



ZONING Board of APPEALS
166 Boulder Drive
Fitchburg, MA 01420

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

MEETING MINUTES – MAY 11, 2021
MEETING TIME: 6:00 PM

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), Christine Tree, Brian Gallagher & Greg Babineau
3. **Absent:** Joseph Byrne (Clerk) & Jeanne Hudson
4. **Hearings**

CASE No.	APPLICANT	PROPERTY	TIME
ZBA-2017-16	South Middlesex Non-Profit	94 HIGHLAND AVE	6:00PM
<i>Review of the Remanded from Superior Court to amend the original Petition to seek a special permit to reinstate a prior use as a boarding house under §181.3561, to seek a special permit to operate a boarding house under §181.313A5, to overrule the Building Commissioner and to grant a reasonable accommodation under the FHA and ADA located in a Residential C District Map 45 Block 5 Lot 0</i>			

LM – The petitioner’s representation has asked for a continuance to the June 2021 meeting. Stating, the owner’s design team has recently suggested design modifications that SMNPHC is analyzing from a programmatic perspective and would require modest plan changes regarding dumpster location and potentially the accessibility entrance. We believe the changes would not result in any intensity increase or new nonconformity. However, with respect to your time, we would like to provide you with any required updated plans in advance of meeting with you.

To update you on SMNPHC’s progress, when we spoke to you in November, we informed you that the owner hired RC Shaw Sprinkler Company to design and install the new sprinkler system. The Sprinkler system has since been installed. A new boiler has also been installed. The new water line work needed for the sprinkler system is in process. All parties continue to work in coordination with City’s Building Department.

Should you grant the requested postponement, we look forward to meeting with you on June 8, 2021, to further discuss the project and provide you with updated plans before that meeting. Please let me know if the requested postponement may be granted and if you have any questions.

LM – there was anyone attendee in the virtual meeting in regards to the petition.

All Board Members agreed to approved the petitioner’s request to continue the review to June 8, 2021

CT – Motion on ZBA-2017-16 under §181.3561 and §181.313A5 to **Approve the Continuance Review to: June 8, 2021**

BG – Motion Seconded

Roll Call Vote

5 – 0

to **Approved the Continuance Review to June 8, 2021**

ZBA-2019-23

Zachary Poladian

285 RIVER ST

6:15PM

Review of a Use Variance under §181.962 Special Permit under §181.352 to operate a motor vehicle sales located in an Industrial District Map 39 Block 51 Lot 0

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

LM – At this time petitioner has not communicated any of his intentions regarding the petition

At this time, Board Members agreed to approved a continuance allowing the petitioner to express his interest

CT – Motion on ZBA-2019-23 under §181.962 to **Approve the Continuance Review to June 8, 2021**

MM – Motion Seconded

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

ZBA-2019-36

Glorie Lopez

16 GLEN AVE

6:30PM

Review of a Variance under §181.961 to erect a 24' X 24' attached garage with a bedroom above leaving approximately 18' from the property front yard set-back located in the Residential A-2 District Map 208 Block 15 Lot 3

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

CT – I drove by the property, and it seems it is complete from the outside view. The condition says not to be operated as a rental unit, and I didn't see any separate exterior door from the main dwelling, and it looked nice finished well. I don't know what the inside looks like

LM – I got to see it with the garage door open, and I didn't know it still works and if the 2nd floor was finished. So, I wanted to hear from the petition.

MM – It appears the building is complete, and probably at this point, it most likely all that remains is the inspections from the building department. It looks like the exterior's complete, the property's clean and tidy. I am more than willing to move ahead and discuss the approval review.

LM - The exterior's pretty well done, so let's see what other members would have to say

BG – I would be in favor along with Michael.

GB - I agree

LM - Should we leave some condition, or do we leave it in Building Commissioner's hand

CT – Does the Commissioner indicate whether or not all of the building inspections have been completed satisfactorily? And a certificate of occupancy has been issued.

Building Commissioner - Mark Sullivan, the Building Inspector, says it passes.

MM - Motion on ZBA2019-36 under §181.961 to **Approved the Review** pursuant to the petition completeness

CT – Motion Second

Roll Call Vote 5 – 0 to **Approved the Review with no further reviews**

Review of a Special Permit under §181.356 to reinstate a vacant/abandoned building as a two-family dwelling located in the Residential C District Map 67 Block 102 Lot 0

The virtual presentation was given by Victor De Oleo, stating that the parking paving it been completed. At this time still working on the porch, and unknown how long more it could take to be complete it. I need more time to finish all the things that I have to do.

LM – Well, let's go through this list, and then you can tell us what the status is on it

LM – #1 - entire driveway and parking area in the back to be completely re-pave

VD – yes, it is complete

LM – Shed to be re-sided

VD - Yes

LM- Roof to be repaired by a licensed contractor

VD - No yet

LM – Porch to be re-built to code, decking to be replaced, and columns to be installed by a licensed contractor

VD - We are in progress, but we still working on the porch

LM - My understanding was you were working with Commissioner Mark Barbadoro on getting some of these things completed

VD – yes

LM - Do you have license contractors?

VD - I have one, working on it

LM- #5 – Property to be used as a two-family dwelling only

VD – Yes, it's only one unit

LM - Outside storage and liquids to be removed

VD – We took care of that a while ago

LM – Abandoned vehicle to either be repaired or removed

VD – That's been done

LM - Building Commissioner or inspector to inspect the property again prior to occupancy; has anybody been out to take care of that.

Commissioner Barbadoro - I've been out to inspect the property on many occasions. The property inside is safe to occupy, and he's not using it for multiple apartments; in my last visit. Victor is currently working on it; he hired a licensed contractor to work on the porch.

LM – So, the first floor is not occupied at this point?

VD – No, you didn't allow me

LM – Is there anyone seeking any information in this petition? Please raise your hand if you want to speak; there is an icon right in front of your name - None.

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

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

BG - Victor, that's great that you hired a licensed contractor for the porch, and wondering if you have a time frame of when you will finish it?

VD – No, I don't

Commissioner Barbadoro - Victor, I know this has been a kind of a confusing process for you, and I know that you have been working hard in your building. I wanted to point out that you're on the homestretch buddy, if you get a little bit farther, these guys will let you go, and you can rent your apartment. So, if you can get the front porch done, they will let you rent it, and you will be able to make money.

VD – Alright, but I had a problem with the pipe, and it's been a challenging time.

Commissioner Barbadoro - Victor had a sewage backup, and he had to have his yard dug up, and it cost him money that he didn't have available

MM - I visit the site with Brian Gallagher, and I wanted to make sure that we all want to see this come to a closure. The applicant has the opportunity to utilize his property. I want to stress to the Building Commissioner that condition #4 needs to be done as the Board and the applicant agreed on. At the time, you work along with the petitioner. When we visited the site yesterday, still seems to be some confusion on what he has done; it's was acceptable. It was far different from what the Board and the applicant agreed on.

Commissioner Barbadoro – Could you clarify that a little more for me, Michael?

MM - Well, you have to read condition #4, and we're looking to the Building Department to come back to us and say condition #4 has been completed

LM – Condition #3 and 4

Commissioner Barbadoro - we're happy to come back and tell you when three and four are completed.

LM – We have no idea when to expect those to be completed. Is the Board interested in having this continuance, or could we put it in the Commissioner's hands to ensure the project is completed as the applicant and the Board agree on terms and conditions?

MM - Speaking as one board member, I would like to see it continued and clarify that it's being completed before the 1st floor is occupied.

BG - I'm in favor of turning it over to the Building Commissioner.

GB - I'm comfortable with the commissioner handling as well.

CT - This is my first visit to the property, and I could not see what the roof issue is. I'd be confident in the Commissioner handling that to satisfaction. I had a question on the porch though, I can see the decking hasn't been replaced yet, but one of these provisions is that the columns are supposed to be installed. It seems like the columns had been repainted, but they look like the old columns. I wondered if they were had been deemed safe and okay to leave on the property or whether there are actually new columns coming in.

Commissioner Barbadoro - I can comment on Victor's porch. The building code finds that Victor's porch safe. I think the Board wanted Victor to make his property more presentable, and the porch, as you know, is the first thing people see. So, I would say that he is not satisfied with what the Board was looking for in terms of renovating works to make it looks nice.

LM – So, you are saying that is safe?

Commissioner Barbadoro - I walked around on victor's porch. It is 6 inches off the ground; it requires no guardrails. It's so close to the grid, and the decking is not rotted. It's old, not in great shape. The posts are not terribly attractive, and they would not meet new construction standards, but I think from an aesthetic perspective. I get the impression, and please correct me if I'm wrong, Board, but you're looking for a better presentation for that home? The roof itself is WAVY, it looks unattractive, but it is solid. So, I can sympathize with the Board saying that it doesn't look perfect, and perhaps Victor can have his contractor spend a little time straightening this thing else and re-trimming what's there to make it or make it more attractive.

GB - Is this a cash flow problem of the applicant, and we have put him in a position where it is impossible for him to make these repairs without at least something coming in. And could we at least allow him where the Commissioner is saying that the property is safe, to at least rent one floor with the condition that to rent the 2nd floor he needs to address those other issues.

LM - He's living in one of the units

Commissioner Barbadoro - My recollection serves, and the Board, please correct me if I'm wrong. It initially was a three-family, and we went through the building and made it into a two-family, of which Victor is rented one unit just for clarification.

LM - Yes

CT - My comment would be at this point in time, if there's not a safety issue with the porch, I think the remainder of the property looks pretty good, the new paving looks good, the outside looks good, and it wasn't much debris outside. I would be okay with leaving that review in a commissioner's hands so that the applicant doesn't have to wait for another meeting to rent out the apartment once the conditions have been completed.

LM - We have comments from DPW and need to be reading it loud, which states: Existing sewer service shall be CCTV'd in the presence of a DPW employee to ensure conformance with chapter 147 of the city code. Any defects shall be repaired.

The applicant shall confirm that no roof leaders, roof drains, catch basins, sump pumps, or foundation drains shall be tied into the sanitary sewer system. A site inspection can be scheduled with the sewer Division at 978-829-1900. Any extraneous flow sources shall be redirected away from the sanitary system.

LM - Mark, you said there was something about the sewer system. He had a backed-up and broken pipe? Commissioner Barbadoro – Victor's pipe is backed up, and it broke, and Victor had that repaired. Tomorrow I can find out from Nick Erickson if they still need scope whether or not that needs to be done. I had been in the basement around the building, and I don't see roof leaders going, but I'm happy to bring one of the guys from engineering out there to look for it.

LM – Well, it seems that the Board would like to put it in the commission's hands, so like a motion that we are turning this into the building commissioner. He will take this over and make sure that he's complete before issuing an occupancy permit for the other unit and all conditions that still need to be met. Amending #9 for no further review

Commissioner Barbadoro – Once the porch has been satisfied, I will reach out to one board member to not highlight the open meeting law and confirm it with him. So, I am going to work on this together.

MM - I would like to point out that there are missing steps on the front, and you should at least look at having those installed.

LM – We can add that to the conditions

CT - Motion on ZBA-2020-06 under §181.356 to Approve the Review of the Special Permit with the following conditions:

1. **Entire driveway and parking area in the back to be completely re-paved** (Satisfied)
2. **Shed to be re-sided** (Satisfied)
3. **Roof to be properly repaired by a licensed contractor**
4. **Porch to be re-built to code, decking to be replaced, and columns to be installed by a licensed contractor**
5. **Property to be used as a two-family only**
6. **Outside storage and liquids to be removed** (Satisfied)
7. **Abandoned vehicle to either be repaired or removed within two months** (Satisfied)
8. **Building Commissioner or Building Inspector to inspect the property as soon as possible and again prior to occupancy**
9. **Steps on the front of the house must be repaired or replaced prior certificate of occupancy can be issued**
10. **The first floor not be occupied until all conditions are met**

MM – Motion Seconded

Roll Call Vote 5 – 0 to **Approve** the **Review** with conditions

ZBA-2021-07 Michael Carbone 363 ROLLSTONE RD 6:55PM
Renew of a Special Permit under §181.3212 to continue the use of an existing accessory apartment in a single-family dwelling located in the Residential A-1 District Map 152 Block 25 Lot B

Presented was no one in the virtual audience.

CT - I would state that the changes in our zoning ordinance would now allow an accessory apartment by right, so the special permit renewal on this case is no longer necessary. Therefore, whether we give a move for leave to withdraw or approve it doesn't seem to matter. So, I think either resolution would be satisfactory, and I think a move for leave to withdraw would be fine. The applicant is not here, so we could also continue out a couple of meetings.

LM – There are any comments or concerns from other City Department

LM - Is there anyone in the audience seeking any information regarding this case? None

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

LM – Is there anyone in the audience in opposition who could raise your hand? None

MM – I was on the board first go around, and if I could recollect, it's been many years, but I'm 95% sure that the accessory apartment is just over the garage

LM - I think so too

CT - I would move that we give it leave to withdrawal because it's allowed by right; if the board is not supporting that, I'm certainly would express my support for the approval of the renewal of the Special Permit.

LM – Board Members, would you like to leave to withdrawal, or would you like to have it come back

MM - The case has already opened, and we already hear it. Christine is correct, we could go either way or move for a vote, and the applicant does not need to be present.

LM - I said it the application is here, we should move to a vote

MM - We could also notate in the decision that the original conditions still in here

MM - It is a re-application?

Commissioner Barbadoro - It would be a new application for a variance

MM - Should we be giving it leave to withdraw?

LM – Right

LM - Because it will need to re-notice abutters and advertise to the newspapers

Board Members agreed to allow the petitioner to re-apply and waive the \$300.00 application fee, pursuant to the new zoning changes.

MM - Motion on ZBA-2021-08 under 181.313D11 to Leave to Withdraw without prejudice due to the recent Zoning bylaw changes

BG – Motion Seconded

Roll Call Vote 4 – 0 to Leave to Withdraw without prejudice

ZBA-2021-09

Martha Sanchez

157 HIGH ST

7:30PM

Special Permit under §181.356 to reinstate the remaining vacant/abandoned 3-units on a 4-family dwelling located in the Residential C District Map 10 Block 81 Lot 0

Nadel Antonio (general Contractor) was given the virtual presentation on behalf of Martha Sanchez (Property Owner). Stating that at the last meeting back in 2020, the Board approves to restore one of the units so that the owner could move in. All-City requires inspection had been complete on the third-floor unit. We installed smoke detectors on every floor and hallways connected to the occupied unit. The first and second floors are under construction; we are requesting to at least keep it as a 3-family. The parking plan was submitted; we had it from before, the first and second floor are current gutter there is wire, and there is a plumber, but I was told to wait until we got the okay, so I can have the inspectors in there before we close up the walls.

On the front of the property left side, we plan to pave to make some parking. We have some good surface in there. We believe that we have sufficient parking for the 3-family; the house was not vacant, it has a small fire, and the owner was living in other properties after the fire. We are trying to wrap the first and second floors and have some tenants in there.

MM – I would like to comment on the parking. I visited the property along with Brian Gallagher. There are some severe grade issues, and portions of the yard are paved that a vehicle cannot park on quite frankly. In a lighter time, I would like to respectfully request that a professional certified plot plan be provided before we hear this case, and a site visit is performed by whoever is going to certify the plot plan. So, they understand the geography and the terrain that this home is built on. I quickly inspected this yesterday, and I'm baffled on how any parking could be provided other than the two spots at the front of the building. For me to be able to make a good judgment call on the request from the applicant, I would like to see that plan submitted.

NA - I could call Peter tomorrow morning to have a little chat, and we can go from there and make sure that we're on the same page

MM - My preference is to ask for a continuance on this case until the petitioner can provide the documentation. My assumption is there are probably other board members that want to see the parking plan as well, despite being here tonight. There are extreme challenges with this property, and I'm assuming this is an egress, or a right of way, or an easement to pass over the property that goes to the rear yard. I'm not quite sure, but we want to make sure we make a proper decision; there's snow removal to consider, there's safe egress into the front of the building. So, we want to make sure that those parked cars by the front door and people can get in and out of the building.

MM – Is there anyone in the audience seeking information in this case? None

MM – Is there anyone in the audience in favor of this petition? None

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

MM – I'd like to ask the other board members if there's any additional information that they would like to see and if they feel the parking plan is necessary to move forward

BG - I think the parking plan is essential. Questions that I have are that there's right away to give access to parking and would like some clarification on it before we move forward.

GB - I visited this site, and I had the same concern that you talked about. I don't know where the house in the back 153 and 155 where they park. Are they all sharing that same middle area? Because if we are looking for six parking spaces for a three-family. I don't know where you can even fit the cars for addresses 153 and 155, so I think there are many questions that we all have to make a good decision.

NA – Did the Board received the plot plan that I submitted showing the parking?

MM – Was it that someone drew some squares?

NA – It's a certified plot plan, and I drew some squares where I thought it should be better

MM – What we are looking for is a Certified plot plan done by a surveyor. They can layout dimensionally the parking spots. We Will also looking the City bylaw regarding a parking design to make sure it met the City's requirements.

NA – I don't believe it is going to meet the City requirements because it was built back when people were riding horses

NA - In the meantime, my question to the Board is if I could continue this project inside, regardless of what's going to be single or two-family. I want to finish Sheetrocking the first and second floor. Is that something we can address now, and we could continue to address the parking situation?

MM – I can only convey that any work you may do is at your own risk because it is currently only approved for one unit.

NA – I understand, but even as a one-unit still needs to be sheetrock

Commissioner Barbadoro – I can't give Mr. Antonio a building permit to continue any more work, at least if the Board approved what will be done next. The building has been wired and plumb, and I am anxious to see the building completed as I agree with the Board that the parking situation needs to identify before you bring it much farther. So, I think you need to get a parking plan or an explanation, the unit behind this unit is 153 High Street, and it owns the parking lot behind 157. It looks questionable to me how they access that without going over 157th land I don't know if they can share the spaces

NA - I'll get Peter involved, and I'll get something certified and dimensional to make sure that everything is legal. Is there any way I can get the okay to it sheetrock the inside, or you rather me not until we have the parking? Even if you make this huge building a single family, the interior needs to get sheetrock. I don't want occupancy; I want to finish my job, and I sheetrock the building.

MM – Commissioner Barbadoro, do you have a comment with regards to that question?

Commissioner Barbadoro - I think the Board is comfortable permitting him to finish the building as a single-family. And he wants to come back later and modify the decision to make more than one unit on it. I'm okay with that, but he needs a condition from the Board to move forward.

Commissioner Barbadoro - The building is safer with sheetrock on it. Sheetrock actually slows fires down. And we saw what happened on the building at Prescott Street when that house was gutted, and it went up like a matchstick. And that's what happens when there's no drywall on.

MM - I think we lean on your expertise and advice for what is best and safe for the building, so that I would agree.

BG -I would also

MM - I will read some comments submitted from the DPW, stating: The existing structure currently has a one-inch copper water service installed in 1985. The owner will be responsible if any upgrades are needed. If a fire service is needed, the water division will require stamped engineered plans, a new water service application, and connection fees paid prior to installation.

This building appears to share a small parking area with another building, 153-155 High Street. There is limited parking along High Street, and the city code 169-24 prohibits on-street parking on the East side of High Street from Academy to mechanic, with the exception of 110 South and 57 North of Johnson Street.

MM - Board Health responses as: Like to see vacant properties coming back with occupants no issues as long as there is enough parking, High Street is congested with on-street parking.

BG – For the applicant's safe living in the property, I feel strongly about us moving forward with drywalling it. I have concerns where there was a fire there before, and I think it would be a very good idea to allow the Contractor to continue drywalling.

GB – Agree. I think you've already explained the financial risk, so that's up to that up to them.

MM - Is next month sufficient, or are two months needed to put together the parking plan?

NA - If I can please get it for July that will give me a month in between to get the information; anytime in July will be great, please

LM – Motion on ZBA-2021-10 under 181.356 to Continue this case to July 13, 2021

BG – Motion Seconded

Roll Call Voted 4 – 0 to Continue to July 13, 2021

The virtual presentation was given by Nadel Antonio, (general Contractor) on behalf of Martha Sanchez (Property Owner). Stating that at the last meeting back in 2020, the Board approve to restore one of the units, so the owner could move in. All City require inspection had been complete on the third-floor unit, we installed smoke detectors in every floor and hallways connected to the occupied unit. The first and second floor are under construction, we are requesting to at least keep it as a 3-family. The parking plan was submitted we had it from before, the first and second floor are current gutter there are wire and there is plumber, but I was told to wait until we got the okay, so I can have the inspectors in there before we close up the walls.

In the front of the property left side we are planning to pave to make some parking, we have some good surface in there. We believe that we have sufficient parking for the 3-family, the house was not vacant it has a small fire and owner was living in other properties after the fire. We are trying to wrap the first and second floor and have some tenants in there

MM – I would like to make a comment about the parking, I visited the property along with Brian Gallagher. There are some severe grade issues, and there are portions of the yard that are paved that quite frankly a vehicle cannot park on. In a lighter time, I would like to respectfully request that a professional certified plot plan be provided before we hear this case, and a site visit is performed by whoever is going to certify the plot plan. So, they understand the geography and the terrain that this home is built on, I quick inspected this yesterday and I'm baffled on how any parking could be provided other than the two spots that are at the front of the building. In order for me to be able to make it good judgment call on the request from the applicant, I would like to see that plan submitted

NA - I could I call Peter tomorrow morning have a little chat and we can go from there, and to make sure that we're on the same page

MM - My preference is I'm going to ask for a continuance on this case, until the documentation can be provided. My assumption is there are probably other board members that want to see the parking plan as well, despite being here tonight. There are extreme challenges with this property, I'm assuming this is an egress, or a right of way, or an easement to pass over the property that goes to the rear. I'm not quite sure but we want to make sure we make a proper decision, there's snow removal to take in consideration, there's safe egress into the front of the building. I want to make sure that the cars are going to be parked in front of the front door, so that people can get in and out of the building as well

MM – Is there anyone in the audience seeking information in this case? None

MM – Is there anyone in the audience in favor on this petition? None

MM – Is there anyone in the audience in opposition for this petition? None

MM – I'd like to ask the other board members, if there's any other information that they would like to see, and if they feel the parking plan is necessary to move forward

BG - I absolutely think the parking plan is necessary. Questions that I have is in fact there's right away that would give access to parking, and would like some clarification on it, before we move forward

GB - I visited this site and I had the exact same concern that you talked about, I don't know where the house in the back 153 and 155 where they park. Are they all sharing that same middle area? because if we are looking for six parking spaces for a three-family. I don't know where you can even fit the cars for address 153 and 155, so I think there's a lot of questions that we all have to be able to make a good decision

NA – Did the board received the plot plan that I submitted showing the parking?

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MM – What we are looking for is, a Certified plot plan done by a surveyor. They can layout dimensionally the parking spots. Will also looking the City bylaw in regard to a parking design to make sure it met the City requirements

NA – I don't believe it going to meet the City requirements because it was built back when people was riding horses

NA - In the meantime my question will be to at least continue this project inside, regardless what's going to be a single or two-family. I would like to finish Sheetrocking the first and second floor, is that something can we address now, and we could continue to address the parking situation?

MM – I can only convey that any work that you may do it is in your own risk, because currently is only approve for one unit

NA – I understand, but even as a one unit still needs to be sheetrock

Commissioner Barbadoro – I can't give Mr. Antonio a building permit to continue any more work, at least if the Board approved what is going to be done next. The building has been wired and plumb, and I am anxious to see the building completed as I agree with the Board that the parking situation it needs to identify before you bring it much farther. So, I think you need to get a parking plan or an explanation, the unit behind this unit is 153 High Street and it owns the parking lot that is behind 157. It looks questionable to me how they access that without going over 157th land I don't know if they can share the spaces

NA - I'll definitely get Peter involved, and I'll get something certified and dimensional to make sure that everything is legal. Is there any way I can get the okay to it sheetrock the inside, or you rather me not until we have the parking? I feel like that even if you make this huge building a single family, the inside needs to get sheetrock. I don't want occupancy; I want to finish my job and I sheetrock the building

MM – Commissioner Barbadoro, do you have a comment with regards to that question?

Commissioner Barbadoro - I think if the board is comfortable giving him permission to finish the building as a single family. And he wants to come back later and modify the decision to make more than one unit on it. I'm okay with that, but he really does need a condition from the board in order to move forward.

Commissioner Barbadoro - The building is a lot safer with sheetrock on it, sheetrock actually slows fires down. And we saw what happened on the building at Prescott Street, when that house was gutted, and it went up like a matchstick. And that's what happens when there's no drywall on

MM - I think we lean on your expertise and advice for what is best and safe for the building, so I would agree

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MM - I am going to read some comments that were submitted from the DPW, stating: The existing structure currently has a one-inch copper water service installed in 1985, the owner will be responsible if any upgrades are needed. If a fire service is needed the water division will require stamped engineered plans, a new water service application and connection fees paid prior to installation

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BG – For the safety with the applicant is actually living in the property, I really feel strongly about us moving forward with drywalling it. I have concerns where there was a fire there before, and I think it would be a very good idea to allow the contractor to continue drywalling

GB – Agree, I think you've already explained the financial risk, so that's up to that up to them

MM - Is next month sufficient or are two months needed to put together the parking plan?

NA - If I can please get it for July that will give me a month in between to get the information, anytime in July will be great please

LM – Motion on ZBA-2021-10 under §181.356 to Continue this case to July 13, 2021

BG – Motion Seconded

Roll Call Voted 4 – 0 to Continue to July 13, 2021

ZBA-2021-10

Ann Walsh

108 HOLLYWOOD ST

7:50PM

Special Permit under §181.355 to close-in existing carport on the right side of the single-family dwelling that will be less than required 20 feet set back leaving only 8.6 feet pursuant to §181.414 located in the Residential A-1 District Map 137 Block 28 Lot 0

At this time petitioner had some technical difficulties.

LM – Is the Board inclined to take this out of order?

MM - Yes

GB - Yes

BG - I am as well

MM – Motion to move to the next case and take Ann Walsh out of order

BG – Motion Seconded

Roll Call Voted 4 – 0 to take this case out of order

The virtual presentation was given by Ann Walsh and Mark Cote (Contractor) on behalf of the petitioner, stating that there was a variance granted for a carport. Now we are proposing a relief to close the carport and make its garage, and so with the new construction, we're going to leave the garage carport roofing and bold underneath it and extended beyond the rear of the carport you can see on the proposed plan. So, the existing carport currently is 8.9 feet from the lot line, and the addition is going to end up being 8.6 feet is the closest point. There is an existing drainage easement coming through this property, and we will maintain our building outside of that easement.

LM - To clarify, will it all match the facade of the house?

MC – Yes, it's going to stay all one story. The roofline will remain below the existing roofline, so it's blended into the existing houses around as a story ranch. So, we are not going to have a three-story high-rise back here.

LM - Is there anyone here in the audience seeking any information? None

LM – Is there anyone here in support of this petition? None

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

BG - To the contractor Cote, you mentioned that the request for a buffer between 8-foot sticks would be because of the knee wall that will be board from the foundation. Am I correct?

MC - The existing carport is 20 feet now. We're going to extend the back of that two feet, so at the angle of the lot line, we're encroaching, we're pushing that back a little bit because that gives us some room to get around the vehicle. The back of it is the total amount going out the rear is 14 feet behind the house, but on the right side, it's only moving out a couple of feet, and that's because of the angle we're getting a little closer to the lot line by 3 inches.

GB - Went by, very well-kept property. It appears that there is a ramp in the garage. Will this be relocated anywhere in the front of the house?

MC - The ramp will come out and is going to be an entrance in the front of the house have a few stairs going into it to a small platform, but the entrance to the ramp is going to be removed

CT - I think that your property is probably the nicest kept in the neighborhood; it looked beautiful. I see that the neighbors had put up a fence in between the carport and their property. Have there ever been any complaints or concerns from the neighbor about the vehicles being parked there

AW - No

LM - Construction time on the project and getting rid of the debris while you're working on the project?

MC - The construction time we're looking at about ten weeks for construction. As far as any debris is concerned, it would be contractor by Fiore and recycling to move out any trash we have. And site work everything will be handled by the general contractor, who is myself.

BG - I am in favor; I'd like to make a few comments. I think the property is pristine; it's maintained beautifully, and I think that enclosing a carport would benefit the property tremendously. As well as the neighborhood

GB - I'm all set, no further questions.

CT - I would want to see some limitations on work hours simply consistent with the city's average hours Saturdays be limited because it's so close to the neighbor's property. As far as fitting in with the remainder of the neighborhood, I did drive around, and almost everybody has a carport, but there are a few attached garages. So, I think it's consistent as long as the elevation of the house remains low and in line with the current roofline. and I agree with Brian that

working on the pole. Thankfully, they had a police officer with them; otherwise, it would have been a real mess, and indeed both lanes would have been blocked. Also, in the vein of safety, the machinery will be used to excavate. It will be right on top of the property at 424. With the diesel fumes and exhaust, I don't see how these people over 424 will be able to open their window windows all summer. They are building as close to them stonewall as most 20 feet away from there. There are some secondary concerns we have about the size of the lot being that tight. If you know the area over here, it's mostly ledge and exposed boulders. They're not going to have any room to move this house 5 inches to the left or five inches to the right; it's that tight, as you can see by the site plan. If they need to move the home and can't, it's about the point where Jack hammering and dynamite will likely come into play. My house is 110 years old; I am sitting on a fieldstone in granite foundation. I'm probably 100 yards from where this will be donating potentially that needing rather 424 is even closer; I can't speak for the exact age of the houses. I would have to say it's somewhere in the realm of mine.

LM – Is anyone here in the audience seeking any information in this petition? If you could raise your hands by touching the function button in front of your name – None

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

LM – Is anyone here in the audience in opposition to the petition?

Aaron Crown, I am at 421 Ashburnham street. I would be the building directly across the street from them. Mr. Kelly had hit all the most critical parts. Almost over half of the property is unusable. Because of the buffer zone and the wetlands are running through the property. The front door exits immediately to a walkway that borders up to the protected protective zone. The backside of the building is right to the opposite offset of the backyard. They don't have any usable space; this land is not big enough for the house they intend to build. My concerns are not only the water that's going now come out of the stream. I think there should have been some flow study to the culvert that runs underneath the road before they're even allowed to start building. The infrastructure that's on the road is so weak. What will it start doing if they start digging into the streets and tapping into the gas lines and sewer lines and everything like this? These buildings are so old that they can't support that kind of removal. It's gender drilling and blasting; all the houses are going to take damage. As Mr. Kelly mentioned that they did not have a detail officer there yesterday, I also saw multiple near misses during the first half of the day. They had at least half the street covered, which I called and reported to the Police Department. Feeling that they did need a detail there because they were making such an unsafe hazard. During this time, they are already pulling brush and removing a substance from the protected area.

KK – The Conservation Commission did pass this matter, but with a series of stipulations attached to it. A lot of this is a severely watered-down version. In my opinion, of the things we were talking about at the meeting. It does address some of our concerns, but not all of them. They are relating to the paving of the driveway and various items like that. They weren't supposed to pave their driveway because they can't provide any sort of 45-degree angle to the road. And maintain this as a dirt and gravel driveway after construction and even after the house is sold. Our feeling is that this was part of their water plan because any paving a driveway is essentially going to make a River that's ruining Mr. crown's house. Our concern is that there the future owners really can pave that driveway without pulling a permit. Nobody would be the wiser until one of us has to call and maybe have them get a small fine and jackhammer it out, but in the meantime, Mr. Crown's house could get ruined. The only stipulation they added for the driveway. According to the chairperson of the Conservation Commission, when the person applies for an application to pull a driveway permit, the city should automatically deny it, based on the stipulations attached to it. However, if the person doesn't pull a permit, it seems easy to work around it.

I wish that would have been part of their printed-out stimulations instead of some sort of City Hall trigger mechanism. We haven't talked about these conservation committee meetings, no blasting, and the ability to put in a lawn afterward. They would put in a sort of wetlands retention grass, which is very effective and incredibly ugly.

LM - For the record, I wanted to let you know that there are no responses from the Board of Health or the DPW regarding this case.

MM - Commissioner Barbadoro needs some help leading up to the issuance of the building permit. Did this go before the Conservation Commission, and was it ultimately approved?

Commissioner Barbadoro – Yes, my understanding of what occurs at the Conservation Commission is state regulations. Fitchburg's unique ordinance is enabled through the home rule amendment or Conservation Commission regulations. When the applicant John Harrison went to the Conservation Commission, he was initially denied. And Mr. Harrison went to DEP and got what's called a superseding order. The superseding order said that he could build with the following conditions. The DEP can only supersede the wetlands protection act regulations, not any created regulations under the home rule amendment. So, Mr. Harrison went a few months with the denial and then went with a superseding order of approval and came in for a building permit application. We denied it because it did not meet the Conservation Commission ordinances. Mr. Harrison went back to the Conservation Committee with a different order that said that he could build. About eight months had gone by, and I made him apply for a building permit. I don't know if you had an opportunity to walk the site; there is a stream. It could be a seasonal stream, or it could be a permanent stream. I don't have the expertise to know the difference. Still, it runs into a drainage ditch at the base of the lot. The lot itself is very wet, and I would describe it without prejudicing it as a difficult lot to build. So, that's the Conservations comment.

MM – So, the applicant had provided me a printout from the Conservation Commission that had some findings and special conditions, which kind of odd is doesn't have a date on it. I have a couple of questions; there is a set of conditions that go along with it now the approval. With respect to being a gran father lot, the research has been done, and it's conclusive that it is indeed a grandfathered lot. How was your determination made? I'm assuming all landing dimensions, regardless of the stream, are there or not. You factored in regarding set back in the area and all that, as long you don't encroach upon the buffer zone. Is that correct?

Commissioner Barbadoro - The answer is this section 6. It is a long section. Half a paragraph of that very long section deals with grandfathered lots for single- and two-family dwellings. And a non-lawyer can't know what they mean by, area product so by the way I read, it is. I take the black and white word, and at least a special definition is required to make the statement context. I just read it as the common understanding of word supplies, so when it says a minimum of 5000 square feet of area and 50 feet of frontage. I apply area wet or dry, and I applied frontage divided by a stream or not, and added up, so that's how I read it. So, a lot appears to be bigger than 5000 square feet, if the plot plan that I got was right, it's well over that, and it has well over 50 feet of frontage. The other requirement is that this lot cannot be held in common ownership with any other parcel around it. That would prevent it from being built upon, and by that, I mean zoning ordinance. So, in other words, a lot size changed but did not hold the lot in common ownership after the change. So, therefore, that lot was immune from changes to our zoning ordinance. And the reason that put this in is that they wanted people to be secure in buying a lot if you were investing all of your money to buy a building lot. And you were just a simple person trying to build a house. You could be protected against the city suddenly changing the rules on you and making your land value and putting you in trouble. I think that was the intent of that. I looked at the property's deed and the surrounding properties and identified the period of common ownership. And found that it predated that there was no common ownership dating back to before the bylaw was enacted. that would prevent it from being built. I also had a letter from the previous building commissioner stating the same, but I never go with an old letter because commissioners' opinions are not far from perfect and subject to change without notice. That's how I treated it.

MM - Greatly appreciate the feedback and the input. Another curiosity question because, as you know, the board is looking to grant relief. In the form of special permits and or variances, we put conditions in. Do the Conservation Commission special conditions have to be completed prior to the building permit issuance or do they have to be completed before an occupancy? What kind of protection is there that you know that follows through and completeness with the conditions set forth by the Conservation Commission?

Commissioner Barbadoro - You can add the Conservation conditions to yours. They can be multiple triggers, like when you guys make a special permit decision. You could make specific requirements be satisfied before building permits can be issued. They had that on this case. Mike O'Hara is the Conservation Committee secretary, and when

they made that decision, Mike drafted that decision. Then when the building permit application came in, I put Mike on the review team for it. And he decided when it was okay to issue the building permit with respect to the order of conditions. He wanted that hay bales to be placed before the permit was issued. Typically, after the building permit is issued, the drainage control is left in place until the vegetation is grown back in. Then Mike inspected one more time to ensure that all grass and plantings are in place to try and prevent siltation of wetland areas and things like that. Then we would release the order of conditions. Still, the building permit would be signed off oftentimes. Occupancy certificates are granted before that is done because it's nature taking its course in growing up in protecting the ground.

MM - It seems to be some interesting conditions regarding four by four by four-foot granite or concrete posts being put into delineate. And no disturbance zone along the boundary lines. Every 50 feet are a permanent plaque or engraving to outline a protected resource area. In some work to the culvert and things along with that and also it speaks to a bond. I was just curious is all that being done.

Commissioner Barbadoro - I don't know the answer to those questions. I would have to defer to Michael hair on that. I would say that, and I will be perfectly forthright with this, I don't usually read the order of conditions from Conservation. I make Mike read it. I have Mike tell me if it's okay, I have too many rules that I have to keep track of, and I can't add too many more to my plate, or else I would never get anything done. I let the other act and deal with their rules.

MM - I did read the conditions, and as we've seen on the board that there are instances where we don't put timelines on conditions. The applicants ultimately do not follow through with them. And what type of protection is there that these will be completed. Before there is an occupancy issued in the home ultimately gets sold. And then we're kicking the can down the road again.

Commissioner Barbadoro - You and the abutters have raised that significant point. I will certainly be reaching out to Mike in the morning because there is granite abounds that need to be put in, and there are placards and other things that need to be done. In the interests of securing the decision, I would want to see those things in place before we get near a final inspection.

BG - I was with Michael last night and received the Conservation Commission report, so Michael covered everything for us. And I do not.

CT - I have participated in the entire hearing, so from what I can see. Commissioner the ownership was separated shortly after the ANR plan was approved in 1982. Commissioner Lanciani's letter stated that after the 1987 ordinance changes, which rendered the lot non-conforming, the land was held in separate ownership at least prior to that time. Do you know the minimum lot size requirement was prior to the 1987 changes?

Commissioner Barbadoro - I don't, and the only way I can find it is to go to the filing cabinet in the Building Department because it's not online

CT - The 48 section 6 is, of course, our minimum prior to the enactment of any zoning, and we would have to assume that at the time, it was at least 13,418 square feet that required. My question center is back to our current definition in the zoning ordinance of what a lot is. And a lot of states shall include not more than 10% of land under any water body, box, swan, meadow, or marsh in the lot area required under this chapter. Another question that I don't know the answer to is: Whether what is changed in the recent ordinance is drafting or not, but if this were applicable and if this were in place prior to 1987. Do you have any idea of what percentage of the lot or what square footage is under wetlands?

Commissioner Barbadoro - I don't know that off the top of my head. I don't know if the hypothetical question is relevant, meaning I don't know if that sort of Upland requirement was in the bylaw back then. If you want to continue this, for a brief finding. I will come back and answer the questions that you have. Including figuring out roughly what the wetland is on a lot because there will be a flag wetland plan that Mike O'Hara has. And I'll be able to find out if there isn't a planning requirement in the older bylaw, and I read it, and then I can also give you a definitive answer on a lot size. Ten thousand square feet rings a bell in my mind, but it may not be 100% accurate, and I'd instead give you facts, not supposition.

CT – My commentary if we look at the current wetlands area and subtract that from a lot, and we still have enough square footage, then this is a move question

Commissioner Barbadoro - I want to say this is drugging my memory a little bit. These lots on that portion of the street were in a different zone at the time. It sounds weird, but it sometimes happens if somebody wants to build something, and they get a zoning change done as an interested party, and they build their lots, which is death. That is why it did not add a rural residential on those lots of budding the street at that point.

CT - I would also say that I looked to see if we had any case law precedent, and what I was able to find depends on whether we're looking at it. A chapter 48 section 6 protection where there was no zoning minimum requirement when lots squared divided. So, whether we're looking at 5,000 square feet of 50 square front square feet of frontage, or are we looking at our zoning ordinance at the time in 1982. If we're looking at 48 section 6, I did find a case where we had a 4800 square foot lot, and the owner was trying to add a square footage from the derelict fee to the center of the road that he above. And that was not allowed to be added on because it was not buildable. I was never going to be buildable in the absence of the road being torn up and abandoned. So, we were looking at this issue as it's a strict 48 application unless there's something else in the ordinance that would change how we defined the area. Our current ordinance has a wetlands provision; I don't know what it would be when the lots were divided and separated. I think those questions will help us answer this appeal, and I would briefly agree to a difficult lot to build on. The visibility is poor. I don't know that all of these things come into our purview in the zoning board. I think they are like the orders of the conditions that the Conservation Commission puts in. I would further state to the appellant that if there is any blasting that needs to be done, I believe the fire department is going to issue that permit, and there's an opportunity there to kind of talk about what conditions and safeguards would happen under

GB - I did go by the property, and I did not walk the property, but I'm not a builder, but I did scratch my head when I looked at it. Is it a bit steep in that they clear the narrow area up in there. I am sympathetic to the abutters.

LM – I have also been by the property and have concerns for the abutters. I also kind of scratching my head on this one. We should move forward to a continuance to gather further information, but I want to hear what other members feel.

CT - I would be inclined to a one-month continuance, just for the resolution of these questions.

MM - I agree with Christine. I think there are just two bits of information that we need clarification from to move ahead.

GB - I would agree. Who gathers the clarifying information to bring it before us?

LM - Commissioner Barbadoro is willing to do the legwork on that.

GB - In the meantime, the permits have been issued, and the builder can continue whatever work that person would like to do. While this is being continued, or is that not the case?

Commissioner Barbadoro - That's the case. He continued working until a finding is made. He continued working

GB – I agree then

BG - Definitely in favor of a continuance, the lock we need to find out

LM - I, too, would like to do that.

CT - Motion on ZBA-2021-11 under §181.9123 to **Continue this Petition on June 8, 2021**, at 7:15 PM

BG - Motion seconded

Roll Call Vote

5 – 0

to **Approve the Continuance to June 8, 2021**

Special Permit under §181.313C17B to operate medical clinic which treats patients suffering from substance abuse located in the Commercial District Map 36 Block 24 Lot B

I have a number of other members of the applicant team with me in case the board has any questions regarding any aspect of the project.

Jonathan Silverstein (Attorney) and Jessica Fortier-Goss (Clinic Director) were given the virtual presentation; this is an existing 18,830 square foot property. Habit Opco proposes to occupy 7,660 square feet. They intend to relocate an existing treatment facility for people suffering from addiction. Historically, this building was used for medical office purposes. Of course, under the old zoning would have been treated as a medical office purpose, which would have allowed by right. Under the new zoning, it's a clinic that requires a special permit from the board. So even though we filed the application prior to the zoning change, we're subject to the zoning change since the is only relates to the first publication of the public hearing notice.

The existing facility is located at 155 Airport Road. It's been operated there for 20 years without any incident. The reason it's being proposed to be relocated is that the lease is up. So, Habit Opco has to relocate this facility to continue serving the three to four hundred Fitchburg area residents. That benefit from the treatment that they provide. There's no change to the structure's footprint; the existing parking, current drive-by, or circulation will continue to look exactly as it currently does. Only interior changes, with the exception of adding a dedicated entrance where a Bay window on the property is currently

So, we tried to address all of our compliance with all of the dimensional requirements in our application documents. The property has sufficient area frontage lot width. It won't exceed the required height; it has more than the required parking and complies with all of those dimensional requirements. It does border a residential zone to the rear of the site, but there's an extremely steep grade upward of 27 feet and over the course of about a 40 to 54 densely vegetated buffer between this existing site and the property. I would note that it's much more accessible at the current location on Airport Road to the residential neighborhood, and there have been, as I mentioned, no incidents no reported crime or traffic concerns relative to that property. We have provided the board with a transportation impact assessment. There have been a handful of comment letters from some residents near the properties.

I would say that it is common that people who pose treatment facilities will say they have no opposition to this sort of facility. The concept's not the right location, and they'll suggest that their concerns are for the safety of their families and about crime. I want to emphasize that there is no evidence that these types of facilities result in increased crime. In fact, I've provided some synapses of peer-reviewed studies commissioned by the federal government that demonstrate the opposite. I also want to emphasize that our patients are not criminals. They are people who suffer from a recognized disability. They are neighbors, coworkers, and our family members. This is exactly why Congress has passed special protections for this type of facility in the form of Be Americans with disability act and the federal recovery act. This location is a good location; it's out of state highway with plenty of access, plenty of parking, and a dancier-educated buffer between it and any residential zone properties.

LM – We have some comments from different departments, such DPW did comment: That section of Lunenburg Street is under Mass DOT jurisdiction and will require an access permit for the change in use

LM - We do have some letters emailed or sent to the Building Department and through different avenues. So I'm going to try to get through a read them into the record.

LM - Abutter that lives at 152 Shawna Street, says: Good afternoon Ms. Fleming, Ms. Mata from the zoning board of appeals. I am a property owner in Shawna Street Farm neighborhood. I am emphatically opposed to Habit Opco. Operates a methadone clinic in a location that directly abuts a residential area. While the property appears to be zoned commercial, that doesn't mean that it's a good spot for the clinic. In addition to that fact, its backyard would be a

residential neighborhood. Why would anyone want to put a facility that helps those struggling with substance abuse directly across from a marijuana shop? This makes absolutely no sense to me at all.

I hope that the zoning board members support those of us who are residents and taxpayers in the City of Fitchburg. Those of us who want to stay in the City! Do the right thing, and please vote against Habit Opco's proposal. The City of Fitchburg is about the people who live here and make this City great, and choosing the people over a business is vitally important. Thank you for your time and I hope see you at the meeting Tuesday evening Ellen Gammel, owner and resident of 152 Shawna Street. 25 plus years resident of the city of Fitchburg (in the same neighborhood that we live now) parents of three children and 3rd generation graduates of Fitchburg High School. Employed by the city of Fitchburg from 2002 to 2017.

LM – Is Ellen Gammel in the audience?

EG - I've done a little bit of research that the other side of that building is occupied by UMass family practice, which services pediatric patients. So, I am concerned with that, and I am concerned that Longsjö middle school at 367 Lunenburg Street has a 6:30 AM bus pick up directly across the street. I've driven by airport road, and there it is busy. Many people suffer from substance abuse; there's no doubt that I don't think this is the right spot. You've got the marijuana shop, a Pediatrics office, the bus stops, the residence, etc. There's going to be someplace else; the gentleman commented that they serve three to four hundred Fitchburg residents. How many people does the actual clinic service? Back in 2005! I found that this was an issue in the Sentinel that these same things were coming up, that it doesn't belong downtown was back in 2005. Now I don't think it belongs here. Airport Road is a great spot for it; renegotiate the lease with the folks down there.

LM - Another letter from an anonymous neighbor says: Please attend the Fitchburg zoning board meeting to address the special permit requested from Habit Opco, Inc. They are seeking to operate a methadone clinic at 370 Lunenburg Street; Acadia Healthcare owns Habit Opco. They are a massive publicly traded company that profits from people's addiction. They currently serve 800 people per day through their location at 155 Airport Road. If they're successful in moving the location to 370 Lunenburg Street, it would mean 300,000+ people suffering from substance abuse will be coming to this location every year. Methadone kills thousands every year and essentially trades one addiction for another. Acadia Healthcare gets them hooked for the rest of their lives and laughs all the way to the bank. They are on track for 500,000,000 in annual profits and have two trillion in revenue.

Please research the methadone mile in Boston. Ironically, it's located on Mass Ave., which ends at the Lunenburg line. Let's not allow them to extend methadone mile into Fitchburg. We do not want this in our neighborhood. It's a huge problem that would essentially be in our backyard.

Acadia healthcare and their subsidiaries continue to cause problems across the country. A simple Google search will show you everything you need to know. In 2019 Habit Opco saw huge protests in Springfield, MA. Neighbors were outraged and local authorities did nothing to protect their neighborhoods. This is happening across the country. Please attend the meeting and let your voice be heard. Reach out to your city Councilor, mayor's office, and state representatives. The meeting is virtual. You will need to get registered ahead of schedule.

LM - There are a couple more, and I'm going to try to read them here in stay with me

Andrea McGahan, via email, says: Good afternoon; I can't attend tonight's meeting but would like to let you know my opinion about this matter.

I'm a property owner on Shawna Street in Fitchburg (We've been here for 12+ years). I have to say that I disagree with this clinic being right in our neighborhood. On top of that, right across the street from the marijuana shop.

I understand the need for that kind of facility, but I'm sure there is a much better place for it (not right next to a residential neighborhood and across from a marijuana shop)

Please, vote against Habit Opco's proposal.

LM - Another letter came via email to City counselor Fleming and the zoning secretary.

P.J. Morris wrote: Good Morning, Ms. Fleming and Ms. Mata.

I'm writing this note because I recently became aware of potentially turning the old Reliant Medical building on Lunenburg Street. Into a methadone clinic operated by Habit Opco.

It concerns me because I live in the residential neighborhood behind the building, and I have a young child who's 1 ½. There are also other numerous children in the neighborhood, and I don't think it's wise to potentially expose them (and our homes) to patrons of the facility with substance abuse issues. In addition, does it make sense to put a methadone clinic right across from the street from a marijuana shop?

I've lived on Shawna Street for nine years, and it's been quiet with no incidents. I don't want it to change. However, bringing such a violent element so close to our neighborhood puts our peace in jeopardy. I don't want my house or vehicles broken into, and I don't want to have to worry about my child's safety.

I hope that the zoning board decides to vote against moving the facility into our neighborhood. It should be located away from the children's homes that suspect characters that frequent the clinic could violate them.

Larry Spencer's email states: I am writing to request a chance to make a brief statement and ask us a couple of questions at the Zoning Board meeting on May 11th. Specifically in the meeting portion that considers Habit Opco's request to operate a methadone dispensary airy at 370 Lunenburg Street.

I live at 87 Dartmouth Street, just a couple of blocks North of the proposed clinic.

What I'd like to say is this:

We've all heard horror stories of the methadone Mile in Boston. It seems that the crime there results from having clinics, homeless shelters, "comfort stations," and other related services all concentrated in one area. From one perspective, this makes sense: all the services that are struggling people need are conveniently co-located. But from another perspective, it's a dangerous mix. If you're a drug dealer, what better place to market your so-called services than in an area frequented by people who are in all phases of the struggle against substance abuse?

Now let's consider our stretch of Lunenburg Street. We started with a smoke shop that also sells vaping supplies, bongs, and other paraphernalia. Then came the marijuana dispensary. Now a methadone dispensary is being considered. If we're not careful, that stretch of Lunenburg Street will become known as "Addiction alley." Wouldn't it be far wiser to spread these services out so that the targets of drug dealers are not all in one place?

In addition, there is unoccupied land (woods) within easy walking distance of the proposed site. What will the city of Fitchburg do to prevent these areas from becoming homeless encampments? (The woods I'm thinking of are technically in Lunenburg, which makes this an even more difficult question.)

And by the way, I have nothing against methadone dispensary per se. I have driven a friend to the dispensary on airport Road many times. The scene has always been peaceful and orderly. It just seems crazy to locate one next to all the other addiction centers that I mentioned, especially in a lot that abuts a residential neighborhood.

So, to summarize my two questions:

1) Wouldn't it be wiser not to concentrate all addiction services in one place?

2) What will the city of Fitchburg, perhaps in cooperation with Lunenburg, do to prevent the establishment of homeless encampments?

Sarah Graham of Klondike Ave. Email stating: I am respectfully requesting that you seriously reconsider the proposal for the methadone clinic at 370 Lunenburg Street.

I live on Klondike Ave, which means my children wait at the bus stops on this road and also walk home from school on the same roads. Klondike Ave would most certainly be a highway of sorts for people on foot to access the methadone clinic. In addition, my son is tutored at Think Tank (348 Lunenburg Street), which is located right next door to the proposed location. He often waits outside until his time slot. Now, if you've driven Lunenburg Street/Mass Ave in the past year, you know that traffic has increased and around the dispensary and grow shop. Directly across the street from the proposed location. Often, people arriving and leaving this location don't make wise traffic decisions. And now with a methadone clinic across the street? This new clinic would be steps from a very densely populated neighborhood with children. I understand the building would be perfectly set up for some medical business, but please sometimes reconsider the easiest moves aren't the wisest.

Janice Bellew of 95 Shawna Street also sends a note via email to Marisa Fleming; stating: Dear Marisa, (City Councilor), I recently learned a plan to open a methadone clinic at 370 Lunenburg Street, and I'm very concerned about it. This is less than a mile from my house, and I walk past this location every day. I'm concerned about what this will do to my home's value and its safety in my neighborhood. Is there any way to stop this? Thank you for your consideration

Ryan Graham of Klondike Ave., stating: To Whom It May Concern:

As a resident on Klondike Ave., with children, I and many others and the neighborhood request you find another location to the clinic.

I don't know what was wrong with the airport Road, but I know that almost zero houses or bus stop nearby.

Out of the dozens of vacant buildings in this city, you have chosen my backyard.

I am furious. The fact that there wasn't even a vote of any kind is seriously disturbing.

Addiction is the problem, but so are crime/car break-ins.

Hai Hoang Pham of 84 Pierce Farm Road resides in the neighborhood and would like to voice my opposition to the placement of this clinic. There's been a lot said in the neighborhood that I don't want to repeat, but I'm poor every single of you guys. A methadone clinic was to be proposed in your neighborhood, especially you, Mr. Silverstein. I know that you are very empathic about not being a crime implication and that this is a necessary clinic. If this was proposed in your neighborhood Mr. Silverstein, how would you feel?

Marcus DiNatale City Council at Large. Regarding this matter, the comparisons between Lunenburg Street at 370 and Airport Road are incompatible. There is a significant resolution population of the school that facility and the trespasser facility. When you drive past it, it is coming from Lunenburg Street. Now, if you are in Airport Road, as we all know, there are no houses within several 100 yards of that facility. On Airport Road, Habit Opco is surrounded by a commercial business. No bus stops or people are walking around.; this is aligned differently in that respect.

When you understand the comments from Habit Opco about the frequent stigmatism that these kinds of facilities generate in the population, in terms of addiction and enlightenment backyard. These factors have to be considered. I have a job and say that we service 300 to 500 residents. This service a lot right now; this is a regional if not a statewide facility. I would be interested tonight if I will know country people outside the city do they service. Because we know the state buses bring people in, on one trip or another. I want to say the gentleman who spoke for the company is correct; this is not about the people using the services. It is not about the strikethrough services; most people who use these drugs methadone are a whole and addicts. But I can understand the residents' concerns that there are cannabis facilities across the street from this if the Board wants to entertain this and approve it. I only asked the

Board to please impose a condition where we cannot have them have lines coming out the door down the parking lot. Because if you drive by the airport every morning, you see a very long line outside the door.

So, if they're going to move forward with the approval, and I will say that I think you should not approve this. I believe where they are currently satisfactory enough. I did not hear anything from my journalism representing company about whether or not they can re-use the two therapies. He just said the lease is up. So, is this an opportunity to move because they don't want to renew the lease there? I like the Board to please consider that, if they choose to go forward and if they want this to be successful, if not having to struggle with people outside of the building waiting in line.

Going back to the comparability of airport Road and this facility. There are having private doctor offices in this facility, servicing residence not involved in methadone. So, that's another factor you have to consider; my concern again is the traffic and the congestion of having an army of people standing outside the facility waiting to get in. If they're going to emphasize your approval and expand, I hope they have to control the crowd.

Yes, these matters come before the council; I'm bringing the position beyond City Council. A lot of people might think this is not in my backyard issue. Another moved to the one sense has been practical, and most people moved to these neighborhoods. They don't want a kind of operation being practically next door.

My last point I'll stress with my concern for the residences is property values. It will likely depress the property values in those surrounding areas, and that's another concern I have for my constituents. I'm going to, please ask the Board too, from kindness longer hard and ultimately not granted a special permit. I would not need any compelling reasons from the company while we can't stay where they are. I note that they mention only Fitchburg people, but they don't mention anything else. The service for the region and for the state. They have a long social service agency in the state. In my opinion is, usually other cities and towns are not putting their responsibilities of helping these people. Who all following Fitchburg geographical location

Ryan McGuane, I own the property at 155 airport Road. I will say that we have been bending over backward to work with the clinic. In fact, last year, when Covid-19 started, they had sent out an email to all their landlords asking for a 20% reduction in rent to work through to the pandemic and additional expenses. We responded and asked them to exercise the ten-year extension in their lease as a condition to the 20% reduction in their rent, which they agreed to. On multiple occasions, I have emails from them and then fast forward into September. When they figured out that they needed some additional square footage, they then tried to recant. However, they never gave back the additional 20% reduction in rent. Which is fine

I support them staying at this location, and in my mind, they already agreed to the ten-year extension on their lease. But then they started talking about expansion. We agreed to expand the building, and we hired architects we hired engineers. We're one week away from getting those plans back, and then they called us up, and they asked us to go purchase 341 Lunenburg Street, which is the foster insurance building. My cousin owned it, and I put that building under agreement for them, and I told them I would like them to exercise a lease on that space; on top of the Airport Road. They were going to do some small counselors operating there, and in the 11th hour, they backed out of that property. Then they came back to us and asked us to contribute a couple of \$100,000 to them renovating the inside of airport Road, which was just renovated two years ago. They put a couple of \$100,000 into that space. We were willing to talk to them, but when we wouldn't commit to a couple of \$100,000 an improvement to the inside, they started looking at additional spaces outside.

Fully willing to break their lease that they currently have, and I can promise you under zero conditions, they will be kicked out of airport Road. There are no conditions right now; they already exercised the ten-year extension on their lease in our eyes. And they will be there for the foreseeable future if they choose to leave our community. I can promise you that I will get another local nonprofit in there that will operate the clinic. On day one, that they leave. I am chairman of the board at luck, and I am trusty at the Fitchburg Art Museum. I own a building right

behind City Hall; I am fully invested in the community. And I understand that these services are needed. Unfortunately, this group is trying to relocate in the 11th hour, two as an element to try to get out of the ten-year lease extension that they already agreed.

Richard Dicato, owner of 367-369 Lunenburg Street, and I wanted to say. First, there are not just residents behind the building; there is residence across the street. I have two houses to my left, and there are also residential buildings. I also have four small children that get on the school buses during the course of the day. In the last two years, I have had a pot shop put next to my house. Now we're talking about a methadone clinic going across the street from my house. I know they're talking about people's concerns about safety.

I'm going to have real safety and concerns from my children, and it's not just when you're talking about worrying about acts of violence or theft. I would then be touching a needle, also in the exposure they get. It is right now; my children played in the backyard listening to a drug dealer next door. And they hear people talk about how high they get off the product, and now you're going stick a clinic across the street. I get to explain to them, tells people that have kicked out the habit of this pot. They learn that you can buy something, and then you go across the street and get fixed for it.

Marcus brought up a great point, we have car accidents out here all the time, between the smokes shot in the pot shop. How you are going control the traffic coming out of the building across the street. On Airport Road is a line every morning, I go past there on my way to work, and there's a line down the street how you can control that aspect of safety, as well when kids are getting off the bus from school. People blow past school buses every day; they don't even stop for the red flashing lights on this road. We almost feel like we can push out over here by the types of businesses going in. I've been here for 15 years and never had a problem in, but what's going in around makes me feels like the city doesn't want us as residents. Because they allow it to happen, pretty much-taking anything, you can get in. The stigma of drugs that will never leave Fitchburg is just being highlighted across the street from us again.

So, I'm asking the board to look at this and realize you have residents that pay taxes and have been here a long time who put their kids through school. I've owned businesses in the city on Main Street for 12 years. I've been part of this community and had my children being part of the community, but now the concern becomes too grave after a while.

Marissa Fleming City Council. I do want to ask that Habit Opco continue renegotiating the lease at 155 airport Road. I don't think it's a good idea to move to this current location for many reasons, that we have already stated. Traffic is a big concern; I drive that road every day, and there is traffic that sometimes is halted at John Fitch Highway. Backing up all the way from Wheeler shop, it's only one lane. It will become a problem along with all the other issues in the influx of people; also, our real estate market in Fitchburg has been a driving force we've had people moving into the city. We don't want to see people moving out of the city because we have brought this Opco to their area, so I think that this should not be voted in favor of and renegotiate the lease at 155 airport Road.

Larry Spencer - I would point out that this location is literally at the gateway to Fitchburg when you come in from the East. People drive into Fitchburg, and they're going to pass a pot shop, a vaping shop, and now a methadone clinic, all on their way right into Fitchburg. It doesn't give a very good impression. We know people visiting this clinic are on their way to kicking their habit. But having experienced a friend, as I mentioned in the letter, going down to airport Road many times. The last time I dropped him off, he said: (I was the only one with take-homes today.) Meaning he was the only one who had the privilege of getting more than one dose that he could take home because he had shown himself trustworthy that he wouldn't sell it. He had passed his drug test; I said, wow, it must be really hard to kick the habit if everyone else in there didn't has taken homes, and he said (yeah.) So, the first-hand report is not the case that people who go there are fully recovered, people wandering around in the street. I have not seen that airport Road, but not everyone kicks their addiction all at once

Jacquelyn Burns of 44 Klondike Ave - I bought this property in January. I have a 6-year-old. I'm getting the lay of the land in Fitchburg, and I'm becoming familiar that my street is a shortcut. There's a busy intersection; when I exit, my daughter and I walk to the park a lot. I'm already nervous about the cars because they speed, and it makes me uncomfortable with the thought of her growing up. I'd never been able to trust her to be able to take a walk down the street or walk to the bus stop. With the park being so close, there are big fields and lots of places where people could loiter and do loiter. It's additional to worry about

Ryan Graham - I want to touch on the fact that the Woods behind the proposed location is not dense at all in the embankment. I've walked down it. They should renegotiate on Airport Road. Why do they get multiple options? Just because they have millions of dollars at the disposal when they can stay right where they are

BG - I'm wondering about the hours of operation for the clinic.

Jessica Fortier-Goss - Director of the Fitchburg CTC. Our hours are 5:30 in the morning, just juicing hours until noon Monday through Friday. Saturday and Sunday, 5:30 in the morning until 10:00 AM. We have additional counseling hours on Sundays; we run counseling from 5:30 AM until 2:30 PM. Most of which are delivered virtually telephonically via Telehealth at this point. In our business, counseling hours Monday through Friday are 5:30 in the morning until 2:30 in the afternoon; there's no counseling on Saturdays.

BG - How many patients are seen per day on average?

Jessica Fortier-Goss - Right now, the Fitchburg comprehensive treatment center has a current census of 812 patients. Of those 812 patients, we dose on average 400 patients a day. That average is closer to 335 a day on the weekends, partly due to covid restrictions. I heard that take-home bottles referenced earlier 384 of our 812 patients are on varying levels of what we call take-home bottles. Those different occurrent frequencies that maybe four times a week, once a week, once every two weeks, or once a month. Depending on the level of stability

BG - When is your busiest time?

JF - Our busiest time is between 5:30 and 6:00 AM. That's where our patients have obtained employment and are moving forward with their recovery. They come and attend their treatment before their scheduled work shifts.

BG - Approximately how long is the waiting line before they could get into the clinic?

JF - With Covid, we don't allow more than ten people in the building at a time. In terms of patients waiting for their dose, and that's because the current location where the dosing area is it's very small. We would not be able to accommodate social distancing, so it does look very long. When the patients enter the building, we have a metric system that measures how long they wait because we have a goal of under 4 minutes. So, by the time they hit the computer their dosed in under 4 minutes, most patients are in and out. in 10 minutes or less accounting for any appointments they may have to schedule or drug tests that are being administered

Atty. Silverstein - I could add that there were a number of references to the line at the current facility. One of the primary reasons that we need to relocate is that. The current facility is just too small, that's why you have people having to wait outside. Obviously, it's uncomfortable and undignified for the patients, and in this facility, there will be no lines outside. I don't want to get into the statements from the current landlord. Except to say that they're not accurate, and the reason we need to relocate is precise because of what some people mentioned.

GB - In the transportation impact assessment. You say that there are approximately 810 vehicle trips on an average weekday. Your volume is coming before 10:00 AM, and I believe you're basing that on the vehicle trip data at the current site. As I read that report assuming that's correct. When you say vehicle trips, these are individuals in their own personal vehicles?

Atty. Silverstein - I want to point out that's something will happen at this site. Any use of this property will add vehicle trips, and I do like to point out that there are several by-right allowed uses in this district. That would add significantly more vehicle trips, both in total and during the AM and PM hours.

Jeffrey Dirk, managing partner - In response to your question, you are right. The maze is the vehicle trips. It's a two-way move, so it's a person entering in a person exiting. So, during the peak hour, expecting it'll be a total of 100 vehicle trips. Some of those may include clients that are carpooling, but it's an individual vehicle. So, the number of arguments could be more than one, but it is a more valuable entering and exiting at the property. It could be a client service of more than one person per vehicle.

GB - Do you have any data on how many of your clients use public transportation instead of personal vehicles?

JF - I can provide my best approximate guesstimate. I can say 30 to 40% of our patients come in transportation that's called PT ones. These are contracts that Mart services through subcontractors. They are livery services, and health insurance pays for their ride to receive their medication as part of their care package. Usually, they are serviced by small cars or small vans; occasionally, you'll see the smaller Mark vans pull in. On an average day from being outside, we probably have 30 to 40 of those Liberty vehicles on site.

GB - Your data of the 800, whether they're round trips or 400 round trips is that include the public transportation, or does add not include the public transportation?

JD - It would include those vans and the traffic counts that we performed to come up with these numbers. We were physically counting every vehicle that entered and exited the property, including those vans in those numbers. One of the advantages of this site goes to public transportation. We, of course, do have a regular bus service line and the vans. We do have, I believe, seven bus goes right by the property, so there are certainly some other opportunities.

GB - Could you share with us what percentage of your patients or clients come from outside Fitchburg?

JF - Based on data from a few months ago, 255 are identified being Fitchburg residents, 92 from Gardner, 82 from Leominster. Those are the higher numbers; we service patients as far away as Danville, New Hampshire. Other towns are small, and we also have 35 from Athol that would be the next biggest group.

Atty. Silverstein – Jessica, all of those patients are included in the average of 350 to 400 a day

JF – Correct

Atty. Silverstein - Statements earlier by some neighbors that there was 400 just from Fitchburg, and then who knows how many from elsewhere

JF - No, it's 400 a day, based on those who present to pick up their medication on that day. Again, that's because we have a large percentage of our patients that are on take-home bottles.

GB - To my point. The clinic services approximately roughly 30% of the patients who are Fitchburg residents.

CT - Jessica, could you describe an average paced patient's trip through your facility, both for purposes of receiving administration of methadone and also for purposes of receiving therapy

JF – Yes, currently, with social distancing in the covid protocols, the security officer at the front door alerts a patient who's waiting outside as to when they're able to come in based on occupancy. The patient enters the building, all of our patients are assigned a unique ID number. So, it could add something as simple as 2124. They punch 2124 into a little computer. The computer will then light up one of three colors. If it's green, they have the go-ahead to head towards the dispensing window; if it's blue there sent it to the front office. They need to make a payment, talk about their insurance, schedule a counseling appointment, and other administrative things. That comes along with our service line. If it lights up yellow, it means that they have a random drug test that day. So, suppose the patient has a drug test. In that case, they go overtakes 4 minutes, at which point they would be able to then once upon completion of the drug test, he/she can present at the dispensing window. If the patient is scheduled for counseling that day, they are one of the patients seeing their counselor in person. The check-in at the front office, the front office alerts the counselor or whatever provider they may be seeing the doctor or nurse practitioner that the patient has arrived. The patient sits until, say, 5 minutes before their appointment time. When their appointment time comes, the provider will be a doctor, nurse, nurse practitioner, or counselor. Will then go and get the patient and bring them into their office. Typical counseling appointments are 15 or 30 minutes or hour-long groups. Right now, 85% of those services are

being delivered via Telehealth, so most of the patients, when they are receiving their counseling services, they are not on site.

CT - Is the methadone administration self-administration, or is it supervised by a nurse?

JF - A nurse supervises it. We use special equipment that the DEA approves. It's a red liquid, it smells like Robitussin, and the computer pours the dose once the nurse verifies it. They have the correct time, correct patient, and correct dosage. It's very quick; the nurse then hands the patient a small cup with the red liquid. Another cup with water in it, and the patients administer their methadone in front of the nurse. They then use water to rinse their mouth, or if there's any residue left in the original cup, they will pour it in, give it a swish, and then drink that. At that point, our patients are required to speak to the nurse, even if it's as simple as saying goodbye or have a good day. So, that we can ensure that the medication has been ingested and has not been diverted

CT - Do you have any safety protocols determining whether or not a patient is attempting to drive under the influence. Or whether when they are arriving or when they're leaving your facility.

JF - Yes, I believe that's one of our most important policies whenever a patient presents at the window for dispensing. They're being assessed by the nurse four spots back in line. We are looking at their gate; if are they steady. Is the patient alert if they interact with anyone. When they come to the window, the nurses provide an assessment as they identify the patient in making sure that they have the right person in front of them. We can do a breathalyzer at the window; if we have concerns, we may ask the patient to provide a urine-based drug screen. If we suspect that they may have something else on board, we also use a wide range of other biometric tools to assess if the patient is impaired or not. All licensed medical providers are giving that assessment. If a patient is deemed to be impaired, they are not medicated for the day. It's not safe to do so, and we inform them right away the security and the nurse go right out.

How did you get here? Did you drive? If a patient did drive themselves, we would meet with them in an office to explain that they can't drive, explain why they can't drive. We attempt to call an emergency contact that they've listed with us, or anyone else. We will call them an Uber or a cab. We do anything to get them home safely. Suppose they still choose to leave in their vehicle. In that case, we call the police anonymously and report that there's "say a 97 Toyota Camry with a specific license plate" heading towards Bemis on airport road. We do call the police and report immediately, but that's not the common situation. Most of our patients usually have not driven themselves or were able to secure safe transportation for them.

CT - Do you know approximately how many times you've administered a breathalyzer or other drug tests due to suspicion of intoxication over the past year?

JF - Over the past year is a very big number, so we do them routinely on suspicion. Both breathalyzers and drug tests

CT - You just talked about, if there's an observation that leads to suspicion of intoxication

JF - Approximately 268 times

CT - Do you have a requirement that patients arrive by other means of transportation so that they're not self-driving?

JF - No, many of our patients drive themselves. When first starting someone, it's starting any medication that you would pick up at the pharmacy. The pharmacist would explain drowsiness. We do recommend at that point, and those patients do have a support a family member, a friend, or someone else come with them. But, once the patient is stabilized in treatment, they can very much, with other medications, drive themselves to and from the clinic.

CT - So, you're stating that it is completely possible to drive after being administered methadone and not impaired practice.

JF - Yes

CT - You have hours of operation from 5:30 AM. Is it necessary for you to maintain those hours of operation? And if so, why?

JF - As for the 5:30 AM, a good portion of our patients is their goals to progress through their recovery. They start to have other responsibilities in their lives; they gain employment, go back to school, or have other family obligations.

That requires them to receive their treatment in the early morning, so if they work in Worcester, they can get dosed at 5:45 in the morning. They received their medication and made it on time for their 7:00 AM shift. To accommodate the number of patients we serve and avoid those lines is why we are open until noon; it gives people more of an opportunity to spread the services throughout the day. If we were to shorten those hours, we might run into congestion issues.

CT – Is there a reason they can't extend beyond 2:30?

JF - not to my knowledge

CT - Just your customary work schedule?

JF – Yes, it will be a matter of changing operations, and we'd have to look into employee scheduling and hiring, but there's nothing to say that we can't

CT - What signages plant?

Brian Spalding – Signage would typically be vinyl signage on the storefront and pylon-type signage in that parking lot. We would also please signage on that pylon.

Atty. Silverstein - This is a nondescript medical office building; it is set very far back from this region. What would the signage say?

BS – Signage will say something along the Fitchburg comprehensive treatment center, treatment facility, or something along those lines. It would be designed by a marketing Department who would give the exact verbiage on the sign.

CT - Can you tell me what the security arrangements are? Other than the security officer at the front door that's spinning patients

BS – Yes, we have a fully monitored burglar alarm system that would be monitored 24/7 by JCI. We would have glass break sensors, motion sensors, door contacts, vibration sensors on the saves. Our dispensary would be a vault, in essence, that would be fully secured as a second partition. The alarm system would also have two means of communication, a cell phone, and a regular phone line, as a primary source. Also, we would have a series of closed-circuit television cameras throughout the facility and around the perimeter of the building.

CT - How are those monitored?

BS - They will be monitored by internal staff

CT – So, they would only be monitored during hours of operation?

BS - That is correct, although it would be recorded 24/7

CT - How long is the recording retained?

BS - Minimum of 30 days

CT - Where is it retained?

BS - On in VR device that would be located within the facility

CT - Can you describe the lighting in the rear of the building?

BS – Unfortunately, I haven't been to the site, so I've not aware of exactly what lighting is actively present in the rear of the building at this time

CT - How many security staff will be onsite at any one time?

JF - We have two officers daily, Monday through Friday. We hire our staff, and on Saturdays and Sundays, we contract security services through Archer security. There's usually one inside the building and one at the front door monitoring the parking area. And they also do 15-minute rounds of the entire facility.

CT - The exterior?

JF - Exterior and interior

CT - Can you tell me how many emergency calls, either from fire or ambulance or police services, were made to your facility over the last year?

JF - Over the last year, about 30, the majority of those are medical calls. Our patients as especially as they age didn't maybe take care of themselves. So, well prior to them coming into recovery, we also do have somewhat of an aging population within our patient demographic. We do have to call someone to reports something. We always there on the side of caution. We always call and have them assessed by EMS to get them checked out at the hospital; we have had a couple of fender benders in the parking lot. I can think of three over the past year when we asked the police to take a report. We have not had the police come for violence or crime. I've been onsite at that facility since November of 2019, and we've not had any violent or crime-related instances where we needed the police. As I explained, most of them are medical and in the few fender benders in the parking lot. Also, all of our patients at the time of admission are required to sign a contract with us; it's called the good neighbor policy. It's basically that they agree to obey traffic laws, no loitering, it discussed staffed. If there was a local store, it outlines the behavior they need to practice in the neighborhood. Our patients understand the stigma that they face and that more so than any other facility, they do have to earn their right to be in the neighborhood that they are in, and they take it very seriously. Because they do take their treatment very seriously

CT - What are the consequences for violation of that policy?

JF - Depending on the severity of the consequences. The first violation we would place on something that we call on a contract is another signed agreement that says one more violation of this. We can move to discharge you. If they then violate that, they will move to a discharge.

LM - Why are you leaving the airport Rd property? Is it because of Covid, or is it that you're growing in your business is growing?

JF - We are growing; our senses are growing in the past year since I came in November of 2019. We have grown by over 100 patients

LM – The facility itself doesn't suit you, or it could suit you?

Atty. Silverstein - As I mentioned earlier, the current facility, we been there for 20 years. It's just not configured appropriately; there are three windows. I believe this new facility has 8, and you don't want patients having to wait outside in the elements and public view. It's not conducive. My understanding is that the landlord had agreed to put an addition on the building to accommodate more space and renege on that agreement. I don't think it's terribly relevant because it is an allowed use by a special permit. I think we've demonstrated that we satisfy all the criteria there's nothing but conjecture and stereotypes frankly to suggest that this isn't an appropriate site. Just about every neighbor who commented lives many blocks away, and I think that Jessica has given an excellent explanation of why the studies I provided support. The notion that there isn't any danger from this type of use, and the notion somehow, it's inappropriate to have treatment facility quote at the gateway of Fitchburg. That somehow stigmatizes Fitchburg or is a black eye on Fitchburg. I think frankly, this add fence it. I think it shows that Fitchburg is a place that welcomes people trying to get well.

LM - I asked whether or not the covid has had an impact on your services. And is that one of the reasons why you would want to make a move

Atty. Silverstein - I think Jessica indicated it had had an impact in terms of social distancing, making the current facility's limited size even more problematic.

LM - What is this comparable amount of space square footage, wise now. Compared to what it would be, how many square feet different?

Atty. Silverstein – So, the proposed square footage is 7,660 square feet.

BS - Our current square footage is 6,600 square feet

LM – And the proposes is another 1,300

BS – 7,660 square feet total is the proposed

LM - So, 1,000 square feet different?

BS - Correct a little bit more than 1,000

Richard Dicato – I hear that 260 plus people failed breathalyzers in the last year, was correct? I wonder how many of those patients drove there and how many of them, even though they said they would call the cops, drove. My question with this is: They're talking starting 5:30 in the morning right across the street from me. I have one daughter that gets on the bus at 6:35 in the morning, my Twins get on their bus at 7:35, and my high school student gets on the bus down at Klondike at 8:20. Suppose people drive in intoxicated and drive out intoxicated first thing in the morning while children are there. Do you see the issue with this?

JF - I can speak to that. Not all of those results were positive; that was the number of tests we performed on suspicion.

Mr. DiNatale - You ask the question correctly to the gentleman from Habit Opco, what is extra square footage. One thousand feet, so you won't tell me that 1000 feet will prevent any lines out the door. That's not a significant expansion, folks, and I hope you keep that in mind because they say they serve 200 to 400 people a day. And 70% of their client are not from Fitchburg. One thousand feet will not allow them to have everybody in the building.

Atty. Silverstein - We will accept that as a condition and enforceable condition. We also know that that is a condition of our lease.

Ellen Graham – What's UMASS says about this? It does directly impact them patients start being seen at 8:00 a.m., and some are Pediatrics and if they have had any input on this move.

LM - Not that we're aware of

Atty. Silverstein - My understanding is they ask that there be a dedicated entrance, which is why that change to the structure is being made

MM - We took a lot of information tonight; I want to ask the board; it's getting late, and there's a lot to digest. Does the board wished to deliberate tonight, or do we want to move for a continuance? Give us time to digest all the information that was provided and deliberate next month.

CT - We received a lot of information tonight; we also received a large package this afternoon. I would feel more comfortable making a vote on this hat after an opportunity to go through all of that.

GB - I did have a chance to read the information, so I do not need the extension. But I will defer to the board.

BG - I would like more time to think about this. There's a lot of information presented, and I feel more comfortable with an extension.

LM - Would you like to do it two weeks from now, on our alternate meaning date. Or put it on for the next meeting

MM - How many cases are there for next month.

LM - Half a dozen to seven of them

MM - I'd vote for next month; that's fairly considering what we typically see.

LM – Is that seem reasonable to everyone else?

All members agreed

LM - We would need a mutual agreement with the petitioner to extend this until next month, which is the June 8th meeting. I believe it would be 7:30 would be the time.

Atty. Silverstein – Is there any way of doing it in two weeks? Because we have to figure it out, what are we going to do?

LM - We generally don't use that secondary meeting time, and I don't know if we will have a quorum. I'm sorry that I offered that up. I think in the 18 years that I've been involved in this committee. We've used it once. Often our board members do not have that slot. Two other members aren't in attendance this evening, and I don't if they will be in the speed to absorb all the given information. So, most likely, you'd be dealing with the same members you have here this evening. I think in the best interest of everyone it would be best to put this on for the June meeting

Atty. Silverstein - I understand. We will agree

MM -Motion on ZBA-2021-12 under 181. 313C17B to **Continuance** this petition on **June 8th, 2021**, at 7:30

BG – Motion Seconded

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

ZBA-2021-13

Kimberly Pheymannic

22 KINGSBURY ST

8:50PM

Special Permit under §181.782 to operate a commercial food kitchen out the residential single-family dwelling located in the Residential A-2 District Map 107 Block 11 Lot 0

The virtual presentation was given by Kimberly Pheymannic, stating that we're looking to have my business partner come into the residential kitchen to help make the product. We do candy-making, primarily marshmallows, so we're usually looking to produce two times a week. Tuesdays and Thursdays from between four to six, but when we have a farmers' market or something similar, we extend until about 8:00. Our equipment is a stovetop and a stand mixer. Any business that we conduct is primarily at well is at farmer's markets. So, nobody is coming to the house besides my one business partner. We just got the license from the Board of Health to operate the residential kitchen. We are simply looking for her to work in the house with me. She is fully licensed has her Serve Safe, allergen awareness. She is the manager of a coffee shop, so she knows more about safety than I do.

LM – So, it'll be a couple of hours Tuesdays and Thursdays, and that's about it?

KP – Correct; sometimes we work on a Friday or Saturday if we have a big market coming up, such, the one we're scheduled to do at the Bolton Fair. That will be a big push for us, but it seems like I have a guest over at the house to the neighbors. You can't hear the stand mixer outside of the house or anything like that, so there shouldn't be any extra traffic. There shouldn't be any extra noise.

LM - No customer visit

KP – Absolutely no

LM - Is there anyone here seeking any information regarding this case? None

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

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

CT - Do you have a vehicle displaying any signage of the business?

KP - No

CT - And you said you could fit four cars in the driveway in the application?

KP – Yes, and ours are in our two-car garage, so it's the two cars in the garage and then four additional ones in the driveway

LM - Response sheet that we have from the DPW stating: A commercial grease trap shall be installed and sized appropriately for the proposed wastewater flow from the kitchen.

LM - Were you aware of that, Kimberly?

KP – No, when Mr. Keefer came to look at the house, he didn't say anything about that. He had said that what we produce, which are marshmallows, since it doesn't produce any sort of greasers that it wasn't necessary.

LM – Maybe he filled this out before then, so you might want to follow up with them regarding that

GB - I want to clarify this. Was a too special permit to operate in a commercial food kitchen out of a residential single-use dwelling, but what we're doing here is approving is the additional worker. Correct?

KP – Yes, the Board of Health has given us our license

LM – I am glad that you say that because I was wondering, and I didn't see Commissioner Barbadoro's letter in my pocket.

Commissioner Barbadoro - One of the things you don't comply with buy right is the nonresident employee round trips to the building. So, that's under 181.7816. And what you're approving is a home occupation for them to run their business out of their house. The additional traffic is off the nonresident employee. That's the only thing I could see is required a special permit.

GB – Mark, would not a fire inspection have to occur for a commercial kitchen at home.

Building Commissioner - You raise a good point, and maybe we should have Lt. Jordan goes out there and look.

GB - Maybe it is a moving point; it's marshmallows. It sounds like grease is not necessary, is a little confusing, but an inflow grease trap is going to cost them quite a bit of money.

BG - Would there only be one employee coming to the house two days a week?

KP – Yes, just one

BG - Are there any unregistered vehicles on the property currently?

KP - I have a car that is currently being donated, is waiting for pick up.

MM – Obviously, the intent is the business will be successful and grows, and what's the next step? Suppose the product continues to sell well and business picks up. Do you have intentions to move into a commercial kitchen?

KP – Yes. One of the reasons we decided to go residential right now is that what we're servicing, especially with covid, is a small group of people. And a lot of times, the commercial kitchen had fees built in a lot of the equipment that we don't need in a commercial kitchen; we need a stovetop in a stand mixer. Many commercial kitchen charges for using all of the equipment drove up to our prices and made it hard to expand. So, our purpose for the residential kitchen is basically to make a customer base. Then we evaluate and see if we can move back into a commercial kitchen where we make a little bit more financial sense.

MM – What's the product?

KP - Homemade marshmallows

MM – Interesting. So, you make these things, and they go on a bag, and you sell them at Farmers Markets right now?

KP – Yes, they're. They've gotten popular at the Lunenburg one.

CT - I did want to check with the Commissioner. Under the rewriting of the zoning code, we have a home occupation that is not necessarily any one of the uses specified in the table of uses. Right? In other words, is this artisan food and beverage, or is this home occupation?

Commissioner Barbadoro - Can you do that in a residential district?

CT – No

Commissioner Barbadoro - Well then, it's a home occupation

CT - We should specify the type of home occupation then if we're going to do that. Entreated generically, it's a special permit for home occupation, and then within the conditions. What is the home occupation going to be so that it's not a home occupation for homemade Pete box?

LM - We should get the hours of operations in there and no customer visits. If she's going to be doing occasional weekends, we will give her some latitude for that.

KP - Those stipulations are also on our residential food permit and the hours and the lack of customers coming to the house. That's all stipulated also on our food permit.

LM - We may do both

CT - If we're heading towards deliberation, I would be inclined to limit the number of employees being no more than two. We know there's one now, but hopefully, the business will be successful and expand.

LM – Everyone covered what I wanted to ask, so at this point, we will close in deliberate

BG - I'm certainly in favor. Giving her a little bit of latitude with two employees upon growth is a good idea. I like the fact that there isn't going to be any real noise other than the mixer. Outside disturbing abutters, this seems to be a pretty good distance between her house and other houses after I went to the site and evaluated everything.

GB - I think it's a straightforward product, and from what I can tell my head, I don't think a grease trap will be necessary. I'm inclined to say yes.

CT - I'm inclined to grant with the conditions being an hour of operation, not beyond 8:00 PM would be good. No exterior operations or storage, no exterior signage on the building and the vehicle, and no more than two employees. Then I believe our zoning ordinance states that the permits are limited in time to five years. Or transfer the property whatever occurs 1st, and then specify before a candy-making business.

LM - I would put a sunset clause in there, I know it's five years, but should we say something, or is that inferred? If she moves, I don't want candy-making to start up at the property. It would terminate with her.

CT - I think it's best to reiterate the conditions within the terms of the special permit.

CT - Motion on ZBA-2021-13 under 181.782 to Grant the Special Permit with the following conditions:

1. **Home Occupation consisting of a candy-making business**
2. **Hours of operation no later than 8:00 PM**
3. **No more than two employees**
4. **No exterior signage**
5. **No outside storage**
6. **Special Permit to expire upon the transfer of the property or after three years, whichever occurs first**

BG – Motion Seconded

Roll Call Vote 5 – 0 to Grant the Special Permit with conditions

ZBA-2021-14

Kenneth Godfrey

220-222 ALBEE ST

9:10PM

Special Permit under §181.856 to reinstate a abandoned/vacant building as a two-family dwelling in the residential A-2 District Map 121 Block 11 Lot 0

The virtual presentation was given by Ken Godfrey, stating there was a three-family for many years, and I've been on the Board previously about a year and a half ago. The consensus was that they didn't want it to be a three-family anymore; matter of fact, the consensus was that I turned into a two-family. At the time, I wasn't too happy about it because obviously, a three-family is worth more than a two-family, so at that point, I had a buyer lined up, but he came in he was going to catch fire he didn't care about the permit he was going to do what he wanted with it. So, I didn't go back to the meeting. After that, I decided to sell the property without the permit and let the new buyer go and get a permit. Nobody wanted to attempt to get a new permit or purchase property without a permit. So, here I am now, repetitioning the property with the same merits that I had before. This property is on 220-222 Albee Street. It's a pretty neighborhood, and if you look around, everybody's got nice houses, they take care of their yards, it's just a really good area. The one eyesore is 220-222 Albee street; what I intend to do is change that, to make it into a home so that somebody can live there and enjoy it in the neighborhood. It's not the eyesore than it is today.

LM - What is your intention to do with the two-family?

KG - it was the expression of the Board before eliminating the third unit. So, eliminate the third floor and turn it back into the attic. The kitchen and the bathroom will be eliminated and pulled out; space will be used as an attic for storage. The 1st floor and the second floor are in pretty good shape, so they'll be remodeled. There will be brand new siding put on the building, and any windows that need to be replaced will be replaced. This will bring it to aesthetically to a nice neighborhood effect. I believe it will be a win for everybody, not only me. The person who buys it and the neighbors make their property look better if this probably looks better. This property right now is the eyesore of the neighborhood.

LM - What kind of capital investment are you making into the unit?

KG - I've already made a considerable capital investment; I've been paying the bills for the last two and a half years.

LM – I am talking about what you're planning to do in the future with the property?

KG - The future of the whole building, we have brand new siding, all new metalwork, about 15 windows that have to be replaced, and I'll replace them. Several Board Members have done a site visit there and have seen the inside of the building. It's not in terrible condition; it needs many cosmetics, skim coding, paints some new flooring, and is in pretty good condition. The interior renovation probably will be an additional \$50,000 on top of the siding and windows, which were already purchased and waiting to be installed.

LM - Are we talking about new kitchens, new baths?

KG - No, we're just going to rehab kitchen center. The kitchens are in good shape, so maybe a new countertop and some flooring, but the kitchens are in pretty good shape. The house is almost livable.

LM – Bathroom?

KG - Bathrooms are in good shape, now the third-floor bathroom is going to be illuminated.

LM – Wiring, plumbing

KG - We'll have a licensed electrician and plumber come in, but again did a lot of the framing over a few years ago. There are new caps in the basement, and electrical panels have fairly recently, probably within the last 20 or 25 years. The building mechanics are pretty good and will abide by all building codes, and the local inspectors will inspect them. One of my concerns is that we've had acreage breaking into the building over the

last couple of years. Inside we found drug paraphernalia and hypodermic needles, and even baby diapers. It's just a dangerous place right now, and by putting it back on the rolls and letting a family live there. In a nice building, you're not going to bring that type of atmosphere to the neighborhood.

LM – We agree with you there. I believe the building was found by one of our board members unsecured.

KG - I secure it, and then they come and kick the door

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

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

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

MM – Commissioner Barbadoro, are you allowed to rehabilitate certain abandoned structures, who are doing more than 50% in rehab?

Commissioner Barbadoro – So, there's a way to proceed by right, and that is you do a 50% renovation. You provide full parking within 800 feet of the building. Then you don't need to get a special permit at all, but this one it's a three-family, and he's converting it. It's a pre-existing nonconforming structure. And it's probably dimensionally failing because of its parking too. And want to alter it, that you need to get a special permit to do it in the setback.

MM – First, you were before the Board very recently, and you rehabilitated a property on Sheridan Street. Correct?

KG - No, I did one on Fallah

MM - Blue bold three-family with the Brown porch

KG – Yes, it was my partner Craig

MM - I needed to set and understand your previous work here in the city.

Kg - And that building came out fantastic. That was a nice project.

MM - I'm going to be very Frank right up front; we had asked you to repair and replace the sidewalk or the walkway, and you didn't do it. We had asked for a complete re-paving of the driveway, and you didn't do it. And some other small things discussed during the project that didn't get done.

KG - Excuse me, but I didn't think we were supposed to re-pave the entire parking lot. We added a parking lot into it, but there was never any order to replace the driveway was there.

MM - I'm just going off a recollection. Now I want to fast forward to this property when we visited a couple of years ago. One or two board members were not in favor of a three or two-family, but converting it back to its original design and use. as a single-family. I'm kind of struggling here because we did a site walkthrough. You were gracious enough to allow us to go through the building two years ago. It was in horrible shape when we went there this week, the building was completely wide open, and it was even worse shape than it was two years ago. So, I'm kind of struggling with how it just needs some light cosmetics in the fact that it's in great shape.

KG - The building is the same as it was two years, I haven't done anything to it.

MM - As I had to ask a couple of years ago, the Hodge patch addition to the left side of the building. Is that going to remain, or is that going to be removed?

KG - That's going to remain; it'll be re-sided and new Windows put in

MM - What about the structure to the rear of the building?

KG - That's going to have a new roof put on it

MM - Is that it

KG - That's it, any inside is going to be gone through, and they'll be a 24 by 36 parking area on the side that will accommodate four cars

MM - What about the rear deck?

KG - That will be repaired and put back together

MM - So, not replaced?

KG - No, it'll be repaired and stained; it's in pretty good shape, it's not falling apart or anything. Any wood that's compromised will be replaced, and the entire deck will be repainted or restained.

MM - How about bathroom kitchens?

KG - Bathrooms and kitchens will be updated, the first floor is in good shape, it does need is really to paint job, and there the 2nd-floor bathroom will probably put a new floor in redo the walls and put a new ceiling in

BG - Are you going to remove the existing siding from the building before using vinyl?

KG - No, according to code, you can go right over there

BG - Do you know what that siding is made out of?

KG - Its asbestos

GB - Can you also match the siding on the building in the back?

KG - I didn't plan on it, but if that's something you'd like, I could do that too. The siding on the building will be Gray, in the trim will be white. It's a battleship Gray it's a beautiful color, it's going to enhance the neighborhood. Right now, when you drive down Albee Street, you look at that building, and it's just such an eyesore. Then when we put brand new siding, windows on it, it's going fit right into the neighborhood. The neighbors will love it.

GB - Were you planning to pave the parking area, on your plan view with the four cars?

KG - Yes, there's already a large section that's already paved there, but will extend that

LM - To clarify that, because there was some confusion about the other property that you did. Would you be re-paving everything, or you just saying that you're going to pay what you need to get your spot?

KG - Well, there is a pretty good shape in the pave, so I didn't want to expend probably an extra \$5000 to do the whole thing. Not an expense shoe, I'd like to pave the additional amount, but if that's what you want, that's what I would do.

LM - What about aesthetics on the exterior landscaping, trimming

KG - We want to put some flower boxes up and planning some shrubbery and stuff in the front. There's not a lot of room in the front of the house. And there are already some lovely bushes and shrubs there that run along the side of the building. It has a beautiful backyard; you don't find many two families in Fitchburg. It sits on almost an acre of land. It's got a nice backyard; this is a home that will eventually sell to an end-user. Somebody's going to live on the 1st floor and take pride in their homeownership and take care of that building and rent the 2nd floor out for like a mortgage helper. It'll be an owner-occupied type of property.

LM - That 2nd floor into the third floor, can that third floor still be utilized, but into the second floor so that you have extra space there?

KG - Do you mean the second and third floor is one big apartment?

LM - Right, that's what I'm asking

KG - That wasn't the plan, but I would be accommodating if you let me do that. My plan right now is the attic. The third floor is just being attic and storage.

CT - Are you keeping the building in the back, or you going to tear it down?

KG - No, we're going to keep that

CT - Have you measured to check the setback on your proposed parking, on the right-hand side?

KG - I haven't measured, but the parking lot won't come near to that building.

CT - I'm asking, where your proposed parking on the right-hand side has been measured to see the offset from the boundary line?

KG - No, it hasn't. How many feet off the property lines does the parking have to be? Because we have a lot of land and we can move the parking lot to accommodate any zoning issue that might arise, as there's almost an acre of land there, so we could move things around if it were a problem

CT - But the main portion of the land is not usable. It's a gully in the back.

KG - In the back, it is, but it still has a nice big backyard.

CT - Are you going to replace the back exterior stairway, or is that coming down?

KG - No, that's staying in there for a second egress

CT - And you have holes all over the soffits, and I can't say I share your feelings about the structural integrity of the building. What have you done to assess it?

KG - Well, any wood that's compromised on the outside. Whether in the sockets or the windowsills, they will all be replaced with pressure-treated wood. Anything that is compromised will be replaced. I realize there is some rotted wood on the exterior of the building, and I will take care of it.

CT - What did you present for a plan of rehabilitation to the commissioner?

KG - I believe the only plan I put was in the application.

CT - So, they weren't like building plans a list of construction or rehabilitation just the dialogue KG - Nothing extensive, when we pull outbuilding permit, I imagine I'll have a complete set of plans for the Building department, and it'll have to be approved by the building Department also

CT - Commissioner a two-family in a non-permitted use in this district, correct?

Commissioner Barbadoro - I don't know off the top of my head

CT - It is in R-A

Commissioner Barbadoro - I don't know right on top of my head

CT - So, two families is a non-permitted use in this district. Is this an abandoned used, or is the structure still considered pre-existing nonconforming?

Commissioner Barbadoro - Last known lawfully pre-existing nonconforming use was a three-family as a lawfully pre-existing nonconforming use. The structure is lawfully pre-existing nonconforming. He wants to change it from one nonconforming use to another, which is allowed in the bylaw if it is less detrimental. So, even if it was abandoned, you're allowed to do that by special permit, so this is abandoned. So for the bylaw not to be an effective upon the property, it needs to be reinstated. You can reinstate the structure and change the use to a less nonconforming use by special permit.

CT - So, but the change of this has to be from one pre-existing nonconforming to another, not an abandoned

Commissioner Barbadoro - You have to reinstate it first

CT - So, it has to be reinstated as a three-family before you could change it to a two-family?

GB – The proposed garage is now bigger than the house
Commissioner Barbadoro - That's the new proposal, and that's the old 30 by 40

BG - She's adding 10 feet. That's a big deal.

LM - Why are we hearing this?

Commissioner Barbadoro - Because you're going tell me whether or not I send her back

LM – I believe you should.

Commissioner Barbadoro – Okay

LM – Unfortunately, I think she needs too

Commissioner Barbadoro - That's fine; that's I will tell her that's what we needed to do

6. ADJOURNMENT

CT - Motion to adjourn at 11:59pm