



Halifax Zoning Board of Appeals Meeting Minutes Monday, August 9, 2021

The Halifax Zoning Board of Appeals held a public meeting/hearing on Monday, August 9, 2021 in the Great Hall of Halifax Town Hall, 499 Plymouth Street, Halifax, MA with the following Board members in attendance: Chairman Kozhaya Nessralla, Clerk Peter Parcellin, Members Gerald Joy, Robert Durgin, Tina Kenyon and Alternate Member Dan Borsari.

Chairman Nessralla calls the meeting to order at 7:01pm and introduces the newest member of the Zoning Board of Appeals, Tina Kenyon.

APPOINTMENT

7:00pm – Hearing – Petition #948 – J.P. McGrath, 100 Lake Street – Appeal of Building Inspector’s Denial for renovation (Filed: 7/15/21)

Applicant J.P. McGrath is present.

Parcellin reads Public Hearing Notice into record. Chairman informs McGrath that, per advice from Land Use Counsel, the Board cannot grant his Petition as he appealed the Building Inspector’s decision after 30 days. Any appeal of the Building Inspector’s decision must be appealed within 30 days, as stated in the Building Inspector’s denial letter to the applicant. Chairman goes on to inform McGrath that he can withdraw his application without prejudice and return to the Board with a new application as a denial of his Petition by the Board would force McGrath to have to wait two (2) years to reapply. McGrath is asked what he would like to do, McGrath responds that he will do what he must do. McGrath chooses to withdraw without prejudice, completes and submits a Letter of Withdrawal to the Board.

- M/Joy, S/Durgin. Unanimously approved (5-0-0) to accept the Letter of Agreement for Withdrawal of Petition #948.

MEETING MINUTES

- M/Parcellin, S/Joy. Unanimously approved (5-0-0) to accept 7/12/21 Meeting Minutes.
- M/Joy, S/Parcellin. Unanimously approved (5-0-0) to accept 7/21/21 Meeting Minutes.

Dan Borsari voted to approve these minutes as Tina Kenyon was not a member at the time of these meetings.

BILLS

- M/Joy, S/Parcellin. Unanimously approved (5-0-0) to pay bill.

APPOINTMENT

7:05pm – (Continued) Hearing – Petition #938 – Anthony Curtin / Curtin Bros, 640 Plymouth St – Amendment to Special Permit for existing underground fuel storage to above ground fuel storage (Filed: 4/1/21, Continued on 5/3/21 to 7/12/21)

Applicant Anthony Curtin, engineers Robert Coluccio (WEB Engineering Associates) and Joe Webby (Webby Engineering) are present.

Coluccio summarizes and updates proposed project – installation of oil storage facility containing #2 fuel oil and diesel fuel, contained inside a concrete containment dyke for secondary containment purposes, high level alarms and overflow protection and truck-spill protection and will meet all state-of-the-art oil storage facility requirements within Federal and State regulations. Upon approval, the project will be thoroughly vetted by the State Fire Marshall’s office. Comparison of fuel oil to gasoline. Fuel oil needs to be reheated before ignition, gasoline does not. Sound study and traffic study determinations are reiterated. There will be no sound or traffic impact issues, per Coluccio’s findings. Webby presents site plan with truck turning radius included, per the Board’s request. Shows how a 67-foot trailer enters

and exits the property. Curtin confirms to the Board that there will be one (1) trailer per day for sure, two (2) per day in colder weather. There is discussion of historic district placement of sign near property and it is confirmed that the property is not located in the Historic District. There is discussion of comparable sites in the surrounding residential and highly congested residential areas like East Bridgewater, Brockton and Stoughton, to name just a few. The Board members comment on their on-site inspection. Board and Coluccio discuss spill possibilities, which are very low and will go right into the dyke, if so. This is not a self-serve station.

The Board opens to the public.

Resident Steve Adams, 22 Cranberry Drive questions the integrity of Curtin, engineers and experts and questions their true purpose of changing the fuel storage system, sound study results, truck numbers and traffic study. Adams states the Board needs to “do their job” to enforce the By-Laws as the By-Laws are there to protect the residents.

Karen Fava, 66 Clyde O’Bosworth agrees with Adams. Fava states Curtin is building a bulk plant to sell business for retirement. Fava questions the route of trucks entering and exiting the property and asks who will validate that these trucks follow the rules as she is concerned with traffic. Webby shows Fava the plan for trucks on the property. Fava states that the By-Laws say that the Board needs to do their job and deny this (special permit).

Parcellin responds to the concerns and states that there have been some good points made by the residents. Parcellin clarifies that the By-Law to be referenced here is 167-7. Parcellin states that he sees two issues: 1. Is it appropriate to issue a special permit on this lot and 2. to clarify the definition of Light Industrial Use. Parcellin believes that both sides—Curtin, his engineers/experts with their findings and the residents and their concerns—make good arguments. Fava asks who is going to police the trucks entering this property. Parcellin responds, in reference to former Zoning Enforcement Officer Robert Piccirilli, “Very frank to your answer, is the Zoning Enforcement agent, who gets vilified in this town every time they (ZEO) go and tell somebody they can’t do something...and then they get fired. So very clear to your point is that we’ve had three meetings now where that specific person has been torn apart for that specific reason...when he’s trying to enforce the Zoning (By)-Laws.” Parcellin assures Fava that he hears her and for this petition he might agree with her on the definition of Light Industrial Use in a business district and then he wouldn’t want to issue the special permit, however Parcellin explains that the applicant’s research and evidence from his experts is also convincing. Parcellin believes this is not clear cut and is very difficult. Steve Adams agrees this is a difficult decision for the Board and that is because it is not clear cut but reiterates his concerns of what will happen in the future for Curtin Oil if this special permit is granted.

Justin Silva, 50 Clyde O’Bosworth agrees that the Zoning By-Laws prohibit this type of project in this community. States his concerns with a hazmat plant with these hours of operation in a historic district, close proximity to cranberry bog and in this neighborhood. Asks if the By-Laws don’t prohibit this type of project in this type of community, what do the By-laws prohibit? States “a member of the Board of Selectmen and a member of the Planning Board last winter expressed support for this special permit...both of them lost their reelections this spring. I think the people in this town have spoken pretty clearly about corruption and have spoken clearly, too, about the character and culture of this town and what we want it to look like. I don’t want an auto parts store where a farm used to be. That’s not part of the character and the community...” Silva goes on to compare communities like the city of Brockton and its industrial area and Plymouth and its industrial areas as opposed to Halifax which he thinks of as farming and family community to point out that bulk plants don’t belong as they do in Brockton and Plymouth. He states that the By-laws of industrial communities like Brockton are written differently to protect those types of areas where industrial business belong. Silva would like the Board to deny this permit as it does not fit within the established character of Halifax.

Jennifer Green, 61 Cranberry Drive – agrees with the other residents and adds that she doesn’t agree with Mr. Web (Coluccio) regarding the traffic study. Green asks when this traffic study was done as she states there was no evidence of a traffic study being done. Also, Green is concerned with the use of the word “plant” being used for this project which she says suggests trucks in the 10s, 20s, 30s which is a lot different than Curtin filling up his own truck. Green questions Curtin’s future plans and asks if he will be selling or forming a partnership due to the size of the garage on the property with overhangs. Green is also concerned about the turning radius of the trucks. Chairman states that restrictions *can* be added to ensure the trucks adhere to the plans.

Richard Greeley, Greeley's Oil Co. Inc. states that 80% of the time his trucks come in after the traffic at night/middle of the night, between 8-12am or first thing in morning 4:30, 5:00, 6:00am are when most of his trailers come in. Greeley talks about sound and disagrees with Coluccio on this project (who was also his engineer) regarding the sound of pump. States the pump screams, can't talk next to that pump. Nessralla states that you can't talk next to a running lawn mower, either. Greeley confirms that he has four trucks and usually one, sometimes two trailers a day. Doesn't know if his business is similar to Curtin. Greeley states that his business is not next to a home, as Curtin's is. Greeley confirms he was once in a residential area. Greeley would like the Board to come down to his plant and hear his tanker scream, exactly the same unit as Curtin is proposing, before the Board makes a decision. Greeley states the trucks that come 2am, 3am, 4am are extremely noisy. Greeley states that Curtin will cause a traffic jam.

Bert Gaynor, Pemmican Way asks the Board if they would review the stipulations in place and that if there *was* a substantial change that there could be recourse and that the permit could possibly be revoked. The Board confirms that all pumps are electric.

Kenyon confirms with Greeley the location of his business: in the industrial zone and is right at the end of the town line.

Borsari responds to earlier comments made by residents. He states "if you're talking about Boards of corruption, you're looking at the wrong Board. I take exception to that. We are losing excellent people in this town, and it has to stop. Everybody needs to educate themselves and find out for yourself, I'm not gonna tell you what to think, but find out what's going on in this town, don't look at this Board and say corruption. We have lost tremendous people and we're all going to pay the price for it, number one. That being said, I deal with traffic all day long...dealing with trucks, lo boys... With 50/50...I'm always for the homeowner because the homeowner has nowhere to go. You paid 30 years mortgage, taxes, maintenance... I'm a real estate agent. There's a bundle of rights that go with purchasing a property and one of those bundles of rights is to require the enjoyment of your property and I'm very sensitive to that. At the last meeting I grilled them hard. I went to the site inspection and a lot of my fears were relieved." Borsari goes on to explain that he makes all the fittings for the type of containment they will be using so he is not concerned with spills as they will be contained if it ever happens. He talks about his concern with truck turning radius being relieved at the inspection as he saw that the truck can make the turn very easily, pulling in and pulling out. This will not be a duplicate of issues at gas stations. Borsari makes it clear that you must go to the site to see it in person as pictures don't show things clearly. The one major concern that Borsari has is operating hours as there will be trucks that show up and may be idle. It won't affect two or three houses down and he knows this because of experience. Borsari states the Board can put conditions on a special permit like operating hours and limit to trucks to come to a consensus. Borsari is satisfied with the concerns over spills and turning radiuses.

Parcellin states that the only things that matter to him at this point are whether this is Light Industrial Use, whether this is appropriate on this lot and if there are conditions that can be put on this special permit if needed. He goes on to say "I am kind of devastated in the last six months at the tone of all of our neighbors talking to each other (and how it) has turned so interruptive and negative because I've really liked working in this town and living in this town. I like everybody I've interacted with because I don't think there's anyone on this petition who is doing something terrible, and I just want us to share our passionate feelings about this without thinking everybody is a liar and a cheat. I've never seen corruption in this town until the last two months of secret meetings, so I just want everybody to get along and I don't think that's unreasonable. Please." Fava responds and apologizes. She states that she is passionate about this as she lives close to this property which is the reason for her passion. She went to speak to Mr. Shea (Historical Commission) and did her homework and talks about locations of Historic District. Nessralla states that Halifax has "spot districts." Fava understands but just wants to explain to the Board that she did her homework. She goes on to say that she was on the Finance Committee for years and knows how much the towns people had to pay to clean up the lakes so asks who is going to pay to clean up a spill as this town doesn't have the manpower or materials for disaster which are things they have to take into consideration. Nessralla confirms that Greeley has been in operation for 30 years and confirms with Greeley that he has never had a spill. Nessralla goes on to say that the Board is here to discuss the petition and trust what the experienced experts are telling the Board.

Greeley states to the Board that they can't put stipulations on time of when trucks with a full tank can come to the site because when they have a full tank, they are coming and cannot be told to turn around no matter what time it is. Greeley states to the Board they are doing themselves an injustice not coming down to his site to hear the noise before making their decision. Greeley states that it takes about 30 minutes for a truck to unload their tanks but that's not to say the trailer won't sit there for another 20 minutes doing paperwork, so could be on site for a total of 45 mins to an hour. Greeley states again that he has the same exact system that is designed for Curtin.

Coluccio states that if the Board decides to visit Greeley Oil's facility, they must keep in mind the pump will be recessed approx. four feet below grade, so in order to know the impact, you can't stand at the pump, you have to stand 170 feet away as that is where the receptors of any sound will be. Coluccio also clarifies that the lawnmower is louder than the pump. Coluccio goes on to state research he collected on decibels of pump (80) compared with louder noise from Route 106 traffic. Coluccio confirms that there are no direct abutters present at the meeting with concerns. Jennifer Greene, Cranberry Drive states that one direct abutter is Gordon R. Andrews and he cannot be here to rebut any of this because he'd have to excuse (recuse) himself.

Joy confirms with Curtin that there will be four trucks being used, which is what he's using now. A stipulation can be put on this special permit that the trucks must be shut off rather than running idle, per Coluccio. It will take, from start to finish, 20 minutes to unload the trucks. Steve Adams, 22 Cranberry Drive reiterates his concern over noise.

Borsari states that his concern for residents is not the pump but the trucks idling. Coluccio confirms to Nessralla that the trucks can be turned off when using the pump as the pump is located at the facility. Jennifer Greene 61 Cranberry Drive states she submitted a petition of Cranberry Drive resident signatures. Greene talks about her concern about truck numbers, leaking and soaking into the ground as Curtin has a gravel lot. Greene would like to see the traffic study as she is concerned about traffic and potential accidents. Kenyon states there was a traffic study done for the cannabis facility on Plymouth Street for the Planning Board.

Joy confirms with Curtin that there will be 4 – 6 trips a day per truck in and out of his property, which is currently happening already, per Coluccio. Parcellin confirms this data from the study submitted. Coluccio states this is not what's changing, the change is the transport truck coming in. Currently, Curtin is taking trucks to Quincy and these trips will be eliminated if this is approved. One truck coming in will replace the need for three trucks making the trips out. There will be a net of no change.

Jennifer Greene asks if Curtin is going to have other companies getting fuel at his site. Curtin responds no, there's no money in it. Greeley states that if Curtin is putting 3,000 gallons of fuel in his trucks, he is overloaded. Curtin confirms 2,700 gallons are in his trucks and states this has been confirmed to him by MASSDOT. Greeley argues you can only have 2,600 gallons. Karen Fava asks what the restrictions would be if this property was sold as a bulk plant in the future. Parcellin confirms that they will decide on those restrictions which would stay with next potential owner. If they didn't abide by these restrictions, they would be fined. Curtin confirms that there will not be more than two trucks per day. Steve Adams feels the story keeps changing regarding truck numbers.

Durgin has concerns about the noise and fitting within the character of the neighborhood. Parcellin states there are a lot of definitions of what's appropriate for character of the neighborhood, the lot and what Light Industrial Use is. Parcellin thinks traffic and sound assessments are well thought out and evidence based. Coluccio responds to Durgin's concerns with suggestions on how to mitigate sound further – sound-proof box. Curtin states he is not changing the character of the neighborhood as it is already established. Borsari states that this proposal falls "right on the knife's edge" regarding definition of Light Industrial Use in Halifax but points out that this is an essential service, which is a big factor.

Kevin Kane, Cranberry Drive doesn't understand why the Board won't go down to Greeley's to see the trucks off-loading to hear noise. Kenyon will make herself available at 3:00am to do so. Parcellin states he feels remarkably uncomfortable going to the competitor of the petitioner who has been trying to limit the acceptance of this petition to find out how loud something is and adds that the Board has a very detailed sound study backed up with evidence but states the question is whether the sound falls within the Light Industrial Use. Coluccio states that you can sit in your car 170 feet away from tanks and use an app to measure the sound to resemble being a direct abutter. Joy states this can be put to

bed if there is something that can mitigate the sound. Coluccio states this is easy to do as you can insulate the pumps. Jennifer Greene once again states her concerns of trucks idling as she doesn't believe the trucks will be shut off in cold weather. Nessralla confirms that Curtin leaves his trucks idle sometimes on his property and asks residents if anyone hears his trucks now. Karen Fava states no, but she hears oil trucks come down the street.

The Board requests Town Counsel's advice on Halifax's definition of "Light Industrial Use" and whether this proposed project falls under that definition.

- M/Joy, S/Durgin. Unanimously approved (5-0-0) to continue Petition #938 to September 13, 2021 at 7:00pm.

DISCUSSION

359 Plymouth Street – Jeff McKinnon – interested in purchasing land for landscape contractor yard with two buildings on site

No one is present.

CORRESPONDENCE

The Board reviews mail.

OTHER BUSINESS

The Board signs Signature Authority Form for Fiscal Year 2022.

Parcellin states that the 10 years that he has been on the Board, the Zoning Board has had two associate positions with one available and states it is important that the Board submits their recommendation on who should fill the vacancy of this open associate position. Joy nominates Bert Gaynor for this seat. Parcellin seconds this nomination. Gaynor is present and thanks the Board and states he would have to give it some serious thought. Borsari thinks the Board should write a strongly written letter to the Board of Selectmen that Gaynor's expertise is well-needed and is a valuable asset and, if he is willing, Borsari wholeheartedly agrees. Gaynor states he was interviewed by the Selectmen to be reappointed, and so is the appointment of an associate, and states the Selectmen made it very clear that Gaynor is not acceptable. Borsari responds that the Selectmen's reason was they wanted voices on the Board, which they have, but there's a lot to be said for experience and integrity, too. Nessralla states it's worth a shot. Joy states there's a vacancy that wasn't filled. Gaynor responds that Selectman Ashley Disesa said the Selectmen wanted to give other people a choice and was quite clear on that. Borsari states nobody submitted a Talent Bank Form. Parcellin states the following: 1. Very few people have filled out the Talent Bank Form over the years and 2. The Selectmen had no public comment and gave no discussion on issues they saw with the ZBA. Parcellin states the Selectmen come to ZBA meetings and say nothing to the ZBA about concerns they have with the ZBA. Parcellin goes on to say that the Selectmen didn't reappoint Gaynor because one Selectman wanted different voices, which is fine, but the Selectmen absolutely did not have any discussion about the fact that the ZBA has had an associate member (points to Dan Borsari) that has sat on the Board for five years that has learned the By-Laws of the Town, gone to workshops, site visits and board meetings and gave no discussion to the fact that there were five other candidates that showed up for their interviews and didn't discuss the opportunity to give one of those people an opportunity to become an associate member to fill the vacancy. Parcellin states that he's watched other Board's meetings and has seen how many absences are at those meetings whereas the ZBA meetings have very few absences. Parcellin doesn't know if this will become an issue in the future but thinks it is important for new members to learn. Parcellin goes on to say that there has finally been interest in the ZBA and the Selectmen didn't even discuss that in the Halifax By-Laws there is an associate member position open and it's been open for a decade or two. Parcellin feels that Gaynor is the most qualified person to sit on the ZBA. Parcellin thinks that the Selectmen should step up and fill the empty position that has been empty for two decades yet the Selectmen didn't even discuss it when finally, for the first time, there has been some interest in the ZBA. Parcellin thinks it's been the practice of the ZBA for as long as Parcellin has been a member and even before him that everyone that has become a member of the ZBA has come before the ZBA first to discuss their interest, to attend meetings, questions are answered and so on. Parcellin thinks the ZBA should remind the Board of Selectmen of this vacancy. Borsari states this is about the Town and clearly without question, Gaynor is the person who should be on the ZBA and would like an answer back from the Selectmen. Parcellin doesn't think there's anyone else in this Town that knows the history, By-Laws, process and background of ZBA better than Gaynor and Parcellin has no idea where the Selectmen are coming from as there was

never a discussion but thinks it is important to fill this vacancy to maintain continuity of membership. Gaynor thanks the Board for the nomination. Joy states the Board misses Gaynor's expertise and guidance.

- M/Joy, S/Parcellin. Unanimously approved (6-0-0) to nominate Robert Gaynor to Associate Member of the Zoning Board of Appeals.

*Dan Borsari is asked to vote.

ADJOURN:

- M/Joy, S/Parcellin. Unanimously approved (5-0-0) to adjourn at 8:54pm.

DOCUMENTS

1. Agenda for 8/9/21
2. Meeting Minutes – 7/12/21 and 7/21/21
3. PH Express Invoice - #12640
4. Revolving Bill Schedule for Petition #948
5. Application Packets – Petition #948 and #938
6. Letter of Agreement for Withdrawal – Petition #948

Respectfully submitted,

Date: 9/13/2021



Chairman, Kozhaya Nessralla
Halifax Zoning Board of Appeals