



ZONING Board of APPEALS
166 Boulder Drive
Fitchburg, MA 01420

MEETING MINUTES – April 9, 2019

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

CASE No.	APPLICANT	PROPERTY	TIME
ZBA-2018-07	Fitchburg Public Schools	70 REINGOLD AV	7:00PM
<i>Review of the Variance under §181.5353 to erect an Electronic Reader Board Sign located in the Residential A-2 District at 100/32/0</i>			

Chair call 3 times, but no one was present for this petition

Those Seeking Information: None	Those In Support: None	Those Opposed: None
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Hearing Closed:	Deliberations:
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AZ - Is a review of Variance for a sign, the sign hasn't change since we approve it
 JB – No, and is up running it looks beautiful on his opinion
 AZ – On his opinion would be just to approve the review and said no further review, because there is not something that we have any special concern about anyway

AZ – Motion on ZBA-2018-07 under §181.5353 to **Approved** the **Review** striking condition #7 and all other conditions to remain as follow:

1. **No flashing/blinking, animation or video of sign**
2. **Size and location of sign as per plan submitted**
3. **Alpha/Numeric/Symbolic Picture display only**
4. **Public Service announcements to be included in the text, such as, time, temp, and amber alerts**
5. **Signs to be maintained and in good condition and repair**
6. **Sign to meet D.O.T. standards – not less than 3 second display change**
7. **Hours of Operation: Monday-Friday 7:30AM – 5:00PM Special Events: to close at 8:30PM**

JS – Motion Seconded		
Vote	4 – 0	to Approved the Review with conditions

ZBA-2018-23	Roberto Fernandez	27 GAGE ST	7:10PM
<i>Review of the Special Permit under §181.3561 to reinstate a vacant/abandoned building as a 2-family dwelling with stacked parking spaces located in the Residential B District at 31/111/0</i>			

Presentation was given by Roberto Fernandez stating that at this time one of the electrical meters has been remove. Now he is still struggling with the parking certified plan, because he wanted to ask the board opinion on it. As last time that we talked, since is only going to be a two-family, you only letting me go with 4 parking spots. So his thought was that initially parking was discuss to created parking on the back for a three units dwelling, but since that been said is now only two-family, he can try now to fit and created the parking at front. He can fit 3 angels and remove the little garden to fit a 4th one there. However he is asking and whatever the Board allow him that's what he will do.

Those Seeking Information: None

Those In Support: None

Those Opposed: None

JB – He doesn't think that removing those bushes and cleaning that area will look good, because it would have to be 3 feet from the house at least, based on Zoning Ordinance

JM – Yeah, we saw the property earlier today, but we need to see parking plan with 4 parking spaces – RF – Well the one we discuss last it had 3 angle parking spots on one side of the property – JM- Okay, on the left hand side? – RF – Yes, on the left hand side and on the right side it's an entrance, because it will cost a lot of money to create parking on the back yard, and now he has approved for just 2-family he probably doesn't need to invest that kind of money

JB – Went by property and doesn't look that any of these conditions have been met, such as electrical meter hasn't been removed – RF – No, the electrical meter has been removed – JB – Are those units unoccupied? – RF – Yes, is empty right now

JM – Yeah, he believes the electric meter is out – RF – We just removed one already

JB – Floor and parking plan to be submitted tonight – RF – Yeah, but because he had some questions in regards to the parking that's why he didn't have it ready.

AZ – Well just as a curiosity, why don't we have the floor plan? Because that's totally independent from parking. We need floor plan showing the layout of the interior – RF – Interior of the house? – AZ – yes, that's correct – RF – Okay

JB – So, would you like to continue the Review in two months? – RF – Okay

AZ – Well, how long do you think it may take? – RF – Couple weeks he would think

JM – 2 months sound right, so he can have enough time to get parking plan and floor plan

JB – And if you have any questions you can always go to The Building Department

AZ – He just would want to note to the petitioner that when you draw out the parking plan that it has 4 conforming spots, do your note that it has to be 3 feet clearance from the house, so you can't be legging in right against the wall – RF – Okay, and that's why he was asking to make sure that he would do it right

AZ – Motion on ZBA-2018-23 under §181.3561 to Approve the Review with the following conditions:

1. **Parking to be paved, striped and accordingly assigned**
2. **Second floor not to be occupied until 3rd floor unit is decommissioned and approved by the Building Department**
3. **Review to June 11, 2019**
4. **Floor and final certified parking plan to be submitted at that time**

JS – Motion Seconded

Vote 4 – 0 to Approve the Review with conditions

ZBA-2018-20 The Peterbilt Store, New England LLC. 215 CRAWFORD ST 7:20PM
Review of the Use Variance under §181.313C11&12 to operate a Commercial Truck Sales and Service Center in the Industrial District at 114R/6/0

Presentation was given by Matt Preston stating that the business is up and running going great. And has no issues or concerns currently.

Those Seeking Information: None

Those In Support: None

Those Opposed: None

JB – Congratulations, you have a very good job very happy for what he saw when he went to visit the property, the only concern he has is the front stripe, but he knows that petitioner will take care that when summer comes other than that everything looks great

JM – Yeah, visit the property also and has no concerns at all

JS – Agree it looks beautiful

JB – Does the Board have any reason for the petitioner to come back for another review? – AZ – Board Members don't think that it's any other reason everything looks neat and petitioner has met with everything that was agreed with

AZ – Motion on ZBA-2018-20 under §181.313C11&12 to Approve the Review to strike the condition for further review and all other conditions to remain as follows:

1. **Sunset Clause – Use Variance to terminate/expire upon the sale/transfer or change in operation from The Peterbilt Store, New England, LLC**

Vote 4 – 0 to Approve the Review with conditions

ZBA-2018-15

Francis Dower

783 WATER ST

7:30PM

Review of a Special Permit under §181.313C22 for a Retail Shop located in the Light Industrial District at 122/23/0

Presentation was given by Francis Dower and Ethan Deslauriers stating that business is fully operating and getting busier, petitioners are very happy and not seeking to change anything at this time.

Those Seeking Information: None

Those In Support: None

Those Opposed: None

JB – Let’s review those conditions: Not to be operated as a nuisance. No materials to be stored outside. Professional signage only and the Sunset Clause – FD – Yeah – JB – Would you like to change anything? ED – No, we don’t think so – JB – Any hours of operations would like to change? – FD – No, we think that those hours that they allow us, we are going to open later and closing earlier, but just going to keep the way they are.

AZ – No questions he thinks the place looks great

JB – Does the Board think that they need another review? – JM – No

AZ – Motion on ZBA-2018-15 under §181.313C22 to Approved the Review striking condition of further review and retain all other conditions as listed:

1. **Not to be operated as a nuisance**
2. **No materials to be stored outside**
3. **Professional signage only**
4. **Sunset Clause – Special Permit shall terminate/expire upon the sale/transfer of the business from presently operating LLC**

JS – Motion Seconded

Vote

4 – 0

to Approved the Review with conditions

ZBA-2019-06

Makaman Enterprises, LLC

619 SOUTH ST

7:40PM

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

AZ – Recused himself for the hearing

Presentation was given by Kimberly Porter stating that she is seeking for a special permit relief to install a second wall sign on the building. The business generates many referrals based upon the visibility. She recently purchase this building and planning to remain in this locations for years to come. Right now there is a small sign post in the front and don’t feel that this sign alone will adequately market the business needs. So, one sign will be on the South Street side of the building and the second one will be facing the parking lot side of the building (adjacent to South Street). This building location has multiple business next door and close by throughout South Street, and these businesses in adjacent properties also have signage. This additional signage will not be backlit or illuminated, this will be a type of sign that is harmonious to the building and locations architecture that matched other signage in the same area. Since her business is a community Service, helping children and adults with speech and language disorders, therefor the business relies on visibility to be known in the community and having adequate signs will properly identify it.

JB – So, you bought the whole building? - KP – She bought the front building – JB – And what is going to be in there? KP – She does speech therapy is Core Communication Center and she is going be doing it on the 1st floor and hopefully it will get expand to the second floor, right now she is going to be renting the top floor. We don’t have anybody in there yet, so right now the top floor is empty – JB – Is a beautiful location there – KP – She loves the location – JB – And it has plenty parking too – KP – It seeing that is going to be perfect and she is very excited and we are doing a lot of work to bring it up to code – JB – Yes, we noticed – KP – We are doing a handicap ramp outside and open-up another entrance to make everything wider for a wheel chair accessibility. She needs a therapy room, so we section off the inside a little bit – JB – Do you teach reading also? – KP – No, not too much speech pathologist can, but she doesn’t do much reading, she does mostly psychiatric right now – JB – Are you working in conjunction with Fitchburg Schools system? – KP – No in conjunction, but she sees a lot of their kids. This is a private practice, but a lot of their kids got filter to her business, and

she has kids from all over, right now she is establish in Lunenburg and been there for about 2 years and been renting and starting grow a little bit and is kind of neat to own the building – JB - Good

Those Seeking Information: None

Those In Support: Anthony Zarrella of 33 St Paul Street stating that he is very familiar with this building because his family had their business there for many, many years and just recently sold to the petitioner. It’s a deal location for the sore of business and speaking as someone on the area and he sees no problem for the propose signage is been a commercial building for as long anyone can remember just by fact is a Residential in for map and so is not going to change the character of the area or anything

Those Opposed: None

JS – Is the sing going to be illuminated? – KP – No, we are going with character of the neighborhood, so we are not going to be illuminated – JS – Okay

JM – Looks good to me, has no problem with

JS – Motion on ZBA-2019-06 to Approve the Special Permit under §181.5341 with no conditions

JM – Motion Seconded

Vote 3 – 0 to Approved the Special Permit

ZBA-2019-07 Dufresne Realty Trust 197 LUNENBURG ST 8:00PM
Variance under §181.535 for the construction of a Free Standing 2’ from the sideline of Lunenburg St. and the bottom of the sign will be street level located in the Commercial & Automotive District 46/30/0

JB - We are only 4 Board Members tonight and you would have to get unanimous vote – AC – Okay, if anything we could ask for a continuance so we can bring additional information to the Board – JB – Correct

Presentation was given by Tony Benoit of Wass-Signs and Anthony Cleaves of Whitman & Bingham stating that the sign will be situated approximately 2 feet from the sideline of Lunenburg Street and 11 feet from the travelled way. The proposed sign will be constructed in a pavement area which is level with the street sidewalk, at which property is situated at the corner of Lunenburg Street and Linwood Street. The existing Zoning District is Commercial and Automotive which has no minimum front yard setback for structures. There are existing buildings on either side of the proposed sign with a minimal front yard setback and these building impede the visibility of a sign located anywhere but close to the frontage. Denial of this Variance will impede to the business to be well identified, advertised and noticeable from motorist and passing by to a possible new customer. The sign location also will have no impact on the existing vehicular sight distances of the surrounding streets and street intersections, therefore would not be detrimental to the public good. Relief sought through this petition will be entirely consistent with the character of the surrounding commercial neighborhood as other properties have similar signs in this area.

Those Seeking Information: None Those In Support: None Those Opposed: None

AZ – So, the Variance request them is from the ten-foot setback? – AC – Yes, that is one, but we also proposing electronic sign – AZ – Its going to be animated electronics or static? – TB - Whatever the City Ordinances and the Board allow us – AZ – Well, he is asking because if it doesn’t flash, rotates, make noises, moves or giving illusion of moving them is not prohibited on the first place – TB - Well, most town allow electronic signs with no less than 5 – 6 seconds rule, the way its reeds or he understood on the City stipulation on 181.5362 where it says “Animated Sign” he must get a Variance. So, we were not clear on the definition – AZ – Okay, he is just trying to clarify and understand

JB – Its that what you going to have here them we will take as the type of sign

JS – She knows that this sign is allow by right, but she dislike them and they are everywhere -AC- But, this is not inconsistent with the surrounding area Walgreens has one – JS – She knows, but they are not the best for the community on her opinion

AZ – So, what are your plans on terms of the actual usages in terms of what kind of images what kind of rotations or display – TB - Does the Board has something to propose or recommend as far of if 4 seconds or 5 seconds – AZ – He is looking as far what is the intend of use – TB - Well he is not intent of showing videos on it, he wants to have a picture of a

car and be able to promote his products. Have a every 5 seconds message with different effects something like that – AZ – Basically what we are looking at though something along the lines of relatively simple transitions between static images with madding moving transitions, but not too distracting – TB - Okay – AZ – What do you have on mind for hours of operation? – TB - Typically, he believe most signs go to midnight, but he doesn't know if the business owner would want to run it that late, he does repairs and sales

JB – Who is Dusfresne any of you both? – TB - No – JB – So, we can't do this

AZ – Well they are acting as agent for the company – JB – But if we have somebody from the company here, we can ask those questions directly to them, such as hours of operation

AZ – Does the company understand that whatever conditions we place on this with you guys here they are going to be bound too even though they are not here – TB - Yes

JS – Well, we would have to put that detail on the decisions – AC – Are there any standard conditions?

AZ – Yes, there some standard sign conditions, such no flashing/blinking, animation or video condition, we may or may not depending of the Board thinks of the transitions are okay, signage location approve per plan submitted, alpha/numeric/symbolic picture display only, public services announcement to be include in the text, such as, time, temp, and amber alerts, signs to be maintained and in good condition and repair, sign to meet DOT standards – not less than 3 seconds display change and the yearly review – AC – Is there any of operation time typically on? AZ – Not, on this.

Another thing we need to know if this sign has variable brightness – TB - Yes – AZ - Will the owner willing to deemed after the sun is down? So is not glitter out – TB - No that is builder into the software, that's unquestionable – AZ – Okay

JM – All signs are like that? – TB - No

AZ – That's why we must ask, but knowing all that it makes it little more easy decision – TB - we ae going from 6:00AM to 10:00PM operational hours – AZ – Okay, sounds good

Hearing Closed:

Deliberations:

JB – Does anyone has a problem with this?

AZ – He doesn't, no with the conditions as discuss. He don't really love animated transmissions, he understand that they look good, but they drag the eye more away from the road as supposed to be something to look at while you facing at the sign, but otherwise he is okay with waving the alpha/numeric symbolic thing and allowing the actual photo of car showing there, and ultimately is Lunenburg close to John Fitch where is a lot commercial business

JM – He is good to go, no issues at all

AZ – Motion on ZBA-2019-07 to Grant the Variance under §181.535 with the following conditions:

1. **Free Stand sing 2' from the front line**
2. **Electronic display with static images, permitting specifically photo real images**
3. **Size and location of sign as per plan submitted**
4. **Public Service announcements to be included in the text, such as, time, temp, and amber alerts**
5. **Signs to be maintained and in good condition and repair**
6. **Sign to meet D.O.T. standards – not less than 3 second display change**
7. **Hours of Operation: Monday - Sunday 6:00AM – 10:00PM**
8. **Street address to be displayed prominently on sign or signpost**
9. **Review in one-year April 2020**

JM – Motions Seconded

Vote 4 – 0 to Grand the Variance with conditions

ZBA-2019-01 Kenneth Godfrey 220-222 ALBEE ST 8:15PM

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

JB – The Board had received a letter from the petitioner asking for a continuance to next month May 14, 2019

Those Seeking Information: None Those In Support: None Those Opposed: None

AZ – Motion to wave the Second and Third call on this petition, since that there is no one present on the audience

JS – Motion Seconded

Vote 4 – 0 to Waive the Second and Third call

Further after the Board Motioned on:

AZ - Motion on ZBA-2019-01 under §181.3561 to **Approve** the **Continuance** to **May 14, 2019**

JS – Motion Seconded

Vote 4 – 0 to **Approve** the **Review** to **May 14, 2019**

ZBA-2017-19 **Mohammad Chaudhary** **19-23 PROSPECT ST** **8:30PM**
Review Special Permit Conditions under §181.3561 to reinstate an abandoned/vacant building as a 3-family dwelling located in the Residential C District at 18/48/0

Petitioner wasn't present in the audience

Those Seeking Information: None Those In Support: None Those Opposed: None

JB – The Board Members may make note that the building has burned down, but there still are debris and a truck has been parked in the property for a considerable longest time. And it's has been known by a member of the committee that we should find out what is going on with the property, if the petitioner appears. However, it's doesn't look like he is going to appear.

AZ – Unfortunately we know that the property burned down, and it's understandable that this is not on top of his agenda and at the same time there is no point to continue to call it every few months. If he is going to re-apply, he will re-apply. And till them any other conditions on the property are frankly not our review.

AZ – Motion on ZBA-2017-19 under §181.3561 to give the petitioner the **Leave to Withdrawal** without prejudice

JS – Motion Seconded

Vote 4 – 0 to **Leave to Withdrawal** without prejudice

ZBA-2017-28 **Jeffrey Summers** **4 BRIGHAM ST** **8:40PM**
Review of a Special Permit under §181.3561 reinstatement of a single-family building located in the Residential C District at 67/114/0

AZ – He would like to know for the records that there is no one present in the audience

Those Seeking Information: None Those In Support: None Those Opposed: None

AZ – We have received information that the property has been sold, it has not been verified. However, if it still on the possession of the original petitioner, none of the conditions have been met after two-years. Therefore, regardless we vote to revoke the Special Permit without prejudice to a future owner.

JM – Right, totally agree

JB – Yes, agree too

AZ – Motion on ZBA2-2017-28 under §181.3561 to **Revoke** the **Special Permit** without prejudice to a future owner, since either the property has been sold before meeting condition or that two years had elapse without any of our conditions been met

JS – Motion Seconded

Vote 4 – 0 to **Revoke** the **Special Permit**

4. MISCELLANEOUS

AZ – Put a question to the Chair requesting a ruling that three members constitute a quorum of the five-member Board, and therefore also are sufficient to pass any motion requiring a simple majority – JB – Acting as Chair, assented

Update Board of Zoning Appeals Application

JB – Propose to table the new zoning application to next month May 14, 2019, so all members can have the opportunity to review and vote

AZ – Motion to lay on the table the matter of the new application approve

JS – Motion Seconded

Vote 4 – 0 to lay on the table the matter of the new application approve to:
May 14, 2019

5. ADJOURNMENT