



ZONING Board of APPEALS
166 Boulder Drive
Fitchburg, MA 01420

Note: THIS WILL BE A VIRTUAL MEETING. MEMBERS OF THE PUBLIC THAT WISH TO OBSERVE THE MEETING CAN GO TO:

<https://attendee.gotowebinar.com/register/7812260321113672974> +1(213)929-4212
PERSONS THAT WISH TO PARTICIPATE PLEASE EMAIL mmata@fitchburgma.gov

MEETING MINUTES – TUESDAY JULY 14, 2020
MEETING TIME: 6:00 PM

- 1. **Call to Order** LM PLEDGE OF ALLEGIANCE ALL
- 2. **Communications** LM ATTENDANCE: Lauren McNamara, Michael McLaughlin, Anthony Zarrella, Joseph Byrne, Brian Gallagher & Greg Babineau
- 3. **ABSENT:** Jeanne Survell
- 4. **Hearings**
- 5. **Also, in attendance:** Mark Barbadoro (Building Commissioner)

CASE No.	APPLICANT	PROPERTY	TIME
ZBA-2019-13	Ruth Jeanete Guzman	324 LUNENBURG ST	6:00PM
<i>Review of Special Permit under §181.3561to reinstate a vacant/abandoned building as a 3-family dwelling located in a Central Business District at 36/15/0</i>			

A virtual meeting was held on July 14, 2020. Petitioner was no login, or any representation on her behalf to join the virtual meeting at this time

Those On Favor: None Those Seeking Information: None Those On Opposition: None

LM – Board Members how would you like to proceed with this case?
MM – He would like to hear some feedback from the Commissioner on regards to this situation
Mr. Commissioner – What information could he provide?
MM – Had they been to see the building department with some updates on the property?
Mr. Commissioner – On reinstatement he doesn't follow that closely, because he gives them to the local inspector to deal with
MM – He was curious because they were issued a cease and desist, the building presently has a large gaping opening on the side of it and he is little concern. It has been open to the weather for a couple of months
LM – Does our Secretary may have some information?
Secretary – She spoke with John Morreale the Building Inspector and he informed her that, they had some issues with the Board of Health on regards of pesticide, but last week they had clear that part out with them and they are now ready to retake the job and move forward
LM – Do you know why they are not here tonight?
Secretary – No, they usually inform her if anything, but this wasn't the case they have not to send any notification on regards of their absentee this evening
LM – Her suggestion to the Board on this is that we want to see this project move forward because we don't want a building to look like this. So, we should give them another month and have the secretary to reach out to them and let try to keep rolling again. Board Members, what are your thoughts?
JB – Anthony and he visited the property and they were upset. The eleven condition states to “be clean-up to an acceptable condition”. However, the way is currently there is not acceptable, there are tall as evergreen bushes. We don't know what it looks inside, but there are big holes on the building sides where the Pesticide was remove

Those On Favor: None

Those On Opposition: None

Those Seeking Information: Nadel Antonio Just to give some input on the electrical perspective for the building, just wanted to let you know that by Thursday he should have the final inspection and he should be all set with the electrical.

LM – And this is regards of Foster St?

Electrician – Correct, the electrical for 12 Foster he just finished wiring it and should have his final by Thursday with the City wire inspector

LM – Reads the Response from other departments and DPW comment stated that (Sewer reconnection fees apply. Any repaving of the driveway will require Driveway Permit from DPW) were you aware of that Mr. Bradley?

DB – No, we were not aware

LM – Okay, you would need to check with DPW

LM – Community Development comment (This property was purchased through auction after the City foreclosed for taxes. Proper rehab and management of the property would be an improvement for the neighborhood) so, that was just a comment

JB – Visited the property and it looks good, with except the gravel driveway and not the black coat that it was requested on the conditions.

MB – We were just confused with the blacktop with the hardtop, because is not a gravel stone, but is like an asphalt. And we went that route because is a solid driveway it's a not gravel rocks per said, so we just misinterpreted the blacktop with the hardtop and we made a hard asphalt driveway

LM – Okay, that's is not something that will probably be paintable, because it will wash that out

JB – He just wondering is how plowable that it will be?

MB – It is plowable, according to the installer said that it is a 100% plowable

BG – He was able to take a close look at it yesterday, he noticed that the pavement in the parking lot is a rough coat, so it is hard it just has a gravel surface to it. At the time he visited the property Mr. Bradley was there at the property and he took him on a tour on the inside of the house, he was impressed for how nice it looks, it looks very neat and it's looks that he is moving on the right direction

MM – Mr. Mark and Dennis You have done a great job with the place so far, and all the Board is looking to have and get the rest of the conditions complete accordingly with the original agreement. He definitely would like to see that blacktop driveway installs and properly stripe, just for a long term of the whole project, it is a very hilly area lot of washout and we all agree upon a list of conditions

LM – Thinks the project has been great and the petitioner did a great progress, but she also would like to see as everyone else is the rest of the conditions are completed. How long you think it will take you to complete the project with the blacktop and the rest of the project with all the conditions be met?

MB – Just to be clear the only conditions right now is the blacktop and the parking stripes

LM – Yes, other than the green space, which you state that's is already planting just waiting for come out

DB – Right, so we can do the blacktop by the end of next week considered it done

LM – So, we would have you come back for another review in September. However, if you met the conditions before that you can obtain the Occupancy permit

MM – Motion on ZBA-2019-34 under §181.3562 to **Continue the Review to September 8, 2020** with the following conditions:

- 1. Vinyl siding**
- 2. Roof to be replace**
- 3. Garage to be removed and add 6-angle parking spaces with the 3 feet buffer from the boundary**
- 4. Make green space on the left-hand side**
- 5. Remove gravel driveway on the left-hand side**

AZ – He entirely agrees, he thinks that this is the case where very clearly it makes no step to do what they needed to do and ended in some violations. So, let us send him the message and if they want to fix it up and come back, they could do that.

LM – Well, they are not even attending so we don't know what is going on. We are just putting pieces together, and that's not the Board job because they should at least be compliance coming to meetings

JB – So, what is the punishment for occupying the building that's hasn't been permitted?

Mr. Commissioner – There are fines that it can be imposed, on all those conditions that's hasn't been compliant.

JB – Everything on the building was supposed to bring up to code, and they were supposed to have a second means of egress

LM – This is a three-family dwelling, and how do we know that they didn't need a sprinkling system?

Mr. Commissioner – He has to trust his building inspectors to do their work, and if they know that people are living in the building, so they may believe that the building is safe for those people to be in the building. So, he has to trust them, and the Board has to trust them as well that the building is not dangerous. So, let's get the zoning violations listed and have them to compliance

LM – So, when he applies for the Occupancy Permit you don't go out before issuing? Because as far we are concern it said should be up to the Building Inspector to make sure that they comply. If you take 84 Pratt Street conditions and go up to the property with them and he will know what our conditions are

Mr. Commissioner – They have applied for Certificate of Occupancy, so that's telling him that they are probably are not completed. We do supply the Building Inspector with the decision, so they go out and verify them. He understands that on the field they don't have control over the situation, but you have to trust others that would do what they are supposed to do. Again, if the Board provided a list of things, he would tell the petitioner right now those things, but as far of the Building Code goes you have to let the Building Inspector do the work

Mr. Commissioner – So, the applicant is present, and we can talk to him now

LM – Santiago are you here, can you have unmuted yourself?

LM - Unfortunately, the petitioner was unable to connect due to technical difficulties at his end

LM – She thinks that the Board would do is giving the petitioner the credit for trying to join the virtual meeting, but she thinks is on the Building Inspector's hands at this point, and petitioner would have to come back on September to wrap it up with the Board, but if all conditions had met through the Building Department then they can get the Occupancy Permit

MM – He would like to add a condition that property cannot be sold until the project is completed. Also, a short time frame for the completion and inspection, because he is fearful that building is being occupied and it could be potentially multiple safety issues

AZ – We can prohibit property to be sold, but we can state that Special revoke if the property sold before the conditions are met. He trusts the Building Inspector on the safety issues, but he does think that the owner needs to move along on getting the conditions met

AZ – Motion on ZBA-2019-02 under §181.3561 to **Continue** the **Review** with the following conditions:

1. **Driveway and parking to be re-pave**
2. **Property to be brought up to code accordingly with the Building Department regulations**

LM – The Board had received a plot plan copy, but does not have the Planning Board signatures

The virtual presentation was given by Rev. Charles Pendleton stating that he has been the pastor here since February 2013. Before he got here back in the eighties the congregation who originally purchase the single-family home and built the small church by the road. In 2004 – 2005 they built a large worship building on the lower end of the property that abuts a wetland. They were allowed back them to build those two buildings twenty-five feet apart because at that point it was all one property, but now we are trying to divide, and it's supposed to be 35 feet, and its only 25 between them.

The initial intent was to keep it away from the wetlands when he came here is 2013 there were only 13 people left on the congregation, that it had 160 back on the earlies 2000. So, the mortgage company that held this note on the entire property, saw this small congregation which in his time being with, has not grown sufficiently in size. We pay all the bills, but the bank had gotten rid of their loan. His congregation is small the note is 760 thousand dollars and they don't have that. The Spanish congregation who is been worship two years longer than he been here in the smaller building at the higher end of the property next to the road, they wanted to buy the whole thing, but while they are running in 80 -90 they don't have sufficient funds either for the amount of loan.

He made an offer to the Church back o January, that his wife and him who move to Fitchburg four years ago, will be willing to purchase the single-family home. So, that will drop off some balance from the loan. The two churches they both interested on keeping their congregations right where they are, so they agree to split the balance on the loan.

John Barret – Rev. Templeton asked him to attend to the hearing this evening, he has been involved with the sale of the property between the churches and the single-family. He thinks that there are good reasons to grant a Variance, part of the topography is an issue because all the buildings have to be built toward the front of the lots, and the back of the lots is buried by an easement from Fitchburg gas and electric. Also, there are wetlands about the lot #2, there is water like a swampy area, so the buildings had to be located where they are as you can see on the plan. This will be hardship for the church to continue on with it as it is, as Rev. Pendleton explains. The buildings were built, and they were permitted, so it is seeing that they been herein the situation that was driven by the fact that they couldn't build further back. So, this situation it meets the criteria for granting a Variance. Doesn't do any substantial detrimental to the Zoning Ordinance, nor for the intent of the Zoning Ordinance. They are existing buildings and it's more the accommodation to allow these two churches to operate.

LM – Rev. Pendleton – Now that we have the drawing up, so you could just review what you had said earlier

Rev. Pendleton – So, on the lower hand right corner there are two buildings perpendicular to one another. The one closer to South Street is the first building beside the single-family home that was built on this property, single-family home was existing

LM – Is that lot 3 or 1

Rev. Pendleton – No that's lot one. When the church purchases the property lot 3 had the only building which was the single-family home. Lot 1 was the first building the church built here it is a small old fashion New England church. In early 2000 when they grew, they built the second church on the lot 2, that's directly behind it 25 feet. There is a retaining wall between these two buildings because of the land and the way it drops off from the front by the street into the rear, we were told that the best thing to do is to have one patty retain the wall plus a couple of feet for maintenance in the future. We chose to have that on lot #2, but that put that couple of feet on the other side of the wall just 7 feet from lot #1 rear. One more thing to add is that this all been untaxable property since it was purchased by the church on the eighties, and what we are trying to do it will make some taxable property for the City by the way of the single-family home

Those On Favor: None

Those Seeking Information: None

Those On Opposition: None

AZ – It makes good sense to him; he thinks it meets the Variance criteria because is a unique challenge given the state of the structures currently existing on the lot. It makes sense it looks like something that will be addressed for all involved and manageable for any potential future owners if at any point the churches no longer own the respective buildings.

AZ – What arrangement do the two churches had for the parking? Because all the parking appears to be on the lot #2

Atty. Barret – The agreement between the parties provided will be an easement granted to the church buying lot #1, to use the parking on lot #2

MM – Lot #1 is the front church, lot #2 is the rear church and lot #3 is the single-family house. Is that correct?

Atty. Barret – Right

MM – Just for clarification, lot #1 the front church what relief are you asking for?

Atty. Barret – The only relief that is necessary for lot #1 is the rear yard setback. It has an area sufficient for the zoning district and all other side yard and frontage are met, it just the rear setback is only 7feet. And it's due to the shape of the lot and affect that other buildings had been crunch in front because of the topography

MM – So, lot #2 the rear church what dimensional relief setback on the particular property?

Atty. Barret – Lot #2 doesn't have front yard surveyor counted as a side yard and Mr. Commissioner could help on that as well

MM – Lot #3 it meets all the requirement for the district

Atty. Barret – yes, it does

Mr. Commissioner – He also seeing the same it seeing it's conforming, and the only nonconforming structure is on lot #1 as far as he can tell

JB – Anthony and he visit the property and they looked at and it did make all sense when you look at the property while you are at the property, so he is all for

BG – Correct him if he is wrong, but it looks like there is a tunnel that connects the two churches, he's wondering if that's, in fact, true and would that structure that's connect the two be removed from the subdivision?

Rev. Pendleton – It's not a tunnel it's an overhead, but if that's the Board desired, we could remove it

AZ – He looks that the regulations defining side yard and front yard which is 181.4124 states at "**Front yards is measured by the distance from lot frontage to the nearest point of the principal building**". So, in this case, the front yard setback it is met

LM – The only question she has is if the Board should have a parking plan, besides, to see the easement to make sure it's completed?

AZ – He doesn't feel it is necessary, since they are large lots there and he can't imagine being overfill very easily, especially that Rev. Pendleton mention that its use to service 160 at one point and if was

Mr. Mirabile – He doesn't believe so, he spoke to the neighbor on the other side the closer one, she knows what he is doing, she is nice, and she doesn't have problems within forever.

LM – Could you describe or tell us about the chicken scoops?

MM – We have a couple of free stand scoops for when we get the permission to keep having the chickens, and we are going to keep them in the fence in the back yard.

LM – So, looking at the mortgage plot plan and where the deck and the back porch, are planning to put the fence back there?

Mr. Mirabile – Yes, behind the deck, it would the best to be away from the neighbors

LM – So, now we have a raised hand Scott Lawton?

Mr. Mirabile – Oh, yes he lives with him

Scott Lawton – He just to add that they recently had a 6-foot-tall fence install in the back area, that goes surround the back and it is supposed to be gated and can be completely close. Along with the coop and the chain-link fencing that we required in case that we have a dog, and we would like to have something for that as well. So, we have a couple of areas to protect there to keep our animals inside, but at the very least between the fence and the coops, we will be able to contain them inside.

GB – According to the submitted material petitioner said that you are going to keep the chickens and the chicken's coop, but you also said that you want them to eat the ticks and the bugs. You said that they are not going to be free-range chickens, so it seeing to contradict. Could you explain how that works?

Mr. Mirabile – One of the coops that we have is mobile it has wheels on it, so it could be putting on different places, but he doesn't know how it's going to work. Also, if they don't eat the ticks, they don't eat the ticks, the more concern is to keep them from bothering the neighbors

GB – Also, would like to ask the Commissioner is there a distinction in the Zoning between a Rural District that may want to have chickens than a City District area?

Mr. Commissioner – Acre is different if you have a lot of acres and if you were doing for the primary purpose of the agriculture and you have 2 acres or more and you produce a thousand dollars per acre, you are exempt from zoning. And is the same for 5 acres, except that you don't need to produce a thousand per acre. You can just produce a small quality of profit. So, that's the only difference, the rules are the same regardless of the zone for non-exempt agriculture use and exempt agriculture use

BG – He visited the site and have the opportunity to look it, he was very impressed with the way the fence was installed, it looks beautiful with a nice canopy of trees above with the cage. The case looks new, it looks to him that they are good to go

JB – He wants to ask the petitioner if the opposite side of the street from the front door or the edge of the driveway, that going down the carport is there. Is that part of your property?

Mr. Mirabile – Yes, the carport is on his property

JB – Because he wants that canopy and everything else torn down and clean-up, make that as a part of the condition because that looks trouble in that area

Mr. Mirabile – Yes, he was planning on removing that structure, we slowly been working on

JB – Can it be done by Labor Day?

JB – I am in this Board for 40 years and this is the first package that I have ever seen, that is fantastic perfectly put together you can say anything more than this guy knows what is doing when it comes of paperwork. I am so happy that he is doing business here in Fitchburg.

AZ – Along with what Joe said, what's even more impressed to me honestly is that this is a level of effort that we don't see people put on in when they are making huge ask to us. When they are trying to get us to approve an incredibly questionable request, we get a page in pencil, and you got a project here that we probably would have approved even with a page in pencil because it is a just straight forward and it's a good request. And we got this professional presentation, I am very impressed that if your actual work on the property is up to the same standard as you work on the application, then you will be a good credit to the City

AS – Thank you, that's my intent

MM – If everyone can turn on page 18 on the package, I am just looking at the sale price 500 thousand dollars. Is that a City document?

AS – That's was the previous sale too, that's a tax sale from the previous owner, he bought that with more properties on the area, and I bought it from him

BG – I am also going to say that if the application is any indication of the quality of work that about to do on the property I am impressed as well. The only question I have is there appears to be one existing parking spot for one vehicle, and I am not sure what the requirement will be to add another one. I was looking at the front of the building where the topography can probably support another spot for parking

AS – I thought it was enough for three spots, but my father who is on the line as well could speak about that

Mr. Gary Steeves – On Mack Road, there are two spaces one behind of other, and on Intervale Road is an old spot there. They built a wall, but we need to clean it up and can be used

BG – Good, so repointing the chimney and some minor repair and I think is going to be a neat project

MM – Visited the property and what's in the dump on the property and what do your intent on do to it?

AS – So far what's been done, our insurance company asked us to repair the basement door and some siding, so we asked the building inspector and he gave us the approval. On the inside, we are going to put new doors in, new carpentry, new cabinets, and clean up the inside and make it look neat. Make sure if any more unrepair we will take care of that, there is no heating on the third floor, so we are going to add it. I am a licensed builder myself and will pull permits, as well my electrician and plumbing

MM – New kitchens and bathrooms?

AS – So, the kitchen doesn't need a full gutter, just a new faucet in, new refrigerator in. The bathroom we will put a new toilet, new vanity in and maybe a new head on the shower, but again is not a full gut. The house itself is very clean, I think the previous owner did some work on it, but it didn't finish it. The had a siding open permit, so they put siding and the roof looks new

GS – There is electric heat on the second floor, and it will be easy for us to install baseboard heat, so who reside won have extended electric heating bill.

BG – It's seeing pretty straight forward; it is a good project and I have a good feeling about it

AZ – I don't really see that need for any restrictions, just move this forward

Those On Favor: None

Those Seeking Information: None

Those On Opposition: None

LM – Could you please talk a little about the parking?

DK – So, this is the existing building structure and the existing building garage, we are going to tear the existing garage down because it is in very rough shape. And its place we are going to turn that into parking, so if you look at the layout of this building. This building backs up against Fayerweather street, which is a paper street and not used by anybody other than this building. Our plan is to make this a one-way street, so the owners will enter off Frankfort street and they would leave out the back of the building down to Fayerweather and then they connected into the other street, so we can keep it one-way flow nice clean and smooth. In front of the building is a tree, we are going to keep the tree. On the first floor, we design to have 6 condominium units 3-two bedrooms, and 3-three bedrooms units, each of the units would have their own private entrance. Two parking spots assigned to each unit with the proper measurement of a vehicle, I am CAM Certified in Florida, and it is very common to have a car park in front of the other, just like a driveway will be. So, the average parking spot by Code is 9 feet wide by 18 feet deep, so these are exactly the scale, we have a little more than 9 feet, 9' 6" wide. And the distance from there to the building is 24 feet because that's required to back up a car and they pull up safely, you need 24 feet. So, that give us 28 cars on the property, that's not including if the City allows us to use the paper street for additional parking, which no one use and we would be a privilege if we can park more cars there, but we don't need to base on the design. These give us a total of 26 vehicles which by code it only required 2 per unit

LM – So, the vehicle parking you are off by ½ foot on each spot

AZ – Yes, 9 X 18 ½ it is correct. However, the City is on the process of changing that by the end of the Summer, but in this case is small enough issue, just my idea

AZ – On one hand it sounds like a lot of work is done on this parking plan and I like that. As to Fayerweather Street, it wouldn't be up to the City whether you can park cars there. You would have to contact the abutters because the paper street is more like a right of way and you cannot park cars on the right of away. But that being said, the main thing I wanted to ask is about the buffer strip. On our Zoning Ordinance under 181.5163 states: (Buffer strips between any parking lot serving a multifamily or nonresidential use has to have buffer strips a minimum of 10 feet) for your parking structure will be 25 feet, between the parking spots and any side lot lines in a Residential District which this it is on Residential B

DK – So, if I understand correctly do, I need 25 feet buffer at what side?

AZ – Basically from every lot line you have to measure 25 feet before you can start putting parking

DK – I would like to know if the Board can give us an answer because right now we have a very dilapidated building next to the parking garage. So, we are going to tear down the dilapidated building and put a solid vinyl fence, so the neighbors would have privacy, and then we are going park vehicles there which is going much better use of the space and tear down the building that is on the 0 lot line. So, if I can please ask the Board if you could approve that, because obviously what we are trying to do is to reconfigure this area and trying to build a better environment for more housing and bring more people to the City. Now that's doesn't mean that we cannot on and get permission from the neighbors, I been told a neighbor named Mike: I would have to ask him, and it's hard to believe that Mike will permit us to park on this road, but I would like to get permission from you without having to do that. So, that can be extra parking for people that come to visit and is wide open for people to come and go from the property. So, if I can ask, I would greatly appreciate if you can grant us that

AZ – I hear what you are saying, and you are making a good case for it. I would point out that will be something due to the way our Zoning Ordinance is writing under 181.513 states that any parking requirement production would have to be granted by Planning Board, we don't have the authority to grant that.

DK – So, I would take that to the Planning Board, once this Board is so kind as to approve us

DK – We have designed these units with a very nice layout and we had taken all the safety precautions into consistent, we work with some high-end builders, we have an architect that is going to architect the layout the building. We have a Fire Suppression company that's ready for the fire suppression to bring up to speed, to build this out for a beautiful building we are going to build it out on three stages.

First, we are going to do all the plumbing through the building to be up to code, every unit will be installed with air conditioning and heat. There will be separate power run for each unit and every unit will be given as best possible with lighting and conditions and new windows

LM – Anything that would you like to add?

DK – The only thing, if it important is approximately 50k a year with tax revenue bring up to the City

Those On Favor: None

Those On Opposition: None

Those Seeking Information:

o-Ann & Jan Martino of 57 Frankfort St stating that they have a lot of concerns on regards the parking. As far that we don't think it's going to a lot for 3 -4 bedrooms unit or 3-bedrooms units. Where all those cars are going to park? In the wintertime here, the street is horrible how they clean it. We only have one lane all winter long, when we do our driveway, we have to go three to three and halfway into the road to clean ourselves. So, it's going to be a total case off if this overload parking. Our other thing is on 62 Frankford where you have your main road going, the man who lives there will have to drive all around your building to leave his property

LM – Could you point where 62 it is?

Jo-Ann Marino – right by the parking is going to be on the Frankford Street side, in between the house and garage is Dennis driveway. So, that one way there will prevent Dennis from pulling out of his driveway and leave, he will have to drive all around the building to leave his house

LM – So, you are saying that the proposed from Frankford St. will interfere with Dennis layout? Or could he go through access through Fayerweather?

Jo-Ann Marino – if no cars there yes, it's an inconvenience for him. He owns the property there; he should be able to pull up his driveway ad connect on Frankfort Street where he lives. Without to drive all around and come on Pratt St

LM – Any other comments?

Jo-Ann – Snow removal on wintertime

LM – We will try to address those two issues for you. So, Mr. King could you please speak about that?

DK – Yes, there were three points she brought up which are excellent. First, the one-way lane. The one-way lane was suggested by my investment group because they said that the City may want us to make it one way. We surely don't have to do that, that's a safety issue and it's going to be decide by the Planning Board and the Building Department. So, we don't have to do that, we are going to do what's the best. Second, I want to comment, we won't do this, but Dennis is parking and crossing a property isn't his. We are not going stop Dennis for doing this because that's a mean thing to do to a neighborhood, we welcome Dennis as a neighbor welcome him to use our driveway back and forth, but at the end of the day it is our property and we do have the right to not allow him to drive on. So, if the Planning and Building is fine with not making a one-one road we are totally fine with that because we don't want to inconvenience our people that live there either. Lastly, is the snow removal. If you look very closely the Fayerweather Street is very large area, there is a very large area that's against the chain-link fence. So, snow can be move there down the chain-link, snow can be move against up against the building, which I don't know if

we are allowed to do that. But we are in New England, we are going to push the snow as far and high as we can, out of the way of the tenants who live there. Not pushing on the street because it's against the law, but it's a some point we are going to hire equipment in to remove the snow away in dump trucks like everybody else has to do.

This is going to be a condo association; they are going to pay condo fees. Those condos fee is going to be there to maintain the property, remove the snow, cut the grass keep everything look beautiful for the neighborhood. So, these are all the contingencies that we surely would address and make sure that they would look over after as we turn the property over to the owners as we finished this building

MM – Is there going to be any green space?

DK – Our plants is to try to maintain as much grass and keep the beautiful tree on the front and maintain as much grass on the front as possible, but it all depends on how we end with how many units because we need to spot per unit. Our second plan is to build something nice like a barbecue area that they can go and enjoy themselves, or we also considering putting something on the roof because is an open space on the roof, like a nice deck and balcony. But we are going to keep as much green space as we can special in the front yard

MM – It is seeing that an empty lot on the left on the property, it is that own by the abutter?

DK – That use to be a pool with a waterfall, they took the pool crush and take away and turn that on parking space. I asked Mr. Barbadoro if I can go and offer to buy some of this land, but the City requires to that lot not to be under 10,000 SF, so this lot is about 10,304 SF. So, which is not enough space to do anything. So, another option we are considered is to approach the back of the neighbor and see if can maybe lease the back of that property and turn it into a parking lot put a nice fence around. I don't like doing that type of thing because you are invading somebody else privacy and that's their property. So, I would like to do the Fairview street because is not use by anybody or for anything and with the church having fence up there, they are never going to use that space.

MM – You mention that this is potentially bring in 50k in tax revenue a year to the City, but if we bring just 7 more children to this building that and itself is going eat the financial tax gain and them after that is become a negative impact on the fiscal car of the budget.

DK – What he learned over time, working with different towns and cities and that's a true statement in State of Massachusetts the average cost for child to go school is approximately is \$16,300 which the town picks up is a 70% of that and the State put 30%. So, when someone said: Oh, I am going to put all these homes. They put some of the strength of the school system, but when if you do an intensive study on the towns that have putting large community for over 55 and try to discourage families from join the towns. What happened that overtime over 15 to 30 years those towns become towns of fail. There is no community there is no hold back to the town. A lot of people you may heard then said: I was born in Fitchburg and I lived all my life and they proud of that. But when you create an environment where children are not welcome, you turn that town or city that is not desired. All those children and families also spend money, they go shopping groceries, at store and pay for internet and cable. And all those things contribute to the town, so yes, I can see if we loaded the building up and everyone bring 3 children in and we fill with 13 condos. We surely will put strength on the school system, but also the statistics right now the school system in Massachusetts are down on average of 3.6% on attendance and it seen to be having that direction and all indication across the board is that the generation that we are seeing now is not simply not having the number of children we use to have. So, I think that you are going see that towns would have to welcome families, because simply school won have enough kids in school system to justify the school system

MM – Yeah, I appreciate the point tonight, I believe the more family are the better. As you know that we are opposite to other cities where we have a very rich density in the City, where we have 2, 3, 4, 5, 6

family units. The value of the buildings is fairly low, and the impact that we have in the school system is fairly high. Where we also a lot of single-family homes that are caring the burning of the larges rental building. Rich envelopment, the value on properties are fair low, with the large rental building

MM – I do have some concerns on the stack parking, you know this is New England and no Florida and I also concern about the whole density of the project. Is there a project that your investment group has done recently, that we could visit so it can give us a flavor for how you go about these projects?

DK – They have done most of the work on Newhaven recently, they are base out of New York. They seeing like they would like to stay here, we are starting with this project. They are making an offer on a significant monster project in one the other towns which is closely to 330 bedrooms. So, their plan is to amazing job and bring a whole different class and character here on the New England area

MM – So, that’s the close one on Newhaven?

DK – Yes, so I can tell that you that in Newhaven there did a factory that was 106,000 SF that they put 80 apartments and couple others. So, if you would like I would be happy to forward the address of those

MM – Is the project funded?

DK – They are cash funded organization, they write checks for everything

MM – Would be this low-income housing for this?

DK – There is no a plan for that, I am not sure what is the statistics are for the City of Fitchburg, I probably should know that, but unfortunately are from 2010 so it make hard know how true it is whether is the City is 10% goal for low income house. We could address that if that’s needed, this building is going required significant amount of extend re-structurally. Refacing the whole building, new windows, new doors. It’s going to have a cost of 1.37 million dollars just to bring this building back to life. So, if you strap us by offering low-income house is going to make this project difficult

MM – No, I was looking to know if there will be Market rate?

DK – These condos are coming in a fairly reasonable price, they are going to be about 12 to 13 hundred dollars a month who owns them, so they are not going to be expensive condos. We are not bringing 18 or 19 hundred a month payment, so if people are paying now more to rent then they are going to be able to own these condos. we expect to sell these condos before we got the first one finish

MM – Expecting price?

DK – They are going range between 180k and 239k

MM – Any though of keeping on keeping them smaller bedroom counts, maybe two bedrooms?

DK – We would love to do that, but the challenge we have on this is the parking, if we able to take Fayerweather Street and turn that into parking we would love to do that. But we are trying to be respectfully of what the City desire. If somehow, we can get permission to use Fayerweather and the neighbors don’t back-up and we use it for parking, we can increase our density to probably 17 to 18 units at two-bedrooms. Which is going to be more desirable and bring more revenue to the City taxes wise and maybe less children too

AZ – Yes, just to coming back to Fayerweather because it keeps coming up. The proposal to use Fayerweather for various proposes either for the egress or snow removal or whatever they all make good sense, but I think before we granted any Permit, I would like to see an executive agreement with the neighbors. Because at the moment is a right of way because that’s paper street set-up is, one property owns one half and the other property owns the other half, So, at the moment without an exceptive agreement you couldn’t do anything. I am also concern about the density, just to go back to the parking for a moment. I am concern about the snow reference to the buffer zone, if you get the Special permit

from Planning Board that's will be all good. But right now, your parking abuts right against the lot line, if you have shrinking of the lot due to the snow pile off, so you no longer have your needed parking spaces

DK – I been in the construction business for 30 years, there is no question that the manager of this building is crucial. At the end of the day, if you don't good management to manage the building it doesn't matter how much snow you can get, I am CAM certified in Florida, I have construction projects up and down on the east coast. I have written condo docs for years, I been president and member of a condo association and I want to make sure that the docs are written very clear, that the owners of these properties know what they have to do. When the snow gets to 6 feet you have to have removed, and you have removed on the next 24 hours period otherwise it will be a final offense. Because if you don't have it very clear, that it will be a final offense to have, therefore you have to hove teeth on the agreement otherwise it doesn't work. So, that's will be the plan to make it very clear. I am responsible for selling them, and as I sell the units each person will sign and they will know what they sign because we are going to do this properly

AZ – That very encourages it, I like what I am hearing so far. As to the density in general, it's obvious that is a massive building and you have to something with all that space. The price point sounds about right, is about the same square footage as my house and it's about from the same price range. I am trying to picture this in this neighborhood, I am just thinking about the impact of the between 30 and 50 extra people coming and going in this neighborhood. I just trying to think about the interest of the people who live there now. It is definitely in the interest of building to clean up, I don't think that anyone disputes that. The question is what impact can have on their life with 50 people

DK – I want to bring you back four months ago, four ago we all lived in a different world and surely, we didn't do what we are doing here. We didn't have to use this technology and we didn't have this thing, and we didn't have a lot of people to see our rooms. We live in a different world now, I own Remax office off Route 2. We do a significant amount of business and big developments; an I would tell you that four months ago a ten percent of my market come from Boston. As of today, 75 percent of my lead come from Boston, they are seeking homes with an office. So, we are building a 4-bedrooms home, but that's going to be an office. A very good client of mine who owns nine buildings, those now decide to shut down seven of those buildings. And they are going to make those people work from home, and they are going two buildings open, they are going save 100 of millions of dollars over the next 10 years by closing those buildings. Because if looking at technology look what we are doing here, we are having a platform here where we can invite people to our meeting, they can be on the wheelchair, they can be sick, they can have COVID. The not be scare of people and they can be part of this whole environment, so we created a new whole world now. I think our bigger challenge is going to be, what we are going to do to get people out of the home. So, you are talking about 50 people coming in and going, I think we are going to say: how come those cars don't move. It's because people aren't going to do this anymore, they don't even go to a restaurant, they are ordering on the house to deliver their coffee or tea. I don't see that this is a challenge anymore

BG – I do want to call the attention that I have read the deed of the property, and under notes line #5 it talks about Fayerweather Street. With others to have the right to pass and repass over it, but I wanted to mention that it is on the deed

GB – I would like to see this to happens, but I can talk to you right now that you got approximately two parking spaces roughly per unit. And on top of that, you are parking back to back, so you would have to get approval from butter on the property line. I got a lot of experience in the parking lot and snow removal, in my real job. I can tell you that a six-inch storm on that property you are going lose those eleven spaces up against your property line. You will constantly need to remove snow from that property all winter long, in just a normal winter. On the condo fees that are going to jack up those condo fees on that property substantially for the people who live there, because is an expensive proposition for snow removal. So, for me is the parking that is problematic with the proposal here

Jo-Ann Martino – Yes, my neighbor that who couldn't speak too, she has been texted and a couple of they concern are the same as ours too. One other is that all the house there are single-family homes, and

someone brought up the point that all the extra people that's another concern of us. It is a quiet neighborhood here, we been here for 15 years and we like that way. Also, the next-door neighbor has a daycare and she has a concern about the traffic too. Another question is that if a condo association. Would be the city responsible to remove their trash? Just like ours

LM – We can ask the petitioner, but they probably would have a dumpster set-up. We would need to find out what is the plan

Jo-Ann Marino – Yes, because there is no space for the dumpster, with all those parking spots, snow removal. We bought a single-family home in a neighborhood with single-family homes

LM - Well this is going to be like single-family homes

Jo-Ann Marino – With 50 plus people on one spot

Mr. Commissioner – just a comment, there are couple issues with the property and the reason why they are here before you are for dimensional reasons. On the definition, there are dimension requirements for the number of units per acre, and the lot is fairly is small maybe a little over of the half of acre. As Mr. King said is 0 clear line lot, which that is not necessary be allow without a variance. It is a pre-existing nonconforming structure that has been abandoned, a Variance allows under 181.354 to allow a new nonconformity or use that may be more detrimental to the neighborhood, but the use itself is allowed in the district by a special permit by the Planning Board. The parking shortfalls are allowed by a special permit with the Planning Board, and this project would also require site plan review. So, there are a couple of ways that your Board can handle this project, you could grant a Variance for all the shortfalls and move forward on its own. I think that more wise choice is to make sure that it gets a site plan review from the Planning Board and the Special Permit

BG – Just for clarification the deeds references 55, 415 SF making one acre .27, so the lot is a little bit bigger than a half-acre

Mr. Commissioner – So, that will be six units

LM – That will be six units?

Mr. Commissioner – Yes

DK – I worked long and hard on this building, the design is very important. I have shown this building almost 100 times. We have it from the Marijuana facility, tur it to the warehouse to go back to a commercial building, and now I have this propose that it will benefit the community and I firmly believe after almost 100 people enter and showed this too. These gentlemen are probably the best that I found after 100 that do the due diligence and do this thing properly as it should be done too, to support the community

MM – Great presentation and we have to do something with this building, I know it has been before us for different use. I surely hear the concern of the neighbors, and always say put yourself as an abutter when you decide to see what's the impact is going to be on the neighborhood. I didn't see the plan until tonight, the petitioner gave a great presentation, I able to digest to some extent. I almost want to have out a site visit, to do a walk around before making a decision. I may even encourage petitioner and some of the direct abutters to see how and what it may work for everybody. And also, to help on everybody property value, but I don't know if I am ready to vote tonight

LM – Are you just opposed to the number of units?

MM – I am not opposed to anything; I have concerns and I am a kind of visual person. Like going out to all properties, walk around I was there today. I have been on the property several times, it is a challenge. And I respect the concerns of the abutters, I also when I see something like this in my neighborhood because impacts on property values because it does impact on everybody property value

AZ – I having a little trouble, only because it is pointing me in two different directions. I feel like the petitioner has put together a very good plan and seems very sincere in his desire to do what's best for the property and the area. On the other hand, it is a massive project to the middle of a single-family neighborhood, so I can't be concern about that. I think I am lining on favor only because as the petitioner noted expressly that is very unlikely that we are going to see any better proposal for this property. And the amount of money would cost to tear it down, either for a private developer or the City. So, it will be more likely seen just getting worse and worse and that's not good for anyone. So, I am lining on the favor, but I most like to see what the planning board has to say because there is a lot they would have to address.

JB – I also, concern about the density, the parking, and the neighborhood, I visited the property and I did park and I saw how to crow that area is. Mr. King mentions the beautiful tree on the front, but that beautiful on the front it takes a lot away from the parking and movement on the property. I think for a project this big on that small of an area, on a single-family area. I don't think that this is something that I want to go for

BG – It been an excellent presentation, but for me to feel better about it. I incline with Michael and Anthony; I would like to take a closer look at the project. I would like to know a little bit more about before I am comfortable voting on it. I visited today and I see a lot of potential on it, but I also have a lot of questions and I think it will be good for us to look at it

GB – Honestly, I want to get at yes, but the parking for me the way is configuring isn't started and that's got to be fixed. Also, agree with everyone else as far as a site visit to look this project closer, it is a massive project and I am better having a big investment than have someone just come and do a cheap job. I understand people that live around there, but who knows what the next thing is can be. Do you want a pot factory next to you, it's tough, but someone is going to come in here and invest a kind of money on this property? I kindly looking favorable, but the parking is problematic for me

MM – What's the timeline for the project and is the project going be sold or it will be implemented by the investors

DK – My investors are already chosen the contractor to do this job out, the contractor has already been in contact with the fire suppression company, which is the Building Department requires immediately. He has already been in contact with the plumber, heating, electrical, and all that, our plan is the minute this approve, and we are going to close on the building and start construction immediately. We are nervous that we are going to sell them and move the quick as possible, so we confident that we can turn this within 12 months

DK – Also, I want to comment on the parking concerns, if you look at the City of Fitchburg one of the biggest challenges is that are so many properties without parking, none they have to park on the street. On my plan is that documentation it goes to this property is going to make it very clear that they have to maintain, they can't park on the street and they have to park on the property. If you look Fayerweather Street, we are going to get permission from the one neighbor and that's going to give us an additional 15 parking spots. We are going to cover this parking problem, and I understand your concern, but we are taking a dilapidated building and replacing it with cars. I am confident that the Planning Department will permit us, and I think if you allow us to move to the next level, and I welcome you to come out. But the Planning Department is tough, and they are going to make that I meet all the requirements for the needed. So, I ask this Board is to change the status of this building, so it doesn't come to a pot factory or something ridiculous, that's what I am asking you to do. And let the Planning do their job and let Mark Barbadoro and his team do their job to make sure that we deliver what we need to be delivery

LM – Trash removal?

DK – It will be a disaster to put about 20 trash can out on the street, we are going have a dumpster off on the corner, for the trash truck to come to pick it up. So, it will be a private service, not City services

LM – So, would you be an open site visit to some of the Board Members and continuance from this evening?

DK – I will be open to all the members join in and I will love you all to come over and I will give you a full tour, I will show and tell you everything that you want to know

LM – Okay, and you open for a continuance, unfortunately to September

DK – You can approve it, come out and do a walkthrough because I still need to go to Planning Board and they are tougher than you are

MM – When are you going to the Planning Board?

DK – We need your approved first, so the minute we got you to approve then we move into Planning

MM – I don't believe that you need our approval to go to Planning Board

DK – Yes, but the problem is to go in front to Planning Board we need to start to spend money on the architect to give them the proper plans, it is about 40k dollars spend for the architect. We have about 65 to 70 thousand dollars of spending on all the planning to present this to the Building Commissioner and Planning Department, and before spending all that money we would want to know that if we have the approval from this Board, so we can go to the next level

AZ – I know we normally don't do this, but one of the things that on the Council and in some other conversations, we been talking for a long time is trying to reduce the inconvenience to people that it has to go back and forth between different Boards. So, I wonder if we could approve them, with a clear understanding of the petitioner, that if we don't like what we see at the review, we revoke the Permit. That way they can go over to the Panning Board. But if we are on the favor, but also want more information, that will be a way to cover our basis without holding up the ability of the petitioner to move forward

LM – I am in favor of this project, but the parking is an important point. We did receive this plan earlier this afternoon and we didn't have enough time to look up the project before our meeting. I am would not encourage people to approved something, after a fact for what I hear this evening that they don't feel comfortable get the approval without having a site visit. So, they need a continuance, I would be happy to do a meeting in August on this one case

Z – Yeah, that will be my recommendation, because I don't think we are going get them before the Planning Board before we can meet again in August, but at least we can do the walkthrough sometime between now and them, and maybe that will put people on the position where that they feel that can get give a preliminary something, that's just my though

LM – If we could do our meeting a little earlier and then you can hit both meetings, we can try to accommodate to do site visits. And that it may be the members would get more comfortable with the project, or maybe it will be some changes that it may need to be made. This is a significant project and I think people just need to wrap their head around with the project is going be, before making a decision

MM – Great project optimistic, make some great points. We want to get there, but we got to feel comfortable about it and we want to make sure it works for the neighborhood too

JB – I am more than happy to have a site visit with the Board and to have a special meeting in August

Variance under §181.414 for the Construct of a single-family dwelling on a newly subdivide Lot 2 and to Appeal to Overrule the Building Commissioner’s determination under §181.425 that Lot 2 is not and Infill Lot in the Residential B District Map 70 Block 22 Lot 0

LM – We had received a letter from Atty. Aveni this afternoon

LM – Atty. Aveni would you like me to read your letter into the record or would you like to speak?

Atty. Aveni – You can just read the letter to record

Those On Favor: None Those Seeking Information: None Those On Opposition: None

LM - Reads the received letter: (Zoning Board of Appeals, City of Fitchburg. Dated July 14, 2020. Dear Ms. McNamara: This office represents Kathleen Walsh in relation to the above-noted Zoning Petition. The hearing on so much of the petition seeking a variance is scheduled for July 14, 2020. On behalf of Ms. Walsh, please consider this correspondence as the formal written request to withdraw so much of the above petition seeking a variance and without prejudice.) Please see exhibit “C”

LM – Recuse herself on the petition as she has done on the past

AZ – Motion on ZBA-2020-03 under §181.414 & §181.425 to leave to **Withdrawal** without prejudice in so far as the portion of the petition requesting a Variance

BG – Motion Seconded

Roll Call Vote 5 – 0 to leave to **Withdrawal** without prejudice

6. MISCELLANEOUS

LM - So, obviously in August we are doing this zoom meeting again, but on September we are looking for maybe go outside or maybe go into a building. Mark is going to coordinate that with Joe if that’s the case perhaps if we could go to Saima Park

LM – Mark what is the feeling about getting into a building in

Mr. Commissioner – I don’t know is not up to me, the Mayor office has to tell us it’s okay to open to the public any the City building. If that happens, we will be home free, but if not, we will go the Saima Park

MM – We have a conflict with Planning Board having our meeting on the same day and time, which a lot of people don’t like. Is main City Hall being design to accommodate multiple meetings or we are going kick to the street as we always been

Mr. Commissioner – Yes, it was designed to accommodate multiple meetings, but only two meetings considered substantially on size that could accommodate, and you are on a bad night and it would accommodate you as long if don’t conflict with Council

MM – Could we accommodate our meeting now?

Mr. Commissioner – I don’t have control over that, the Mayor would be handle all that

7. ADJOURNMENT