



Halifax Planning Board Meeting Minutes February 18, 2021

A meeting of the Halifax Planning Board was held on Thursday, February 18, 2021 via Zoom hosted by Town Administrator Charlie Seelig.

These minutes are an abstract of the digital (audio and video) recording of the Planning Board meeting held Monday, February 18, 2021 which are on file with the Planning Board Department and posted on the Town of Halifax website. The video recording is posted on Area 58's Halifax YouTube page.

Chairman opens the meeting at 6:00pm and reads statement pursuant to MA Governor Baker's 3/12/2020 Order suspending certain provisions of the Open Meeting Law Ch 30A Section 18 due to Zoom Meeting protocol. Chairman takes a roll call of all members present.

Members Present: Chairman Alan Dias, Clerk Rick Merry (joins at 6:30pm), Members Gordon R. Andrews and Amy L. Troup. Vice-Chairman Mark Millias is absent.

Appointments

6:00pm – Site Plan & Special Permit Guidance and recent changes to Chapter 40A - Meeting with Land Use Counsel Attorney Amy Kwesell (K-P Law)

Chairman Dias introduces Attorney Amy Kwesell and explains, per his request, that Kwesell is reviewing Site Plan Review and Special Permits for the Planning Board members/newer members as well as the recent changes to Chapter 40A. All members have digital and hard copies of PowerPoint presentation. Kwesell makes her presentation.

During a question-and-answer segment following the presentation, Andrews asks: if there's a right that's allowed when an applicant is exceeding setbacks, is this a condition that can be denied? Kwesell responds no. She adds if applicant is exceeding setbacks a variance is required from ZBA. If variance is not granted, the project cannot be built. In this case, the Planning Board should make a condition that a variance is required. Andrews asks: if there is a building being built in a business zone and every other building meets the required setbacks, is it okay if the proposed building gets the variance to go closer? Kwesell responds no and clarifies that the Planning Board's decision should be conditioned that a variance is required from the ZBA. Whether the variance is granted is only up to the ZBA, not the Planning Board or anyone else. Kwesell adds that to prevent the applicant from having to come back to the Planning Board the building should either meet the setback or be subject to the grant of a variance. Andrews asks: after the site plan, what is the role of the Planning Board for enforcement? Kwesell responds that enforcement, per the Halifax Bylaw resides with the Building Inspector or designated by the Board of Selectmen. Troup asks if associate members apply to the Halifax Planning Board. Kwesell responds that she does not think so, but the statute provides for associates members if the Planning Board wishes to make a change to the bylaw for allowance of associate members. Dias asks about as a matter of right use: if there is an application for Site Plan Review that requires relief from another special permit granting authority, is the Planning Board allowed to hear that and would they just need to condition the approval? Kwesell responds that it is her recommendation that Site Plan come last in the process as the applicant will have their required relief from Zoning. Per the Halifax Bylaw, Site Plan approval comes first. Because of this, Kwesell responds that yes, there should be a condition that variances, for example, must be met. Dias asks: if ZBA grants the relief necessary does that automatically become a matter of right? Kwesell explains the difference between as of right use, which means a use that's allowed, and a granted variance from the ZBA which means the applicant is dimensionally compliant.

ZBA members do not have any questions. Troup asks what the reasons for getting a variance are. Kwesell answers soil, shape or topography, there must be a hardship and it cannot be more detrimental to the surrounding neighborhood. Troup asks what a hardship would be. Dias explains these are good questions but more for the ZBA. Kwesell states the only Board that can grant a variance is the ZBA. Andrews asks: would it make sense for an applicant to come to the Planning Board for Site Plan Review with a written ZBA determination with their application or does the Planning Board make the determination for Zoning? In other words, Andrews asks: if a building doesn't fit exactly, does the Planning Board need to make a Zoning determination? Kwesell responds that Halifax criteria for site plan is broad. It's the creation or enlargement of commercial or industrial building. Andrews asks: it's part of the Planning Board's job to look at zoning, correct? Kwesell responds no, the Building Inspector determines if the project meets the Zoning bylaw criteria. Building Inspector cannot issue a building permit unless the project meets the use allowed, has site plan approval, has variances if not within the setbacks and has a special permit if required. Therefore, Kwesell thinks Site Plan Review should come last. Kwesell recommends that the Building Department not issue any written decision unless they have a full building application in front of them. Andrews wants to figure out a way to work with the procedure they have with Site Plan coming first in

the process of obtaining all necessary approvals. Kwesell agrees that she can work with the Planning Board on this. Troup states that she believes it's more useful to figure out how they can work with the process they have now rather than trying to change the bylaws. Kwesell agrees and offers the suggestion of an official form/checklist that goes through the other Boards and Departments.

Kwesell reviews the Housing Choice Act of 2020 which was sprung on everyone. They require multifamily housing in a MBTA community, which Halifax is. There are certain bylaws that can be enacted without a two-thirds vote at Town Meeting and only require a simple majority. There are special permits that can be granted without super majority (without four-fifths vote). Also, it allows judges to require up to a \$50,000 bond that the plaintiff would put up if appealing a zoning decision. If the municipality fails to adopt multifamily housing, they are no longer eligible for grants from the Commonwealth. The legislation says that the DHCD and MBTA are going to come up with parameters. Kwesell is advising that towns don't make zoning changes until these parameters from DHCD and MBTA are released as we don't know what these parameters will say. Kwesell doesn't think this was well thought out, but it was enacted so this should be something to think about and dealt with at some point. Andrews doesn't have any questions. Dias asks if these voting requirements are strictly town meeting or will they also affect the Planning Board. Kwesell responds that if they were in the Halifax bylaw, it would be Planning Board special permits, mostly. Troup asks Kwesell to clarify the grant portion. Kwesell responds that if cities and towns do not comply with this legislation, they will not be eligible for grants. Troup refers to Complete Streets Program, for example, and Kwesell responds yes, exactly.

ZBA does not have any questions.

Discussion

241 Franklin Street – As Built – final sign-off

Chairman brings Board up to date regarding the Assessor's notice of an error on the address printed on the plan, which is in the process of being corrected by the applicant. Troup asks if that is why the As Built and signed Site Plan were not in the Planning Board files today. Dias responds that this doesn't have to do with the site plan, only the As Built. Once the As Built is corrected the Board will be able to sign off.

Autumn Lane – status

No updates. No comments.

Pasture Lane – status update

Chairman has no substantial updates.

Complete Streets Program - project list

This has been submitted to highway surveyor. Will wait to hear which projects made the cut. Troup asks if they would need to enact the bill to be eligible, per the prior conversation with Kwesell. Dias responds the Board is eligible now for Complete Streets as those funds have been set aside. Troup asks if these plans will need to be engineered. Dias responds Troup will have to ask the Highway Department as he doesn't have the answer to that.

Stefan Diamandiss (o/b of Christian Diamandiss) / Brookside Construction – 300 Plymouth Street – drainage plan

Michael Joyce (Joyce Consulting Group, civil engineer) is present representing Brookside Construction. Explains that they prepared drainage plan for Brookside in September which was submitted by Brookside Construction. Brookside met with Podgurski who recommended an engineer prepare a plan, which is when Joyce Consulting came in. Joyce received Title 5 plan. Joyce shares proposed site plan with Board on screen with explanation of what is being proposed due to stormwater backup between buildings causing flooding into the buildings as seams aren't tight. To resolve drainage issue is to collect all stormwater the same way: put new PVC pipes and bring it out low-grade at curb line and direct out into two filtration areas, one on the western side and one on the eastern side. These stormwater systems have been sized for a minimum of one inch of rain. With larger storms, they would overflow into the inspection ports in the surface of the parking area and be directed towards the onsite catch basins. Each of the two infiltration areas consist of nine (9) stormwater chambers surrounded in crushed stone, low grade. To his knowledge Joyce doesn't think there are any other proposed improvements. Dias confirms they are just trying to correct drainage issues. Dias isn't sure about jurisdiction. Andrews states that right now the catch basins are handling everything. All run-off is coming from roof. Andrews sees this coming before Planning Board as they need to incorporate this drainage correction to have this filed with the site plan. Troup concurs with Andrews and states she is thinking the Board would need an update on the site plan. Merry states this makes sense with what is trying to be done. Asks if roof drainage had to be designed a certain distance from the water table. Joyce confirms this to be true. Merry asks: as far as soil, do they have to have anything closer to leaching chambers? Joyce responds that it's not something they felt they needed as it's an active parking lot but could certainly do test pits prior to installation. Andrews suggests the drainage plan be added to the file for 300 Plymouth Street as an amendment, does not think the Board needs to redo site plan. Dias sees a couple of concerns: A) would want to make sure that these infiltration basins will not impede on expansion area as septic has been there for many years. Basin on right might affect any expansion of septic system. B) No indication as to where the catch

basins are on this plan. Joyce shows where catch basins are and where they overflow. Joyce can revise plan with respect to septic system to show all setbacks and dimensions to existing leeching areas. Troup suggests a peer review. Dias agrees, to verify all calculations are accurate. Joyce has no issue with this but cannot speak for the applicant. Dias states that the Board will need an application for amendment to site plan. Andrews adds that all Joyce is doing is diverting runoff which will not impact what is there. Andrews believes stormwater management is in the purview of the Planning Board and this could be taken under advisement now. Dias disagrees, believes it's Conservation but will look into. Merry has no further comments other than soil evaluation/test holes. Joyce is amenable to doing soil evaluation as he is a licensed soil evaluator. Troup asks if Test Pit 1 could be moved over closer to test hole as done in the past to avoid any overflow where people are going in and out. Merry responds that is the reserve for the septic. Joyce will update the plan to show reserve area and if need to relocate stormwater area, this is not an issue. Dias will clarify jurisdiction for stormwater management.

0 Monponsett Street – site plan for stump dump, gravel, loam, screening, selling, storing of materials and hours of operation

Andrews requested for this item to be included on agenda. Dias states this request is unclear as, according to the Assessor's office there are about thirty 0 Monponsett Streets. Dias asks Andrews to clarify Map, Parcel and owners. Andrews does not have Map and Parcel but describes location to which he is referring. Down Rte 58 on left hand side there are concrete blocks listed as 0 Monponsett Street with what looks like a stump dump, gravel and loam operations and trucks going in and out. Andrews has received numerous calls asking what the hours of operation are, what is going on and where the site plan is. Andrews did not find a site plan in the office and states this is something he thinks the Board should look at as there looks to be an operation going on with no site plan. Dias is not sure exactly the location of where Andrews is referring. Andrews will get a Map and Lot number but reiterates there is a business with no site plan here. Andrews asks Dias if he knows where he's talking about. Dias informs Andrews that Andrews can provide the Board with the correct information on property or, if Andrews has received complaints, turn those complaints over to the Zoning Enforcement Officer or the Planning Board. Merry asks if the property owner would need to be informed so they can be present for the discussion at the meeting. Andrews explains there are no signs or anything indicating who is there other than trucks going in and out. Dias states that the Board needs more information if Andrews would like to do so, to see if it's under the Board's jurisdiction. Andrews responds, "very good."

Meeting Minutes:

January 7, 2021 meeting minutes will be held off until next meeting.

Correspondence

The Board reviews all mail items.

- 2/6/21 – Email from Town Admin Charlie Seelig regarding ZBA/PB – Changes to MGL Chapter 40A with two attachments: "KP Law Housing Choice Act of 2020 Update" and "Preliminary Guidance for MBTA Communities"
- 2/10/21 – Email from Town Admin Charlie Seelig regarding proposed Zoning bylaw changes with three attachments: "Floodplain Bylaw as of 2015 modified for 2021 revised," "Cape Cod Watershed RiskMAP Update" and "Floodplain By-law to Planning Board"
- 2/16/21 – Email correspondence between Sarah Stearns/Beals + Thomas and BOH Vice-Chairman Alan Dias pertaining to Bud's Goods
- 2/16/21 – Email from Scott Casagrande requesting to continue to March 4, 2021 – 311–313 Plymouth Street – site plan review
- Notices and Letters from Abutting Towns: Hanson & Pembroke
- Notices, Memos and/or Letters from Halifax Boards & Committees: Board of Selectmen Public Hearing Notice

Other Business:

ZBA Comprehensive Permit "Country Club Estates" 40B Project – continued to February 24, 2021 at 7pm via Zoom – Posted Planning Board Meeting to Zoning Board of Appeals Hearing

No comments.

0 & 2 Walnut Street Letter of Mutual Agreement Withdrawal Form – needs acceptance and signatures

MOTION to accept Letter of Mutual Agreement Withdrawal Form for 0 & 2 Walnut Street:

Troup

SECOND: Andrews

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

Passes 5-0-0

All members, with the exception of Troup, are allowing their signature stamps. Troup will go in and sign.

Andrews adds comment about 0 Monponsett Street: he's referring to Map 95 Parcel 9-0. Andrews will do an investigation on this.

Adjourn:

MOTION to adjourn: Troup

SECOND: Andrews

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

All in favor

Respectfully submitted,

Alan Dias

Chairman, Alan Dias

Date Submitted: 3/18/21

Richard E. Navy
OST
Richard R. Andrews

OST