



ZONING Board of APPEALS  
166 Boulder Drive  
Fitchburg, MA 01420

NOTE: This was a Virtual meeting on GoToWebinar due to the pandemic

**MEETING MINUTES – April 13, 2021**  
**MEETING TIME: 6:00PM**

- 1. **Call to Order** Meeting called to order at 6:17 p.m. **PLEDGE OF ALLEGIANCE** ALL
- 2. **Communications** LM **ATTENDANCE:** Lauren McNamara (Chair), Michael McLaughlin (Co-Chair), Joseph Byrne (Clerk), Christine Tree, Brian Gallagher & Greg Babineau
- 3. **Absent:** Jeanne Hudson
- 4. **Hearings**

<b>CASE No.</b>	<b>APPLICANT</b>	<b>PROPERTY</b>	<b>TIME</b>
<b>ZBA-2020-05</b>	<b>Dennis Bradley</b>	<b>1151 MAIN ST</b>	<b>6:00PM</b>
<i>Review of the Special Permit under §181.313 to establish a car detailing business located in the Central Business District Map 17 Block 64 Lot 0</i>			

No one is in attendance in the virtual audience for this hearing

LM – Petitioner has always been attended our meetings. Would like to give him the opportunity for a continuance

All other Board Member agreed to continuance the Review to June 8, 2021

MM – Motion on ZBA-2020-05 under §181.313 to **Continue** the **Review** to **June 8, 2021**

BG – Motion Seconded

Roll Call Vote 5 – 0 to **Continue** the **Review** to **June 8, 2021**

<b>ZBA-2019-13</b>	<b>Ruth Jeanete Guzman</b>	<b>324 LUNENBURG ST</b>	<b>6:15PM</b>
<i>Review of Special Permit under §181.3561 to reinstate a vacant/abandoned building as a 3-family dwelling located in a Central Business District at 36/15/0</i>			

The virtual presentation was given by Ruth Guzman and Roger Zullo, stating that they have completed a lot of work up through. In December, Building Inspector John wanted the sprinkler work to be done, or the sprinkler system was required. We have submitted plans in 2019 for that, but he didn't feel they were adequate design, so we got a sprinkler company to do it and were given the first week of February for review. There's a review process of four to six weeks to do that; they go to the fire Department and various City agencies. The sprinkler company was coming in the third week of March to do the work. Then John wanted to obtain a general permit, including all plans and the sprinkler plans. A kind of overall review, so we sent those plans to him. Also, there were some communication issues between the general contractor and John, the City Inspector, so we had replaced the contractor who had made new plans to go through. So, there was a delay on this for the sprinklers; in essence, it is what happened. At that point, John felt the time it elapses and wants a new general permit which I guess is different from a particular sprinkler permit to complete the project. We met with Mark, the electrician, and John Monday last week to go through the property to see what needed to be done and what could be done. Mark mentioned submitting this new permit as soon as possible, which was submitted yesterday or today. The sprinklers were a big issue on this.

LM – That did not bring that up at the last meeting several months ago

RZ - We didn't think it was going to be an issue. We submitted the plans in 2019 with everything. We were surprised in December 2020 when the Building Inspector had told us that we needed the sprinklers done ASAP, before doing any other work. We didn't know the preliminary plans were unacceptable. So, we went to the sprinkler company, obtained new plans, paid thousands of dollars, got those submitted to John. There's a lengthy review process for the sprinkler system to be done. Now with the new contract, we're hoping that we will get something very positive. The sprinkler company is ready to move forward, and they were disappointed that they couldn't finish the work before. The contractor is ready, and everything is in place to move forward except for a review process. Hopefully, that will be done soon, which is out of our control at this point.

LM – We had received an update from John Morreale, basically outlining the project, and can you speak to the season and desist and only one site inspection

RZ – December, that's when everything stopped because of the need to get the sprinklers to be the focus on

LM - Other than that, it looks like there have been some breakings, perhaps?

RZ - Door was; we had to put new doors in ASAP because it's a vacant property that isn't habitable—cleaning the space up. We went with Mark last week, and it looked like everything is defined. Everything is done for the kitchen area, just putting in cabinets getting things done. Still, the sprinklers need to be done because that was something that John wanted to have done.

LM - So, once you get the go-ahead, this will get wrapped up and rented out. How long are we talking now?

RZ - Once John gives me the approval, the sprinkler is ready to go, and that's literally a week to two weeks and a half, but we need the approval obviously, and I don't know how long John is going to take with that

LM – How many weeks to work on the actual property after sprinkler?

RZ - I would say to make sure probably two months from the end of the sprinkler at most, but how long it's going to take for the approval for the sprinklers, I couldn't tell. If it takes six weeks for the review, it's April so that I would say by the end of July.

LM - We don't meet in August, so that would be September

RZ – Okay

LM - If you have it done earlier, you can always go to the Building Department, let Mercedes know, and see if you can get you on the agenda sooner.

LM - Is anyone here seeking any further information on this matter? None

LM – Is anyone here in support of the petition? None

LM – Is anyone here in opposition to the petition? None

CT - Wanted to ask Mr. Zullo if he will be continuing to have an interest in this property or managing the project? Because I believe he's transferred his interest. He sold his interest.

RZ - I'm going to be working with Jeanette to help her navigate. She was the original owner, and I bought it to help her navigate. And I'm committed to supporting and being involved in the process, so I'm committed to staying until this project is completed.

JG - I say I am the most interested in finishing this project that has been like never before, but we are now taking care and fixing everything. Sprinklers are supposed to be done, but they stop us because they needed the permit from the City Hall, and the sprinkler company went to the fire department. We had changed contractor, who's a very responsible person was highly recommend. I know that he's going to do a good job, so we hope it will be faster than before. We are investing a lot of money in this project, so we appreciate your patience.

BG - I would be inclined to do a continuance; there are a couple of things I'd like to see done in the process before that. I notice when you're standing in front of the house, it looks like the windows smashed out of the front door, and there's some jagged glass in the front door. Also, it looks like on the side of the building, there doing something with the gas service going into the building. It is an open hole with a piece of particleboard that's balanced on top of it; it looks like a safety issue. Exterior lighting has been snapped on a pole, laying over sideways in the yard. There's a fair amount of debris in the parking lot. There's some construction material behind the building with nails sticking up. So, I'd like to see the site cleaned.

LM - Which we have expressed when they come to our meetings

JG - We have an appointment with the gas company on the 15th because the plumber did the job

LM - I understand that they need the stoppage, but keeping the exterior of the building. Several times, it has been expressed that you may have to come to Fitchburg and clean yourself but wanted the exterior to look neat.

RZ - I don't know when Brian was there

BG - Today

RZ - Okay, the outside it's pointed debris, the hole; I'm going to make a note in the hole. We can put do some bored or something over it that's a potential hazard.

LM - You can take a lot of notes, but we want to see action. I may sound frustrated, but I think that happens when we've seen this case for so long now and looking for simple exterior things to look as clean and neat as much as the building can. So, I hope you're hearing us clearly and understand where we're coming from

GB - I agree with Brian, too; I think it's at least the third continuance here since I've been on the board. Also, agree with Lauren. We have addressed that exterior every single time. Certainly, I am open to a continuance here, but at some point, you lose your patience, so there's going to be some progress made on the property.

JB - to enter Brian's quotes, how about taking down the Christmas lights that run across the front of the building? I was there today, and the back door to the house the very back door doesn't have any steps, so that's a safety hazard.

MM - I believe this case started back in January of 2019. I believe the board has been extremely accommodating to all the delays throughout the several-year process. I think the most frustrating part is the fact that we've asked, since the beginning, that the property, kept clean and free of construction debris, and at no time has it been. So, I'm reluctant, but I'm in favor of approving the continuance, but I think the applicants need to do that due diligence within the next week or so to make the property look like it's not abandoned on the exterior and to maintain it throughout the completion of the project.

LM - Agreed

MM - Motion on ZBA-2019-13 to **Continue** the **Review** to **September** with the conditions as written on the original approval and to also add a condition that the property will be cleaned in short order and maintained until the project completion

1. **Repair and paint all decking**
2. **Upgraded exterior uniform gutters, facial boards, vinyl siding**
3. **Full rehab kitchen and bathroom front first floor**
4. **Paint kitchen and bathroom from the second floor with a granite kitchen counter and new vanity in the 3-unit**
5. **Alter paving and landscaping as per plan submitted to the Zoning Board (Dated 5/14/2019)**
6. **Repair slated roof or re-shingle with good quality asphalt**

7. **All items outlined in exhibit D, "Scope of work," to be completed**
8. **The special permit shall terminate/expire if the property is sold or transferred prior to all conditions from Zoning Board have been met**
9. **Property not to be Occupied or put into use before Zoning Board findings that all conditions have been met**
10. **Review on September 14, 2021, at which time it is expected that all exterior and interior work will be completed**
11. **Property to be kept free or outside storage or debris and to maintained at all times throughout the completion of the project**
12. **Yard to maintain in acceptable conditions throughout the completion of the project**
13. **The property will be cleaned in short order and held until the project completion**

BG – Motion Seconded

Roll Call Vote 5 – 0 to **Continue the Review to September 14, 2021**

**ZBA-2020-01**

**Gapco, LLC  
Paul Tocci**

**54 LUNENBURG ST**

**6:35PM**

*Review of a Special Permit under §181.355 to reinstate a vacant/abandoned building as a two-family dwelling located in the Residential C District Map 45 Block 50 Lot 0*

The virtual presentation was given by Aurelio Rodriguez, stating that he bought the property from Paul Tocci. He recently passed, and I bought it without knowing anything about it being converted over, or special zoning or anything. He told me that I couldn't run any business out of there or anything like that. I'm surprised by the notice saying that I'm in violation of making it into a two-family

LM - When did you purchase the building?

AR - I want to say November of last year, but I'm not sure if it was more like September last year.

LM - I saw you close on August 14th, 2020. So, I am confused. You're unaware of the petitioner coming to the board looking for conversion into a two-family home, but we were expecting that you were.

AR - I was expecting to buy what I was getting; the apartment upstairs in the garage is below. I was renting the garage from before for storage and parking. Before Paul died, he liquidated everything, and he offered the property to me.

LM - The property problem is that it has been vacant abandoned on the business side for a long time. I don't know the status of the apartment itself.

AR - I'm not running any business out of it.

LM - I understand that is the apartment itself is that occupied by someone.

AR - yes

LM – How long that's been?

AR - Probably since September

LM - Before that, it had been vacant

AR - I bought it empty, yes

JB - How did he get an occupancy permit?

LM - I'm trying to get to the bottom of this and want to know how you got utilities turned on?

AR - Utilities were always on

LM – It was unoccupied for a long time, and it fell into the vacant, abandoned status with the city of Fitchburg

AR - I didn't know all this.

LM - Is there anyone here seeking any information? Other than Mr. Petitioner - None

LM – Is there anyone in favor of the petition? None

LM – Is there anyone in opposition to this petition? None

MM - I think at this point, just to kind of move things along. I'm going to be looking at revoking the special permit and making comments about the building. The building has been, I believe, in abandoned status for quite some time. If the current owner hasn't met with the building commissioner to get the appropriate permits and get the building up to code, probably recommend that as a first step.

LM - What was interesting to me is the note from the Commissioner. The comment with this one is that they reached out to the new owner and ask him to attend tonight's meeting. Still, I strongly feel that the actual Building Department needs to do some guidance here. As to what they need to do, because after all, it's falling under the vacant, abandoned building, they shouldn't have been able to switch utilities and make a move with the property and that regards. There should have been someone from the building Department following this through, so I'm not sure.

MM - As I mentioned, I think our recommendation should be to the representative or the property's current owner to meet with the Commissioner and discuss its future. And for us to move ahead separately with the special.

LM - If the new owner wants to make an application, I think this application is done because the owner has sold the building. And obviously, he passed away, so we don't have a case with the new owner. He has to figure out and decide what he wants to do with the building.

MM - That's correct. This is a simple review.

AR - I have no problem dealing with the building department, and doing this study permits to get the place going. I had no idea that I needed an occupancy permit when I bought it. I just thought the place looks great; it is fully functioning. There's nothing wrong with it, but I'm willing to do that if I need to go through the building department. I want to work with you all, and I want to make sure that we're on the right page.

LM - I appreciate that. I know you've just been thrown into something that you're unaware of, so I appreciate that you're willing to work with the Building Department and this Board. I am leaning towards revoking the Special Permit because it doesn't have anything to do with you anyway, and I think that would be the best move for us. It doesn't mean that you can't move forward in your direction with the property, but at this time, it doesn't have anything to do with you.

AR – So, the next step I should do is to stop to discuss with the Building Commissioner about the property?

LM -Yes, but to make sure I go around with the Board Members and make sure we're all on the same page. So, if you can bear with me one moment, I'm sure the Building Commissioner will be happy to help you, and he will love to see that building renovated. We just wanted it to be done right. That's all

BG - One positive note, they've cleaned it up nicely since the last time we met. I went by it today, and I thought it looked really good, and I am looking forward to working with the new owner.

JB - I asked before, and I'd still like to know. How he got people moved into that apartment without an occupancy permit, or anything like that when it's been vacant for such a long period of time. It's just crazy that you can do that  
LM – Utilities never got turned up, so I can understand him not knowing anything otherwise. So, I hope we can get the Building Department on board.

GB - What does the petition intend to do with this property? The original petition and owner were looking to convert this to a two-family. Are you unsure what you want to do with this property at this point?

AR - I would love to turn it into two-family, but as far as the cost is, it put me in a hard place trying to do that right now. In the future, I would love to turn it into a two-family; just right now, I don't see it in my plans. I want to do what's right with it, but right now, doing what I'm doing with it, I'm happy the way I am right now.

GB – So, the advice you've been given them would stand to go to the Building Commission, but I would point out that the original petition did some work. There's a plot plan done for parking. I believe there was a design for the interior, so you may reference that in the future if you do determine that is something you want to pursue. It was done by a professional company, such as laid out for the parking plot plan with a sort of a rendition of the building itself.

LM - I think what we'll do is, move to a motion. I believe the path we have to go as we talked. Since it doesn't have anything to do with this petition, we can revoke the Special Permit and send him after the Building Department.

MM - Motion on ZBA-2020-01 under §181.355 to **Approve** the Special Permit **Review**

JB – Motion Seconded

Roll Call Vote in the affirmative 0 – 5 to **Approve** the Special Permit Review - Special Permit been **REVOKED**

**ZBA-2021-03**

**Maikira Padilla**

**218 ROLLSTONE ST**

**6:50PM**

**Continuance:**

*Special Permit under §181.782 to operate a Home Occupation business as a Hair Artist services allowing client trips to the occupation site in the Residential C District Map 53 Block 37 Lot 0*

The Virtual presentation was given by Maikira Padilla and Gustavo Quiroz, stating that at the last hearing on March 9, 2021. The Board's concern was about the parking spaces we have on 218 Rollstone street, and that's true on Rollstone Street we have no parking. But we do have a parking space on Franklin Street, on the other side of the road. Currently, it is only 9 by 18 space. We are planning to make an extension to that parking space, and I have talked to a contractor to make it bigger. He says that it is possible, and he's going to extend and make it almost 20 by 18. Close one additional space to the side of the house for one more car. After all, it gets complete; we're going to be able to accommodate about three additional vehicles, besides that one we already have. So, all together are going to be four spaces.

LM - Would you be looking for a 9 by 18 and a half? Currently, our City parking size is 9 by 18 ½, so 20 by 18 would only give you two spots.

GQ – Yes, close the spot side of the house that would be like almost 9 by 12, but I don't know how to explain it, but if you stand over Franklin Street, the property on the right side is a little bigger. Then the parking space that we currently have is a little bit longer than 9 by 18, which we have currently, so he was making the measurements and said that size would be a little bit longer.

LM - Is he drawing this up and putting this certified Plan for you?

GQ - No, I was talking only to the contractor

LM – Is anyone in the audience seeking information in this petition? None

LM – is anyone in the audience in favor of this petition? None

LM – Is anyone in the audience in opposition to this petition? None

MM - I'm all for looking at this case. Still, I would like to see a certified parking plan to understand if there truly is enough parking for the residence and the business. I've gone by the property multiple times that I know there's great intent, but it's an extremely small lot in there. It appears to be a tiny yard that could convert to parking. I

would like to see a professional drawing regarding the parking. That truly reflects the ability to park vehicles properly and be able to accommodate snow removal, and to be able to open the vehicle's doors. Because there appears to be very little to no off-street parking just for the residents, never mind the business. As we all know, we can't look at parking on the sidewalk as accommodations for vehicles because of this parking ban.

BG – I visited the property and was to meet the owner. He showed me his Plan, and I think it's conceivable to have someone come out and do a certified parking plan for us. So, that we can move accordingly, intentions are good, it can accomplish that, I could feel positive about moving forward on this.

GB – I go by the property number of times. I'm certainly no engineer, but I struggle to see how four spaces could fit at the Franklin Street side. I'm sympathetic to making the petitioners spend money to come up with a plan. But I think it is required here, given that this is a very tight neighborhood. We have to do our due diligence to make sure that there isn't a negative impact on any of the abutters, so that I would ask for the Plan.

JB - Everything has been said

LM - DPW commented that Rollstone has no driveway and some limited on-street parking. This appears to service one of the building units. The rear of the property along Franklin has a small driveway. Although parking is allowed on Franklin street but is not much room along the shoulder. This appears to service the second unit in the building or side of the property. So, this concludes that we do need a parking plan.

CT - I wanted to ask the petitioner. I know that you have two very large trees on your property, right about where the driveway will go. Are you planning that either one of them will be cut down to put the driveway in?

GQ - Right now, talking to the contractor, he said no, we don't have to remove any trees because I need to find out if any of those trees are belong to me or belong to the City. We would need to find out who has ownership of those trees because they have been there forever. We don't have to cut down any trees our contractor plan that he is trying to accomplish.

CT - What are your planned hours of operation?

MP - I would like to work from 9:00 AM to 5:00 PM, by appointment only and take one customer at a time.

CT – So, generally, you're not planning to operate into the evening?

GQ – No, her main Plan is to attend one customer at a time because it will be only by herself, and she doesn't want to get crazy. On a special occasion, if the job requires the latest time, it will be like 6:00 PM or 7:00 PM.

CT - You're not using a second apartment right now. Are you using that as a single-family?

GQ – Yes, that is correct; since I bought it, I didn't know this was two-family

CT - I just wanted to comment, generally, that you kept nice-looking property on the exterior. So, you've done a great job with that. I did like to see how well you keep the house, and if you can resolve the concern with the parking, that's my primary concern with this operating here. When the parking plan is designed, I am curious to know-how will to set it up, especially if the trees aren't going to be taken down. It will be very tight to fit that space in there, and if it's going to be four, I think it's going to be two and two going in, which means that everybody will have to back out into the street. Suppose the trees are not being taken down the visibility with those large trees. In that case, you have right there on the road, and the way that Franklin Street is set up is very concerning to me. If there were some way that there could be a visibility aid like having a large mirror is possible to install to help somebody backing out onto Franklin street, but I would like to see something that would improve that line of sight if we are going to use that driveway for that purpose.

GQ - I'm going to talk to the contractor, so probably he knows whose may be able to do it.

LM – So, how much time do you think you need for a continuance?





DB - It's pretty straightforward. I did present some photos of the trailer its pretty basic altogether.

LM - Is anyone in the audience seeking any information in this petition? None

LM – Is anyone in the audience who's in favor of this petition? None

LM – Is anyone in the audience in opposition to this petition? None

JB - The black trailer that we're talking about is the one that was parked behind the residence today?

DB – Correct, it is park there most days.

JB - This is where it sits and will be parked all the time, or do you plan to put it out on display on the lawn?

DB - I'm not detailing at the property, this is my home, and the office is here where I take phone calls to do paperwork, but no. I hook it up to my truck, and I take it out to other people's houses when I start the business.

JB - I understand that, but I'm saying when it is on your property, is it always going to be parked where it was parked today?

DB - I would say it's either going to be there or possibly in the lower driveway, but most likely in the upper driveway.

GB - It is at the risk of being redundant; I want to make absolutely sure this is the storage only of the trailer?

DB - Yes

BG - I did note that the property is well maintained, and it looks good, and the trail is brand new, and it fine with me.

CT - I wanted to mention that I did receive a neighbor comment' who was concerned about trips in traffic to and from the property. I just wanted the petitioner to confirm that he's not going to have any customers coming to the house.

DB – Correct, if you look on our Facebook website, any literature we have, it doesn't have an address. There's nothing that remotely suggests as to where the business home is located.

CT - Do you ever bring your customer's cars back to your house to perform the services, or do you always perform services away from your home?

DB - It's going to be 99% away from the house unless it's a multiday service which would be extremely high-end and would be in my garage the entire time. Which most people in this area don't do that type of work

CT – Also, I wanted to echo Brian's comments. Your home is lovely and very well kept, and a very nice neighborhood, definitely a quiet residential area. The only concern I have is that you have the lower driveway with the garage. I believe the lower driveway is a one-car driveway outside.

DB - We can't even fit either of our vehicles in that garage

CT - It looks like more of a storage garage

DB - It is

CT - Then on the upper driveway, it is a single Lane driveway, and you had the trailer plus, I think three vehicles, and then your truck parked up to the side. So, you're having a lovely family and putting that full driveway use with all the cars for the family. I'm guessing

DB - Sometimes there are musical cars because I leave so early for work in the morning. I have another full-time job, so sometimes we have to offset the vehicles for the musical cars in the morning.

CT - So, everybody has to come out and maneuver to get everybody in and out and around.

DB - Exactly

CT – So, my commentary is that parking and storage would be my only concern, so if this were allowed, I would be allowing it provided the following conditions. Number one that the owner attempt to park the trailer behind the house where it's currently parked. Number two that there be no more than one customer vehicle at a time on the property, given the limited amount of parking

GB - The clarifying question is storage only; the install is affirmative. Christine asked probing questions it suddenly became 99% of the time to 1%. I just these things tend to grow. I want a little bit more clarification here. Its defining how much work will be done at the house in the garage, I was zero, and then it became 99% of the time.

DB - It would probably be a very small exotic sports car, and it would be a multiday process doing a ceramic coating. Generally, services that nature will run over \$2000, so the abundance of that type of work I don't honestly even really see me doing any of that, to tell you the truth, would be like an extreme situation.

GB - Just complaining it condition potentially

DB - honestly, don't want to do any detailing at my house, personally.

MM - I think the Board captured any of its usual concerns. The property is impeccable, and the trailer is new. It's clearly defined as an offsite business. I think that's really homes in on the true criteria for a home occupation. So, I don't have any questions.

LM - My comments are more questions are that in the past we have considered and have done, is have petitioner coming back on the busiest season. Maybe this is his busy season, or perhaps it is after winter, but he will be doing a lot of detailing on the road. So, we can perhaps put a clause for a review and look back to this and see how the business went. Also, not to operate as a nuisance, and he can let us know if any problem and if he's constantly detailing at the house. So, those are two options that we could consider. I know this is straightforward, but it sounds like a couple of numbers are not entirely comfortable, so we do have those options.

DB - I want the Board to know that I owned a detail shop for twenty years. It was located out of the classic car wash in Leominster. If I would do detail full-time again, I would think and get myself a proper location. This is a part-time business for me right now, but I would look into getting another garage if something changes.

LM – Board Members, how would you be inclined to move forward? Do you want a year review or just a simple language not to be operated as a nuisance, any conditions?

MM - I'm okay moving ahead without a review, it's an offsite business, and I am certainly comfortable with Christine's comments regarding conditions that you would like to see.

BG - I agree with what Michael said.

JB – On favor with a sunset clause and a not to be operated as a nuisance

CT - I'm just going to reiterate the two conditions, I agree with the sunset clause, agree with the non-nuisance. The trailer to be parked behind the home, and no more than one customer vehicle present on the premises at any one time. I don't know if we wanted to add all any services to be performed inside rather than outside.

LM – So, far I think he hasn't said anything about a customer visit.

CT – But could get a customer vehicle so he could drive the customer's vehicle and leave it on-premises

DB - The goal isn't to be cleaning cars here at my home

LM - Right, we understand, but we make on some conditions.

GB – Everything has been covered

CT - Motion on ZBA-2021-04 under §181.782 to **Approve** the **Special Permit** for storage of a 7 X 14 enclosed trailer at the primary residence of 48 Bernard drive for mobile auto detailing business with the following condition:

1. **The trailer is to be parked behind the home**
2. **There shall be no more than one customer vehicle stored on the premises at any one time**
3. **The Special Permit expired every five years**
4. **The business shall not be operated as a nuisance**
5. **Sunset Clause-Special Permit shall terminate/expire upon the sale/transfer of the business/property from Daniel Brisebois**

BG – Motion Seconded

Roll Call Vote

5 – 0

to **Approve** the **Special Permit** with conditions

**ZBA-2021-05**

**Talitha Slocum**

**170 ARN-HOW FARM RD**

**7:45PM**

*Special Permit under §181.313B6 to use of land for the primary purpose of agriculture less than five acres in area on an existing single-family dwelling located in the Rural Residential District Map 323 Block 3 Lot 0*

The virtual presentation was given by Talitha Slocum, stating that when she moved to the property, she had the intention of doing some small farming. Particularly for having my own organic food, and my husband and I own an agricultural tree company. We're just trying to follow the steps to the proper steps to use our land; I didn't realize that you couldn't have chickens if you had less than 5 acres of land in a residential zone in Fitchburg. So, that's how this all started, so we would like to keep the land originally established as farmland. This is a very historical piece of property; this used to be a dairy farm a long time ago. There are still many cool things on the property that show evidence of that. We want to keep it historically farmland and use it that way for our family.

LM – Is anyone in the audience in support of this petition? None

LM – Is anyone in the audience in opposition to this petition? None

LM – Is anyone in the audience seeking information on this petition? Mary Helene of 160 Arn-How Farm Rd. I am an immediate abutter, and I am raising my voice with some concerns for few different things, as far as the Fitchburg zoning goes. I would like to know that they are current in violations of the current Fitchburg Zoning Ordinance under Chapter 181.3216, which states that Landscaping Business is prohibited in the Residential Zone. They are currently operating a landscape business out of this property with quite a bit of large machinery. If we do grant this use, there will be a lot of other convoluted items that come along with it, and I have a few different concerns as their neighbor. So, that would be the first thing I would kindly request from the zoning board. Bring them into compliance first, with the current rural residential status, before granting any Special Permit. I truly don't mind chickens as a neighbor if they go through the proper channels, but Roosters are a major concern. The coop that they have is right behind my window in my bedroom, and so if this were to be allowed, I would be seeking conditions for Roosters. I would also be seeking conditions as to how many vehicles can be parked on the property. Because they are operating their landscaping business, which I don't believe falls under agricultural use status. Those are a few of my main concerns, but I think as for a night, I would like to bring to the attention of the Zoning Board that they are not in compliance currently and that they fall under current compliance before we go into Special Permit status.

BG - I went out to the site, a couple of things I noticed I met with the applicants. I did note that the chicken coops themselves appear to be portable, clean, and have no odor of birds, and they've been well fed and taken care of. So, in terms of that view, that very favorably. The yard adjacent to the coops itself was clean, I didn't know that there were a lot of vehicles parked on the property, and I brought that up as well to the applicant. They had expressed an interest in turning what was previously a barn into parking for the vehicles so that they would be out of sight. I suppose they're going to be able to tell us all those things. They get an opportunity to speak; other than that. I don't have anything else.

GB - How many Roosters are on the property?

TS - Three Roosters

GB - I don't know what restriction here on the landscaping complaint, but I know it's been brought before us because of a nuisance complaint. I believe the Roosters and the agricultural use for chickens slash rooster. I have no other questions other than to confirm there are Roosters.

BG - When I spoke to the applicants, they had mentioned that they have collar on the Roosters, and I forgot to ask them how effective that was in terms of noise in the morning

TS - Yes, it's similar to like how a dog collar would be, but it is Velcro, and it's tighter around the neck, which prevents them from extending their neck to make the loud noise

LM - Do they make noises currently in early in the morning

TS - It's like a gurgle; it's not loud noise. It's funny-sounding; they sound like they're choking a little bit, even though they're not.

LM - I would like to hear from the neighbor on that. Is any noise level?

MH - I honestly the collards are fine, as long as there is an order of conditions that can uphold. I have no issues with that. I still hear them from time to time, but everything she said is entirely true as far as the noise level. Just having lived next to them now, I've come to realize it's not just in the morning; it's all day they bagel off when they're not wearing the collars. So, if this is something they want to have, I would request that it hopefully be in the order of conditions because that coop is not very far from my home. It may be 50 feet; I would say maybe a little bit more.

CT - How long have you had the chickens on the property?

TS - It'll be a year in May

CT - You said you have three Roosters; how many chickens do you have?

TS - Twenty

CT - Did you build the coop at the same time?

TS - The coop came later because some of the Hawks in the neighborhood were killing them. So, we built it to the enclosure and protected them from that. It's not a permanent thing; I can move it. The only thing is how the land is and the different spots; it seems like it's kind of like a sound vortex, so even if we go farther away. I don't think it will help the sound, so it makes more sense to keep the collars on them at all times or to find a new home for the Roosters.

CT - Is there a particular reason it's located where it is?

TS - In the wintertime, they need heat lamps, so I have to run an extension cord, and then we have a septic system in the leach field. So, it restricts that from being closer to the side of the house, but it needs to be close long enough for the extension cord for the heat lamps out in the winter for the chickens.

CT - How close is it to the abutter's line?

TS - I've never measured it; directly behind our house to the farthest corner of our house, our homes are very close together, but I think as Mary said, it's probably over 50 feet, but I'm not exactly sure.

CT - How far is it from the River that's running behind the house?

TS - I haven't measured that either, and it's like a seasonal stream, so sometimes it's dry. So, I'd have to measure it now when it's wet, definitely more than 10 feet. I don't know how exactly though

CT - How are you disposing of the waste from the chickens?

TS - Use that for fertilizer, so it's being utilized in the ground and collected. I intend to do a garden fence as well as and portable greenhouse for saplings and produce. So, that we can eat organically, it will constantly be used as fertilizer.

CT - Are you planning on using any of the chickens for meat or just for eggs?

TS - Meat and eggs

CT - I want to know more about your petition covers because I know that there's a landscaping business on the property. Where the vehicles are stored, are you asking for permission for anything other than to keep chickens?

TS - Yes, I was directed by a couple of different people, and I've never done this before. I want to make sure that I had covered everything; it's not landscaping. It's tree removal and replacement. So, it's logging cordwood, so it falls under agriculture. We wanted to keep the business on another site, but we couldn't continue to afford to pay the rent. So, we had to bring it here, we don't love having it here, but it's what we can afford right now. Hopefully, in the future, we can have a commercial site, but in the meantime, the intention was to rebuild the barn and put the trucks organized and have them not exposed because it's not good for them to be exposed to the elements as it is. It puts wear and tear on them. So, we just wanted to ensure we covered every aspect of what we have going on over here instead of leaving anything else.

CT - Are you conducting any part of the business other than the storage of the vehicles?

TS - No, everything is off-site

CT - Are you using any equipment to do logging, tree removal, or clearing on your property?

TS - We use some. We also have a small excavator that we use to move the wood chips around. We have a woodchip driveway, unfortunately, because we haven't been able to pave it yet. So, that we don't get mud tracked into the house, and we also use them for the garden and the chicken coop. Because it helps keep everything fresh. As they decompose, wood chips create a root system that's healthy for the chickens to dig up and eat. So, it's kind of an ecosystem that we have going on, so everything stays recycled.

CT - Do you have another site that you use to dispose of the wood chips from the work that you're doing, or are they being used on your property?

TS - Other places buy the woodchips from us, and then there's a recycle place called Pine Tree Power, which we bring them to. So, we do bring them here to use them, but they do get recycled at another place.

CT - Is the fence between yourself and your neighbor? Who does that belong to?

TS - My neighbor

CT - Can you tell me about the Conservation Commission you went through with the property earlier this year?

TS - We have the trucks over by where the original barn was. We had some dirt from a friend that was coming over who works for the City. We learned the hard way you can't have dirt delivered to your property without permission or something like that. We also were made aware that the land over by the barn was supposed to wet, but there was never any documentation on any of the mortgage purchasing or anything similar. The only thing that was present was the seasonal strain, and we inherited it. I bought it from my parents it was going to be a flip, and we decided we wanted to stay here. So, we already did a lot of work. We had to hire a biologist and everything to make sure that we weren't intruding on any ecosystem that was happening over there. We took care of that.

CT - Are you in compliance right now with any order of conditions from the Conservation Commission/

TS - As far as I know, yes

CT - Is the chicken coop located on any land that the Conservation Commission examined?

TS – No

MM - I got a chance to visit and speak with the applicant to understand the request, and I guess at this point, I want to make sure the current business. I guess the question would be; does it require a permit, or has it been permitted before we move ahead with the request for the chicken coop.

TS – Mark Sullivan, the City Building Inspector, suggested that we go in front of Zoning for agriculture because of the business for farming and poultry.

LM – At this point. Do you have any permitting that you been authorize for the property, vehicles, business, anything about nature from any Department in the City

TS – No, we were not aware that we would need to get it. We were starting this process.

LM - You said you've been doing it for about a year

TS - Mark Sullivan had stopped by the house and said that our neighbor gave a complaint about the chickens, and that's when brought it to my attention for the first time, and that's when we had to figure everything out

LM – I'm trying to understand the process.

MM - No other questions other than my original question: Is the permit required to operate the logging business on the premise?

TS - I have no idea myself

LM - I said I would think so. Are those vehicles on the property? Are those diesel vehicles?

TS - Yes

LM – How many vehicles on the property in total?

TS – Seven

LM – Could you identify what tons are they, and are you utilizing all of these?

TS - Only some of them. The rest will just be parked at less they're being used for tree work.

LM – So, there are in operation.

TS - Yes

LM - Any of them have any leaks?

TS - No that I'm aware of. They're all maintained and taking care of. My husband's very particular about those things because this is our source of income.

LM - I do have a comment from the DPW, and I like to read aloud to you:

Lot appears to be used to store vehicles and equipment for tree service.

It is unclear whether this qualifies as "agricultural" with resource areas nearby.

- Vehicle/equipment leaks are a concern.

Are there any plans to pave the site?

TS - After speaking with the conservation committee, we determined that it would not be wise to pave for this site because of its area. We probably wouldn't be able to afford the paving, and then we also don't have a building yet. So, we would need a building before anything else.

**Mary Heline:** So, again, the whole vehicle storage use, if this agricultural use was permitted under residential use currently. I would classify their company as an earth removal or timber harvesting, which is not allowed under

current residential status. They also have a lumber on the property, which is also not allowed. Earth removal or timber harvesting business would be under special permitting. It would have to go before the Planning Board to grant that permit, looking directly at the City zoning ordinance here. And then the lumber itself is under a restricted status as far as residential goes. So, again as neighbor wise goes, if they are granted this agricultural status, how many vehicles can they park, how close to my home can they park them. Their staff currently shows up in the morning and quite frankly not a huge concern, but where is the line drawn and if this is accepted. Then there's very little recourse, so that's sort of where I said can we bring them into compliance before we go ahead and grant Special Permits.

LM - I think there's a lot of need to unfold here, and I believe Mark Barbadoro, Building Commissioner, needs to recommend then where they need to go. It could be different departments, and perhaps you need to go to planning and conservation. I think you need to go to conservation for this particular reason.

CT - Based on the information that's been submitted, I would be comfortable after some more information reports considering the chicken use, but I am concerned that any other use that's alleged to be agricultural, particularly the storage of the vehicles, really doesn't fall under the agricultural use, because the activities are not being conducted on the agricultural property. I think that is probably a contractor's yard, so that I would like some clarification from the building Department on that point. I would also like clarification from the Conservation Commission on whether they are currently in compliance and whether anything proposed here would put them out of compliance. There is no drawing indicating where on the property the chicken coop would be located. I know I did go and see, so I can see where it is now or how far that contractor at the parking area would extend, and where that is relative to wetlands, because whether that's a seasonal River or not. Right now, it's pretty big, so it's not an insignificant feature of the property. I want to make sure that the activities they are looking at will not put them in violation. So, I would like to see a drawing locating these features, limiting the number of chickens that they have if they're going to be so close to the abutter house. It's a 2.6-acre parcel, and it's a large parcel. There's probably room for a larger amount of chickens a little bit farther away, but so close to the residential area, I would prefer to see it limited. It is very absolutely historical farmland on How-farm, as long as those concerns are taken care of. It's not the agricultural use that I have so much of an issue with. It's the storage of all of those vehicles on-site. As I said, I believe it is more contractor's yard and will have more of an impact on noise and issues with the vehicles as far as environmental concerns go. I would want to continue to have more information.

MM - Christine summarized that quite well. I think everything is proper before we move ahead with looking at the Special Permit. I'm I don't have any concerns with the proposal before us, other than some minor conditions that Christine had mentioned as well.

BG - Everything has already been said

GB - I admit to being a little confused about what we're voting on tonight, but this appeared to be a nuisance of chickens initially, and the butter brought up the other issues here. We are conditioned at the Roosters' collared time being until we get all the additional information that Christine Michael had mentioned.

JB - I think everything that needs to be said, it been said. I don't know whether we're going to vote on this tonight or give it a continuance to get the proper paperwork that we need for the trucks, but I'm okay with the chickens.

LM - Christine did quite nicely wrapped it up for us. I think our secretary needs to connect with the Building Commissioner and find out exactly the status of vehicles, and whether or not those are agricultural, or if it's a contractor's yard. Also, get the status on the entire property, and get a good look at it, and then; find out from Commissioner Barbadoro if they need to go to the planning board. We do want to know the status of conservation and then have the petitioner to come back here. So, we have a little more clarity on what we are voting on. So, I would like to give the petitioner Perhaps a couple of months. In the meantime, I agree with Greg. And perhaps all

of us don't want things to be operated as a nuisance in the meantime. So, having the collars on the Roosters is important, and I think at this point. We should look for an extension for at least a month, perhaps until June.

MM - I think we're booked next month, and we have to kick It out, and Greg brought up a great point if the Roosters have their collars on. Them that'll give us some time to kind of sort through things, they can continue to have their chickens in their Roosters on-site, and it will be a good time test to see how things go.

CT - Motion on ZBA-2021-05 under §181.313B6 to **Continue** the petition to **June 8, 2021**. Petitioner to retain the collars on the Roosters in the meantime

BG – Motion Seconded

Roll Call Vote                      5 – 0                      to **Continue to June 8, 2021**, with the petition

**ZBA-2021-06                      Greg Gitto                      211 THERESA ST                      8:05PM**  
Special Permit under §181.355 to increase the living space footprint and to expand existing car garage leaving 26' to the front yard, 12' side yard, and 13' to the rear property yard located in the Residential A-2 District Map 126 Block 60 Lot 0

The virtual presentation was given by Greg Gitto (owner) and Jamie Rheault from Whitman and Bingham, stating that he repurchased the property in December 2020 to be used as his primary residence. It is a second-generation home that was built in 1953. The previous owner passed away last summer, and it has never been updated. Basically, everything is original from 1953, electrical, plumbing, and everything, it 1260 SQF. I proposed to make 2000 SF house, converted two-bedrooms, one-bath, to a three-bedroom, two-bath. On the property right side, I want to expand the garage from one to two store garage. Basically, on the right side of the House, in the garage, and behind it, we are putting two bedrooms on the golf course side. We want to try to keep it in the spirit of the neighborhood as a one-story ranch. The other option would be to go up to two floors, but we couldn't find a look by expanding over the garage; it doesn't look consistent with the neighborhood. I don't want to 2nd floor in the House, I think to be consistent with the neighborhood make it a nice one story 2000 square foot house it what we want to do.

JR – On the plans submitted to ZBA dated February 23, 2021, you can see two additions to the property. If you are in Theresa Street looking at the House, you would see a proposed addition on the front, right, and rear. There is a four-foot bump-out to the front yard, a ten-foot bump-out to the right side, and a two-foot bump-out to the rear yard. The existing House is 28-feet to Teresa Street, and we're going to be proposing a setback for 26-feet. The minimum front yard setback is 30-feet, but we do know it's pre-existing non-conforming. The right-side yard setback is 12-feet and 13-feet setback to the rear yard.

JR - Interestingly enough, the rear yard minimum is 35-feet, the second edition is back left side, it is an 8.4 by .6 addition. 17 feet from a side yard 15 feet from the rear yard. Craig is correct in that he wants to expand his ranch. He wants to customize it and bring it up to date in 2021. It was built in 1953, and if anybody knows the location of Oak Hill Country Club, if you know the 15th hole, that's exactly where the House is located opposite the green

LM - Does the golf course doesn't have any problems with it?

JR – I spoke to Stephen Decarolis, the Oak Hill president, and he was going to reach out to one of the Board Members. I don't know who

JB – Stephen called me this morning, and we discuss that Oak Hill Country Club has no oppositions on the encroach of the back yard of the property

LM – How are the rest of the House on that side toward the Golf Club? And the front side toward the road?

JB – The House on Theresa Street is very similar to this property. All these lots are small. I think the lot size for this lot is 8487 square feet and a lot of the existing lots of the same size. A lot of ranches, and I do not believe any of the houses meet any of the setbacks whatsoever with respect to the rear yard at all.

JB - When I was there today, if you looked up the rear property line, two houses up from where this House is, there's a swimming pool that its way into the Oak Hill Country Club property. So, the 4500 lots are a little tiny.

LM – Is anyone here in the audience seeking any information on this petition? None

LM – Is anyone here in the audience in favor of this petition? None

LM – Is anyone here in the audience in opposition to this petition? None

MM - I visited the property today and walked around it. In my opinion, the requests for changes and setbacks were extremely minimal visually as I drove and walked up and down the street. The setback seemed to vary quite a bit from House to House, even within the directive abutters, but there's obviously no opposition; it sounds like the applicant will make a tremendous investment in this property. It's a great location; it does abut the golf course, so there's no impact to the rear. The impact to the front is approximately 2-feet. To the right side, approximately three feet below the minimum setback requirements. And again, the rear is only changing from 15 to 13. It did appear the House to the left, if you're facing a home from the road, had even a lesser setback. So, I think this is a good project.

GB – I have no questions

CT - I notice many trees marked for cutting, along the rear line and some along the sideline. Are any of those going to be replaced?

GG - Mostly, trees were cut down; they were on the line on the club's property. They were infested with Carpenter ants and leaning toward the House, so they were dangerous to the House. The club has plans to cut down more trees to give ventilation to the putting green, so there are no plans to replant trees there. That would go against what the club wants to achieve to provide more ventilation in that area because it's kind of down in the hole. They've had trouble with that the putting surface because of a lack of ventilation.

CT - I think if you had taken it back two feet and two feet, and three feet. You wouldn't need a special permit, but I assume that because the lot's tight and you need to expand the property, those are two and three important feet project.

GG - That would be correct

CT - I think what you're proposing is meant for it, with the rest of the neighborhood. Particularly because you're not going up another story on the House, across the street from you is up another story. It does stick out, but other houses in the neighborhood have two cars garage; it is either attached or like your neighbor has a detached garage. So, there's certainly the expansion to that use on the property. You don't really have a curbing, so I think you might need to expand the width of the driveway. Still, I don't think you need anything particular for that. Nothing is going to interfere with any of the ongoing services the storm drains the electrical wire.

GG - We have to pull out every single wire on the property; every photo wire must be replaced. I'm moving the service to the other corner of the House and going underground to the telephone. This will be safer; it's about \$1500 more expensive, but it's a lot safer, and I'm going to upgrade to a 200 amp panel from the existing 100 amp.

CT - Get better service in case of a storm too.

BG - Looks pretty straightforward to me, looking at the plot plans.

JB - I was there today, and I talked to the people next door. They told me that they had no problem with the encroachment on their side either. He just said he discussed it with the man on the right-hand side, who has a jungle in his backyard, and he said that this owner said that he didn't care. So, Greg is good to go with the setbacks, and everything we have to do is grant him that permit.

LM - With respect to the exterior that is going to be done in, is it going to be new siding, with the facade beyond the same?

GG - I think it's going to be entirely replaced. We may change the front of the House to some modern material, either siding or some type of shingles front probably. It will be as a siding type material and then go with the lesser expensive one around the back of the House, also probably vinyl which is pretty similar to the neighborhood and is probably white, which is the color of the House currently.

LM – It will be tiled together looking new

GG - We're compelled to replace all the siding because we're going to replace the front windows, and we may be changing their shape. So, there's going to be significant construction on the House, and it's going to require us to reside the whole thing, and it'll be done at once

