



ZONING Board of APPEALS
 166 Boulder Drive
 Fitchburg, MA 01420

MEETING MINUTES – May 14, 2019
SENIOR CENTER, 14 WALLACE AVE

- | | | | |
|-------------------|----|----------------------|-------------------------|
| 1. Call to Order | LM | PLEDGE OF ALLEGIANCE | ALL |
| 2. Communications | LM | ATTENDANCE: | LM, MM, AZ, JB, JM & JS |
| 3. Hearings | | | |

CASE No.	APPLICANT	PROPERTY	TIME
ZBA-2017-42	Ainiwaer Mireguli	24 VICTOR ST	7:00PM
<i>Review of a Special Permit under §181.3561 to reinstate a vacant/abandoned building as a single-family dwelling located in the Residential B District at 3/50/0</i>			

1st Call no one was present in the audience for the petition
 2nd Call no one was present in the audience for the petition

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

LM - We got evidence of electrical and plumbing permit was pull, and apparently they are moving along the way. How the Board does would like to perform on this case?

AZ – On his opinion give a continuance for 2 more months

MM – What is this again a continuance? LM – Yes – MM – But, they currently leaving on the house, and have them missed another review? LM – No

LM – So, should we leave it for couple more months or leave it to the Building Department hands? JB – Sure, that sounds okay

AZ – Motion on ZBA-2017-42 under §181.3561 to **Approve** the **Continuance** to the Review to **July 9, 2019**

JB – Motion Seconded

Vote 5 – 0 to **Grant** the **Continuance** the Review to **July 9, 2019**

ZBA-2018-11 Brothers Parking Lots and Roads 126 JACKSON AV 7:10PM

Review of a Special Permit under §181.313D5 for a Construction Yard located in the Industrial District at 5/9/0

Presentation was given by Eric and Karen Stanley stating that they had taken care few things on the property, still has not been completed. He has done some grading on the property to make the water go to the road not to his neighbor

LM – So, how long do you think this it may going to takes you to complete the project? ES – Couple weeks, maybe the end of the spring if stop raining or the end of the summer, also he wants to ask to the board to modify the size of the shed that was initially approve. He now is thinking to get a 12x25 or bigger – LM – It’s that different for what you had been approved before? – ES – Yeah, approved was 15x15, but he needs it to keep his business tools and some of his traveling tools – KS – So, we are looking at one at Winchendon and it’s a least 12x45 SF, and half of it will be a garage area to put all the small equipment and the other part during payroll season she can process and do payroll from there. – LM – Okay, but we need to get back where we started here, let’s review those current conditions

Those seeking Information: None

Those in Support: None

Those in Opposition: None

LM – So, condition #1: Property to be fenced right, left and rear side no more than 6FT height – ES – That’s is completed – LM – Parking to be pave – ES – Working on it – No more than 4 Vehicles on the Property – KS – We would like that to be change, he was thinking of 4 commercial vehicles, such dump plows, but sometimes to go work they need to leave their vehicle on the property.

MM – Question: when all this process started you were like a men show a truck and a trailer, so it’s changing now? ES – No it’s the same – MM – So, but you are talking of all these people coming in – KS – Yes, they are our kids and they all have a truck now – MM – So, what’s there now tonight? ES – Just one truck the other one is out of town

LM – So, what permitted vehicles that can go with the property? ES – Commercial plowing – LM – And then you have couple mobile home on the property – ES – Yes – LM – Are those leaving? – ES – Soon, they are getting ready to bid at the summer camp, so he can be able to sell them quicker, but no one is living in it – LM – Okay – KS – We just been using it for storage – LM – Initially when we started that was a temporarily thing, is not going to be a permanent thing because that’s going to be your business – ES – No, that will come out and we are going to put the shed there – LM – Okay, we need to decide about the number of vehicles, is going to be the black one and the white one – ES – Yes, and maybe my son bring one to the yard – LM – So is going to be 4 vehicles and the two trailers will going to leave the property? – ES – Yeah – LM – Okay

MM – Here is my opinion on this, you came before us with a concept and approved it. Now it seeing that you are growing and he wouldn’t mind increasing 4 to 6 vehicles there, but he doesn’t want to see that it became a parking lot r or trucks storage – ES – No, those two always been there – MM – His expectation is that we came out with some conditions that we were agreed too, so he would like to see it pave – ES – Yes, but right now still rain and there still water sitting on the land – MM – Okay, we don’t mind you are on the business and all you said it make sense, so we need to wait a little, but we been waiting one year – ES – Just couple more months – MM – He is good to give the petitioner to the end of the summer to wrap all those conditions, before increasing the number of vehicles to 6

LM – Okay, and how about now the shed? – ES – That’s going to take us about 30 days to build it and he is planning to pave first probably by July – LM – Okay, so you don’t want to put and fill in the shed until the pave is completed – ES – That’s right because he won’t be able to move it again – LM – Right, so you throw couple numbers on the shed. Do you have a firm number of what you want the shed to be? – KS – We want to ask for a biggest as possible and if doesn’t fall through we could go for a small one.

MM – It sounds like you want a place for an office and you are asking for a house, if you want to put a building on the property his suggestion is to talk to the Building Department – KS – Is not a foundation that we are building, it has wheel and you can pull it in and out – MM – So, is a trailer? – KS – Is not a trailer, is a portable shed – MM – So, here is another recommendation, bring us something to show it to us – KS – We have a picture on our phones – MM – Still thinks that you should talk to the Building Department for that – ES – But that’s why we came here tonight – MM – Yes, but we are not building, we don’t issue building permits

LM – Well, initially it was a 15x15 shed and now is growing – KS – There was a house in the property and we tore it down - ES – So we are going to install a 12x15 shed, no problem

Hearing Closed:

Deliberations:

AZ – Well, we approved a 15x15, so if you now want a 12x15 is less than we approved, he doesn’t see a problem

MM – He is okay with what the board approved or smaller, but once is starting to grow into a building

LM – So, we approved a 15x15 if you want to install something smaller he can go ahead and do that

LM – We are going to do a review in two months, July

AZ – Motion on ZBA-2018-11 under §181.313D5 to Approve the Review retaining conditions 1 – 4 amending condition # 5 as follow:

1. **Property to be fenced right, left and rear side no more than 6FT height**
2. **Parking to be Paved**
3. **No more than 4 Vehicles on the property**
4. **To be built: a Shed on the rear side no bigger than 15x15 SF**
5. **2 Months Review July 9, 2019**

JB – Motion Seconded

Vote

5 – 0

to Approve the Review to July 9, 2019

ZBA-2019-08

Thomas & Rhonda Magazu 505 FRANKLIN RD

7:20PM

Special Permit under §181.355 to erect a 19' x 6' porch at the front of the house leaving 23' to the property line located in the Residential A-2 District at 113/36/0

Presentation was given by Thomas and Rhonda Magazu stating that they don't leave on the property yet, but they will as soon as possible. So, we want to add the porch so we can seat out, currently there is an old bad looking window and we want it to look better to the neighborhood. All the other house on the neighborhood had this porches, the next door neighbor is only 15FT from the Street. This is not that is going to be blocking the view or anything

LM – So, its seeing is to be keeping with the neighborhood – TM – Yes, it is – LM – What is going to be made off? TM – Of wood – LM – Okay – TM- It's not too much involved, it's a 19FT long 4FT less than the length of the house on each sides, there is a driveway which we are taking out and it's going to make it longer and it will look pretty

Those seeking Information: None

Those in Support: None

Those in Opposition: None

JM – Will that dumpster on that driveway is coming out? TM – Yes – JM – Are you talking about the driveway on the left? TM – Yes – JM – Right now there is 25ft from the front of the house – TM – Yes – JM – So, you only encroaching 6 more feet, so it will be 19 feet – TM – That's correct

MM – It's a two family? TM – It was, but is no longer will be a two family – MM - Good

JB – No, questions no concern, he thinks that he had a great idea and make very good sense on his proposed

AZ – He thinks that this is seeing a good project and it meet all the criteria according with §181.355 for expansion of an existing non-conformity, so he will be totally on favor

JS – No questions

LM – She has not questions either, she was very impressed with the property

MM – Motion on ZBA-2019-08 under §181.355 to **Approved** the **Special Permit** as requested

JB – Motion Seconded

Vote

5 – 0

to **Approve** the **Special Permit**

ZBA-2019-09

Lisa E. Contuzzi

8 HAWES ST

7:35PM

Appeal to Overrule the Building Commissioner's under §181.9223 for declined the residence as a lawful 3-family dwelling located in a Residential A-2 District at 20/33/0

Presentation was given by Lisa E. Contuzzi stating that property has been owned by her family since 1955, it has been a 3-family since they obtained the property. It has been assessed and pay taxed as a 3-family, and never had a complaint about it. However her father had passed now, and currently she own the property and her mother leaves at one side and she leaves at the other on the basement tenant. She files for Social Security and was unable to obtained it, so she thought to refinance the property to do some repairs at the house and use the rest of the money to take care her mother expenses because don't want to put her on a nursing home. So, the bank approved her loan FHA came was all-set with no conditions and everything seeing ready to go, and just before the closing the bank calls the Building Department to verify if this is a 3-family. The Building Department records have a building permit application was pulled after the fire where it said 2-family, she thinks that her father misunderstood the question and he interpreted as the number of families leaves at the house and he must said 2-families, which been just downstairs and us because we all were related, that's the only explanation she can thinks because the house has been a 3-family at least for 54 years. Had an appraised and they said, well we need it on paper stating that this is a legal 3-family. Contacted the Building Department they issue her a letter based on the property file history, which it didn't help her with the loan process. Another suggestion she received was to come to see you and if you determinate that this is a grandfather 3-family dwelling and as soon she obtains that determination, she will bring it to the bank and will be able to close the loan.

Those seeking Information: None

Those in Opposition: None

Those in Support: Sharon Anderson of 7 Hawes Street, stating that she been leaving there for over 30 years and to her knowledge this is always been a 3-family dwelling and she always have been paid taxes as a 3-family and don't understand why is now not considered as a 3-family property

Michael King owner of 11 Hawes Street, stating that he is totally on favor because as far that he knows is always has been a 3-family

AZ – The reason he would like to start is because he has a procedure problems, and by looking our by-law book 181.922 he only can see that only we can hear and decide appeals based on grievances by reason of inability to obtain a permit or enforcement action and because there was not a permit that being requested and the Building Commissioner and made a denial determination – LC – This is what’s the mayor office suggested her to do and that’s why she is here now – AZ – Well, if we have the derestriction to hear this appeal, as a now at least is inquired to granted, but he doesn’t seen any reason to overrule a simple status determination by the Building Commissioner. Which doesn’t result and directing enforcement by the Building Department, this was a respond of a question from a bank, not a grant or denial permit, not a determination of whether sore action that been taken on a property.

JS – Part of her is totally agreed with all Anthony had said, but other part of me is completely disagreed because how else is she can obtain the relief that she needs – AZ – He knows and he is also agree – JS – Because she needs some type of relief that she doesn’t know, but it may be a zoning relief. She went to the proper channels and they weren’t able to give her a relief due that history of information that they have on their files, but we are not giving a relief permit; this is a difficult one case – AZ – Right! The catch is that they do occasionally limits to the situations where there is a problem and there should be a revenue, but we can’t create our own power to grant a remedy – JS – But, if the property been use for more than several years without being a problem and still there using as, and them we should be give it as a fact that there is now a grandfather in

MM – Could we make a findings? – AZ – We could make a findings

LC – Would that work for the bank? – LM – We don’t know if that would work or it would be sufficient for the bank

LM – Let get some facts findings on the property. How many meters are on the property? – LC – Two meters, one sides has one which is my house meter because one rental apartment was always had everything including, electric, cable and gas heat, it has a separate hot water tank but all is on one bill – LM – Okay, but separate electricity for two units? – LC – Yes, two units, only one is everything included

JM – He saw two meters and two panels – LC – Yes, and they are new panels because we had a fire and we had to upgrade everything, including the new fire alarms into the entire building

MM – Are there smoke detectors in the basement? – LC – Yes, carbon oxide and sprinkler system

MM – Went to visit the property and his opinion based on his visit and listened to the abutters, there is 3-units. Whether it was done through the permitted process or not, is really hard to determinate because that 3rd unit could it be pre-date zoning – LC – We are there since 65 and it was there them, so it was there even before them – MM – So, he was reading what the Building Commissioner has written, which is that he has done a superficial examination and he is presented some findings, so he is not saying that or making a recommendation on his letter to apply for a relief. All he can see is the list of findings

AZ – Well, there is a section where it said: if you aggrieved by a zoning interpretation, order, etc. you may file a notice of appeal. But, at same time the Commissioner has decline the enforcement on this issue, which is why he is having difficulty finding how to procedure – MM – What the word enforcement means is? – AZ – Well, in other words that they are not going after her for having 3-units in a two family or whatever, which is good

MM – This is a very unique situation where the same family have own and reside on the property for – LC - 65 years

AZ – Yeah, even if were non-conforming to begin with, saying that there was an illegal 3rd unit it will be past the 10 years enforcement mark by this point and it will a grandfather in, regardless of those facts

JB – How many parking spots are on the property? – LC – Currently there are 7 parking spots, on one side one car has to park behind the other, but there is room for 7 cars

Michael King – A quick questions: Does Lisa will get a Determination as a 3-family and would that satisfy the bank? LM – She will get a Determination from us, but we don’t know if that would satisfy the bank

Hearing Closed:

Deliberations:

MM – He has already mentioned before that based on the visit to this property looking aimed at the units, its appear that’s always been there for a quite some time, there is been some input from abutters that are indicating that they have seeing 3-units activity in there for many years. Also the Assessors card indicates that is has been a 3-family for many years and he would assume that over an extended period, such of closed to 50 years if the Assessors was incorrect that there on some of those periodic visits properties that it could be corrected, so he believes that this has been a tree for ever

JB – Is a grandfather in

AZ – Based on all the evidenced that was presented both from the petitioner and from abutters and neighbors, this either was a pre-zoning legal non-conformity or it has become legal non-conforming by passed the time of enforcement

AZ – He would recommend that to cover our procedure basic that to deny the appeal for lack of derestriction and them we should make a findings of Board – LM – Findings, not a Determination? – AZ – Correct – LM – Okay

JS – She thinks to just to make the findings, because it is a grandfather in

JM – Completely agree

LM – So, she also visited the property and on her opinion by standing outside it looks like a 2-family dwelling, but she thinks that all the evidence were presented and discussed here tonight is compiling that it is a 3-family and it has been pre-dating zoning. So, she would be favorable on findings that it is a 3-family dwelling

AZ – Motion on ZBA-2019-09 to make of finding of the Board that on evidenced presented its appears to be a legal non-conforming 3-family dwelling from time pre-dating the Zoning Board

JB – Motion Seconded

Vote 5 – 0 to **Make of Findings** of the **Board** to be a legal non-conforming 3-family dwelling

Father more the Board Denied the Appeal to Overrule the Building Commissioner:

AZ – Motion on ZBA-2019-09 under §181.9223 to Denied the Appeal to Overrule the Building Commissioner based on lack of the derestriction to Overrule this particular action

MM – Motion Seconded

Vote 5-0 to **DENY** the Overrule of the Building Commissioner

ZBA-2019-10 137 Green Street Realty Trust 7:50 7:50PM
Special Permit under §181.353 to reinstate a vacant/abandoned building as a 2-family dwelling located in Residential C District at 44/52/0

Presentation was given by Christie DaRosa and Paul Bourbeau stating that the property is unoccupied now and they bought, and when he went to the building inspector asked to reinstate it as a two family. He did recommend coming to the Board. It has a have underground garage and he also obtained the lot next to it to make additional parking, and he incorporated to make one parcel. So, now they have more than enough parking, probably 7 parking spots for a two family, not tended. The place currently is deplored it was hit by a car about a month ago, it has a fire before. We are not looking to renovate it, he typically tries to save a property, but this is so bad, so burn and the neighborhood deserved a nicer property on his opinion. So, he is planning to keep the foundation and demolish the building to re-build a brand-new house on the same foundation. The existing building is a three story and the conditions is very deteriorate, we are planning to retain a parking garage down in the basement with a partial part for laundry to the tenants

Those seeking Information: None Those in Support: None
Those in Opposition: Jay Bry Vice President of the Fitchburg State University stating that they most support any opportunity to the neighborhood choice for the people want to leave in, we been doing this to support with housing. Our concern is making sure that his project had done in and all those developments is in the best interested in the neighborhood, because of the level intensity. So, we just want to make sure is the continue of improving in the neighborhood, continued to support overall to make the neighborhood of choice for people who wants leave there

PB- That’s a very good comment because this particular lot when we first looked at, we looked it to increasing intensity to a three-family. And then we looked a little closer and we decide that it make more sense to make it as a two-family, the interesting on this lot is that we have the ability to have on site parking which you all know most neighbors don’t have. So, even that we are increasing the intensity by going from a single family to a two-family, we must provide a construction that it works on those cases

CD – And just to add to that there is no property that he hasn’t almost complete got through he put new siding, new roof, ne windows, heating system, new floors he repairs the driveway and he also repair the street on front of his property. He is a very responsible citizen, and he feels the same way that college does, we need to have responsible people to invest in City to try to bring the City back to a better place. He is trying to improve the neighbor, so the people do want to leave on the neighbor, so he is proud of what they do, and proud of what the College had done surround they properties.

AZ – Jus have question to Mr. Jay if you have any experience with any particular student housing that he had done in the past, and if you have any impression of your goals for the neighborhood and how those were performed? JB – He said no experience

AZ – So, this is not a student housing – CD – No – AZ – This is not a student housing? CD – He should say don't know who is going to rent it, sometimes student wants to rent it, sometimes family want to rent it – AZ – Yeah, he just wants to make sure. So, for what he is seeing on you work he has not really any concern, you show plenty parking, so he is good

JS – She was more concern if this was a 3-family, did you a mention a under garage space? PB – Yes, is a preexisting space – JS – So, is not really a garage space – PB – Well it could fit a car in it, if someone wants to use – JB – and there is where you are going to put the washers laundry room? PB – Yes, it is a one car garage and then an extra storage, which it's going to be a laundry room – JS – So, you would have an extra car space garage? CD – We have a one car garage and 6 parking spaces, so 7 spots in total – JS – So, you don't really need it, but sounds like an extra bonus – CD – No, if a tenant wants to park in there they could – JS – Nice, and she doesn't think that she being at the board before someone have extra parking spaces

JM – No, questions he is just glad that's a two family

MM – Could you tell me what's in the basement? CD – It's the garage, on the preexisting basement, it's a door inside the property, so, we are going to have a laundry for the tenant use – MM – So, how are getting into the garage? CD – There is a property next to us and we have a full easement all the way to the Street – MM – So, what's in the easement now? – CD – Dirt – MM – Does any one use it? PB – The people on the next door use it for parking now – MM – Is the easement getting pave? CD – Honestly we haven't decide on that – MM – Okay – CD – These people had asked to park there while he is not using it and we let people to use it, and he is not crazy about taking away anything from anybody. So, he doesn't exactly know with it – MM – Okay, how many bedrooms? – CD – 3bedrooms – MM – Bathroom? – CD – 1 and half, one unit will have a shower room – MM – So, is this going to be college rental – CD – It could be, we are on college area – MM – Okay, he just looking at by design what we should be focus on because we seeing single units get rented out to 5 people and we got it – CD – He can tell that he has a 30% of non-college students and he got the same rent from a husband and wife, so is not raising money on any of his apartment – MM – Planting? – PB – We are planning to use all the space that we could for landscape – MM – Okay, he wants to mention that he had visiting his other properties and all he can said that he appreciated all they do – CD – And we appreciate that you appreciate, but we just to try to make things looks good for the City – MM – Are those lots combine? PB -Yes, we believe they are
LM – You have one Deed for both lots? – CD - Yes

AZ – He would like to note to base on the rejection letter that we have, this isn't a reinstatement Vacant/Abandoned. This is a Building Commissioner Determination a Special Permit for increasing intensity non-conformity and in the light of that he would say: A- he would perfectly to be granted. B- He doesn't think that is necessary because occupancy was not non-conforming to begin with, and the foot is not increasing the non-conforming

AZ – Motion on ZBA-2019-10 under §181.353 to Grant the Special Permit with the following conditions:

- 1- Increasing an existing non-conformity single-family dwelling to a two-family dwelling with no changing dimension**
- 2- Planning Board conditions to be adopted as conditions for the Zoning Board**

JB- Motion Seconded

Vote 5-0 to Approve the Special Permit with Conditions

ZBA-2019-11 Jackson Avenue Realty Trust 95 CLINTON ST 8:05PM
Special Permit under §181.355 to reinstate a vacant/abandoned building as a 2-family dwelling located in Residential B District at 32/133/0

Presentation was given by James Papas stating that currently is a single-family dwelling and he wants to make it as two-family, which is allowed in the district, but it is off on the front and side yard set-back by a little bit. It has plenty off street parking and the neighborhood that has 3-family right now, and the problem he has if he rented to college student, but with the amount of SF in there is too much unusable space to just have 4 people leaving, when he can make put 5 or 6 bedrooms which it would be a boarding house and doesn't want do. But if he converts it to a 2-family he would have 3-bedrooms on the first floor and 3-bedrooms on the second floor.

LM – So, one bathroom on each floor – JP – Yes – LM – What is the SF is on each of this? – JP – About 1200 – LM – On each on – JP – Yes – LM – Anything else to add? – JM – No really, just that we have off street parking and we are so

close to the college, its seeing to make sense to rented to college students, but if you get to big to the house and we would run into a problem because if got rented to too many unrelated students and that is an issue to the town – LM – So the 4 parking spots are going to be at front? – JP – Yes

JM – Is that the one is at the left of the parking lot? – JP – Yes – JM – So, that’s 25 feet, so how many parking did you said you can get in there – JM – 25 feet wide, so you can only fit 3 spots – JP – Well, currently is a wall and we are going to tore it down

Those seeking Information: None

Those in Support: None

Those in Opposition: Jay Bry Vice President of the Fitchburg State University stating ownership is very important for the collage neighborhood, single-family home ownership maintenance in the neighborhood is very important, practically if we are looking long term eligible student housing. We most support any opportunity to the neighborhood choice for the people want to leave in, we been doing this to support with housing. Our concern is making sure that every project had done in and all those developments are in the best interested in the neighborhood, because of the level intensity. So, we just want to make sure is the continue of improving in the neighborhood, continued to support overall to make the neighborhood of choice for people who wants leave there

JP – In response on that if that does happen which he believes Mr. Bry you are correct what would happened if the people that now are renting in the Myrtle and North Street and Highland Avenue would may migrate up and those are the one that will be renting to the college students they don’t want a fire. We recently renovating 80 Highland Avenue which is a beautiful single- family tons of room, but is don’t make sense to make that into a two-family otherwise is zone for that, so we are restoring that as a single-family.

JS – He would like to see that to reinstate as a single-family, it will be a beautiful single-family

MM – Walked around the property and he is having a hard time with the 24SF, and he looked the math is a cut aged little bungle out – JP – The length is 30x40 so we have 1200SF on the first floor, if we cut out the stairs case and the small entrance way the is about 11SF there and if you get up-stairs on the back of the house, so we are going to make that same exact set-up that is down below – MM – So, you are going change the roof line to make it work – JP – Yes – MM – Okay

JB – Are you going to take the doorman in the front and the one on the back? – JP – Yes

JS – On her opinion keep it as a single family, more she looks it she just thinks is a single family

LM – So, the intention is to get 3-bedroom on each floor? – JP – Exactly – LM – So, each person probably will have a car – JP – That’s not the case, some have, some don’t, and some would park elsewhere, so no that’s not the case. This is zone for a two-family so that’s the primary use and the reason we are here is because of the set backs from the front and the rear is silly less than require, most the house at there doesn’t even have front yard and he has more SF and more parking most of the neighbors. Renovating this as a single-family make no economic sense this building has been empty for more than 4 years board up and its going take mayor renovation getting it into he wants it to be, it is a good investment to make the property back and make it to looks good

LM – Primarily what are the neighbors to the right, to the left – JP – Triple decker to the right 17 feet to the right, to the rear left is another triple decker and is a vacant mark directly behind us and another triple decker, there is not a single-family that can accomplish to this house – LM – What about across Street? – JP – Across Street is parking for the Fitchburg State – LM – Okay – JP – About 15 cars

JM – Oh, so they can park there too

MM – One suggestion he wants to make to petitioner and respectfully to the Board, that we need to see real floor plants other than hand sketched the whole project, because he can’t see how you can take those bungle lines and make it into a two-family. You must help me visually

Hearing Closed:

Deliberations:

MM – You do a lot for the City and we appreciate it a lot, but we are trying do is to create a balance its just seeing that every single property in this neighborhood is getting converted. As the Board we work really hard to make things right for the applicant and for the community, but in this case, he thinks that is going to stay as a single and its going to be a college rental anyway. He just can see destroyed the character of the house and increasing the density, he drove to that neighborhood today and it’s just a pawn what happening there

JB – One important, financially he can see petitioner’s point about what he needs to make not on this property, he can understand that he is going to make a big investment by allowed there to make more space on the second floor apartment, maybe he haven’t seeing properly, maybe is a lot bigger than he thinks it is, but to him it look very tiny

LM – We will need to parking dimensions as well

JB – Why would give petitioner an opportunity to come back with a better plan with the building, it maybe gives us an opportunity to change our mind

JM – Agreed, he knows that petitioner will do a good job, as all he does, he doesn't have concern about that, so he thinks it will be a great idea to give petitioner another opportunity

AZ – This is another 355 issue, not a reinstatement. He would love it seeing to stay as a single-family but looking at the intention of 355 and it means to be looking for modification of substantially no detrimental than existing nonconforming structural. He doesn't see any changes on the nonconformity the nonconformity itself staying exactly the same, he just changing from one permitting use to another permitting use without increasing the nonconformity

MM – A two-family nonconforming structure is more impact than a single-family nonconforming, it is a substantial change – AZ – But, he doesn't see that nonconforming itself is not increasing and if the nonconformity itself is not increasing and them this is an alteration of right – MM – He thinks that Anthony needs to clear it out and talk to the Building Commissioner

LM – Here is her suggestion, lets give the petitioner the opportunity to come back with the items that we talked about, and meanwhile you could talk to the Commissioner about the 355

LM – When do you think you will be ready to comeback? – JP – He could be ready as soon the next month meeting

AZ – Motion on ZBA-2019-11 under §181.355 to **Approved the Continuance to June 11, 2019**

JB – Motion Seconded

Vote 5-0 to Approved the Continuance to June 11, 2019

ZBA-2019-12

Jackson Avenue Realty Trust

15 JACKSON AVE

8:20PM

Variance under §181.313D5 for outside storage appears to be a construction yard located in the Neighborhood Business District at 58/81/0

Presentation was given by James Papas and John Laveck owner of Builtwell Fence stating Beauty Supply had been on business for decades at the 15 Jackson Avenue and selling the property to himself and John who's been a long-term resident and business owner for 30 years in Fitchburg. He has been in John Fitch Hwy for the last 15 years, he wants to occupy the space at Jackson Ave., which is a permitted use to do that, the only thing is that he needs to do outside storage. So, we are asking is an outside fence area to go along the right side to the back side and across to the left side and back to the building where he can store the fences. The Building Commissioner's letter is talk about to be a construction yard, but that is for storage of building material. John and builtwell fence are an installer and seller of fencing, is an end product not a building material, so he disagreed on that. The area we are looking relief is that still is not a permitted use to have outside storage and if we look the natured of the street, we have D & D the Disposal and dumpsters, just pass that we have PJ Albert the paving equipment. This building has been occupying for years and the neighborhood would like to see continued to be occupy, John is the perfect tenant a local business that has been in town for years. If this gets approved the purchased goes through, if doesn't gets approved the purchased not goes through. The currently owner is retired and also John wants to relocated, the corner on the John Fitch is in the words is to be converted and is under purchased and sales right now to have something else, so those building would come down if everything goes well with them. And John is looking on other locations outside of the City of Fitchburg, which is something that we don't want to hear. So, we are looking for a relief strictly from storage of fencing material outside of the building which is area that we are requesting relief from. We would be putting up a nice duty privacy fence along of the property, the material that we are storage is job lots that coming from trucks sits the yard for three or four days and then gets brought to the jobs

Those seeking Information: None

Those in Opposition: None

Those in Support: Paul Gauvin of 44 Hemlock Dr., we just got through the sale of our business which we had it for about 65 years, and we were in Fitchburg business. It's been difficult for us to leave the business, but it was time for us to do that. We just don't want to see that building be empty, we would like to be use and back on life, we don't believe that Fitchburg needs another empty one

Mary Jo Bohart of Fitchburg Community Development stating she wants to recognize any Fitchburg business that we like to retain, so she thinks that fencing around the area where they want to storage those job lots, rather of the a chain-link fence and if they could install a decorative fence which obviously will cost more, but also will be come a visual example and it will be more attractive and curios to the neighborhood

JL – Will be nice the chain-link fence with the privacy slats is done on locations like this because are more adorable than a vinyl fence or something like that

LM – What type of fence would it be – JL – He is proposed a chain-link fence with privacy sleeps – LM – Okay
MM – Is the business in Fitchburg what you moving? – JL – Yes – MM – Are any other locations that you are consolidating in Fitchburg – JL – What do you mean – MM – Do you other business location somewhere – JL – No – Okay, could you tell us about what we are doing, does need TLC – JP – The area where John’s is moving in into is in very good shape, sprinkle, its needs pain job. The area on the right side is a lot older and we don’t know what are going to do with that, he can’t occupy that section of it – MM – Okay, so by looking at the building the left side into the rear is going to be the fence – JP – Exactly – MM – And on the right side you are going to find another tenant he would assume – JP – Right – MM – He always tries to put on the shoes of the abutters and try to understand the kind of impact that we are going see. Its going to be capping, notably – JL – Absolutely, they are all wrap, palleted job lots – MM – The product doesn’t seat there this is not going to be come outside storage like you finish a job, when you get some left over its going to through into a pile – JL – Well, we have a lot of inside storage for part and pieces that we are going to utilize for that, this is primarily use for the job lots that is moving – MM – Okay – JP – He also wants to make a point the condition of the building that he is now its looks like is disrepair because we been working on the sale for about a decade or more, when John first move in he gave him a tenancy will 15 years ago and 15 years later we finally sign a purchase and sale for the property. So, that’s why does roof looks like it does, and the property does, but at the new location is totally different set-up – MM – What about vehicles? – JL – There is plenty parking at there – MM – How many vehicles do you have – JL – We have 4 – 5 vehicles for employees and customers 2 – 3 at the most at the time – MM – What about your business vehicles? – JL – We have a couple flat bed trucks, nothing mayor there are one time trucks – MM – Okay – JL – And those will be park inside of the fencing area – MM – Again, we just are trying to visualize the construction yard thing, and being outside looking in the abutters, because the abutters are really the people who really are impacted – JL – When the business is close there will not be any vehicle or anything outside the fence – JP – And they close down for the winter as well

JB – How many jobs do you have one time going? JL – We probably 6, 8 or 10 jobs coming in – JB – How many jobs you have going that you are going have flat bed trucks coming in with pallets of fencing dropped off, so the next day you are going to put on the truck and go – JL – We gets them every three days or so – JB – So, you are not going complete fill of fence behind the fence – JL – We are moving them all the time – JB – Okay

JS – Just the display is going to be outside or inside? – JL – That is going to be located inside

AZ – He had spoke to Christine Tree after the last time this came up, we can sunset a Use Variance – MM – Okay, that’s going work

LM – Well our concerns are after is granted we are going to stuck with a construction yard there

AZ – You are not having those trucks coming in and out during nonbusiness hours, right? JL – Yes, it’s usually mornings – AZ – How early in the morning? JL – 9 or after – AZ -Week days or weekends? JL – Weekdays – AZ – So, basically you have not real heavy truck traffic, like weekend or nighttime or anything like that? JL - No

LM – What is the total number of the parking spaces? – JP – Right now we are showing are 6 at the front

AZ – On his opinion on that particular area having a fence with slaps will make look much more like construction oriented, he does understand his point, but at the same time and to be honest you are on the fencing business, so he feels like both for the unification of the neighborhood, but also like to show up your work, he thinks it should have something a touch and little better than that – JL – Well, this is a laminate silver, he could use something like black coated and have black slaps

MM – That will be nice, what about the front? – JL – We can put a nice vinyl fence at part of the front

LM – Hours of operations – JL – Our hours of operation are 9 to 4

AZ – And you said that you don’t operated during winter? JL – Right, we close down for 3 months

LM – Are going to have a dumpster on site? – JL – Yes, that is going again inside the fence – LM – How is your plowing – JL – Well, we close during winter, so he doesn’t really have to worry about it

MM – He is on favor of it, and he would like to have the project going and maybe having a 6 months review, let him go in there and them if we need to make any changes down on road

LM – Hours of operation are 9-4, right? – JL – Yes, those are our hours of operation, but employees punch in at 7AM – LM – Well, those are also part of your hours of operation

MM – So, 7AM – 5PM or 6 – JL – 7AM – 5PM

LM- So, how we will identify the vehicles which are? JB – Just 2

Hearing Closed:

Deliberations:

AZ – To address the findings he thinks that we find under the circumstances related to soil shape for the property land structure and not general affecting the zoning district, that will be a hardship if we enforce this littlely specifically the

character of this particular neighborhood which is already mix use industrial. It is the zoning as neighborhood business district is essentially unrelative at other zoning map. Also, for the Use Variance conditions specifically he does feels propose use is in the public interest both for the purpose keeping the property vibrant keeping the business in Fitchburg and keeping the area of the clean and neat. So, he thinks that not be a particular hardship to the neighborhood above or beyond that the neighborhood already dealing with all other business on the area, so he will be strongly on favor

JS – No questions

JM – He is all good

MM – Also good

JB – All-set, he like it

AZ – Motion on ZBA-2019-12 under §181.313D5 to Grant a Use Variance as a construction Yard with the following conditions:

1. **Sunset Clause: Use Variance shall terminate/expire upon the sale/transfer of the business/property from James Papas and/or Business Operation ownership from John Levech or Builtwell Fence Company**
2. **Hours of Operations 7AM to 5PM**
3. **Dumpster to maintain within fencing**
4. **Fencing to be erected as plan submitted with white vinyl across of the indicating section on the front and black coated chain-link with black slaps around the remained**
5. **Up to two one-time trucks store in the property within the fencing**
6. **Parking for 6 employees and up to 3 customers per plan**
7. **Any conditions from the Planning Board to be adopted as the Zoning Board condition**
8. **Six months Review November 12, 2019**

JB – Motion Seconded

Vote 5-0 to Grant the Use Variance with Conditions

ZBA-2019-13 Ruth Jeanete Guzman 324 LUNENBURG ST 8:35PM
Special Permit under §181.3561 to reinstate a vacant/abandoned building as a 3-family dwelling located in a Central Business District at 36/15/0

Presentation was given by Ruth Guzman and Emmanuel Frias real estate agent stating that they weren't aware or had any knowledge to the process

MM – Before we go down the road, he wants to let them know that the Board had seeing this property and it had been deny. So, just procedurally he think that the board needs to make a vote that we are going to be hear this again, at less the time is already collapse

LM – It has been two years yet? – JB – It's not

MM – Just couple things he wants to make sure to address before

AZ – Procedurally he thinks that stop of a prior rejection only applies to that petitioner not to subsequent owner, so he thinks that they are good on that – MM – Okay, he just wanted to make sure because there had been other cases where we denying things and them getting listed incorrectly, people are buying again and asking for the same thing as the previous applicant did

LM – Okay, if you could please tell us about your petition?

RG – Yes, she bought the property almost two years, but she don't understand the status of this property that she couldn't do anything with it. She would like to fix it and rented as 4-family dwelling, she doesn't see why she couldn't because we have plenty parking on the property

AZ – Just something little quick: Did you say 4-family and we have an application here for a 3-family – RG – Yeah, but that's because of the parking, but we see that there is a lot of parking available and we obtain a new plan as you can see –

EF – We obtain a new plan because when we bought the property we bought it as a 4-family and when we went to the City because we didn't know about the process in Fitchburg. They said that when a property is empty more than two years, we would need to start the process all over and submit an application to the Board of Appeals

MM – So, did you do your due diligence before you bought the property? – EF – No, we didn't – MM – Did you have an attorney? – EF – No, we don't – MM – Okay, so just want to set the stage, this property has been empty for years and the previous owner came before the Board and was deny. So, before we get too far because we are having a lot applicants put burning on this Board for not allowing them to do serve things, that you know that you didn't do your due diligence on this property – EF – What do you mean as an agent or the buyer? – MM – Either or

LM – Isn't the Board fault that you did do your homework – EF – He understand that, but when we went to the City to ask they just said that to submit the project to the Zoning Board and they will tell you what to do and what not to do – LM – But, you made an application that you were going to be here today for a 3-family dwelling and now you are talking about a 4-family. So, when we send all those abutters notifications we did send them out thinking that we were seeing a 3-family situation and now you are presenting that you want a 4-family – RG – Because she sees that is a big house is like a 4-family, it has 14 parking, it has 5-bathrooms and 17-bedrooms. So she can see that it can be used as a 4-family because it has plenty parking

AZ – So, for open meeting purposes due to the notices that was mention, if you would like to change it to a 4-family application? You would need to first ask us to give you permission to amended, but then you would have to push it out at least a month, so that we can re-notice the abutters. Because if you think about if you own a property and someone is looking to rehab a property next door, you may be perfectly okay if you thinking that they are putting a 3-family, but you may want come and talk to the Board if you know that there is going to be a 4-family. So, we would have to let the neighbors know, so they can have the opportunity to come to register their opinion on that – EF – So, what would do we need to do in order to apply for a 4-family? AZ – You can us, that you would like to amend, he can said for sure that it will vote for sure

LM – That's only to amend the petition, that's not saying that we are going to approve it. And then we would have to send back out to all the neighbors and put it on the newspaper again that you apply to add a 4-family and not a 3 – EF – Okay

AZ – If you do that he knows if you come back next month one thing that he is going to be wanted see, especially for a 4-family, but even for a 3 there is a floor plan as well, of how the rooms and floors are going to be layout, not just the plot plan. Because we are talking about multiple units, you said that there are 17 rooms

MM- Do you know that its will require Sprinkle System too – EF – Yes, we do know. When we bought the property as a real estate agent the guy who sold the property he knew the process and he said "Cash only". So, when you do something you would need to find a way to fix it and here we are trying to fix it and find a way to get there – MM – Well, he wants to tell you something and he is just a one board member, but he doesn't want the petitioner to waste their time and/or many. This property was ask for reinstate as a 4-family on the past and it was DENY. This house in its days when it was build was a single family home with a barn on the back and overtime it got shock-up, and that's why we are having a problems in Fitchburg because of the density. People buy a single family home and they make into multi-units, he was at the meeting when this first came in and he almost can ensure that he won't be looking favorably for a 4-family, so all he has said is just to give you the head-ups because he doesn't want petitioners to invest a lot of money and he prefer to be honest on his opinions

LM – What she could recommend is going back to Building Department, you can see Mercedes and you can go back and reads those minutes from previous hearing, so you can find some of that information

MM – At least the history of the previous owner case that who came before us – RG – He said that he had applied is was for business or mix used on the property, but we want to do is residential – MM – He asked for everything and anything he possible could

LM – Well, that's why she said to go back and ask for those minutes, because it has been a while and we couldn't remember everything that he had said

AZ – His initially proposed was a commercial, but he also had asked for extra and he is sure that the Board had turn that down too. Just give you a head-ups procedurally, if you know you got one vote against before you will need all other 4 votes on favor

LM – So, from 5 members vote you only can have descending vote, so everyone else would have to be on favor – EF- So, let me ask you one thing: If we proceed just for the 3-family home, could we still find out if this case can be approved? –

JB – We can't tell you that because we review case by case and based our decisions according to our book and what is the best interest to City. Therefor we recommended to go back and look the minutes from prior, so you can make your best decision on how you want to proceed – RG – But, if we keep the application as of 3 it will be easy?

LM – We can't said that – RG – So, what we would do? Because this house is empty is a beautiful corner, so what is the plan for this house?

JB – We don't know you owned – RG – But, she depended on the Board to be allowed to fix it, put it nice to be rented

LM – So, what you need to do, she has to tell you one more time because we need to move on is: She thinks you should may be ask for a continuance and you should go and read those minutes and decide what you want to do with this property and then you can make your application or amend your application – RG – Because she been at the City Hall many times been back and forth, she been asking for almost two years and losing money paying taxes, paying water and electricity

MM – But again that's what we are trying to saying to you; you said what I going do. You have to do your due diligent and see what you have the ability to do with the property – RG – But, it's that mean that it's lost, so nobody can do anything

LM – No, you can do something, it could be a single family a two family
AZ – Its, what it could be – EF – Could we proceed with our application as a 3-family tonight?
LM – Sure, do you have all the information this evening? EF – We didn't know what information you were going to be asking for and/or the regulation of Fitchburg. So, we made a plot plan for a 3-family and we already presented with the application, so we would like to at least make it as a three family – LM – Talk you if you want to move forward with a 3-family we could do that, she want the petitioner to make that call based on all it has been discuss
AZ – He would second on the chair person's recommendation, only because even if you would want to go with the 3-family, he knows and several of his colleges would like to see a floor plan in addition of the plot plan. So, we will ending asking you to come back next month anyway, so what you could do procedurally is to amend your petition tonight so we can notice everything then if you come back next month and you decide that you want to stick with a three rather than a four, we always can go down without re-noticed everything, but we can't never go up without noticed everything
LM – Just looking the plot plan and they supposed to be 9x18.1/2 for the parking spots and they currently are 18x8.1/2, doesn't indicated if they all are the same size

Those in Support: None

Those seeking Information: Michael King of 11 Hawes Street, just as a curiosity what was the previous petitioner wanted to do on the property? – LM – Can't answer you that question unfortunately it has been a while ago that we don't remember, but you can check the minutes and decisions at the City Hall as well those are public records – Mr. King – He doesn't know but just thinking about it and on his opinion it sounds like it going to cost the petitioner more money to convert it into single family than making it as a 3

Those in Opposition: Jay Bry Vice President of the Fitchburg Stated University and again would like to bring up the same point as before and our concern is the issue of density of that district neighborhood, so having property owners to work on those projects, but not increasing the density on those building would be great

RG – But, what she sees as single family with 17 parking spaces? She sees more like to have a 4-family, that's why she like it when she first saw it because that's was market as, and she sees all the parking and everything else

MM – So, he would paint a vision for you. 75 years ago there was a nice little single-family home two story and it had a barn and you could park your vehicles in the barn, and if see a black top on the back that was all grass. So, that's was use to look like and now here we are – EF – But, when we obtained, we obtained as a 4-family

LM – We do have to move on, sorry but we have more case to see – RG - Okay

AZ – Made a Motion to give leave to amend to a 4-family petition which can them knock back down to a 3-family on the next meeting, if that's the petitioner decided

JB – Motion Seconded

Vote 0-5 to give to amend to a 4-family dwelling petition **DENY**

Father more:

AZ – Motion on ZBA-2019-13 under §181.3561 to **Approved the Continuance to June 11, 2019**

JB – Motion Seconded

Vote 5-0 to Approve the Continuance to June 11, 2019

ZBA-2018-37 Craig Twohey 70-72 FALULAH ST 8:50PM

Review of a Special Permit under §181.3561 to reinstate a vacant/abandoned building as a 3-family dwelling located in the Residential C District at 141/28/0

Presentation was given by Craig Twohey and Kenneth Godfrey stating that pretty happy with the progress that we have getting throung, we have some bump on the road. Primarily we hire a guy which is a friend of us both for 40 years, he started the project and about 10 days later he found out that he has liver cancer. He is dear friend that we know him since he was 12 years old, he has two small children, so this has delayed our project. He has doctor appointments, he feels sick, and we have given him a large deposit to set the project, so it has slowed it out a little. But the project is about 70% complete right now and its looks great, he thinks as a 3-family in Fitchburg go, that is 120 years old we will be on the top 10% value quality product. All the plumbing is been taking and operated new, electric is been updated, all smoke detector, the 3rd and 2nd is almost completed. 3rd floor on Friday the carpet is going in, when you got to that point is almost moved in ready time, but next week we are started putting the carpets. 1st floor is little behind because again the guy is sick, so he

is finishing it up hopeful very soon. So, is a business we want to make money, but this is also our friend, so we think by next month it will be pretty much done.

Those seeking Information: None

Those in Support: None

Those in Opposition: None

LM – So, would you like to come back in a month or two on this project – KG – Well, he would like to set a site visit, just before the next meeting we think that we pretty much done – CT – We have the paving company came to driveway – KG - \$9500.00, not a welcoming bill – CT – They will coming as soon the weather is permitted, they said that next week the sun will coming out. The side wall he thinks it will look better if just repair and paint it – LM – Yeah, she thinks too. Not paint but seal coat

MM – That was his request and if you want him to look at it he will – KG – He can meet him there at any time – MM – He was there today and none of the conditions had been done yet – KG – It’s has been rain almost every single day – MM – Yeah, he got it, but he just making a comment – KG – He would love to come inside – MM – Yeah he will

AZ – Motion on ZBA-2018-37 under §181.3561 to Continue the Review to June 11, 2019

JB – Motion Seconded

Vote 5-0 to Continued the Review to June 11, 2019

ZBA-2019-01 Kenneth Godfrey 220-222 ALBEE ST 9:00PM

Continuance:

Special Permit under §181.3561 to reinstate a vacant/abandoned building as a 3-family dwelling with stacked parking spaces located in the Residential A-2 District at 121/11/0

Presentation was given by Kenneth Godfrey and Craig Twohey stating that he would like to request another continuance and he would tell what. At the last time he was before the Board was suggested to go for a two-family, he contacted the Building Department and they don’t have a problem with the two family. He wouldn’t need a Special Permit to reinstate it as a two family. He has two interested to buy it as a two family, so he is expecting to have a contract in the next week or so, and it will get converted into a two-family

Those seeking Information: None

Those in Support: None

Those in Opposition: None

MM – You or you are selling it – KG – He is going sell it to them and they are going to pay me to fix it

JM – You are going to be the contractor – KG – Yes

AZ – And they are very clear on the fact that it’s going to be sold as a two family – KG – Yes – AZ – He thought so, but he wants to be clear

LM – What is the extension of time you are looking for? – KG – To come back on next month agenda – LM – So, you want to be back on June – KG – Yes, if this people buy it the property will be close by next time meeting – LM – Okay, June 11, 2019 – KG – Right

AZ – Motion on ZBA-2019-01 to Approve the continuance to June 11, 2019

JB – Motion Seconded

Vote 5-0 to **Approved the Continuance to June 11, 2019**

4. MISCELLANEOUS

ZBA-2019-06 Makaman Enterprises, LLC 619 SOUTH ST

Reconsideration:

Special Permit under §181.5341 to add an additional wall sign to exterior of the building located in the Residential A-2 District at 130/1/0

LM – She wasn’t present on the previous meeting, so she thinks that Joe Byrne should run the heating again as initially happens

AZ – Would have to recused himself again tonight

Kimberly Porter property and business owner stating that she is seeking for Special Permit relief on two signs that are going to be install on the wall of the building. Her petition was already approved on last month meeting, but there were only three Board members and for a legal procedure she needs to obtain a minimum of four votes Board Members. Father more there was a typo error on the writing decision from previous meeting, where only indicates one sign instead of two. She recently purchases the property and moved here business to this location, so she needs these sign to advertise her business properly and bring new clients in.

LM – Recused herself as a chair, and would like to nominate Joe Byrne as chair

JB – We have heard this case on April 11, 2019, and he would like to bring it up for reconsideration

JS – Motion Seconded

Vote 5-0 to bring it up form reconsideration

JB – Now he would like to bring it up that this petition was to add 2 signs instead to 1 sign

JS – Second Motioned

Vote 5-0 to Approved the Special Permit for 2 additional wall signs

Continuance:

Review and Update Board of Zoning Appeals Application:

AZ – Motion to Update the Application until June 11, 2019

JB – Motion Seconded

Vote 5-0 to Continuance the Review and Update of the Board of ZBA

96 Ashby West Road

AZ – So, Norman Tucker came before asked for his variance for his garage and he guess on the application said, “Approximately 20 feet from the property line”. The plan itself shows that is 24’ or so, and ending with 11.5’ to the corner, but the Building Department it looks the text not at the plan, but he thinks that he already approve the actual proposal it should be a simple matter, rather than taking as new case or a reconsideration or anything. We should be able to say clarify the decision said that we meant to approve the plan that was presented. – LM – So, Amend the Decision because it was a clerical error – AZ – Right, or rather to rectify and read it differently than we did – LM – Okay

AZ – Motion to amend the Decision on ZBA-2018-52 Decision on September 11, 2018 to Specify that the Variance is granted as per plan submitted

JB – Motion Seconded

Vote 5-0 to Amend the Decision to Specify that the Variance is granted as per plan submitted

5. ADJOURNMENT