



Halifax Zoning Board of Appeals Meeting Minutes Monday, June 1, 2020

The Halifax Zoning Board of Appeals held a public hearing on Monday, June 1, 2020 via Zoom hosted by Town Administrator Charlie Seelig in Halifax Town Hall, 499 Plymouth Street, Halifax, MA with the following Board members in attendance: Chairman Robert Gaynor, Vice Chairman Kozhaya Nessralla, Clerk Peter Parcellin, Member Gerald Joy and Alternate Member Dan Borsari. Member Robert Durgin arrives late.

Chairman Gaynor calls the meeting to order at 7:04pm and reprises the audience that this public hearing/meeting is being recorded. He also explains the procedure and the protocol at the public hearings.

Meeting Minutes

M/Nessralla, S/Parcellin. Unanimously Approved (4-0-0) to accept the Meeting Minutes from Monday, March 9, 2020.

M/Joy, S/Parcellin. Unanimously Approved (4-0-0) to accept the Meeting Minutes from Monday, April 13, 2020.

M/Nessralla, S/Joy. Unanimously Approved (4-0-0) to accept the Meeting Minutes from Monday, May 4, 2020.

M/Joy, S/Parcellin. Unanimously Approved (4-0-0) to accept the Meeting Minutes from Wednesday, May 6, 2020.

M/Borsari, S/Parcellin. Unanimously Approved (4-0-0) the use of Signature Stamps for Meeting Minutes due to the COVID-19 pandemic until in-person meetings can resume.

Appointments:

7:00pm – Kristen Mearls - 26 Bow Street - Metal Structure/Garage (Discussion cont.)

Ms. Mearls is not present. 167-12F is referenced by the Chairman. Borsari states he drove by the property and spoke with owner John Mearls. Mearls informed Borsari he is concerned about the square footage. Mearls informed Borsari that he would propose 28 x 30 for structure which is less than the footprint of the house and due to financial reasons, they cannot do a traditional building. Gaynor states that there is no application submitted at this time. Borsari states that, in his opinion, it is doable, but adds that everyone must look at it for themselves. Borsari states that this structure would fall under a garage, not an auxiliary building. Gaynor looked at a similar metal building that didn't look metal but was very nice looking. Will wait and see if the Mearls re-connect with Building Inspector or Zoning.

Bills

The Board reviews and signs all bills.

- Plympton-Halifax-Kingston Express, Petitions #920 Re-Advertisement = \$84.00
- Plympton-Halifax-Kingston Express, File #921 Advertisement = \$84.00
- Plympton-Halifax-Kingston Express, Petition #922 Advertisement = \$84.00

M/Parcellin, S/Nessralla. Unanimously Approved (5-0-0) all bills.

M/Parcellin, S/Nessralla. Unanimously Approved (5-0-0) to give Chairman Robert Gaynor Signature Authority to sign off on any bills during this pandemic.

Member Robert Durgin joins the meeting.

7:15pm – Petition #922 – Gordon C. Andrews - Appeals of Building and Occupancy permits and Site Plan Approval for Amanda's Estates/The Party Trust

Gordon C. Andrews and his Attorney Ginny Kremer are present; Land Use Counsel Amy Kwezell is present; Attorney Anthony Panebianco, representing The Party Trust is present. Andrews states that since his appeal was filed the Zoning Board determined that The Party Trust does not have all appropriate permits necessary to continue with their project and references bylaw 167-19. Attorney Kwezell confirms the Zoning Board's determination of the Remand hearing on May 4, 2020 that the Party Trust was missing a special permit, however the Party Trust has since applied for that special permit (to the Planning Board). The Party Trust has also

requested to continue the Zoning Board hearing until the Planning Board meets on June 18, 2020. In Kwesell's opinion, it makes sense to wait and see if the Planning Board issues the special permit to the Party Trust. Andrews states that the building and occupancy permits should be revoked from the Party Trust as they do not meet the requirements rather than wait and let them continue with their project under those permits. Andrews adds that if the Party Trust is issued their requested special permit from the Planning Board, the building and occupancy permits can then be reissued. Gaynor feels that this has all been discussed and voted on by the Zoning Board at the May 4, 2020 hearing and agrees with Kwesell that, until the Planning Board reviews and votes on the Aquifer Protection special permit, there is nothing that the Zoning Board can do. Joy agrees and doesn't see why the Party Trust won't get this special permit from the Planning Board. Gaynor doesn't see any reason to discuss this again. Nessralla agrees and states that the Party Trust is only missing one special permit (Aquifer Protection), which was brought up years later for the first time, but they have every other permit in place. Nessralla doesn't see the need to have this discussion again.

Andrews states that he is appealing everything, which is the process he has to go through legally. Andrews adds that the Board can make the determination that they don't want to deal with his appeals and then he can appeal that, also. Gaynor responds that the Zoning Board is giving their decision. Andrews states that the reason the Aquifer Protection came up now is because the Zoning Board allowed the Party Trust to change the plans; before, the Party Trust was showing a six-lot subdivision with each building on a separate lot. Now, they don't meet those requirements, so this new issue has come up with aquifer protection. Kwesell references 167-19 and responds that the entire sentence must be read ("...or with a decision rendered by the Board of Appeals.") Kwesell clarifies Andrews' appeals, in her interpretation, as being two-fold. First, Andrews is looking for the ZBA to revoke the amended Building Permits based on the beginning of the earlier sentence and 167-19. Second, Andrews' purpose is to appeal the site plan approval as, under site plan, this had to be done once the building permits were issued. Kwesell thinks the second prong of Andrews' appeal needs to be presented.

Andrews states the history of the second part of his appeal - site plan approval. Andrews states that the Party Trust's approved site plan on 12/2/2019 showing lots and a private way have not been created, as the Party Trust did not go under subdivision control; therefore, there is no private way, no lots and no frontages for those lots.

Attorney Panebianco states that because of the hearing on June 18, 2020 with the Planning Board for Aquifer Protection special permit and the litigation that has already concluded and been established, the issue for this Board should be held at a later date.

Andrews asks if Kwesell still believes that 167-11 applies to this project as Andrews states that Kwesell previously said it does. Panebianco doesn't think this is before the Board right now. Andrews states that he is not appealing the remand, he is appealing the building permits and occupancy permits and site plan approval and then appeal to the courts. Kwesell states she is confused as site plan is under 167-28. The Planning Board determined things such as internal circulation, screening, traffic, pedestrian traffic, etc. The special permit that was granted by the ZBA is the one that would determine dimensional requirements and detrimental to the neighborhood, etc. It is her opinion that the ZBA, on May 4, 2020, determined that this was met.

Durgin and Borsari agree with Chairman Gaynor that they would like to wait for the Planning Board's decision on the Party Trust's application for a special permit for Aquifer Protection before they go any further.

M/Nessralla, S/Joy. Unanimously approved (5-0-0) to continue this hearing until July 13, 2020 at 7:15pm. Voice Vote: Nessralla - Yes; Joy - Yes; Parcellin - Yes; Durgin - Yes; Gaynor - Yes. Borsari weighs in with a Yes, also.

Correspondence

5/27/2020 - Email complaint from Paul Downey, 61 Pine Street, to the Zoning Board for trespassing on his property. Gaynor doesn't feel this is a matter for Zoning as it is a civil matter. The other members agree. Town Administrator Charlie Seelig states that this complaint is nothing that the Zoning Board has jurisdiction over.

Other Business

Comprehensive Permit for "Country Club Estates" 40B hearing is scheduled for June 17, 2020 at 7:00pm. Kwesell states that the Peer review was sent to the Zoning Board.

Adjourn:

M/Parcellin, S/Nessralla. Unanimously voted (5-0-0) to adjourn the meeting at 7:50pm.

Documents:

1. Public Hearing Notice – Petition #922
2. Application Packet – Petition #922
3. Decision Form – Petition #919

4. Meeting Minutes - 3/9/2020, 4/13/2020, 5/4/2020 and 5/6/2020
5. Plympton-Halifax Express Invoices - Petitions #920 and #922; File #921
6. Revolving Bill Schedules - 5/4/2020 (File #921); 6/1/2020 (Pets #920 and #922)
7. Signature Authority Form 2020
8. 5/27/2020 - Email complaint from Paul Downey
9. Peer Review - Country Club Estates 40B Comprehensive Permit - Amory Engineers

Respectfully submitted,

Date: 7/13/20



Robert Gaynor, Chairman
Kozhaya Nessralla, Vice Chairman
Zoning Board of Appeals