

Town of Norfolk  
 Zoning Board of Appeals  
 One Liberty Lane  
 Norfolk, MA 02056

May 16, 2018

Zoning Board Members	Others
Chris Wider – Chair ----- Present	Devin Howe - Associate Member --- Present
Michael Kulesza –Vice Chair ----- Absent	Medora Champagne – Assoc. Member --- Present
Donald Hanssen – Co-Clerk ----- Present	Amy Brady – Administrative Asst. - Present
Joseph Sebastiano – Co-Clerk ----- Present	Robert Bullock – Zoning Enforcement Officer
Robert Luciano –Full Member ----- Present	

The duly posted meeting of the Zoning Board of Appeals convened at 7:00 P.M. in Room 124 of the Norfolk Town Hall. Mr. Wider announced that the meeting was being audio and video recorded.

**PUBLIC HEARINGS:**

**9 Fruit Street, Appeal** (cont'd from 2/7/18)

At 7:00 P.M., Mr. Wider called the continued public hearing to order, and announced that the applicant has requested a continuance for 90 days. He stated that this is the second request for continuance for this hearing. Mr. Hanssen asked how often the ZBA continues public hearings; Mr. Wider responded that a Special Permit can be continued indefinitely, as long as the Board agrees it is for good reason. It is after the close of the hearing that the Board is constricted to a timeframe. He also noted that the opening of this hearing had been delayed twice at the behest of the Board.

Karen Clark, Seekonk Street, asked the reason for this continuance. Mr. Wider responded that the applicant has requested a continuance in order to make revisions to current plans. Ms. Clark said that someone is currently living in the ‘apartment’ and part of her concern is egress. Mr. Wider stated that he recalled that information previously submitted showed 2 egresses. Mr. Bullock responded that it is allowable to rent out rooms in a house, without the house being deemed a 2-family. Ms. Clark said she thought houses could not be modified into a 2-family according to E.2.f. of the Norfolk Zoning Bylaw, and that the apartment could not be underground; Mr. Wider responded that only a portion of the lower level is underground, and the applicant is considering changing the grade of the land. Mr. Wider also stated that, in the opinion of the board, the exterior has not at this point been modified to indicate it is other than a single family. Mr. Hanssen said that the board is inclined to grant this request for continuance, but will not continue to grant others without good reason.

***Mr. Hanssen made a motion to continue the public hearing for 9 Fruit Street to August 15, 2018, at 7:00 P.M. at the Town Hall; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.***

**84 North Street, Appeal** (cont'd from 3/29/18)

Present was Richard Bremilst, applicant; Richard K. Bremilst, son on behalf of father.

At 7:20 P.M., Mr. Wider called the continued public hearing to order, and recognized Richard K. Bremilst, son of the appellant who asked to be permitted to speak on his father’s behalf due an unexpected absence of the appellant’s attorney. Having been permitted, Mr. R.K. Bremilst stated that they had supplied 10 years of Schedule C tax information for the forestry business. Although records back to 1969 were requested, most financial records are governed by law for 7 years, and this was acceptable to the Board. Mr. Wider stated that he had contacted the attorney for confirmation that the

CPA who prepared the tax forms, John Welch, CPA, had prepared the Schedule Cs as well; this was confirmed. R.K. Bremilst produced bowls that were made by a Norfolk resident using a variety of woods provided by the appellant; he stated that other customers use the whole goods to produce tables, bartops, etc. in addition to firewood.

Mr. Hanssen asked for confirmation that the question before the Board is whether the business has run continuously, and ownership of the land is irrelevant, and Mr. Wider confirmed this. Mr. Luciano asked who is questioning the use of 84 North Street; Mr. Bullock reviewed the actions taken to date, including letters sent to 82 North Street, primarily regarding the Family Florist, which had been shut down for years. Subsequently, a copy of the same letter was sent to 84 North Street, at the request of the court, because it is considered one parcel, and Mr. Bremilst had not received the first letters sent to #82. The presumed owner (matter of ownership is being challenged in Probate and Superior courts) of 82 North Street had also filed an appeal, which has been denied.

With no further questions from the Board, Mr. Wider opened the hearing to public comment. Ruth Palumbo, Franklin, MA (presumed owner of #82) stated that there is an eviction request from August 2016, and that documentation was submitted to Mr. Bremilst at that time, which spoke of the Town's request for cleanup of 82 North Street; Ms. Palumbo further stated that she believes it is a safety hazard for the wood cutting business to have no running water. Ms. Palumbo also said it was her understanding that Mr. Bremilst was requested at the last hearing to have his truck lettered, and she has not seen that happen to date. Mr. Wider responded that he had not requested the truck to be lettered, he was simply asking if it was, in order to gather evidence of the continuous validity of the business.

Pamela Russell, Seekonk Street, spoke on behalf of Mr. Bremilst, saying that his services are necessary to some people in town. John Robbins, Grove Street, also expressed support for Mr. Bremilst, and affirmation that he has been in business since at least 1979.

***Mr. Hanssen made a motion to close the public hearing for 84 North Street; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.***

### **75 Main Street, Special Permit**

Present was Deborah Robbins, applicant

At 7:55, Mr. Hanssen read the public notice into record. Mr. Wider recognized Ms. Robbins, who gave an overview of the request, stating that the house was built in 1926, and her grandparents converted it to a two-family in 1951, when her parents got married. Ms. Robbins showed pictures of the house and stated that there are two electric meters and two propane gas units for the two stoves, but heat is all on one unit, and there is one water service to the house. Her parents (with their two children) moved out in 1956, at which time the grandparents rented out the apartment to various other people. Mr. Hanssen asked if there are two egresses to the house, to which Ms. Robbins replied that there are, but only one door to the apartment; a second egress to the apartment would be through three windows on to a flat roof. Mr. John Robbins, Grove Street, (applicant's brother) said that there used to be a ladder to that roof. Mr. Hanssen reminded the applicant that should the Board decide to grant this Special Permit, it must still meet building code standards, and that would likely be a condition of the Special Permit.

In response to a question from Mr. Wider, Ms. Robbins replied that the house is listed as a two-family on the assessor's card in Norfolk. As an assessor herself, Ms. Robbins stated that assessors classify houses based on observed use, not whether it meets zoning requirements. A Special Permit, however, would be required to confirm that the house does meet zoning requirements for a two-family.

There are two bedrooms in the apartment and three in the main house; one bathroom and one kitchen in each. After some discussion about tax rates and other multi-family houses in town, and with no further questions from the audience, Mr. Wider called for a motion.

*Mr. Hanssen made a motion to close the public hearing for 75 Main Street; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.*

## **DELIBERATIONS:**

### **84 North Street, Appeal**

After a 5 minute recess, the Board entered into deliberations for 84 North Street. Mr. Wider reviewed the process where the Board has the authority to accept, reject, or modify the appeal.

#### **FINDINGS OF FACT**

Applicant turned in 10 years of Schedule C tax filings  
Several people provided testimony that the business has been in continuous operation for decades  
Business truck has commercial plates  
He has a sign with phone number in front  
There is no water to the property (fact known to Board but perhaps not relevant to Decision)  
Ownership is currently in dispute in court (fact known to Board but perhaps not relevant to Decision)  
Finished items produced from whole goods produced on the site were presented  
Applicant stated this is a third generation business  
A map of the property identifying the location of the business was provided with the application.  
Applicant pays a portion of property tax  
Two uses were on the property, which was not apparent from the Building Commissioner's letter

*Mr. Hanssen made a motion to grant the Appeal by Mr. Bremilst of the Building Commissioner/Zoning Enforcement Officer's letter of 1/22/18 with regard to business related materials at the site addressed as 82 North Street; Mr. Sebastiano seconded the motion; the vote on the motion was as follows:*

*Christopher M. Wider – yes to grant  
Donald M. Hanssen – yes to grant  
Joseph Sebastiano – yes to grant  
Devin P. Howe – yes to grant  
Medora L Champagne – yes to grant*

### **75 Main Street, Special Permit**

#### **FINDINGS OF FACT**

House was converted in 1952, based on a letter dated 3/5/2014, signed by John H. Robbins, Jr.  
Testimony from his son and daughter that it has been continually used as a two family  
Pictorial evidence was submitted showing that it is still used as a two family  
There are 2 electric and 2 propane services  
There is common water and heat  
No residents spoke in opposition  
2 bedrooms in one unit, 3 in the other; one bathroom in each unit  
It was a single family home in existence since 1926  
Property is located across from St. Jude's Church  
Proposed use would not increase traffic in the area  
One means of egress for the upstairs unit is a window

It was suggested that a condition might be that the property needs to meet all building codes with regard to a two family property. Discussion ensued with regard to at what point it will be inspected to ensure it meets code, and valuation of the house, whether it's a single family or a two family. Mr. Wider called the Building Inspector, Bob Bullock, and asked, if the current owner sold the property, would an inspection be required to ensure compliance with building code, and Mr. Bullock responded that it would not; only pulling a building permit would trigger that type of inspection. Mr. Hanssen expressed concern about possible lack of a second egress in the upstairs unit if the ZBA were to grant a Special Permit classifying this as a two family. After discussion among members, it was decided that is outside of the purview of the ZBA; they are only confirming that the single family home, which has been converted to a two family, existed prior to the zoning bylaw adoption.

**Mr. Hanssen made a motion** to grant the Special Permit for 75 Main Street, allowing the conversion of a single family house in existence at the time of bylaw adoption, to a two family house; **Mr. Sebastiano** seconded the motion; **the vote on the motion was as follows:**

*Christopher M. Wider – yes to grant*  
*Donald M. Hanssen – yes to grant*  
*Joseph Sebastiano – yes to grant*  
*Robert A. Luciano – yes to grant*  
*Devin P. Howe – yes to grant*  
*Medora L Champagne – yes to grant*

**Mr. Sebastiano made a motion** to adjourn the meeting; **Mr. Howe seconded the motion; the vote on the motion was unanimous.**

*The meeting was adjourned at 9:20 P.M*



Mr. Joseph Sebastiano, Clerk, or  
Mr. Donald M. Hanssen, Clerk

In accordance with the requirements of G.L. 30 § 22, approval of these minutes by the Board constitutes its certification of the date, time and place of the meeting, the members present and absent, the matters discussed, and the action taken by the Board with regard to those matters (if any). Any other information contained in these minutes is included for context only. Notes memorializing deliberation or discussion of any matter are in the summary form and may include inaccuracies or omissions. Where proof of the content of a statement is required, a tape recording or transcript should be consulted, if available.