarily read into record. Merry does not think it's necessary to read them without a name. Troup states that if any anonymous letters are read, all should be read - you can't pick and choose.

**Motion to acknowledge anonymous letters but not read into record: Millias**  
**Second: Merry**  
**All in favor (5-0-0)**

### Meeting Minutes

Minutes for 8/6/20 and 8/20/20 will be approved at the next meeting as Troup needs more time to review.

### Bills

**Motion to approve PH Express Newspaper subscription renewal – Invoice #P000223 = \$25.00: Millias**  
**Second: Andrews**  
**All in favor (5-0-0)**

**Motion to approve W.B. Mason – Invoice #212851446 – Office Supplies (Custom Nameplates for members Dias and Merry) = \$48.04: Millias**  
**Second: Andrews**  
**All in favor (5-0-0)**

### Correspondence

The Board reviews correspondence.

### Other Business

**Comprehensive Permit "Country Club Estates" 40B Project - Postponed until October 14, 2020**


### Adjourn:

**Motion to adjourn: Millias**  
**Second: Troup**  
**All in favor**  
**5-0-0**

Respectfully submitted,

Alan Dias, Chairman

Date Approved: NOV 5<sup>th</sup> 2020  
Alan Adams

  
Michael Shivers  
mshivers