



Halifax Planning Board

Meeting Minutes

January 21, 2021

A meeting of the Halifax Planning Board was held on Thursday, January 21, 2021 via Zoom hosted by Town Administrator Charlie Seelig.

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

Chairman opens the meeting at 7:00pm and takes a roll call of all members. Explains protocol of Zoom meeting.

Discussion

Meeting Disruption - MGL Chapter 30A: Section 20, Paragraph (g)

Town Counsel Attorney Larry Mayo is present and gives an overview of MGL Chapter 30A: Section 20, Paragraph (g) due to disruptive behavior at previous meetings.

<< (g) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.>>

Mayo explains how he interprets this section with respect to Zoom meetings which is to allow for the Chairman to ask the host of the meeting to mute the disruptive party to allow the meeting to proceed as it should under the direction of the Chairman. Although drastic, if the Chair feels they cannot control the meeting, after a warning to the disruptive person the Chair can have the disruptive person/people muted by law and this is enforceable. Mayo states that the purpose of this discussion is to remind all Board members that the Chair, as elected by the Board, is in control of the meeting unless the Chair recognizes another to speak.

Andrews confirms with Mayo that the Chair has the right to "shut off a member" (ask the host to mute) if that member is continually being disruptive and the Chair feels they aren't able to conduct the meeting. Mayo agrees with Andrews' statement that the Chairman cannot stop a member from speaking due to a dislike for content, but Mayo adds he does have that right if someone is speaking out of turn. Mayo and Andrews agree that the Chairman must also not disrupt or talk over another.

Appointments/ Hearings

7:00pm – Norm Kotoch - 934 Plymouth Street, Cube Smart – preliminary site plan discussion

Norm Kotoch is present on behalf of owners Merritt Hill Capital. The Board reviews plan supplied. Rather than additional construction methods to extend buildings in rear of property, there is a new method for Mass units that match current buildings that are built on site. They are on a 4 x 4 grid that sit off the ground allowing air underneath with a façade on front to make more decorative. The plus is less expensive and more timely than traditional construction. These buildings can withstand the same as traditional buildings. This proposed project is being driven by demand from all types of tenants to utilize storage. 75%-80% of people who utilize storage are within a 5-mile radius of that location which means most are from Halifax. Will maintain the same drive aisles and extend the buildings, wrap driveways around outside and interior. They could also put a row perpendicular along the very back of the property as well. The stretches wouldn't be as wide as current buildings which are 25 feet wide. The new buildings will be about 10 feet deep x 20 feet wide which will allow more room in the drive aisles. Existing buildings are on concrete slabs. The proposed buildings are not easily moveable but sit directly on the ground and stabilized to fit in with current construction. Part of buildings will be on pavement and depending on length, some will sit on gravel and they will wrap the asphalt around the back of the property to continue the current driveway. Depending on the terrain, these buildings can be adjusted. Confirms that they will extend driveways. Janice International is the website for these buildings. Merritt Hill Capital is completely above Board. Confirms they will maintain current setbacks. Depending on how engineer lays this out so that there are no drainage issues, if there any required retaining walls, etc. the owners will do what they must and what the Board asks. They are seeking preliminary approval and will return if Board wishes. Andrews states this site was approved for a third climate-controlled building in the back, at the end of the drive lane against the drainage basin in back. Kotoch states will probably be losing some parking in the back. Kotoch states they are looking for permitted, permanent buildings which can be taxed as such. Dias and Andrews agree that Kotoch should go through the site plan process.

No public comments.

Andrews states that there were no drainage issues previously as drainage easement in back is large. If Kotoch is following that previous line down with a building across the back Andrews does not see any issue. Dias does not see any issues either, may have to include some roof drainage calculations. No other comments.

7:20pm – Scott Casagrande – 311-313 Plymouth Street – site plan review (continued)

Freeman Boynton is present to represent owner Scott Casagrande to build a garage for personal use. Boynton explains they have dealt with outstanding issues: the plans have been modified to show floor drains in the building and tight tank outside building; parking area removed from leeching facility; show overhead doors on building. Dias states it appears issues have been addressed. Andrews' opinion is that he doesn't believe this garage fits the area; doesn't fit the setbacks required which is the intent of the by-law. The proposed building is within 10-12 feet of the lot line when everyone else in the district must be 30-40 feet off back. Boynton responds that it's necessary for the applicant to go before Zoning for relief for setbacks. Andrews responds that under Site Plan approval it's up to the Planning Board to decide if it fits this area and description of intent. Boynton responds that as they are surrounded by heavily congested uses, they don't feel it will negatively impact the area. Andrews responds that everyone else in the area is meeting the setbacks. Merry agrees with Andrews however Merry confirms that the existing building (building two) doesn't meet setbacks, either. Adds they will have to go to Zoning. Boynton states that the floor drains were designed based on specifications of the plumbing inspector. This tight tank will be a double-wall tank as it is necessary. Troup is looking to find out when the other two buildings were built. Dias explains that BOH regulations require tight tank for floor drains and BOH was forced to come up with regulation because of Mass Water Resources which the applicant has met. Dias states that he thinks the building is consistent with the other buildings on the lot, doesn't know why so close but maybe could be maximizing the amount of area. Regardless Dias states this is a Zoning issue. Troup states that Building 313 was built in 1978 which is prior to setbacks. In 1987 Building 311 was built which explains why 313 doesn't follow setbacks. Troup doesn't see setbacks on Building 311 (front building where Borhek is) but pre-existing is different than building something new so agrees that setbacks must be there. Troup states that the site plan before the Board must be under the intent of the by-law which is making sure the applicant has frontage and setbacks and believes that to get a variance, Casagrande would need a hardship which she doesn't know what that would be to put in a personal garage. Dias agrees with the setback issue and that the applicant will need a special permit from the Zoning Board. Andrews references Section 167-28(H)(5) of the By-law. He states that he believes this is where this project comes in and doesn't comply; does not feel this project fits in with the other properties in this commercial area as other business do. Boynton states this is a new issue that was not discussed, and he wasn't prepared to talk about this. Boynton confirms the applicant has every intention to go before the Zoning Board to request variances from setbacks. Dias suggests a withdrawal without prejudice rather than extension requests. Andrews disagrees and believes filing an extension is a better option rather than having to go through the SPR application process all over again. It is confirmed that Casagrande requested a continuance to tonight, January 21, 2021 and waived Section 167-28(D). Troup recommends an extension to be within the lot lines rather than withdrawing. It is recommended by the Board that Boynton request another extension. Boynton agrees on extension. A Letter of Agreement of Extension of SPR is sent to the applicant/Boynton. Andrews' main concern is the building. Height of building is unknown, but plans have been submitted to Building Department. Merry agrees with Andrews' concern. Troup agrees also and adds that this is a personal use on a commercial lot and there should be a deed restriction, if it is allowed, since it can never be commercial. Dias sums up concerns and adds that he doesn't see a personal garage on a commercial lot as an issue as this garage, to be used for commercial use, would have to be part of this site plan and believes this is under the ZBA's jurisdiction. Boynton agrees with Dias that this would be a ZBA condition if that Board wishes. Boynton states they are only proposing a personal use and doesn't see why this can't be conditioned as such.

MOTION to continue this matter until the Zoning Board of Appeals makes a decision: Merry

SECOND: Andrews

Andrews states that if the Board is going to be in receipt of a Letter of Extension from the applicant, there is no need for a Motion. Can be 90 days rather than 30 days. Further discussion between Board members and Boynton regarding extension and waiver of 167-28(D). Troup and Andrews agree a Letter of Extension is best. Boynton agrees to send an Extension Request on behalf of Scott Casagrande tonight. Andrews retracts his Second and makes a new motion.

MOTION to accept the continuance that applicant Scott Casagrande JSC, LLC is asking for tonight for whatever timeframe they put on that: Andrews

SECOND: Merry

Roll Call: Andrews – Yes; Merry – Yes; Troup – Yes; Dias – Yes

Passes 4-0-0

7:40pm – Outback Engineering/Matt Grosschedle – 0 & 2 Walnut Street – Form A

This Form A has been withdrawn.



Bill

Merrill Engineers and Land Surveyors – 12/18/20 Invoice #10622 for Consulting services (Autumn Ln) = \$400.00

MOTION to pay bill for Merrill Engineers and Land Surveyors 12/18/20 Invoice #10622 Autumn Lane for \$400.00: Andrews

SECOND: Troup

Roll Call: Andrews – Yes; Merry – Yes; Troup – Yes; Dias – Yes

Passes 4-0-0

Discussion

Autumn Lane – status

No new information, per Dias.

Pasture Lane – status

Dias states this is still in the permitting portion and is hoping within the next couple of weeks there will be a resolution.

O’Reilly’s Auto/330 Plymouth Street – invoice received from Amory/Pat Brennan 1/12/20 for as-built review, inspection and report

Will be paying bill.

Complete Streets Program - project list

Dias recommends that the project list be submitted as a Board, sans names, to Board of Selectmen and CC: Highway Department.

Cled’s Tree Service, 450 Industrial Drive – non-compliance with site plans

Gordon R. Andrews recuses himself at 8:24pm.

Dias states that a comment was received by a resident late today. He further explains situation with Cled’s Tree where he is non-compliant with site plan. There are some other issues involved as far as the plans themselves. Dias informs the Board that there were some emails that certify that plans submitted to the Planning Board were fraudulent. Dias states based on the fact that there are some inaccurate plans, he believes the Board should revoke the existing site plan which Cled is not compliance with and did not follow up with but allow Cled the opportunity to bring the property into compliance as he has a timeframe from the fire department to get a site plan and it’s Dias’ opinion the Board should follow the same timeframe. Merry agrees that it’s a good idea to stick with what the fire department is doing. Dias confirms that Bracken emailed that he was going to draw up some new plans for Cled’s. The timeframe from the fire department is the end of February. Dias states Cled has made a lot of progress with the chips that are there. Dias states Cled is not in compliance with any plan and did not come in last July. Merry asks if it’s possible for Cled to get in compliance in the timeframe given. Dias responds that if there is a plan of where everything will go, the Board can work with Cled to adhere to some sort of reasonable timeframe to get in compliance. Troup asks how Cled is not in compliance. Dias responds that there are emails that establish that the plans submitted were not prepared by the engineer that stamped them, that the plans were altered but the engineer will submit new plans on Cled’s behalf. The plan that was submitted is not a good plan, per Dias, that show logs in places they are not. Question is: is Cled in compliance or not? Troup responds that in order to answer that question she would need to know what compliance he’s not within. Troup’s second question is last summer she remembers there was a plan in front of the Board with red lines depicting a water line, is this a fraudulent plan? She explains that the Board has seen plans that had writing on them that were not of the engineers. Troup asks if these should be recalled. Dias doesn’t think the Board should recall any of the plans. It is clear that some of the plans were marked up but Dias doesn’t believe this is an issue the Planning Board should deal with as it is a legal issue. The engineer is willing to work with Cled and Dias believes the Board should work with Cled to bring him into compliance. Any plan that Troup sees, Dias states doesn’t represent what is on the ground. Dias has seen photographs from the fire department, from the property a year ago, and from the recent fire. Dias states the plans on record in BOH, Building and Conservation have nothing on them that represents the site right now. Troup states this does not answer her question as she asked why Cled is not in compliance. Dias suggests Troup can reach out to the Fire Chief who made the original determination that Cled is not in compliance. Dias is looking for a motion if Cled is not in compliance and then if not in compliance Dias thinks they should give Cled a timeframe like the fire department did to come up with a plan and work with Cled to get into compliance. Troup believes the fire department is dealing with Cled and the Board should let this occur. Dias can request the ZEO to make a determination to see if Cled is in compliance, however Dias states it is clear that Cled isn’t in compliance and doesn’t know if they should waste anybody’s time.

Chris Winiewicz, 129 Circuit Street comments that there was a piece of equipment on Cled’s site that the town was dealing with for a noise issue. There was a Planning Board Zoom meeting with Winiewicz last year with Cled where there was an agreement that Cled would move the machine to a different part of the site or put up a barricade to stop noise coming to the residences but that has not happened. Dias comments that the Board of Health did receive a noise complaint from a resident regarding this property and Dias referred this complaint to someone else. Dias’ opinion is that if Cled is not in compliance, this noise complaint would be an issue that

the Planning Board would address which Cled would need to participate in. Winiewicz spoke to DEP who informed him that this was a complaint that the town had to deal with. Dias explains that noise is difficult as it must reach over a certain decibel limit over a certain period of time. The town does not have the equipment to do this measuring. Dias states that this complaint should be something the Board will be able to monitor in the site plan process.

Town Admin Seelig confirms to Dias there is no one else asking to be heard.

Merry states that Cled should try to get into compliance and would like to see what the fire department says.

Cled Ferreria is present. Cled states that the fire department gave him 90 days to get in compliance which he is working on. Cled states anyone driving by will see the progress he's made to get in compliance. A pile of chips and a lot of wood has been moved out and Cled is working on the engineer plan which will be coming in when he applies for the permit for the building. The work is still in progress. Cled reiterates that the fire department gave him 90 days to get in compliance and adds that the Fire Chief included in his letter that Cled has made good progress so far. Dias agrees Cled has made great progress thus far but is not in compliance. Dias would like the Planning Board to work with the fire department to give a longer period of time to get into compliance as he doesn't expect this is enough time to get a good plan from Cled. Dias expects that Cled bring a plan to the Board in 90 days, tell the Board what he is going to do – how he is going to situate the logs, how he is going to locate some of the wood-cutting equipment, mulch and wood chip piles, etc. Dias would like to come up with an agreed amount of time for Cled to do so; to get a compliant site plan. Cled understands. Without a plan, Dias doesn't think Cled will be able to get rid of all the logs in the current time frame. Cled agrees that this is a fair assumption. Cled doesn't know why he would get rid of all the logs. Dias states they aren't asking him to get rid of the logs but explains that the new plan would show the location of the logs and will comply with Chapter 31 of the fire code. Cled responds that he has 90 days to comply and that's what he's doing. Dias states that the current site plan is no good, but once Cled is clear with the fire department Cled will submit the plan and will comply to the legitimate plan or new plan that he submits. Dias states this is all he is looking for and Cled responds that this sounds good to him. Winiewicz asks what is going to happen with the noise issue if the 90 days gets extended. Dias responds that he doesn't know which piece of equipment is responsible for the noise but some of the activity Cled is conducting is within his right under the light industrial zoning and some material requires a special permit. Winiewicz responds that under 167-9, nuisance noise is forbidden. Dias agrees but states that it is extremely difficult to try to establish what a nuisance noise is. Cled states that the grinder makes the noise. Dias states that a grinding process requires a special permit if he's reading the regulations under industrial zone correctly. Cled states that he is grinding the pile he has on the property. Dias states that Cled does not have the right to run this machine and if someone had the equipment or resources to measure the noise (noise meter), Cled would be in violation of both Federal and Mass codes. Dias suggests to Cled that he come up with a plan not to aggravate the neighbors with a grinder that he's not supposed to have. If Winiewicz went to the Zoning Enforcement Officer, the ZEO is empowered to issue Cled a cease and desist. Dias thinks Cled needs to figure out if he wants this equipment on property during the permitting process. Cled responds that he has had the grinder running with his truck turned off with window up parked in front of Winiewicz's house and he did not hear any sound. When he lowered his window, he could barely hear the woodchipper or any noise. Cled doesn't want to disturb anyone which is why he went to an Industrial Zone. Cled states he is not here to cause trouble or disturb any residents but asks if it's not a crazy noise during business hours, why can't he run this equipment? Cled believes certain permits allow for running loud equipment. Dias responds that they are not here tonight to deal with noise, however he wants Cled to understand he has a piece of equipment operating illegally. Based on that alone, Dias states Cled has no rights. Mr. Winiewicz is not the only person who has complained about this noise. Cled asks if he can run his wood-chipper on his land to grind logs. Dias asks if his woodchipper is allowed.

Seelig informs Dias that two Planning Board members have departed, and this is no longer a meeting as there are only two members left. Seelig explains that Dias can continue with the conversation, but this is not considered a meeting and no action can be taken.

Dias states that he is adjourning this meeting at 8:58pm due to no quorum but can continue the discussion if anyone wants to.

Adjourn

MOTION to adjourn due to no quorum: Merry

SECOND: Dias

Roll Call: Merry – Yes; Dias - Yes

Passes 2-0-0

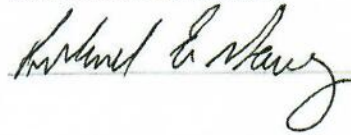


Respectfully submitted,

Date Submitted: 3/18/21



Alan Dias, Chairman



Zoom Chat

00:09:34 Gordon: Then why did you ask him to be here?

00:11:53 Resident: so your taking away the freedom of speech from the officials we elect to sit in these boards and represent us ?

00:13:11 Resident: seems like this chair is on a power trip

00:14:18 Halifax Citizen: say what you will, 'this chair' only has the town's best interest at heart.

00:16:49 Resident: by stopping other elected officials from doing their job as a board member ? taking away freedom of speech ?

00:18:11 rosiebee: has nothing to do with freedom of speech, he wants to make sure people have their say without being talked over and interrupted. common curtesy

00:19:53 Resident: he's the one talking over residents and other board members majority of the time. so as much as I'd like to say I agree I sadly disagree with that statement

00:21:21 rosiebee: oh, like the other member doesn't? please

00:21:28 Halifax Citizen: well said Rosiebee, common courtesy, there has to be order at the meetings. Being disruptive is not being productive.

00:22:06 rosiebee: agreed. nothing gets done if they keep arguing

00:26:21 Resident: bylaws and conflict of interest is set in play for a reason ... they should always be followed ... that being said there is a 5 member board so each one of them can bring forward their knowledge and speak for the residents ... a little conversation or "argument" is good to know they are talking it all through instead of one person running the show

00:27:45 rosiebee: when certain members don't listen and starts in on personal vendettas... it's a problem.

00:27:52 Halifax Citizen: so there should be no semblance of order?

00:28:19 Halifax Citizen: no comment here

00:28:36 rosiebee: that's what he's trying to do, keep order

00:29:00 Halifax Citizen: amen Rosiebee, amen

00:29:57 Resident: personal vendettas ? when people are being told they have to follow the same rules as the resident , and being held accountable if they don't ? that's a personal vendetta ?

00:30:34 Resident: we will have to agree to disagree on this. we clearly have different interpretations of this situation

00:47:32 Jo-Anne Snow: On January 5th Scott Casagrande requested a continuance to tonight 1/21/21 and waived section 167-28 Section D

00:51:38 Jo-Anne Snow: I can send him a Letter of Mutual Agreement for Extension to Mr. Casagrande

01:04:59 Jo-Anne Snow: Scott Casagrande didn't indicate a specific date for the waiver, just said he was waiving 167-28 Sec D. I just forwarded his email from 1/5 to all of you.

01:08:05 Jo-Anne Snow: You can also fill this out if you'd like

01:09:14 Jo-Anne Snow: The deadline has already passed for the ZBA February meeting

01:15:08 Jo-Anne Snow: You also have a copy of the 1/7/21 agenda in this week's meeting folder, just not sure what page number it is

01:15:29 Amy L. Troup: 11

01:15:47 Jo-Anne Snow: Merrill Engineers Invoice #10622

01:15:56 Jo-Anne Snow: \$400.00

01:38:40 Chris W: Could I make a few comments about this issue

01:51:35 Jo-Anne Snow: 90 Days started December 10th 2020

01:57:06 Gordon: this is Gordon c Andrews, there is no quorum

01:57:28 Charlie Seelig: There are three members present.

01:57:39 Gordon: one has recused himself and can't act

01:58:05 Charlie Seelig: Yes, but there are three members present which is different than three members voting.

