

AZ – Motion on ZBA-2018-37 under §181.3561 to **Approved** the **Review** striping condition #6 and amending condition #5 to read:

1. **All exterior deck, porches and stairs to be stained and painted**
2. **Front concrete stairs and walkway and on the right side to be replaced**
3. **Garage side and overhead doors to be replaced**
4. **Certified parking plan was submitted and approve at the March review**
5. **All prior conditions as having been met**

JB – Motion Seconded

Vote 5 – 0 to **Approved** the **Review** with the following conditions:

ZBA-2019-01 **Kenneth Godfrey** **220-222 ALBEE ST** **7:10PM**

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 they have an agreement on the property to be sell as two family, still on process and hopefully by the end of this month we will know for sure if the deal went through

LM – What’s the parking plant? KG – We have a parking plan as a three family – LM – Okay, is just so we can see it – KG – He has already spoke to the Building Department and they said that to make it as a two family just come to see them and we will go from there – LM – But she thought that the Board had told the petitioner to stripe the front ones. Or how are you going to do it for the two-family? – KG – He didn’t have it with him at the time – LM – Could you just mark those parking spots on the original parking plan, so we can accept it – KG – That’s is for a three-family – LM – As a two-family, so we will know what parking will be – KG – Well, as a two-family he doesn’t need the special permit and that’s his point – LM – Well, we want to make sure, because base on previous talking we had mentioned that we weren’t okayed to have at front – KG – Well, on that case he would get on hold of the Building Department to find out what do they required – LM – Well is going to be 4 parking spaces – KG – Right, and he believes that there are 4 spaces already, but let me confirm with the Building Department first and see what they want

MM – What are we here on this? He thought that you continue on this because you were thinking on selling it as a two family – KG – He is, and doesn’t think that he has a reason to come before to this board if he is going to sell it as a two-family – MM – Okay, so what is the Chair Person question: are you asking about parking? - LM - Yes – MM – For this case – LM – Yes, Putting it this way if his deal falls apart and he wants to convert it into a two-family, still wants to continuance converting it. Are you going to come back to us and ask to a three-family again? – KG – That’s a possibility, but he is not planning on this deal to fall apart – LM – Okay, but you said you didn’t know, you said that this deal could possible fall apart – KG – If it does, he would come back with plan for 6 cars – LM – That’s why she is saying if he withdrawn his petition – KG – No, he doesn’t want to withdrawal it yet

MM – So, you just should sign another extension and lets move – KG – Yeah, that’s sounds fair enough

JB – Good enough to him too

Those Seeking Information: None

Those In Support: None

Those Opposed: None

LM – So, at this point you don’t want give any information to the Building Commissioner about the parking?

MM – Well, we are not granting anything and – LM – Okay – MM – If something allow by the matter of right them we don’t have to put any input, because we can’t any conditions – LM – Alright, she’s disagree she thinks that the Board can

AZ – Please correct me if I am wrong: He thinks that we are hearing is that, if this deal does go through, he is going straight to the Building Department to expedite the process. This law just got through last year, which wouldn’t come through us and we couldn’t put any conditions on that – LM – Okay – MM – but are if they are more than fifty per cent of rehab – AZ – No, if they met the first set of conditions it doesn’t need

MM – We could talk through this all night if there nothing here tonight lets him go away do his thing get it needs to be and if doesn't work out he will come back to see us and them we can talk about it

JB – Great idea

LM – Okay, and how long do you want an extension for? KG – To the next month meeting –LM – Okay

AZ – Motion on ZBA-2019-01 under §181.3561 to **Continue** under agreement until **July 9, 2019**

MM – Motion Seconded

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

ZBA-2014-11

Sean Morrison

76 SUMMER ST

7:20PM

Review of a Special Permit under §181.313C10B to allow Open-Air Restaurant Sales located in the Residential C District at 70/30/0

LM – First call, no one was present on the audience for this hearing

LM – She haven't seeing this open – JB – He has – LM – Just recently – JB – Yes, as recently last week – LM – Okay, they always been on good condition – JB – Yeah

Those Seeking Information: None

Those In Support: None

Those Opposed: None

LM – We have some conditions on this

LM – Reads to verify conditions: Hours will be 11:00AM – 4:00PM Monday, Tuesday, Thursday, Friday, Saturday & Sunday – Wednesday from 11:00AM – 9:00PM – Friday and Saturday re-open from 9:00PM thru 2:00AM

One review – June 2019

Must be owner operated not leased – We don't know about that

No plastic or vinyl banners – there aren't

Not to be operated as a nuisance – We haven't get any complaints or any that we are aware off

Will meet all requirements from Building, Board of Health, Police, Safety and any other City Department as requested Special Permit will terminate/expire upon the sale/transfer of the business from Sean Morrison – Well, she thinks that there are two things that the Board can't decide on. So, we should follow it to next month

LM – Did we sent him a note? Secretary – Yes, we did, but for some reason we got return mail on it – LM – But he owns that building

AZ – Personally, he thinks if just for those place conditions, rather than building base conditions and we hadn't got any complaints about violations. He just assume move it – LM – Right but one condition we did said is not to be lease and we can't just assume if that Sean there

MM – Just move it to next month

LM – She thinks to have a continuance till July will be the best

AZ – Motion on ZBA-2014-11 under §181.313C10B to **Continue** on **July 9, 2019**

MM – Motion Seconded

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

ZBA-2017-10

JMC Apartments, LLC

234 DANIELS ST

7:30PM

Review of Conditions on a Special Permit under §181.3561 to reinstate a vacant/abandoned building as a 2-family dwelling located in the Residential B District at 77/15/0

Presentation was given by Jose Mendez stating that the project has been finally complete. What was left it was striping parking, siding and stairway and petition show some picture on his phone after completion

LM – Everything going good with the building? – JM – Yeah, he gets his rent and hopefully by the end of the year he will get wrap the whole top with metal – LM – Well, it looks better than it did at the beginning

LM – Any questions for us? JM – No

MM – Maybe we just reads the conditions and we can check if been satisfy – LM – Sure; condition #1 Review June 11, 2019 #2 Stain stairway to be complete at time of Review – No plywood or Equivalent #3 And parking to be stripe

MM – So, that stairway and all that has been stained? – JM – They talk about the part going down to the basement, which was the part he did plywood and that is the part that the Board wanted to see siding, that's done

Those Seeking Information: None

Those In Support: None

Those Opposed: None

LM – Board members any questions

JS – Nope

MM – He had the impression that we would going to have all that staircases – JM – All that is stained from previous and that was not what it brought up from the Board – MM – But all that is wood – JM – No is not, that's the original wood from the building, if you want to go back to look at it – MM – He was there today – JM – And he owns the building – MM – He knows he does – JM – The back upstairs all done and the only that was brought up here it was the stairs going into the basement and the stripe on the parking lot; also paving the parking lot. It was pave, the siding is done and striped. Eventually he would do more updates on the building, but he just can't right now. However all the Board was asked for is completed

JB – No

LM – She did have any questions either

Hearing Closed:

Deliberations:

AZ – He is good, he means that there are a lot other things that he would love to see done to it, he could, but as far those we put as conditions they been satisfy

LM – She thinks that was the end of it, she also thinks that as home owner he knows what to he needs to do

MM – Yeah, he did a great job, but specifically we did talk about the staircase being stain because the wood is pretty bad; but he is okay. He has been good coming many times

LM – She agrees

AZ – Motion on ZBA-2017-10 under §181.3561 to Approve the Review deeming conditions been satisfy and striking condition #1 to read as follow:

1. **All conditions had been met**
2. **Stain stairway to be complete at time of Review—NO PLYWOOD OR EQUIVALENT**
3. **Parking to be striped**

JB – Motion Seconded

Vote

5 – 0

to Approve the Review with Conditions

ZBA-2016-31 Active Life Health Care Management/Valdimir Giterman 783 WATER ST 7:40PM

Review of Conditions placed upon a Special Permit under §181.313B5 to conduct an Adult Day Care Center located in the Industrial District at 122/23/0

LM – Would you like to start reviewing conditions if you like? – VG – Sure, he kind the knows them by hart, since that he been on review many times – LM - #1 Plan for garden and vegetation was submitted on February 19, 2019 and was accepted. Everything is going okay with that? – VG – We find out that the building is not fully occupied and he spoke to the Fun Staff owner and they been wanted to do some work outside also to bring some neat appearance to the lot. We obviously wanted to do something as well just for making the business looks better, landlord has not been cooperating too much with us. In addition to this the building has been sold, the offer has been accepted and he also has talk to the new owner and he is basically saying that he wants to make the place great. – LM – When is the new owner happens? – VG – He doesn't know that part, because they have part of the lease was the letter of the first refusal on the business sell, so the owner of the building show them a letter with the accepted offer. He knows who the new is and he has talk to him. On addition to this they kind did a lot on their own, they found couple volunteers to clean up the space as show on some picture "Exhibit A". Did some painting with the owner permission, they a mirror on the back wall, so he is improving as much as he could because as a now we are king on limbo – LM – Right, you don't want to spend too much money if you don't know the status of it – VG – Right, and the people who volunteer they are willing to do some work outside for us as well, but with the sale of the building we kind the stuck on middle because we don't know what it will be permitted. The new owner of the building is also the business owner of "La Reina Bakery", and he knows that when he took the over that business they painted that side, so he really did try to make look that side of the building looks neater, so it seems to care about the building. So, he doesn't have full reason to believe that he won't take care the entire building. He feels like he can't really do his part on the outside of the lot, he has put some planting outside of his business entrance.

MM – So, the Bakery owner is buying the building? – VG – Yes, according with the offer papers he saw – MM – Okay – So, we are doing a little at our end, like this week we had control over this part of the building where we are, so we been doing some minor staff here and there with our cleaning crew, we asked them to clean the entire parking lot. They spend the whole Saturday day and did a lot of work

LM – Did the previous owner knew that you did the mirror in the back – VG – Yes

MM – Do want to give a couple months continuance, so that would allow the petitioner to get things settle with the new owner

Those Seeking Information: None

Those In Support: None

Those Opposed: None

LM – Well let's go through the list anyway and see: condition #4 Hours of operation: 7:00AM to 4:00PM Monday to Friday and 7:00AM to 2:30 PM Saturday – VG – Correct – LM – Nothing on Sunday – VG – No – LM – Okay, do you need to adjust those at all? – VG – We may consider to open Sundays, maybe in a couple of months, so if we can adjust that. He doesn't know how big of a deal is to do it, we may open-up same as Saturday hours – LM – Well if we are giving a continuance probably till September. Would you like to changes those hours them or doing it now? So, you would know more for solid plan – VG – Let's do it now just in case – LM – Okay, and what are you looking for? – VG – The same hours as Saturday – LM – 7:00am to 2:30PM – VG - 7:00am to 2:30PM – LM – Okay, so you said you need couple months so you can come back on September – VG – Honestly he doesn't know what he can do at his part with the parking lot and/or the building. He knows that the Fun Staff owners they want to do something to the parking lot, but apparently they kind have some roofing issues that they are dealing with and with the new owner they put that on hold. He just feels if he does something in front of his building its not going to look nice because he thinks that the landlord needs to take control over the whole parking lot, because if he start doing his own things and the Fun Staff do theirs, so we start doing blue and they do green and the owner does something else. That's why he wants to keep it just small, so it would matter what the landlord is going do, his planning are going to be in small containers.

MM – What's the Board opinion on have the petitioner come back on April? We all know that he has done very good job and everyone there are doing good job, because the fall he doesn't thinks that's a good time to start landscaping – AZ – Well he thinks that's still mostly summer, but his concern is just that when we put condition #1 in placed on the first place, if he recalls that correctly that was with the sore of cooperation of the prior owner. He also thinks that the petitioner is right, he is not sure if the Board can really full him to do a particular beautification plan in the absent of an agreement from the owner and the owner is not in front of us, so we don't have any power to place conditions on him. So, personally he would say that giving the "A" that the petitioner had meet a very clear effort to do everything that was ask to do and more. "B" we have decent evidence that the new owner is likely to maintain the property in good condition

LM – Her suggestion is to move this case to September and hopefully the transaction is done, and the new owner can come and make some commitments with us. And that will help the petitioner a long way too – VG – He could, but he only concern is that because last time when he did not know about the sale of the building, which he try to get the owner into the hearing because partially he doesn't want to beautified the parking lot without a consent and pay for it – JB – He totally understand his reasons – VG – From the last review he has tries to bring the owner in and try to work together, but he just hasn't cooperate at all – LM – But that was the last owner – VG – Yeah, but he doesn't have control over the new owner and may just going to say that he doesn't feel like – LM – Well, that's okay if you comeback on September – VG – Okay, he is just trying to be open with the Board and make things clear – LM – Yeah, we understand and we would like to give him our picture of what we would like to see, because that's a gateway into our City, so we like to tell him what are our expectations are beautifying that exterior – VG – He totally understand what's the Board coming from, all is he saying is that he doesn't have control over it, he is going to be glad to be in September meeting

MM – kindly invite your landlord, that's all

LM- She can recommended that when our secretary send out to make a note to the new landlord joint us at the meeting as well

AZ – He would suggested to be noted on the record that if for whatever reason the new owner is not cooperating or the sells doesn't go through them we give the condition to be discharge at the next meeting – LM – We will deal with that when it's come, but we can note that on the minutes

AZ – Motion on ZBA-2016-31 under §181.313B5 to **Amend** condition #4 and #5, and to **Continue** the **Review** to September 10, 2019 with conditions:

- 1. Plan for garden and vegetation submitted on February 19, 2019 has been accepted**
- 2. Per plan submitted previously**

3. **Not to be operated as nuisance**
4. **Hours of Operation: 7:00AM to 4:00PM Monday to Friday 7:00AM to 2:30PM Saturday and Sunday**
5. **Review September 10, 2019**
6. **Sunset Clause – Special Permit will expire/terminate upon the sale/transfer of lease or in the event that such as lease is unable to be negotiated with Active Life Health Care Management.**

JB – Motion Seconded

Vote 5 – 0 to Amend conditions

ZBA-2019-14 Miguel Costa 44 GLORIA AVE 7:50PM

Special Permit under §181.355 to erect a 28' x 24' garage with attached mudroom and a 12' x 20' deck leaving 34.8' to the front yard and 25.3' to the rear yard property lines located in the Residential A-1 District at 156/20/0

Presentation was given by Miguel Costa and Laura Paquin stating that they are looking to build an addition to have an accessible bathroom for her mom, and a large garage which eventually will have a ramp because sometimes she needs wheelchair right now she is able walk. Currently is dangers for her to go downstairs and she also can't walk on the grass at home, so that will help to keep her out in the yard. The house that they had in Fitchburg they just sold in the fall have a ramp on the front and a deck on the back, so she we were able to take her in and out and in case of emergency is very difficult to take her out. They been reside in Fitchburg for over 35 years and owned a house on Shea Street, which is more accessible to Mrs. Costa, but it was very hard to maintained due to the property dimension. So, now we are just trying to make this house more comfortable and to provide a better quality life to Mrs. Costa. Planning to install like a handicap ramp so his wife can enjoy life

Those Seeking Information: None

Those In Support: None

Those Opposed: None

MM – Don't have any question

JB – He doesn't have any questions either, Michael and he visited the property and it should be done for her

AZ – No questions, he thinks that this case it seems very straight forward

JS – No, no questions

LM – So, for the facade of the property and the addition is going to be keeping with the rest of the house on the neighborhood – LP – Yes, absolutely will be keeping with the rest of the neighbor house – LM – She doesn't really have any questions or problems with it, the neighbor next door to the right it has a 2 car garage, the one father to the right has one car garage and across street. So, is definitely going with the rest of the neighborhood

AZ – Is the deck cover? LP – No

Hearing Closed:

Deliberations:

MM – He thinks it does meet the criteria, he only wants to understand better and has a question about the deck we are changing the setbacks on the rear right? AZ – Yes – MM – Just wants to make sure that we do this right, so what section under 181.355 what are we referring into specifically – AZ – The subsection of the 181.355 are conditions for the Building Commissioner to look up and if it meets all those conditions, so is not deems to be increasing non-conformity and it doesn't need a Special Permit. If it's only encroaching one level of those condition them will come to us, and the only one we need to look up is the one on number paragraph at the bottom it says: The proposed modification will not be substantially more detrimental than the existing nonconforming structure – MM – Okay, perfect and thank you

LM – Any conditions that the Board thinks? – MM – No, he thinks it should be approved as plan submitted – LM – Great, agreed

JB – He is all for it

AZ – Yes, the front setback is just to keeping the existing nonconformity, the rear setback is only adds a couple of feet's because the uncovered deck doesn't count for setbacks. So, we are only looking for a minimum nonconforming

LM – She is also agree with everyone else and it meets the Special Permit criteria

MM – Motion on ZBA-2019-14 under §181.355 to **Approve** the **Special Permit** as requested per plan submitted

JB – Motion Seconded

Vote 5 – 0 to **Approve** the **Special Permit**

Variance under §181.961 to construct a single-family dwelling with less than the lot width required by section §181.414 for a Residential B District at 68/11/0

Presentation was given by Brian LeClair and Nick Pauling civil engineer stating that he is represented Mr. LeClair and we are here asking for a Variance relief for the minimum lot requirement. What we have is a parcel as you can see on the plan and is a parcel on west side in the Fisher Road, the lot was original created on 1921 on the middle of years stays on the family. A small part has broken out the last shock of land that was broke out was on 1978, when that was broken out what happened is creating a narrow on an existing property which is 19.5 feet. This area from Fisher Road goes down and slope down and it's a wet land area. He spoke with the Building Inspector and the triangle portion qualify as far as area lot shape it has a buildable area, but unfortunately we can't put a house up there. So, we are proposing is to put a house father back on the up-land portion of the property, however the way the lot is requirement from the Zoning we have to maintain the minimum lot front the frontage through the property to the front face of the dwelling, so what happen is that the existing narrow on 1924 doesn't comply to it, so that's are we asking for

Those Seeking Information: Lloyd Wentzell of 176 Fisher Road he has been living there for 12 years and he was told that this is unbuildable property because of the wet land, so basically, he is on opposition too because all those trees that they are going to tore down will affect the neighborhood surrounding. Unfortunately he is not a lawyer so, he doesn't know how to fight a case like this, but this propose it doesn't make any sense to him

Christine Fagone of 162 Fisher Road living here for 11 years and she is also an abutter and she is also against this petition there is a very wet land. She is not sure how are they planning to create the driveway, but she doesn't thinks that this petition is a good idea, as far as she knows during the spring time there is at times water or small stream that runs from Richardson Rd., through the proposed lot site and down to a pond on the land of Bryan LeClair. Do you know where are they planning to put the driveway? LM – Is not on the plan, do you know that information – NP – It's not on the plan on the application, but he can said that they own a property to the north, and the Special Permit that we will refer to obtain a common driveway is of Ashby State

Rusell Foster of 115 Ashby State Road he been there for 25 years and if the Board approves this is going to cause a lot of damage to those existing house. He still gets water on his sala. His question to the Board tonight is: If you granted the Variance tonight what is the next step? If you grant a variance does this person has the right to just start building, or does this person has to go to planning and also has to go at front to Conservation? To him this petition it most has to go to conservation – AZ – We have a letter from the Building Commissioner and does affirm that it needs a Variance from us and also need Special Permit from Planning and the from Conservation. So, basically the issue regarding Conservation and engineering that been identify those would be doubt by other city bodies, that is not what we will do -RF - Right, he figure, but he is totally agree with all his neighbor and he is at opposite side, but this is not a buildable lot, and he is here because he wants to protect his property

Those In Support: None

Those Opposed: None

LM – Would you be putting Septic or Town Sewer? – NP – Town Sewer

JS – She doesn't like it, she doesn't think is buildable

MM – These two lot you purchase together – NP – That's correct – MM – Okay, and is there a house on one of this – NP – No, that's vacant piece of property as well – MM – So, both piece are vacant – NP – Correct – MM – And you got frontage on Ashby State, and how much. You can throw a dart, its 100 or 200 – NP – A little over 52 – MM – And both lot purchase simunstanlly – NP – Yes – MM – So, is no house here, no house on any of the property that you own here – NP – No, they are vacant piece properties – MM – But you are looking for a common driveway – NP – Nope, we are here asking for Variance for lot requirement, and what we want do is to build two house on two individual parcel – MM – Okay when you said a common driveway that's why he asked the question, but he understand why they are here – NP – 100% Agree, and the common drive will only come into place if the Variance is granted – MM – Okay

AZ – So, speaking briefly about some mandatory conditions for the Variance, are you familiar with those or you want him to read them off to the petitioner? – NP – Please read them – AZ – Mandatory findings. Before the grant of any variance from the requirements of this chapter, the Board of Appeals must specifically find that owing to circumstances relating to the soil conditions, shape or topography of land or structures and especially affecting such land or structures but not affecting generally the Zoning district in which it is located, a literal enforcement of the provisions of this chapter would involve substantially hardship, financial or otherwise, and that desirable relief may be granted without substantial

detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter – NP – So, this lot has been deemed unbuildable lot by the Zoning enforcement officer, haven't the minimum required frontage and lot area and also has a shape and existing shape which prohibit to place the house in the desired location. Due to the other factors, soil specifically in the front area that is not deemed large enough when you apply the setbacks, soil prevents us from putting the structure there, that's why we need the Variance to put it elsewhere. So, what happens if you deny the variance you're making what is being deemed a buildable lot unbuildable, so the hardship will be that we will be losing a buildable lot

JS – If the Building Inspector said it is a buildable lot you weren't be here looking for a Variance, so that's not a buildable lot – NP – So, variance was requested the width from minimum required lot to the proposed building location – JB – So, is not a buildable lot because you are seeking a variance

AZ – He thinks what he is saying is a buildable lot meets all the requirements, but he wants to put the house here rather than over here, and the location he could build without the Variance is not a desirable location to build – JS – And you've been paying taxes as buildable lot? – NP – Not aware – LM – She thinks it is unbuildable when she looks at it up

JS – She is disagreeing that it is a buildable lot

MM – He looks at it as not a buildable lot because it needs a variance, at least you can tell me that it is a buildable lot without a variance – NP – Is it a buildable lot – MM – without a variance – NP – Yes, meeting the requirement of the zoning bylaw – MM – Could you explain how – NP – We could put the house up on the triangle – JB – On the middle of the wet land you are going to build a house – NP – That's a conservation issue not a Zoning issue – JB – It is when you are dealing in his City and sitting in front of his Board, it's his issue – MM – Okay, so you just said it is a buildable lot and you can't put the house on that specific location – NP – In compliance with the Zoning by Law which are enforced by the Zoning officer – MM – Okay

Hearing Closed:

Deliberations:

JS – She doesn't think that's a buildable lot and doesn't believe it meets the criteria for a Variance

MM – Listening to all the information and he doesn't feel that it meets all the criteria for Variance under 181, the applicant demonstrating that they have the ability to build on the lot, there is not hardship demonstrated financially or through topography

JB – He is agreed with Michael

AZ – So, we need to be clear on what we are desiring versus other board desiring. So, he wants to mention that all decision we are making is based on the variance on the lot, so as far as hardship goes, it will be hardship to locate the house in the place that they could locate it without the variance because it will require significantly more engineering to place on the wet ground on that. So, he sees a hardship and he thinks it is really clearly related to the soil and the topography, but he is not saying it is a good idea. However based on all the information and findings we collected today he thinks it meets the requirements and he will be on favor to grant the Variance

MM – Motion ZBA-2019-15 under §181.961 to **Grant the Variance** as requested

AZ – Motion Seconded

Vote 1 – 4 to **Grant the Variance**
Variance **DENY**

ZBA-2019-16

William Thomas

0 HIGH ROCK RD

8:20PM

Appeal to Overrule the Building Commissioner's decision to deny a building permit for a single family dwelling due to a previous zoning merger under §181.9223 in a Rural Residential District at 79R/40/B1

LM – The petitioner had asked for a continuance on this petition until July because he was unable to attend tonight

AZ – Do we have a written request? – LM – Yes, we do

MM – Do we need a mutual agreement – LM – We can't they aren't here

AZ – Motion on ZBA-2019-19 under §181.9223 to Approve the Continuance to July 9, 2019 under agreement expressed via email

JB – Motion Seconded

Vote 4 – 1 to Approve the Continuance to July 9, 2019

ZBA-2019-17

Efrain O'Neil

23 SUMMER ST

8:35PM

Special Permit under §181.3314 to preserve a storage of shipping container next to the driveway located on Industrial Zoning District at 57/7/0

Special Permit under §181.3314 to preserve a storage of shipping container next to the driveway located on Industrial Zoning District at 57/7/0

Presentation was given by Efrain O'Neil and Brandon O'Neil stating that they got notify about having a shipment container, they had the shipping container from about twelve years ago. They never had a complaint or hear anything about it, until they received a letter saying that it's an illegal to have it on site. On the letter also suggested somethings that they could do like to obtain a special permit to keep it, they were considered to build a fence to cover it up, this is something that they use to keep their tools since that they both are professional builders. This is a historical property building and they try to keep it as it is

LM – Are you running the business from there? EO - No – LM – So, if you are willing to build a fence, how could you do that because that's you parking area? EO – It will be right behind the parking area, they measure it and is about 30' feet from the sidewalk or even more, so they have plenty of room to build the fence. Basically, they can wrap around and maybe painting it. they really appreciate that is a historically property, which is why they try to keep it look neat, and they understand is one main street, so they understand that for people going by seems the container it could be an eyesore. they are really willing to comply with anything that it make Fitchburg looks better, and over the years they try to keep the property as clean as he could, that's why they obtained the container because they don't have a garage, no storage, nowhere to put their tools.

LM – It this storage container is a temporary? EO – No, they want to keep it. If anyone wants to visit the trailer, he could open it up, so you can see how organize it is – LM – And you couldn't do that with a shed? EO – No, for the tools they have it can call industrial ladders and many other tools and behind the property are industrial properties, so, we don't think it will be detrimental to the neighborhood

Those Seeking Information: None

Those Opposed: None

Those In Support: Deborah Lafleur representing Moran Square Realty, we own a property that is adjacent to the petitioner property and we know them for a long time, we been neighbors for very long time and we are not oppose to the petition – LM – So, you on support on the petition? D – Yeah, she is not against them, but if have it fence and clean it out because their property is a beautiful property – LM - But you are agree that is not the most beautiful thing in the neighborhood – D- Well, she had driven hundreds of times and never really focus on the container myself. But of course, she is interested in to see the neighborhood improvement

MM – Your property has lines, and your neighborhood has lines -BO – That's correct – MM – These are residential properties and they are historic building and he can't pass and allow this to be there he really can't. He has gone by the property for years he goes by almost every day, for many years was a lot construction material storage outside, so it's a gateway and we are trying to make Fitchburg a better place. He is more on favor on a garage on an architectural structure, but an industrial box and we have two of them that body each other. He really would like to see a better methodology, you are on the business and he understand you need to be running your business, but you almost sounds like you storing stuff for your construction on site – BO – Isn't exactly a construction because we are not doing big houses – MM – He knows and he understand, but again he has gone by the house many times and heard so many people comment about those shipping containers. Its residential property, what always do he pretend that he lives next door to any case come before the Board and he definitely not want a container on a property abutter of mine, because is devalue its. And you made a great presentation with regards with the fence, but you are not going to be able to hide that. - EO – He believe that's on your mind not what you see – MM – Is an industrial box on a residential property – BO – What if not visible to the public – MM – He is just trying to give some feedback that is going to be another ways to obtain what you need for storage

JB – He doesn't have any questions; he just doesn't like that idea of those containers on those properties – EO – The next-door neighbor did mention that he is may read of it – BO – And unfortunately he does a lot of construction, he goes to Boston every day and unfortunately he brings a lot of those material back to his property

MM – Just that he can get a perspective if he is looking the two house yours is on the left? BO – Ours is on the right and is mostly cover up by the trees. The neighbor is the one is red and is 100% exposed

LM – So, just to clarify that on the agenda it said that this property is in the Industrial Zoning District, but on the letter doesn't indicate that. However, because we are talking about a residential use property

AZ – Well, if we don't it on the letter, we would have to assume what the agenda says is correct about the Zoning District – LM – Well, that's is just the agenda. The agenda is not findings – AZ – No, he just means that we don't have any other information to verify to make the decision – LM – She doesn't thinks that we don't need to address it – MM – And even the house is in Industrial zone the use is residential – LM – The use is residential, it's a 2-family home right? BO – Yes, two-family

JS – As a Michel saying to the zoning again, there are zoning district begins and then ends. And she think that there are by-laws and if the Board allows it, there will be others looking to have the same equipment industrial equipment to have on the residential properties – BO – We complete understand, but we have it for so long – JS – right, feeling that it should be grandfather in because you have this use for that long, and she's not necessary agree with that, but she thinks they could look into that – BO – Just don't know what we could use to save his materials – JS - As the Chair says there are Sheds, there other material other architectural structures that can be used to replace this industrial equipment

LM – Maybe you could find a location where you can keep your work equipment – EO – That's why we been trying saving money not pay against a rental, he can invest into the house to make it more beautiful, and make more beautiful and acceptable for the City. And that's what he been trying to do, is hasn't been easy to make the house look 300 years old, every time to replace a piece of wood to make the same way that they use to make it, that's take a lot of time and tools. But if he has to pay for this and other expenses, and if the property goes down you are not going to help us with that – LM – She has renovated a lot of properties and she understand where petitioner is going

AZ – First of all, how long has been there? He knows that it was mentioned before but what to confirm – EO – 12 years –

AZ – Ashly that's a legal non-conforming them, 10 years is the period for that. It state on the book that anything that has been non-conforming for 10 years or more without enforcement action on that time period become legal non-conforming

– JS – Well, let's said them if that's the case we would like to see some proof – AZ – Totally agree that we would need to see proof – BO – Sure – AZ – The other question is how tall is the shipping container? – BO – Shipping container is a little over 9 feet - AZ – Nine, okay that will require a very tall fence, and that will require a variance – BO – Can we get a permit? – AZ – You will need a variance, so that's the right way to go, but he gets what they are trying to do

LM – Well, we all get it, but that doesn't mean that we like it and it's good for the neighborhood. What we have to think about is what not always good for you, it has to be good for the entire neighborhood – BO – Which is hard to understand, this is why we were looking for this alternative – She thinks that there are other out there, but you should explore on. Anyway, she is only one board member

LM – We are going to close and deliberate; do you have any more to add? – BO – Yes, the whole 10 years thing if we can demonstrate that will solve that?

AZ – Well, that's completed outside of our restriction at this point, if that will prove it, you will need that particular aspect of the zoning code. Can't be enforcement now – BO – And depending on how things are going and if we have proof then what will be the actions – AZ – We will have to figure it out, but on tonight petition we will give you an answer in just few minutes

Hearing Closed:

Deliberations:

MM – He is a resident like the petitioner, he also has and old house, and he knows that he does a great job on the house and he appreciate it as a resident. Both properties have these containers and if we start granting them, we are going just keep seem it in the City and is a residential neighborhood it's a gay way, which is very important, we are trying to improve the gay way. And if it been there for 12 years, it shouldn't been address when it was put there. Petitioner should go to the building department back them; you have the logy of have it there for 12 years and he thinks that the Board has to look up what is the best for the City. So, he apologies, but he is not on favor of it

JB – He can't get over the idea that is part of his business, even that he only has his tools in there, still is part of his business. He should get a shed for his business

AZ – He thinks the Board should continue this case because he thinks he doesn't still don't know if the 10 years applies on this case, if it is the 10 years applies we wouldn't have choice – MM – That's your opinion – AZ – No, that's the law

MM – So, if up to the Board if we are going to make a vote tonight, but if you have that question. Did you talk to the Building Commissioner ahead of time? – AZ – No, because he wasn't looking up that after, he is not asking overruled his decision, he is saying this is an aspect that was not mention on the application, but now that we know it, it is irrelevant to

look to it – MM – So, we have a case before us tonight and he would like to vote, if the applicant feels that they are allow them they can reach out to Building Commissioner themselves. And keep on mind that this is not a structure, so we will let the Building Commissioner decide – AZ – That’s the other concern from him, what’s exactly this should be consider – MM – Well, let the Building Commissioner enforce it correctly – LM – Is not permit structure – AZ – Right, but also is not exactly storage and is not exactly parking – MM – It is a storage container that been store on the property ML – it will be like a shed, but it is been built on the front of the property that they would have to get a Variance from us, if they wanted to do that – AZ Well, if they meet all setback requirements, they wouldn’t

MM – So, can we move to vote tonight and if they have some other avenues or questions, they can talk to the Building Commissioner

AZ – Well, he doesn’t feel that he has enough information to make a decision – LM – That’s your opinion – AZ – No, he is just trying to see it fully, he feels if the Board were deterrent. He doesn’t even know what the application is for, what is the Special Permit for. Until he doesn’t know what is he doesn’t feels that the Board should vote on it – JS – Well, we should refer to this section 3314 – AZ – No, that’s what Mark said – LM – and that’s we are here to vote on it – MM - It says it right here proposing to keep an existing shipping container on the property – AZ – But that’s not an actual action, it says looking for Special Permit, but we need to know under what criteria – MM – So, are you prepare to vote or not? – AZ – Okay if we look at it 3314 then he thinks that the Board could vote on that, but he really, he wants to know what a shipping container is. Because if does come before us more than once and it doesn’t feet on those definitions, he wants to feel comfortable doing it right

JS – She doesn’t think that if an Industrial Zone it’s not the point is the use is a Residential

MM – Motion on ZBA-2019-17 under §181.3314 to Grant the Special Permit as requested

AZ – Motion Seconded

Vote 0 – 5 to Approve the Special Permit
Special Permit DENY

ZBA-2018-21 FBC19-62, LLC 126 PACIFIC ST/183 CEDAR ST/191 CEDAR ST 8:50PM

Continuance for a Reconsideration:

Appeal to Overrule the Building Commissioner’s Decision for the need of a Special Permit from The Planning Board under §181.752 in a Residential B District at 13/51/0, 13/50/0 & 13/48/0

LM – City Solicitor Atty. Pusateri asked to be contacted by so he can participate via phone call. So, we just call your case and it may be okay to put you on speaker? Atty. Pusateri – Yes, do you have the settlement – AZ – The settlement yes we have it on front of us – Atty. Pusateri – Did you have time the review it – LM – Can you give us an overview of what has change if anything since we agreed – Atty. Pusateri – Basically was an agreement – LM – So we have planting on the left front, we have also on the corner on the same side it’s also a ground cover in front – Atty. Pusateri – Yes, so if you start from the back to the front, so on the left hand side the property line there will be a curb side from the street way. So, we are going to leave the first parking spot open to leave enough room for the event of an emergency to leave 8ft open for access driveway. on the right hand side from the property lines is enough room for side walk and snow storage – LM – Yes, that is correct 8 feet wide from the his frontage drive way – Atty. Pusateri – Snow storage area is going to be ground cover and landscape that and that will help with drainage water off the parking lot away from the neighbor on the left hand side from the rear who was afraid about it. Parking spaces are going be gravel because of the cost, and them he thinks that’s also going to help us. Access to the rear lot of the building on the back is not parking for that building, also creating some off street parking for that building he thinks that help the City. No haven’t a share driveway zoning rules that solve a problem. And there is a lot snow storage toward to the other property we took some of those parking spot away to create a lot of snow storage area and there should be some landscape on roll stone area. So what would be do put that on for review and you may want to add to this petition a settlement agreement doesn’t matter is going be review by Zoning Board after the construction is complete – AZ – He would like to see it on review on the Zoning Board he is unclear what would could do as a review because we are not granting any permits o variance that it could be revoke – Atty. Pusateri – That is a good question – MM – Well the green space needs to be done and we are seeing a lot of case where we are granting something with conditions and the conditions hasn’t been satisfy, so what we been doing as recent is put a condition in that the permit not be granted until the work is done, but he doesn’t know how would you be handle this case – Atty. Pusateri – Surely it could be something like perhaps a review just to put it for a review and if a lack of review, or if we don’t get a kick out of it and a worse scenario bring him back and have him explained why he did do what he was agree to do so – LM – Well, all our conditions needs to meet and they have to be fully satisfy – Attn. Pusateri –

MM – Petitioner has done a good job; we know that it been a difficult project but he thinks at the end is going to be a good for you as well for the neighborhood and hopefully the next one is going to easy

JB – Good ready to move

AZ – Good he thinks that just to put in the review and good to go

LM – She is agreed and she is happy and she thinks the review for September give him a little be of time so he is good to go, as least that you want to come back next month but she thinks that it may be tide for you – RF – September is good

LM – So on September we are going to be looking on your parking so make sure that you got the 9x181/2 on both spots, so if you need to do whatever you have to do in there to happens – RF – Yeah, and he also has another question is he could you gravel there – LM – Is any grass there – RF – Yes there is grass – LM – She is okay with gravel and it may also it would be good for drainage

MM – How far is the neighbor behind you – FR – Very close – MM – What is the space that you don't want pave? – RF – The rear – MM – How about those on the front – RF – That's pave – MM – How about the driveway going back – RF – That's pave so is just will be just those two spots

JB – Well, he thinks is will be okay for drainage but thinking a long way, when the fall and those leaf come down

AZ – His concern is that when in wintertime that if a rock goes deep on the ground and someone wants to turn around and the wheels just spin there

MM – He is good totally on favor

AZ – Motion on ZBA-2018-23 to Approve the Review amending conditions #1 to add word with asphalt after the word pave and amending condition #3 to read as follow:

1. **Parking to be paved with asphalt, striped and accordingly assigned**
2. **Second floor not to be occupied until 3rd floor unit is decommissioned and approved by the Building Department**
3. **Review to September 10, 2019**
4. **Floor and final certified parking plan to be submitted at that time**

MM – Motion Seconded

Vote 5 – 0 to **Approve** the **Review** with amended conditions

ZBA-2019-11 Jackson Avenue Realty Trust 95 CLINTON ST 9:10PM

Continuance:

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

LM – First call, no one was present on the audience for this hearing

LM – She would like to give them an opportunity, them always been very good to comeback and maybe to put them last on the agenda in case he has no interest in coming back

AZ – Do we have an extension from the last time? – LM – Yes, we do – AZ – Okay

MM – Motion on ZBA-2019-11 under §181.355 to **Approve** the **Continuance** to **July 9, 2019**

AZ – Motion Seconded

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

ZBA-2019-13 Ruth Jeanete Guzman 324 LUNENBURG ST 9:20PM

Continuance:

Special Permit under §181.356 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, Emanuel Frias and Anthony Quiles construction Consultant stating that at this time they have obtained property plot plan with a better accrue parking plan and floor plant for the all three units. Anthony after doing his research from the previous owner was trying to get a mix use, but he fails to provide adequate parking according to the City Ordinance. Current owner was trying to get a 4-family, but he also contacted the City Building Department and after his research we are agree that a 3-family will be the best fit.

AZ – He just wanted to say that we recently did an approval where we expressed said that the property not be sold or transferred until all conditions had been met. So, that the permit would be got hold otherwise would be like the permit it never granted. So, his thought on this is, 2 one-family will be beautiful and ideal, but practically speaking and that particular location he is not sure if anyone is going to be able to get the rent to justify that remediation or just you just to have it sitting there until it goes into a tax title or we are going to have to let it use for something that is not entirely what we see is optimal, but it is better then what it is proposed right now. And his though on the assurances is, if we granted and specifically said that it can't be transferred until our conditions are met. Only two things can happen: Either our conditions are met. Or it sold and transferred on violation of the permit in which case the permit is void.

LM – She is going to be completely honest on this, she is not on favor of the 3-family

MM – He doesn't think any Board Member are, and we need to understand what is truly is going to be done on this property.

LM – Is anyone else is not on favor of this petition, because if that's the case we are just spinning our wheels here for no reason – MM – You right. How are we get an assurance of renovation, some level is going to be done, he doesn't know if the board can mark that as a condition. His other idea is to have this case to continuance, and they can present a list of what is going to be done on the property. If you going to be replaced the roof, windows, put that on the list and comeback to us and we put it on the condition, and it will get down

AQ – That's sound reasonable

LM – So, would you like to continue to July or September? AQ – July

AZ – Motion on ZBA-2019-13 under §181.3561 to **Approved the Continuance to July 9, 2019** at which time petitioner to submit a revise site plan and a propose renovation check list

JB – Motion Seconded

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

4. MISCELLANEOUS

5. ADJOURNMENT