



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/rt/3216552406367581196> +1 (631) 992-3221

PERSONS THAT WISH TO PARTICIPATE PLEASE EMAIL mmata@fitchburgma.gov

MEETING MINUTES – WEDNESDAY AUGUST 12, 2020

MEETIGN TIME: 5:00 PM

1. **Call to Order** LM PLEDGE OF ALLEGIANCE ALL
2. **Communications** LM ATTENDANCE: Lauren McNamara (Chair), Michael McLaughlin (Co-Chair), Anthony Zarrella (Clerk), Joseph Byrne, Brian Gallagher & Greg Babineau
3. **Hearings**
4. **Also, in attendance:** Mark Barbadoro (Building Commissioner) & Tom Skwierawski (Community Development Dir.)

CASE No.	APPLICANT	PROPERTY	TIME
ZBA-2020- 17	Mark Klinger & Eyal Preis MKEP 770 LLC	50 FRANKFORT ST	5:00PM

Special Permit under §181.3522 to reinstate and change a vacant/abandoned building from one nonconforming use to another nonconforming use located in the Residential B District Map 78 Block 29 Lot 1

A virtual meeting presentation was given by David King and Mark Klinger stating that his engineer has updated the parking plan to satisfy the City by-law and the neighbors. Starting at the front of the building, the first thing our engineer did has respected all the rules and regulations for offsets buffer zones and everything for parking. So, sadly but at the front of the building, unfortunately, we're going to lose the beautiful tree to get the six parking spots upfront. We are looking into the city of Fitchburg parking regulations and have been told that does not have a parking setup for smaller cars, (compact cars). So, we might want to come back to planning and ask for that possibility, and those six spaces at the front of the building if we were allowed for compact car parking. We could add three more spots up there which be up against the building between the two front doors, so one on the left and two on the center. At the side of the building, we're putting 5 spots along the side of the building and these spots are with the buffer as it is seeing on the plan, the buffer from the back, sides, and along the side of the building where the existing garages are.

I reached out to the city and talked to the people that would allow us to take Fayerweather Street over, like a street that we could then own. That's a process that I've been told that the city quote and they've never seen anybody successfully take over a street from the city. At this point, we've planned where we put two extra spots from the back to be used for the trash dumpster and the snow collection. On the back by Fayerweather St we have 6 angle spots, which would be on our half of Fayerweather St. Assuming this is a one way Road that people would come on Fayerweather, down parking on the side of the building and then leave out the front of the building for a flow of traffic.

Now I will point out at the front of the building the small spot that is next to the six space it says 14 feet by 44.62 feet that is a leased piece of property. Documents going way back in time there was leased by the owners of that property, at this time on this particular piece of land they park their cars on and is owned by this building. We're trying to legally figure out how it works, so we do have an option that we've not presented to the neighbors yet, but an option is to give that property to the neighbors. It is their parking spot for life, but in

exchange ask them to give us 16 feet on the back of their property because that would keep them at a 10,000 square foot piece of land and that would give us another five to six parking spots on the back of their land. Install a nice fence and give us an easier place to park more vehicles, as a possibility to expand the parking

LM - David just to recap on that, so it is 46 Franklin St driveway in essence that is being released all this time?
DK - that's what the documents have I mean we're still trying to get to the bottom of that, we find a reference to the lease, but we can't actually find the lease document and we don't know if the lease was written for a dollar for 100 years if its a least they pay per year. So, we're trying to get to the bottom of it because obviously, they want to keep that, is their parking spot we don't want to be mean to our neighbors, but if that's legally our land and we really have access to it. It would be nice to give it to them in exchange for something that benefits us so that it benefits them and benefits us. We don't have the document to reference it, so I can't speak intelligently until I get that document

LM - So, in theory, you are looking to get the same amount in square feet 14 by 44.62?

DK - Not exactly. I mean as you know the expression is "beggars can't be choosers" so right now this plot is 10,304 square feet the city of Fitchburg requires that no lot be less than 10,000 square feet. So, the goal would be if we need it only, at this point we don't really need it because the plan we have in front of us meets the requirements. In case that we need it, I would like to go to the neighbors and say: (we will give you indeed this spot so it's yours for life, so you never have to lose it, and in turn, for that, we just want to take land on the back your property so you'll still end up with 10,000 SF). That allows us 16 feet by the width of their property, at the back-average car being the parking spot is 18.5 feet by Fitchburg rules, and that would take us 2 1/2 feet out into the Fayerweather street.

LM - Another question for you since you're being to be created, perhaps have you looking with the church immediate you to buy some of their lands and get some parking and that you can utilize it all

DK - Well probably the best plan of attack would be to go to the church and ask that, the church configuration is at the very closest to the road at the end of Fayerweather St. The church has five feet of their fence permanently onto the property called Fayerweather Street, and then at the end where is the middle of the drive where it says exiting and to the right of that from there to the edge of their property is 9 feet. Now the advantage to them is that we would then pay to have the fence moved off of the street, unless they legally own the street, they actually can't put the fence on the street. They're not allowed to put a permanent structure on the block the street if it's a paper street. So, we would ask them to allow us to fix the fence and move it onto their property line, and that would then give us a full width of that Road. Assuming that we could then have a full Street there maybe we might be able to take possession of the street from the City

LM - Where is the dumpster and where is the plowing snow going to go

DK - The plan is the dumpster will be back where the existing shed is, so where the engineer has put parking spots. We would not have parked there so we're going to take two of those spots out, put the dumpster right there on an angle for the truck to come down the street of Fayerweather Street, pick up the dumpster, and take it away. The other area is going to be where we will pile the snow, that's a fairly large area. I did the square footage calculation, if we had 6 inches of snow in one snowfall, we could have 4's complete snowfalls without interfering with the traffic. Now if we get more than 24 inches of snow in multiple snowfalls then we are going to have the snow removal, which then will allow for that in the condo fees that they pay for

JB - Are we here to approve this parking plan? is that our goal tonight?

LM - we can do whatever we need to do

JB - Because there are so many assume an if, and I was getting confused

DK - Not to speak out of turn about your responsibility, but your responsibility is to say what you are showing us is a good enough parking area. So, your job is to rezone this from what it is now a commercial building into a residential. Then we have to battle with the planning board, and the planning board is the one that's going to say yes you can have X number of units, yes you can have this parking, or no you can't have this parking. So, even if you approve this, we still going to have a long road ahead of us with the planning board to get this all approved. All we would like is the zoning board to approve the first part of this, so that we can get move forward the process with planning. Planning might shut this all down, they might say you can't have 12-14 units there, you can only have 6 units.

LM - About the parking spot for the 18 spaces, those they don't have the size of the spaces on the parking. I can see that information, but from the last meeting I thought you were change them to 9 X 18. So, what is the status of those parking spots are 18 spaces?

DK - City of Fitchburg requires 9 by 18 ½, so that we had to add this without changing with the City right. We got six pots at the front meeting those parking regulations, then we have 5 spots along the side of the building, which are 11, then we have ten spots making a total of 21. We are giving up three spots, because one we agreed that we wouldn't block the gate and two we need for the snow and a dumpster. Those three spots in the end and then I've got six spots along the back, so that takes me to comfortably 24 spots. Now we are going to come to the Planning Board and ask them to accept the Leominster small car spots, so that we can get more in the front. I think it's a better idea for the front it's easier access to the road, but that's a Planning Board issue not Zoning Board issue

LM - Normally when we do a proposed like this, we'd like to see the size of the spots and reference to everything. One is to see the physical dumpster and where the snow is going to go. What we can do at this point is to open it up to the audience and see who is here on behalf of the neighbors, and then we'll open it up to the Board and we go through all of this. I think the only thing that you have from the last site visit is this parking plan, you are sticking with the 12-13 units.

DK - right, correct

Those In Favor: None

Those On Opposition: None

Those Seeking Information: Tom Skwierawski, Community Development Director. I just wanted to give a breathing point of clarification, certainly when this project goes in front of the Planning Board, I would need have more time to take a look at the site plan, the dimensions of the spots, but just a quick feedback. There are design standards that differ according to the type of parking spot, I see parallel spots here, I see 40 degrees, I see angled parking and 90-degree parking. Design standards that were mentioned are not uniform, they do vary by parking. So, angle parking requires more width and a longer parking, stall Montgomery so just I wanted to know at that point. Besides, to there is proximity from the structure itself a 3 feet design standard and that doesn't appear to be met here, again Planning Board can grant waivers, but there are other standards above and beyond the ones that have been called out here. but in all certainly reserve my judgement beyond that on the Planning Board side, until we get a chance to fully review the plans

LM - Thank you Tom, we just doing some field information, but we haven't opened up to the Board, we have an angle parking and all of those types of things meet different requirements and then the buffer zone we are aware of that. So, I think once we open it up to the other board members will be getting to that information

LM - We did get a letter that it wasn't read into the records last time, but one of the neighbors who couldn't get in. had written a letter to support in opening up the building again and getting it up and running with support of this project

MM - I just need some clarification, I'm looking through some documents I think the original proposal was for 12 units so now are 13 correct.

LM - They said 12 to 13 from the beginning

MM - So, our minimum requirement for parking is 26 spots correct?

LM - That's correct

MM - Just a point of reference when we had that on site, I think there was quite a few spots that you opposed having the parking right up against the building. So, if you look at where the 18 spaces, is written 5 units above that, then we had mentioned we were to favorable. I was almost thinking that we need to get some input from the planning board before we move ahead with this, but I have concerns about the three 3-bedroom units and the density of the whole thing. Is no green space and with the parking, so I want to know what other members would have to said

DK - The green space! any of the buffer area where we are parking, that's all going to be green space. When you see the area of the six spots in the front on that face it up against the building you see that space between the parking spots in the street, that's all grass

MM - On those 6 front parking spots, what's the buffer zone between the City Property and the parking?

DK - Looking what the street is which is 96.91 feet that's basically the street, which is City property and then you get a little bit of a gap and you have a bigger gap and then suddenly other parking spots which are 18 1/2 foot by 9 feet spots that space between the edge of the street and the edge of the first parking spot that's all grass

MM - What is that distance?

DK - Guessing about 12 feet of grass

MM - OK, the plan isn't exacting yet, it's still a conceptual we could call because you don't have these buffer dimensions in there.

DK - We have to have a 10-foot buffer that's were required, so if you look at the space next to the building by the existing garages that's 10 feet from the first parking spot. Which says 0.9 feet, so that's 10 feet to the edge of the property line. From the property line on the back which is the boundaries for Elizabeth Sullivan's property it's 10 feet. That's what we're required to do is 10 feet offset between the parking spots and that's all grass, so the grassing curbs something you normal see when you are in a parking lot

LM - As I mentioned earlier that we can't see the 9 X 18 on the plan, neither what the buffers are. Then an eagle parking is a different, that I can't identify but again when you were talking about (you think it's 10 or 11 feet). Not only those things are identified on the plan, it also to scale and it would show the parking and where the buffers are. So, you are meeting those requirements and you can see it on the plan, because we sign off on the plan and say as per plan submitted. At this point this is not a plan, it is a conceptual idea and you're not quite there yet either, but you have taken the time to spend money on this finding, but it requires all that

DK - I respect that, but we did what's required to do. The planning board is going to make us get into the money and then we're going to be asking for possibly depending on the situation from the planning board certain variances if we can, because the drawing is exactly meeting the parking regulations for the City of Fitchburg. However, the Planning board might say: "we're going to give you a variance on X because we like the fact that the variance is going to make this a better configuration and not put spaces against the building for example." So, that's the process we are hoping to pass through them, but in less that we get past your phase first.

LM - I understand that I think that you're hearing a feedback from others that if they can't see this plan conceptually, they can't move forward on making a decision, from reinstating a non-conforming vacant building for another non-conforming use. Therefore, we want to see these things. Do you have any idea what is the size for the six angle spaces?

DK - The distance as per required is 24 feet, so from the edge of the street we are required to be no less than 10 feet.

LM - Do you know it's 10 feet?

DK - We don't have a choice it has to be 10 feet, even if our engineer didn't drive exactly at 10 feet it still has to be 10 feet that's what we're required to do.

LM - So, that's something that your engineer draws up and show on the plan, with the actual parking spots. It something that is concessional we wanted definitely to know this, but let's open it up to our board members to see what's the general feeling is of the 12 to 13 units are in the whole conceptual plan of all these parking spots

AZ - Assuming it's a 45 degree, it needs a 12.7 width a 25 foot so line and a 14 feet maneuver dial

LM - I don't think they have the 14 feet maneuver, actually they won be able to get an emergency vehicle either

JB - What I'm looking at here is a very too ambitious project, For the space that is on. I know we always say that you need to have 10,600 square feet to have a lot to build on, but what we're doing here is overloading the property with parking spaces. I think it would be great if they could lower the number of people in the building, not the number of residences. Lower the parking spaces and everything else would fall into place but right now that's like 5 pounds of pasta in a 2 pounds bag

DK - So, one of the challenges we have that you guys have brought up was that they were concerned about too many bedrooms in here, because it attracts children and then of course it causes more children to the school system. Then there's a tax revenue but it's a negative tax revenue because you have too many kids, in the school so it was requested that we try to reduce the number of bedrooms down. Keep in mind this is 21,000 square foot building so you get to the point where there's a lot of these units are already built, they already have bedrooms in, so by reducing it down to less bedrooms we ended up going from 12 to 14 units because most units were 1600 square feet. Which are very large units and some of them had three and four bedrooms,

so we went in and reduced down to two-bedroom units which is less likely to have children statistically. So, that's meet the demand of the requests from board, but we can't have it both ways we have to do one or the other. So, we have taken away the four-bedroom unit down to two. Originally, we asked for end to end parking which every driveway in America has and that kind got shot down. You got to understand that there's a give and take on this this property, it's a big and already existing building. We can't make the building smaller or make the parking lot bigger, we can't buy the neighbors out and crush their homes to make more parking. So, we have to be able to come to some type of reasonable acceptance by the city, and reasonable acceptance by the investors, so that they can afford to make this worthwhile to turn this into a proper building instead of it just falling around itself and becoming another eyesore in a City that we are trying to get rid of these eyesores

LM - I appreciate those comments and I know there were couple of different things that we talked about, but I don't think the board members were looking to increase the number of units by reducing the number of bedrooms. Talked about the tended parking if they are not the same family and you won be able to accommodate that, so they were others were interested in 55 and older. We might allow some guess spaces parking situation and reduce the number of parking spaces and allow tended parking.

DK - That's fine I like your feedback we're trying to work with the City the goal is to work with the City in the neighbors to come up with something that's going to turn this into a nice property with a great home for people to have, and not have this eyesore so we just need to work together as long as we can do this project, but we can't lose money we have to make money because that's what we do for a living

LM - Understood and we want to work with you as well and we want this folks invest in the town, but we don't want to have a problem down the road for us and then it's not a good fit for the City, so we just want to make sure that it's properly done

GB - I completely understand the desire for the return on investment for the physical structure, in the investors and I do want to get to yes here, but in conceptually for the parking because that's what this seems to hinge on is not enough property to support the return on investment for the size of this building or the parking. What I see conceptually is a good faith effort to solve what originally was a completely untenable parking plan, at least in my opinion but I have a couple of questions here: and some of them were brought up it'll be answered down the road, but I the slanted spots in the back on Fayerweather. It seems cramped to me when I was doing a site visit with the rest of the group, the parallel spots along the building closest to Frankfort Street, I'm just curious is that change the angle of the existing access Road up the Hill into those spots? It seems to go over the property of a Dennis Piper, I don't know if there's an existing easement there and don't know how it that all works. As well in the back corner where you put out the snow area and the dumpster I am counting 27 spaces, so we're assuming that the abutter in the church who did ask for access to his property through that gate, will not need access to that property during the winter that may be a very reasonable assumption, but I don't know that and even during the summer time if you have a dumpster in front of that gate it may prevent him or them from having access to their property. I don't think there's any solution here, we're losing the green space in the front but other than that there was no green space to begin with. Honestly, I don't think that's big enough and that area is problematic without some heavy equipment on a 6,7,8-inch snowstorm

LM - That's a good point that you brought up about green space, it wasn't much green space where the kids play outside

GB - That isn't the issue here, the issue is that we've a big building on a small footprint and I support the investor idea of taking a building that is falling and investing in it making it better but that is where this pivots it's a big building on a small piece of land

DK - Number one I want to let you know that the road you see, there is the actual deed Road that is there today with the exact angles, it's drawn by the engineer that he did go back and look up that is a deed Road for Dennis Piper and that is a deed access for us to go across the corners property and that's exactly how the road is today. Second thing is I wanted to point out you that's the actual property line of the Fayerweather street, so nothing can be on Fayerweather street as a permanent structure, no Jersey barriers, no permanent fences or anything, so we're probably have to move that fence back which happens to be the property for the Conference Center because it's not legal and it also impedes the traffic going through there. Which is what you brought up about emergency vehicles so that's going to happen because that's what the city is going to require us to do, so obviously take on moving the chain link fence not a big deal, but by doing that you can see the snow area now gets to be huge and the dumpster it gets to be large and everything gets to be where it needs to be. So, we

really wouldn't have much of a concern unless we get massive amounts of snow and then we just have to haul it away like everybody else has to do in the City

BG - I have a good knowledge where is if I had to tackle the job about plowing, and I just don't see any way of plowing it without reducing parking spots, if you get 6 inches, 8 inches or 12 inches the only way to handle it effectively is to have the snow removed from the site. It's a big building on 55,000 square feet lot, I keep going back to a 55 or older community for a couple of reasons there's not a lot of green space for the children to play. I also thinking that 55 and older that people have is one car or maybe greater, 27 spots that currently exists, which is great because we need for the 13 units, but it may allow visitors. Another questions I have would be the unit be owner occupied or rented? And so, what would be the per centage for rental income versus owns?

DK - First question comes back with a question let's assume just for hypothetical that we say that we'll make it a 55 community, because that meets the needs. Now I'm asking a question of the zoning board would you allow us to go up to 18 units? because now it's we build subdivisions for over 55 we typically manage them at 1200 square feet. Right now, the average unit in this building based on 12 units is 1600 square feet and we go down to 1200 square feet, and we can go from roughly account of 12 to approximately 16 to 17 units. Are you going to jump up and down and get upset if I come back and say we're putting 17 units and keeping it over 55? It's that something that you're going be comfortable with? On the second question we are going to sell all of these units, if somebody buy a unit and decide to rent it out. We'll have no control over that, but we're started creating those condo docs. Once they last unit is sold in the investors will walk away, and hand over the condo docs to the owners and the board spoke to manage the property, but as far as we're concerned we're selling all the units what they do with it after that we don't have control over

LM - But you could do is put it as rules and regulations

DK - We could put that in the condo docs that they can't rent their unit out, but that's a cruel thing to do. Let's say somebody's travels a lot and they're going to be on the job they're going out to China for 12 months to do a job, and they want to rent the apartment for 12 months. To have somebody maintaining it that's pretty mean thing to do to the can't do

LM - But you could set a ratio on that

DK - Yes, we certainly could do that but that's if we're going with over 55 then that would be a different kind of condition

LM - I think the big concerns for the Board is about condos that are being rented out, and they're not homeowners and they don't take as much care of the property and it may be an apartment building

DK - That was our first meeting and the first conversation with my investors, and I said the smartest thing to do is to sell, close to people going to live there because they're going to care the property

LM - Would you also agree that 55 and older and owner occupied?

DK - I can't agree of that because I'm not the one writing the checks, that my investors would have to agreed that. Saying that agreed the board of zoning to do 55 and over, but I want 18 units. Unfortunately, you're crossing the boundaries that you can't say I can have 18 units, because that's planning board. However, when we go to planning and they say no way we're giving you 18 slots, you're getting 12 and that's the best. Now we've limited our market we've created very large units for over 55 and that creates a whole level of complexity for both the investors and for me

AZ - honestly most of my concern are exactly the ones that have already been being voiced by board members, but I would need to see some very concrete in paperwork on the Fayerweather Street issue in terms of how it can be used, and by whom. I've heard we've been told what the case is, and I've looked into it a little bit, but this isn't my type of job to do legal research for the petitioner. So, when it comes to paper streets what I will say is there's always some complexity in terms of exactly outland can be used, even to the center line there's always some restrictions and so. I would want to see before we approve any plan that involves the use of Fayerweather Street to meet our requirements. I would need to see some kind of whether it's a formal legal opinion from a retained attorney or just some kind of citations that show: Here's how we can use it, here's why because it's not a total ownership situation that's the problem. It's not owns free and clear it's encumbered and we can't approve something, per the same reason that we require your petitions copy at their deed and their tax

certificates and everything to the applications because we need to know that everything that we are being asked to approve is something that we actually can approve consistent with the petitioners property rights

LM - Mr. King could you refer to why the increase of units?

DK - So, few things the first one is, referring to increasing the number of units in the building because the feedback was coming back from you was to go on over 55. We won't have two cars per person and then we'll have more parking, just saying if we do that, goes against the typical industry standard of over 55. Because these units are too big, and it lends itself to a challenge when you do a 55 and over community. We are doing one down in Rutland and few other we always keep in 2 bedrooms, that's the rule. The two bedrooms it's really hard for an over 55 people, I'm over 55 and I have children that are still going to school, so it is possible to be over 55 and have children. If we're getting more parking, then we'd like to put more units in there because you're restricting our income by restricting us to only 55 community. A second thing is I spent a good amount of time with the city and the people in the city that understand about abandoning street it is. I also want to make it clear to everybody that's looking at this diagram that a licensed civil engineer did this plan, so these spaces on the back of the building the length and width of them they are exactly too engineering specifications that do make the parking regulations and the access regulations for the city of Fitchburg

LM - Just a comment on that, we had over the years we had engineering plans with the wrong information on because they don't research the actual regulation is. That's why we request the actual spaces being labeled and what the sizes are. At this point, my suggestion might be to go to the Planning Board and see conceptionally what their thoughts are before we make any decision.

MM - I think you made some progress with the direction of the board, and I like the concept of the over 55, but I certainly not against increasing the number of units if we're going to decrease the impact on the property and the surrounding neighborhood. I appreciate the snow removal plan, but I think it's not gone be nearly enough when reality sets in and we have some long winters. I suggest maybe having them adjust this plan, taking it to the Planning to get some good insight. On how the planning board feels about the density in the parking and they could probably provide some different approach that we may or may not be seeing, I think we all collectively be patient and try to work on this, to see if we can make it happen it's a lot but let's keep working together

JB - We always thinking about more and more we're talking about 21,000 square foot building, we're talking about moving it from 12 to 13, to 17 to 18. Why don't we think about going down? What is needed in Fitchburg or high-end condos, it's in a nice area and a nice neighborhood to put in high-end condos have it bigger give better quality cabinets, etc. Spend a little more money and rip it back in the price of the better condo and have it down to like maybe 10 instead of building it up to 18

MK - You made an amazing point; I don't want to go to 18 units. We do a lot of high-end work we want to make a nice product, it's a beautiful area of town and this is what we're going after. So, what we need to know is if we are okay to go to a residential zone, and if you say "yes" you can't do 13 or good to 12 - 11 Max. Then we could crunch our numbers and figure out how this works for us, but I have another idea that I brought up to my team and maybe this will make sense to everyone else. A real plan showing everything would happen in my experience a little bit further down the line after we got the approved, my idea all along is if we look at those spaces where the existing garages, and I have done in the past on very tight spaces we would do is almost like stackable parking. Basically, in that area instead of just 10 spots, you can make 20, I want to keep that tree in the front and keep the grass. I want to be able to come through and plow with some extra room on the side, so if we could do that then and could save a lot of space and trying to fit 5 pounds of pasta in a 2-pound bag.

LM - It was expressed in our site visit before, definitely there is a lot of concerns for anyone and that's why was suggested 55 and older. I don't think it was the interaction that you folks have to go in that direction, we did say that you may be able to assign tandem parking if it were 55 and older. So, people are not wrestling with all the parking spots, they needed to be assigned, and that we may consider tandem parking. I just wanted to be expressed that we did talk about tandem parking and we did say it might see ourselves clear to that if it was fine and it were 55 and older

MK - I think that's fair but like as David said if we go with a 55 and older it's going to be a tougher project for us, we could consider but then that would increase the number of units and we don't want to do that. We want to make sure that there are enough parking and fewer units.

LM - It will be nice to see on the plan if you do 10 spots where the 18 spaces are, or if you didn't 10 or 20 tended what the measurement will be and the turn around the building. The buffer zone on both sides and actually have it conceptually done and I like to hear what planning has to say before approved it to residential. What we want to know is the number of the tended parking if are 20, what the sizes and distances between that and the building, including the buffer zone. Also, if you still have the ability to drive through including a large vehicle in case of emergency a fire truck. I think that all Board Members felt the 12 and 13 was a lot, so I wouldn't be trying for 13 at this point maybe 12 would be the way to go and whether it's 55 or not, that's something you have to decide. You have to make the best business decision for yourselves

LM - At this point I think we need to move on and continue this petition to September. We can say September 8th at 8:15PM and try to go to Planning prior

Tom Skwierawski - What day is your meeting in September?

LM - September 8th

Tom Skwierawski - Not sure if the petitioner still on time to get on our agenda for a formal hearing because of Noticing requirements. I can certainly check in with our team in the morning, but we could get him in for an informal review. However, it would not be until after 9 because we've got a number of publics

LM - Michael would you like to go that route and having the to go Planning to get their input on this?

MM - Whatever the Board feels collectively

MM - Motion on ZBA-2020-17 under §181.3522 to Continue to: September 8, 2020, at 8:15 PM

BG - Motion Seconded

Roll call Vote 5 - 0 to **Continue to September 8, 2020 at 8:15PM**

5. MISCELLANEOUS

8 WOODLAND ST

Special Permit discussion

Tom Skwierawski (Community Development Dir.) his department administrates a community development block grant fund, every year we have a substantial demo program. Where we are removing old buildings throughout the City, and right now our focuses in City owns properties. In some unique cases we identified properly held properties that we need to demolish, and, in this case, Woodland is a property that has been vacant for plus years, it is connected on the same parcel as 40-44 Plymouth Street. We are considering in include that property on our demo program and restart to the owner, which he is here to discuss whether if they are willing to entertain the friendly demolished essentially where often we put a lien on the property for the demolish cost, in this case, is worth of 50,000 dollars. we were entertaining a friendly demo; we would not have that same requirement built into it. So, the property owner and his representative are requesting some time to see if their plan to add multi-family housing to Woodland Street would receive a Special Permit from the ZBA, Commissioner Barbadoro and I suggested that they could go to ZBA for an informal review, before making that decision.

This is a very dense property 8 Woodland and 40-44 Plymouth in a very small lot, I believe is by 60 x 500 SQ between the two properties. Our goal is to remove a long-held blade in the neighborhood and to improve the marketability of the property owners existing property at 40 to 44 Plymouth which is occupied pretty large multifamily development but again was curious to know if the board would entertain the idea of redeveloping Woodland into a three-family.

LM - But before you do, could you tell us the number of units the occupied, and its the building at 8 Woodland St is boarded up?

TS - It is 8 Woodland it is boarded up for at least a decade, it was declared dangerous by the building Department in September of last year

LM – Okay

TS - I can't speak for 40-44 Plymouth I believe it's over 8 units

MM - is 40 Plymouth presently occupied?

TS – correct, if you're looking at Plymouth street the building that is fronting Plymouth street that's 40 Plymouth that is currently occupied. The building behind it, which referred to 8 Woodland. I think historically they were joined together at some point in time, so now it's considered part of 40 to 44 Plymouth and the back property is unoccupied at Woodland St

MM – So, 40 to 44 has how many units?

TS – I believe it has eight

MM – And they are fully occupied?

PL – They are seven units

LM – Okay, and do those units have appropriate parking?

TS - Currently the existing 40 to 44 Plymouth is pre-existing nonconforming it does not have any parking, 8 Woodland Street does not either. So, they are seeking to reinstate 8 Woodland, which is vacant non-conforming, and which lost its nonconforming status by being vacant for over 2 years. as it was you

LM- Will give a few minutes this is not something that everybody was aware, that was going to be happening. I was trying to lead us down, so we had a good understanding of the project without getting into too many details

TS - Relatively quickly notice commissioner Barbadoro and I put this on, as an informal discussion which is similar to what we are trying to do with 50 Frankfort Street with the planning board. It's not a hearing but we want to provide some feedback and that's what we're looking for here, we're on a pretty tight turnaround time with our demo program. So, we wanted them to have a chance to get your informal feedback instead of paying the fee and submitting everything for a special permit, just to get a sense of if this something that the board would be willing to consider or not.

Attorney John Barret - Representing the owner and Maynard pros LLC, Mr. Praveen Limbachiya is the principle in that LLC. Purchased this property about six years ago, with the intention of renovating it. They have done work on the property at 40-44 Plymouth and that does have 7 units that are occupied. TH

Another building at 8 Woodland has been a more difficult task, however, they do want to restore the building. Mr. Limbachiya asked me to join them tonight, I believe that there is some relief that the board could grant under section 356 of the ordinance. It is residential C district and three families are allowed by special permit from the planning board, this property dates back to about 1900 at what time was a legal nonconforming use, but it has been abandoned for more than two years or unused in more than two years. So, that's why we're going under section 356, the owner needs to submit a rehab plan and Mr. Praveen had sent over a small diagram of the lot earlier. Someone mentioned earlier the principal concern is parking, the lot of the building at 40-44 Plymouth Street still being used. The lot it has 3-family 8 Woodland would have enough room for 6 parking spaces

TS – Just inquiring about the parking proposed area, it is not a flat area correct?

PL – You are absolutely correct, there is baring to that area, but we are proposing a retaining wall on two sides of it, to be built. That will allow us to make it in a

enough spaces to be able to park those cars, also I thought about potential stackable parking and if there is a possibility

LM – It is a lot of parking necessary on a project like this, and to me, I would not look favorably on something like this, because there are 7 other units that need parking. This is very tight street, I can't see my way to reactivating a 3-units, by looking at this it is 1.5 acres which is 6638 square feet

MM - How long and were both properties purchased at the same time?

PL – Yes, it's a single lot and it was purchased in 2014

MM - And when you purchased it, were both buildings occupied?

PL - So, when I purchased the small unit was not occupied, where the 3-units building was not occupied. I was told about a year prior that maybe there some of the 7 units were not occupied, but several of them were occupied

MM – Okay, so you've owned the building for six years, and for all those six years it's been occupied?

PL – yes, and we do try to focus on getting much better tenants, my property manager who manages it, they focused on getting the great tenants, initially we were focused on occupying this building

MM – Okay

PL - I'm a small investor I own three buildings in Fitchburg, and I didn't have any idea, that if you do not occupy a dwelling for two years it becomes like this. It just came to know about a year or a year and a half ago about this situation, and we're trying to come up with a plan to rehab these units. If you allow us to rehab these units, will be nice units. We are looking for an opportunity, it's going to be good for the town. It's economically will be bad if I have to destroy the three-unit building and even if we remove the three-unit building it doesn't mean that there is going to be parking for the 7-unit building.

MM - Say that again?

PL - Even if the building is removed, I don't believe that will have the parking for the 7 unit building, because that will require money to be spent and I don't think I can afford to spend money to make that as a parking area. So, the parking situation is not going to change, either way, what we're proposing is rehabbing this unit on this particular building, making it looks neat with new siding, roof, windows, doors, and removing some surface grade. So that we can do 6 cars parking for this particular units, and I think the living situation for both because it will be more economically viable for the investor and also the \$50,000 plus that the city is trying to use, to have a friendly demo this building it may be used somewhere else

MM – Tom, why is the city is looking to demolish this property is it been declared unsafe?

TS – Is nice committee or problem properties task force watch list for quite some time, the Fire Chief, in particular, the close proximity between the two buildings and the length of time in which it's been vacant, felt it posed a particularly strong fire hazard for the folks who live in the multifamily beside it. We had a survey team as we always do with demo projects, go out which is and it was forward commissioner Laakso, former chief Roy, Building Commissioner Mark Barbadoro. As well as non-interested party the name escapes me at the moment, but in any event, this survey team had met in September of last year and declared this acre property a dangerous property

MM – Okay, I just trying to understand why the City is going to spend funds to alleviate a problem for a property owner, that shouldn't the burden be on them to remove the building?

TS - Our demo program certainly takes down a number of properties throughout the City, and in denser areas where we often just not concern for the property, but we get concerns from neighbors with properties like this. I'm sure everyone on the Board could empathize where you live beside a large property that's been vacant for over a decade, it's more prone to squatters and to fire risk. It drags down property values, so these are the kind of things that the nice task force here is about. And the demo is one of the solutions it's not the only one in the toolbox, but certainly with a property like this where it's been unoccupied for so long and then on the nice committees watch list for so long we like to help resolve this is ablaze in the neighborhood, which I think the neighborhood here could sorely be needed

MM - I greatly appreciate the feedback, as far as what's before us it is a unique situation, but I'm looking at and we've seen these over the years where there are two buildings that are so close to each other and they are on one deed. I cannot see why we would add to increase density by allowing the rehabilitation of this property when we've got a 7-unit that has absolutely no parking. Another thing I'm concerned about is if the city is certainly making a great gesture in an effort to invest in this property on behalf of the applicant. The applicant should be converting and putting an effort into creating paved off-street parking, and some green space for the 7-unit building

LM - So do you informally want to say that you are in favor of it, or you're not looking favorably?

MM - The numbers just don't work, it's not even a consideration based on the bylaws. And looking at the past history, but I'm a little taken back by the fact that the City is going to make an investment at a goodwill gesture, and the feedback that it's not going to improve the property are there's not a willingness I'd like to see the investor to really think about it

AZ - I also, don't just ask my gut reaction, is no we don't want to add denser to the neighborhood it takes you earlier where we already have and seven or eight

a family without parking. I understand the limits of finances obviously, but I see it as a basic stupid dream of someone who owns property in the City to at least maintain it to a standard, that it doesn't become a dangerous and unsafe property. So, I would not inclinedly extend much credit or good faith for a property owner who allowed the property to become dilapidated and unsafe, because it was not profitable to bring it up to code at the time. Now I'm not saying it should have been inhabitable condition when it wasn't actually able to be rented that would be a waste of money but at the very least maintaining it, in a condition that didn't cause fire risk and so forth and it sounds like this was something that was going on for a quite some time. That concerns me and as Mike said, it concerns the attitude of the property owner. Even if we do go with a friendly demolition and don't put a lien on the property, which is a cooperative gesture that is money that would have gone to re-develop a profitable property; won't do anything to improve an existing property. I see it as there's a civic responsibility in being a property owner particularly and investment property owner, in a state in that if there's money now to do what we're told would be a high-quality renovation of the vacant property. There should have been at least enough money previously to maintain it to a tolerable standard, even if it's just a matter of slapping paint on it every now and then and inspecting it to make sure it stays. There's no excuse, especially when it's right next door to a property that you're putting tenancy, there's no excuse for allowing a property like that to become I decrepit. I don't think there's any reasonable likelihood that I would be voting in favor of reinstating this, both based on what I think is generally desirable and based on the various special permit criteria. Including impact on the surrounding neighborhood and so forth, so that's pretty much where I stand. If I think of anything that would persuade me to possibly change my mind, I would be happy to let the petitioner know, but I can't think of anything that would plausibly sway me on this. The combination of concerns with the way the properties been treated in the past, and concerns with the practical aspects of reason feeding it, even if it were done in a very responsible manner it's not just one or just the other

BG – I agree full-heartedly with Anthony in Michael, I cannot see my way clear now with the parking situation. We have a large building up front that doesn't have any parking further congesting area, it's too much of an impact on an area that's are currently congested so that's all I have to say about it

GB - I think Anthony hit the nail on the head with exactly what I was going to say, but I would like to ask the property owner why has nothing happened here on this property in six years, and why suddenly is something going to happen? If I read the email trail here, you're looking for three months here, what's changed here in six years that nothing's been done in suddenly something will be done. I think you should at least have an opportunity to tell us that

PL – Okay, what has happened is, unfortunately, it was a wrong decision from me, to hire a wrong property manager. I live farther from Fitchburg, more than an hour away. I hire this property manager who basically did not focus on occupying this particular property, Bob is more reputable property management company it's Jordan copper solutions out of Marlboro. They took this over since last year and they have done a tremendously good job, in terms of making the other two properties better, which also weren't as good on Day Street and Market Street. I believe with the new property manager who is going to be focused on making this property better, we can get it done sooner than later. Therefore, we offer that we can do it quickly enough if you give a chance to make an almost brand new 3-units building with its own parking. That is to add value to the neighborhood, instead of making bare parking which I would have to spend money to do that. I would like to make this neighborhood better in terms, of the actual building safe or not or fire hazard or not. Back in September when that decision was made, I personally was not aware of, maybe I forgot maybe I missed the mail, but I was not aware that building is unsafe or dangerous or fairness. I have been maintaining by boarding it and keeping an eye on it, a couple of years ago I checked with my engineer he said the building was safe and so we need to rehab it. In terms of the 3-units inside, two of the units are almost rentable. Obviously, I need to do some improvement and the one-unit in the basement it needs a little bit

more of work, However, if you give us a chance, maybe instead of 3-units we can do 2-units with the four parking spots, or still 6 parking. So, economically will be better for a small investor like me in Fitchburg, to have a 2-units and then have parking for those new units.

GB - I can certainly appreciate that and I want to support a small investor, but I would have to agree with the Board that the window of opportunity it's incumbent. Upon you as a small businessman of the property owner to keep track of your properties and visit them at least often enough to prevent a property from getting into the situation, I would strongly encourage you to consider the City's offer

Atty. Barrett – I wanted to respond and supplement my clients and tell the board that maybe he doesn't want to accept the City's offer at this point in time for some assistance with the demolition of the unit, but the fact that he does have the intention and the desire, of the funds to renovate this building and make it a better place and make it a better spot in the neighborhood. As he indicated maybe there would be some other options, in terms of reduction of the numbers of units. Certainly, I know the Board spent a lot of time with the previous applicant, obviously we're here just for an informal discussion about the possibilities that various possibilities. So, I would just like to suggest to the Board that although parking is difficult, also, the provision for relief that the Board could grant under section 3566 because it is an illegally nonconforming lot or structure. Parking could be established for this three-family, the other properties not been abandoned is not subject to the abandonment rules, that it's for this property at 8 Woodland. There is a need for housing in the City and this

would be a not increasing density, or creating a greater non-conformity then is already exists. I simply would like to ask that they consider the fact that Mr. limbachiya is having some difficult problems with managing the property through, but it has the ability and the intention to renovate this building if the Board would allow him the opportunity

LM - You were just to get our feedback this evening and I think you hear the general feeling about that. This was an informal discussion and over the years we establish buildings like this it's a task and certainly with eight-units in a three-units on one property that even seems more insurmountable

LM – So, I don't really think there's anything more that we can add to this and at this point, it's up to the investor to decide what he would like to do

AZ - Motion to adjourn
GB – Motion Seconded

Vote Unanimously

6. ADJOURNMENT