



Halifax Planning Board Meeting Minutes June 3, 2021

A meeting of the Halifax Planning Board was held on Thursday, June 3, 2021, at 7:00pm 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 Thursday June 3, 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.

Members Present: Chairman Gordon R. Andrews, Vice Chairman Amy Troup, Clerk Brendon Elliot (joined at 8:00pm), Members Mark Millias and Rick Merry

Chairman reads agenda into record.

MOTION to accept Agenda as read: Troup

MOTION to shut off the Zoom chat: Troup

SECOND: Millias

Roll Call: Merry - Yes; Millias - Yes; Troup - Yes; Andrews - Yes

Passes 4-0-0

Appointments/ Hearings

7:05pm – Joshua Liddell – 285 Holmes St – Site Plan Review (Filed: 5/13/21, 45 Days: 6/27/21)

Josh Liddell (applicant) and Gary Rice (engineer) are present.

Merry recuses himself at 7:05pm.

Liddell informs the Board that they filed the permit to put an addition on the existing foundation. This is to be used for storage only. Liddell did not get a determination of use from the ZEO as he was not aware he had to do so. Liddell informs the Board this will be for furniture storage. This will be gravel-based parking with no designated parking spots which is how it was when purchased. The building was used as a wood shop when purchased but it will be primarily for antique storage only now. No employees and no office space. Liddell confirms they will not be making furniture. Per Gary Rice, a minimum requirement of 9 parking spaces were put on the plan but not definite, designated spaces. Nothing is striped at this time, just park where one wants but wanted to make it look nicer and more uniform. Liddell meets all setbacks and does not need variance relief from Zoning. This will be a continued use with more storage. There won't be any selling of antiques. Troup adds that this space has been used for this reason for years.

Chairman opens up to the public for comment.

Merry, as a resident, speaks about his concerns with drainage on the site. He states that there has been a lot more done on site that involved more than parking spaces and the addition. Merry informs Board that they have cleared cut the whole 2.5-acre property, hauled out all loam, leveled, added gravel pack on entire area. There is a lot of water coming down the lot and Merry thinks they need a better storm water management. According to the EPA if one disturbs more than 1 acre of property you must file a Notice of Intent with the EPA first, Merry is not sure if the applicant has done this. Shows two small leaching basins that were stuck in to handle all this water. Refers to Note #7 on site plan. Wonders how water goes to impervious areas and not Holmes Street. Merry states the water comes down the hill right at the street with nothing to stop it. When the area gets graveled, Merry is concerned with unstable slopes. Merry feels Liddell made a big gravel parking lot with a fence around it and "called it a day." Merry does not think this will work.

Rice corrects Note #7 on site plan to "pervious areas," not "impervious areas" stating that the point is to have the pavement grade off to the surrounding gravel and when it gets to gravel it will go into ground before it even reaches basins. Merry disagrees and states this is all hard-packed, Q-Pack (recycled material) and will not go into the ground. Merry adds that the way the grades are running down the hill, there's no way it's going to leach into the ground. Merry adds that they have also removed all vegetation from every inch of the property, no screening which causes dust to blow into abutters' yards. Merry suggests the Board do a site visit.

Troup asks Merry for EPA laws. Merry responds 40CFR 122.26 B14. Merry's concern is for the stormwater due to the disturbance that was done. Millias doesn't see Liddell adding much more pervious area. Merry guesses Liddell took 6,500 yards of loam off the site. Millias disagrees with pervious area being vegetated with trees. Merry states that every inch of the property is hard-packed and that there's no vegetation. Millias states he thinks this is the freedom of the owner of the property (Liddell). Merry is concerned for abutters on Aldana Road. Troup and Merry agree that there is no Bylaw stating you can't remove trees from your own property. Troup feels bad for the abutters but states that they live near it. Merry states it isn't just the trees, it's the water and adds that the Highway Surveyor is also concerned about where the water is going. Merry refers to Chapter 41 Soil Removal and states Liddell took more material than allowed without a permit.

Liddell doesn't know where these numbers are coming from but states there wasn't more than 1,000 yards of loam removed from the property. Merry disagrees and states he watched a 6-loader removing material for 2.5 days. Millias believes this is beyond the purview of this site plan review. Merry asks Millias if stormwater comes under site plan. Millias responds that it depends on the impact and changes, and he likes to see the use of a property and is more considerate and thinks it is better for the Town that this property gets used. Troup agrees. Andrews states they are looking at this under the purview of the site plan. Merry asks why the topography stops where it is which is where the grade gets more severe. Everything pitches at the 36. Millias assumes there is no gradient change between them. Millias can't be concerned with water shedding from the pavement back that way and Millias states applicant has proven that it's not going to travel south-easterly along the tracks. Millias disagrees with Merry who thinks Millias should do a site visit.

Liddell states nothing in the front parking has changed but there has been much tree clearing which is not a secret. Liddell confirms that everything from the building forward has not changed and will not change. Merry states that the highway surveyor is concerned also and will be sending a note to the Secretary. Andrews informs Liddell that this must be moved to the next meeting and no action can be taken until all Boards/departments/committees have had their 30 days to respond with concerns or questions. Millias requests that note #7 on the site plan be changed. Board agrees. Liddell agrees. Merry asks the Board again to do a site visit. Andrews and Millias will drive by the site. Troup already has. Liddell will be continued to June 17th at 7:30pm. Liddell states they just want to build an addition and dress the place up which he believes they've done; adds they have nothing to hide.

Merry rejoins the meeting at 7:33pm.

7:30pm – Decision – Flower & Soul Inc. – 894 Plymouth St – Special Permit for Marijuana Establishment & Dispensary (Filed: 4/26/21, Hearing Closed 5/20/21. Determination to be made 90 days from close of hearing)

Attorney Adam Braillard (Prince Lobel Tye Law Firm, representing applicant), Brian Wall (applicant), Brendan McKee (Partner and Consultant of Flower & Soul) and Joe Webby (Webby Engineering) are present.

The Board confirms they have closed the hearing for the Special Permit last time and the Board will now deliberate. Millias states it looks like Chris Winiewicz and Brian Wall were unable to meet up. Andrews responds that had to do with the landscaping on the site plan. Millias states he thought the traffic report was excellent. Merry thinks everything was addressed and looks good. Troup sees nothing left undone in her notes. The Board does not have any conditions to be added.

**MOTION to approve the Flower & Soul Inc. application from Brian Wall and owner Buddy Miles to be located in Units 2 and 3 at 894 Plymouth Street, Halifax, MA 02338 as shown on Assessor's Map 58 Lot 4-0-R recorded in Book 46591 Page 133 in the Plymouth County Registry of Deeds to obtain a Special Permit as defined under Zoning Bylaw 167-3 and 167-7 Schedule of Use Regulations Specific Use Regulations for Marijuana Establishments. The applicant is seeking to operate the marijuana dispensary and establishment in Unit 2, 900 square feet for retail and Unit 3 for storage and an employee area. There will be 26 customer parking spots and 5 employee spaces. The area is Business zoned and the hours of operation will comply with the requirements of the Zoning Bylaw for Marijuana Establishments Section 167-7(14) (all parts) and all of our discussions: Troup
SECOND: Merry
Roll Call: Merry (Yes), Millias (Yes), Troup (Yes), Andrews (Yes)
Passes 4-0-0**

7:45pm – (Continued) Hearing - Flower & Soul Inc. / Brian Wall – 894 Plymouth St – Site Plan Review for Marijuana Establishment & Dispensary (Filed: 4/8/21, 45 Days: 5/23/21 with Extension to June 3, 2021)

Attorney Adam Braillard (Prince Lobel Tye Law Firm, representing applicant), Brian Wall (applicant), Brendan McKee (Partner and Consultant of Flower & Soul), Corinne Tobias (Green International) and Joe Webby (Webby Engineering) are present.

Introductions are made.

BRAILLARD: I can share my screen so we can go over the plan.

ANDREWS: The plan we have is dated 6/4/21 and the last revision date is 5/27/21. So we're all on the same plan, correct?

BRAILLARD: Yes. We can walk you through that. Joe, if you wouldn't mind providing the Board with a quick summary of the additions we made to the landscaping and the sign...

WEBBY: Yes. At the last hearing the Board asked us to incorporate the landscaping plan into our site plans as well as a sign plan and a lighting plan. We were given the lighting plans from Holbrook Associates. We incorporated those lighting plans, sheets 5 and 6, on our plans and the landscaping and the proposed sign is shown on sheet 4 of our plans. Everything else has remained basically the same.

ANDREWS: So, I see that the free-standing sign will be located 10 feet from the lot line to the westerly side of the driveway, is that correct?

WEBBY: That's correct.

ANDREWS: And we're back far enough so that's not gonna interfere with line of sight, right?

WEBBY: That's correct. That will be up a little, that's quite a slope there, Gordon, so it'll be up on the upper level and the cars will be...you know, sloping down.

ANDREWS: Yup. And the lighting plan shows the effects of the lights not extending beyond the property, is that correct?

WEBBY: That's correct, sheet 5 — it came out a little dark, hopefully you got the ones I did in color — show the lumens and it decreases as it gets to the property line to zero.

ANDREWS: Okay. Everybody following that?

TROUP: That's a pretty cool application.

ANDREWS: And then the landscape plan.

WEBBY: Sheet 4 on the upper right-hand side there's a planting schedule that goes along with the legend for the types of plants that are gonna be planted.

TROUP: Nice touch with the pair.

ANDREWS: Anyone on the Board have any comments or questions on that?

TROUP: I don't.

MILLIAS: Everything looks well addressed.

ANDREWS: I will open it up to questions in the audience. Anybody that have any can raise their hand.

TROUP: Chris Winiewicz has his hand up.

WINIEWICZ: I've got a question because we can't see the plans but there were a few emails going back and forth where they were going to plant the trees...abutting to our house.

TROUP: I'll see if I can share it, Chris.

WINIEWICZ: I believe Jo-Anne had the emails between me and Brian Wall.

ANDREWS: We have copies of them.

TROUP: Yup. One second and I'll have it on the screen. Alright I'm gonna share screen. Do you want me to zoom it in?

ANDREWS: Yeah, zoom it in a little bit.

TROUP: How's that look, Chris?

WINIEWICZ: I didn't know if Brian Wall wanted to speak. Are we going to discuss what was in the emails?

ANDREWS: Why don't you voice your concerns and then we'll go to him.

WINIEWICZ: Mr. Chairman I had sent pictures to show that my house is fully exposed to the building and he had proposed to put some trees between us and him.

ANDREWS: Are you about 30 feet higher than that?

WINIEWICZ: Yeah.

ANDREWS: Are you considering that they need to plant trees that are big enough that are gonna stop you from seeing their building?

WINIEWICZ: He proposed putting them in another location.

ANDREWS: Putting them where?

WINIEWICZ: Putting them along our property edge to stop the view.

ANDREWS: Putting them on your property?

WINIEWICZ: Yes.

ANDREWS: We can reach out to Brian but I'm kinda struggling with this idea, I mean, you can see the building but you're way up above it so...I don't understand that it would be his obligation to put trees high enough to block a view when you're looking down on it. I don't think it's really within the purview of the Planning Board to make somebody do that and to plant them on your property...I don't think that would be something that would come under our purview as well. But I'll reach out to Mr. Wall and see what he has to say.

MILLIAS: I agree. You guys can certainly agree on something as far as the placement on your property.

WALL: Thank you Mr. Chairman. As we've said before, we're happy to work with Chris on a resolution to help him appease some of those views. As Mr. Webby told us with the drainage basin we wouldn't be able to put anything...nothing would get that high to help Chris avoid seeing that building so we're definitely open to working with him around that. I think we offered up three green giant trees

that grow 40 feet high and 20 feet wide on the side of his property to help alleviate that. We'd be happy to continue to work with Chris regarding that.

ANDREWS: Okay. But my thing is, if you're planting on his property, that would be outside the Planning Board's purview. That's something you'd have to...

BRAILLARD: That's right, Mr. Chairman. I'm glad you brought that up earlier on, too. Just for the record Flower & Soul and Brian just wanted the Board to know that we are working with Chris to try and address his concerns.

ANDREWS: Okay. Is there anybody else in the audience? I don't see anyone raising their hand.

WINIEWICZ: Mr. Chairman, 129 Circuit Street. Previously in the site plan it was discussed that they would only use their parking spaces...I'm just concerned about the traffic still, with the site plan.

MILLIAS: As far as the designation for the other units as well?

WINIEWICZ: Yes. Help control the amount of traffic.

MILLIAS: Knowing that the other 2 units are currently occupied by low-traffic businesses, we've kind of secured that. If there were going to be a change that was proposed, we may have to deny them something further in the future based off of the current usage for Flower & Soul.

WINIEWICZ: Okay, thank you.

ANDREWS: I'm not seeing anything else. Adam, Brian, anything else to add?

BRAILLARD: No, thank you Mr. Chairman.

ANDREWS: Members of the Board?

TROUP: No, I would be ready to make a motion to accept the site plan as it is set on the May 27th, 2021, revision for Flower & Soul at 894 Plymouth St in Halifax.

ANDREWS: Are there any conditions?

TROUP: That they remain with good faith and with the parking...

ANDREWS: Well, they have to abide by all of that.

TROUP: And follow all of the Halifax Bylaws.

ANDREWS: Okay. I have a motion is there a second?

MOTION to accept the site plan as it is set on the May 27, 2021 revision for Flower & at 894 Plymouth Street in Halifax: Troup

SECOND: Millias

Roll Call: Merry - Yes, Millias - Yes, Troup - Yes, Andrews - Yes

Passes 4-0-0

ANDREWS: Offer good luck to you guys and look forward to seeing the plan get executed.

WALL: I just want to thank the Board, the police chief for all of his help with guiding us, and we look forward to working with everyone, the neighborhood and Chris and making this a great business for the Town and being good neighbors.

The Board wishes good luck.

The Board will get into the office next week to sign the decisions.

Discussion

0 Monponsett Street – Letter from Fire Chief dated 5/26/21 to Amanda Monti

Andrews states it appears there should be a site plan before the Board and there is not. Adds that there is also a letter from the Building Commissioner as well as another email received today.

Brendon Elliot joined at 8:00pm, just before the vote.

Troup screen shares the various communication regarding 0 Monponsett Street and reads all into record (4/1/21 Letter from Building Commissioner to Amanda Monti, 5/26/21 Letter from Fire Department, 5/27/21 Letter from Ms. Monti to Building Commissioner, 6/1/21 Memo from Building Commissioner). The Board discusses communication. Ms. Monti was given 60 days to file for a site plan review with the Planning Board by the Building Commissioner for 0 Monponsett Street. Ms. Monti requested an extension of 60 days to apply for site plan review with the Planning Board which the Building Commissioner accepted. Troup asks if this is the MESA site. Andrews reiterates that the Zoning Enforcement Officer (ZEO) determined that a site plan is required to operate at 0 Monponsett Street and wonders how the ZEO supersedes the Planning Board powers of doing a site plan by allowing them to operate without a site plan. Andrews will contact Town Counsel to ask where the ZEO gets the authority to do so. He would like to send a letter to the ZEO to get an explanation on how this happens as everyone else who operates a business in town needs a site plan approval first from the Planning Board. Andrews asks "Where does the authority come from to allow somebody to operate without a site plan?" Millias

sees where Andrews is coming from. Troup agrees and suggests a cease and desist. Elliot adds that if there were a cease and desist it would create a little more urgency.

MOTION to put a letter to the Zoning Enforcement Agent to ask him where the authority comes from and check with Town Counsel: Troup

It is clarified to Elliot that the ZEO is the person who has the authority to issue a cease and desist. Millias states that he assumes the ZEO has the authority. Andrews states he is the enforcement. Merry states according to the ZEO that 0 Monponsett St meets zoning and adds that there are other companies in town operating without a site plan and adds they should give Monti the 60 days. Andrews responds that is what slows business down coming into town is having to get a site plan. Merry agrees that everyone should have a site plan for operating a business. Elliot adds that the Fire Chief also agreed that a site plan needed to be in place. Troup doesn't understand why there isn't consistency. Millias is hesitant to ask Town Counsel who has the authority to ask for a cease and desist because he states the Board knows the answer already. He adds that the logical question is to ask if the ZEO can issue the cease and desist. Andrews clarifies that in his letter, the ZEO determined that Monti needs a site plan for 0 Monponsett St. and is asking why the ZEO is allowing them to continue operating for another 60 days before getting one. Andrews asks who has the authority to supersede the Planning Board who has the authority to give an approved site plan. Millias and Andrews continue to discuss what the question should be to Town Counsel. Troup asks why 167-28 Bylaw isn't being followed. Merry states Cled's Tree is operating without a proper site plan so why not give Monti the 60 days. Andrews states that if Cled's Tree is going to be discussed he needs to recuse himself and also that it can't be discussed as it is not on the agenda. Elliot agrees with Millias, Troup and Andrews and reiterates this is a weird situation.

MOTION to go back to the ZEO that provided an extra 60-day and tell them that that doesn't fall within the regulations of what the stipulations of what they originally laid out in their original letter and that they issue a cease and desist until the people on property show the Planning Board the site agreement or the site plan that was originally requested from them: Elliot

Cled Ferreira of Cled's Tree Service interrupts the Motion and asks to speak.

Andrews recuses himself at 8:28pm.

Ferreira states that he is sick of hearing his name in these meetings. He explains that he has all of his approvals from the Planning Board to run his business. Ferreira asks the Board to prove that Ferreira has no plan. He adds that Millias was on the Board at the time his plan was approved. Troup states she motioned on one of his plans in 2019. Ferreira states he has been accused of falsifying plans when the Board told him to do what he did, and his name and reputation have been dragged through the mud. Millias agrees that Ferreira has been before the Board and has a site plan and states that unfortunately Ferreira's name has been brought up as a comparison to other projects, but Millias doesn't believe it should be used negatively against Ferreira. Merry responds that it was nothing personal. Ferreira states and Millias agrees that Millias was one of the members that approved the site plan for Cled's Tree Service and the fact that Cled's has been brought up does not reflect the Board as a whole. Ferreira insists he has his site plan approval. He used to rent from Peter Fiore, he then bought the property (two lots - 450 Industrial Drive) and states he received his approval for every step he's taken. Elliot states that after hearing other members of the Board attesting to all of the approvals, it's the Board's responsibility to never bring Cled's business up in these conversations, as far as he's concerned. Troup shares approvals on screen for Cled's Tree. Ferreira wants to make clear that he has not falsified any plans. Merry states it was the Fire Chief that shut him down. Ferreira responds he was never shut down. Merry states he did not mean anything personal, was just using Cled's Tree as an example. Ferreira disagrees that he is not an example as he does have an approved site plan.

Andrews re-joins meeting at 8:39pm.

MOTION to go to the ZEO and request and also make him aware that providing two 60-day extensions when he originally asked for the person operating the business on that site to provide the Planning Board with a site plan in order to continue business, the proper protocol wouldn't be to extend another 60 day, it would be to provide a cease and desist until the Planning Board was provided that site plan: Elliot

SECOND: Troup

Roll Call: Merry - No, Millias - Yes, Elliot - Yes, Troup - Yes, Andrews - Yes

Passes 4-1-0

Two Complaints from 649 Monponsett St (5/19/21 and 6/1/21) regarding lighting at Twin Lake Liquors, 657 Monponsett St

Chairman Andrews recuses himself at 8:40pm as he owns property across the street.

Troup reads complaints from Nicole Nelligan into record and shares the screen. Complaints are with the lighting and trash on property. Nelligans, 649 Monponsett Street is present. Troup shares photos of Twin Lakes Liquors site sent to the Board from Nelligan. Nelligan states that there are four new lights installed on the side of the building which make five lights total that they're dealing with shining onto their property and into their home. Board discusses their meeting with Laurence Gogarty from last year for 657 Monponsett Street and confirmed that they waived the site plan in 2020 for improvements. Millias remembers it was a limited thing, an existing building they were trying to improve and adds that is why the Board waived the entire site plan but doesn't free the owners from certain obligations. Troup responds that she remembers they only waived the site plan for parts of things and that is because they were only talking about the exterior and would have to come back with any changes. Troup adds that in 2020 the Board was informed that a part of the building was being torn down and the space next to the liquor store was only to be used as storage but there seems to be a lot more going on now that is affecting the neighbors and she states she thinks there needs to be a site plan approval. Millias states that parking spots were allotted on the plan approved by the Board but rather than requiring an entire site plan, Millias would like to get contractor Gogarty back to the Board to let him know things that he may be limited to that he may not be aware of. Troup reiterates to Millias that the Board did not approve any site plan and haven't seen any site plan. Millias disagrees on the parking and states the Board did discuss and agree on parking but thinks it best to get Mr. Gogarty in to speak with the Board at this point. Merry states the Board received feedback from Mr. Gogarty that they were going to address the lighting issues by turning them, which might help for now. Elliot agrees that Gogarty should come back before the Board to discuss these complaints and they can then ask him for a site plan if agreed upon. The Board would like to invite Gogarty to June 17, 2021, meeting for an 8:00pm appointment. Gogarty was present at this meeting but left before they reached this discussion. Nelligans show the Board the lights on 649 Monponsett St shining onto their property live on screen. Nelligans have lived here for five years and have never seen the property this dirty.

Kristen Mearls, 26 Bow Street - attests to the lighting issues and seconds the complaints on trash. Agrees there should be some lighting on the property but something needs to be done.

Jaime, 10 Bow Street - property abuts the back end of 649 Monponsett St. Lighting is an issue for her also and would like to know about fencing. Will write a letter of concern to Planning Board secretary.

Nelligan was told today by workers on property that Twin Lake Liquors will be open in 10 days. Were also told lighting will be off by 10pm and will be turned back on at 8am but difficult to sleep as they go to bed earlier than that. Board agrees that getting Gogarty before the Board on the 17th is the quickest and only thing the Board can do right now.

Chairman Andrews re-joins meeting.

Franklin Street Solar Array – 269 Franklin St

Chairman has not seen the As Built yet but Board will get in to review and put it off to June 17, 2021.

Pasture Lane – status

Chairman has no update, states that he gave his update at the last meeting. Will see if he can get some definite information for the next meeting.

Subdivision Control Regulations Chapter 235-6(C) – ANR time frame

Board needs to set up hearing to take a look at this. Changing from 14 days to 21 days to match State regulations. Chairman suggests Board look at this Chapter to discuss at the next meeting and set a hearing for August 5th or 19th.

Correspondence

Board states they reviewed all Correspondence.

Meeting Minutes

MOTION to accept the Meeting Minutes for April 1, 2021: Millias

SECOND: Troup

Roll Call: Merry - Yes, Millias - Yes, Troup - Yes, Andrews – Yes, Elliot - abstains

Passes 4-0-1*

***Elliot was not present for this meeting.**

Adjourn

MOTION to adjourn the meeting: Millias

SECOND: Elliot

Roll Call: Merry - Yes, Millias - Yes, Troup - Yes, Andrews - Yes

Passes 5-0-0

Respectfully submitted,

Date Submitted: 8/5/21

Gordon R. Andrews, Chairman



Handwritten signatures in black and blue ink. The top signature is in black ink and appears to be "Gordon R. Andrews". Below it are three signatures in blue ink, which are more stylized and difficult to read, but likely correspond to the names mentioned in the roll call: Merry, Millias, and Troup.