



ZONING Board of APPEALS  
 718 Main Street – Suite 201B  
 Fitchburg, MA 01420

MEETING MINUTES – TUESDAY OCTOBER 10, 2023  
 Legislative Building at 700 Main Street.

Note: This was a Hybrid meeting, broadcasting and recording by FATV!

1. Call to Order Michael McLaughlin PLEDGE OF ALLEGIANCE ALL
2. Communications Michael McLaughlin
3. MEMBERS ATTENDANCE: Michael McLaughlin (Vice-Chair), & Brian Gallagher
4. MEMBERS ATTENDAN VIRTUALLY: Joseph Byrne (Clerk) & James Reynolds
5. MEMBERS ATTENDAN IN A LATER TIME: Christine Tree (Chair)
6. Hearings: Started at 6:15PM

CASE No.	APPLICANT	PROPERTY	TIME
ZBA-2023-12	Mina Ghobrial	219 HIGHLAND AVE	6:00PM
<i>Review of the Special Permit under §181.94 of the City of Fitchburg Code to reinstate the variety convenience store in the existing pizza store pursuant to §181.313 located in the Residential B District Map 22 Block 16 Lot 0</i>			

Permit holder Mina Ghobrial was in a virtual participation stating, I'm trying to open the convenience store to help the neighborhood.

MM - When do you expect to be able to get started on? MG – Next month, I'm working on the applications

MM - What is your anticipated completion date? MG - Not exactly sure, but it will be next month

MM – After going through conditions, the #6 states that the petitioner to submit a certified parking plan depicting a minimum of eight spaces meeting standard parking dimensions as listed in the zoning bylaws prior to the review meeting in October. It doesn't seem that we have a registered certified plot plan; the one we got it's a drawn sketch. Do you need some more time to be able to provide it? – MG - Yes

JB – I drove by the property and it looks that they're trying to get it open as quickly as they can, because every day they're losing money

JR – No questions

BG - I visited the site and noted the parking lot was nicely laid-out for parking striped properly, and the handicap was up front with the exiting lane.

No other person was present or remote to speak on, for or against the petition.

JB - Six months after that firm open date, if any complaints from city boards or neighbors. We should let it go without any more reviews

JR - Agree with Mr. Burns, I would recommend to have the applicant come back within two or three months to close out, and at that point you could entertain some type of sunset clause

BG – Agree with Mr. Byrne and Mr. Reynolds



MM – So, after reviewing all conditions, we are going to change #14, ask the applicant to provide record of animal keeping license and would that suffice to the board. Given a 30-days timeline.

JB – Motion in the affirmative on ZBA-2023-19 under §181.313D1 & §181.94 to **Approve** the **Review** amending condition #14 only as follow:

1. **No more than two miniature female goats, including only the goats currently present on the property.**
2. **Any used bedding, refuse or debris, including any spoiled grain, to be moved to the rear property line a minimum of 75 feet from all boundary lines, or to be disposed of off-site, including present refuse and future refuse.**
3. **Applicant to meet any licensing or other requirements from the Board of Health and the City Clerk’s office.**
4. **Applicant to meet setbacks or other Board of Health requirements regarding the location of the proposed use relative to the septic system, if any.**
5. **Goat enclosure to be maintained in good condition in the area designated on the plan.**
6. **Adequate and appropriate cold weather shelter for the animals to be provided within the designated area.**
7. **Any animals to receive regular veterinary care and inoculations.**
8. **Owner shall ensure that there is no odor or rodents present on the property due to the use.**
10. **Not to be operated as a public or private nuisance.**
11. **Special Permit may be revoked for violation of this condition.**
12. **Special Permit to expire in 5 years from the date of filing with the City Clerk and must be renewed prior to expiration.**
13. **Sunset Clause – This Special Permit shall terminate/expire upon the sale/transfer or change of ownership from Debra Lord.**
14. **Applicant to provide record of the animal keeping license to the ZBA within 30-days of the date of this review.**

BG – Motion Seconded

Roll Call Vote            4 – 0                    to **Approve** the **Review** with conditions

**ZBA-2022-13**                                    **Adam Pishdadian**                                    **76 PRICHARD ST**                                    **6:30PM**  
*Review of a Special Permit under §181.336 of the Fitchburg Code to reinstate a vacant/abandoned building and convert the use from one nonconforming use to another less detrimental nonconforming use as a two-family dwelling pursuant to §181.332 located in the Residential C District Map 31 Block 80 Lot 0*

Present was Adam Pishdadian (Permit Holder) stating, I've had difficulty with the electrician and the plumbing. Therefore, the project got delayed for another two months, so by end of week we would have the rough plumbing inspection done. Building Inspector did an inspection and he stated that on the parts isn't plumbing, or electrical to move ahead with sheet rocking. Kitchen and bathroom are done, but I have to go back to my family for three to four months. As soon as I come back, I would have it done in a month and half. Therefore, I would like to ask the Board for some additional time, and to be completed by June 2024.

MM - That would be about a month before your 16-month timeline

Mr. Byrne, Mr. Reynolds and Mr. Gallagher – Had no questions



MM- Is there anybody in the audience or virtual to speak on, for or against the petition?

None

MM – We would want you to know that we have only four members tonight, so we don't have a full board, and therefore you will need a unanimous vote. Would you like to move forward tonight, or to have a continuance when we have a 5-member board? – JA - I understand, and I would you like to move ahead

JB – In favor, and to have job completed within a reasonable time frame

JR – In support, perhaps job to be completed in 90-days

BG - I'm also in favor, with a 90-day time frame

MM - Great project, and in the neighborhood there are other properties that have similar situations where the setbacks aren't met. Due to the age of the neighborhood, it's a pre-existing non-conforming, and is not increasing any setbacks at all.

JM – Motion in the affirmative on ZBA-23-26 under §181.335, §181.416 & §181.94 to **Approved** the **Special Permit** with the following conditions:

1. **Completion within 90-days of the date the building permit is issued.**
2. **The front deck shall not encroach into the front yard setback any farther than the existing house, so as not to increase any existing nonconformity.**
3. **No relief is granted from any other nonconformity.**

BG – Motion Seconded

Roll-Call Vote 4 – 0 to **Approve** the **Special Permit** with conditions.

**ZBA-23-27**

**Mark Brideau**

**0 COBBLER DR**

**7:00PM**

*Special Permit under §181.313E5 of the Fitchburg Zoning Ordinance to open a contractor's yard and erect a 4000SF steel building to be used for storage pursuant to §181.94 located in the Industrial District Map 114R Block 10 Lot 1B*

Present was Christophe Anderson (Civil Engineer) on behalf of the petitioner.

MM - We received the additional plan information today, which we haven't had a chance to review it. So, I want to ask the board if we want to move tonight, or does the board need a chance to look at the project, do a site visit. I know myself I'm not prepared to move ahead with something I haven't had a chance to digest.

JB – Mr. Chair that's exactly what I was going to say

JR - I'm with the Board in that position, but I would also say that I am familiar with the area and this does look reasonable.

BG - I support holding off tonight

MM - Is there anybody in the audience or virtual to speak on, for or against the petition?

None

MM - Also, we only have a minimum quorum tonight, so if we reschedule this you'll be able to have a full board in fairness to you. – CA - We also have to go before planning board, and they will not act upon their application until ZBA's approve. I would accept November 14<sup>th</sup>.

MM - Now the board would like to do a site walk to take a look at the property

BG - Motion in the affirmative on ZBA-23-27 under §181.313E5 & §181.94 to **Grant a Continuance to November 14<sup>th</sup>, 2023**

JB – Motion Seconded

Roll-Call vote 4 – 0 to **Grant a Continuance to November 14, 2023**

**ZBA-23-28**

**Jessica Bisol**

**30 HARUGARI ST**

**7:15PM**

*Special Permit under §181.78 of the Fitchburg Zoning Ordinance to conduct a Home Occupation Business for a Studio Salon pursuant to §181.94 located in the Residential B District Map 78 Block 25 Lot 0*

Present was Jessica Bisol (Petitioner) stating that, I have been a lifelong resident of Fitchburg, I bought this home about eight-years ago and I have been in the salon industry for 17-years. I'm a multi licensed professional, I obtained a cosmetology, nail and aesthetics license all in good standing with the Board of Health and the state board. I've been in management for 15-years, and I am at the point in my career where I am looking to put back into the investment that I already have in the city of Fitchburg

JR – What would be the hours of operation? What do you see in terms clientele frequency? What's the impact in terms of cars on the road or in the driveway? What's the comings and goings of your business, when do you open up how many people do you see coming in and out? How many days a week do you expect to be open?

JB - At this point in time, I would be closed on Sundays and Mondays, so I would be open Tuesday through Saturday. On a typical day I see anywhere between 5 to 8 clients, depending on the services that they receive. Currently, I have a driveway that would fit my car and another occupant's car, if I need to extend it, I do have the space to do so. In addition, I have three on street parking spaces in front of my yard. Typically, a normal day will be between 10am and 7pm, I did write on my application closing time of 8:30pm to make sure after closing I had time to clean-up and be completely done with all operation.

BG – It's my understanding that you're looking to use your garage. – JB - Yes

BG - What is the square footage of the building? – JB - It is a two car garage, so probably 18 X 18

BG - Is the building currently heated? – JB – It's not, there is electricity service, but there's not plumbing at this point

BG – So, what is the plan for all of that – JB – This is my first step, and I wanted to get the Board opinion before I invested money into it. I am aware that I would have to contact the water and sewer department, hire a plumber and a contractor to make it up to code and neat.

BG - Is the building currently on a cement floor, concrete or pavement – JB - Concrete

BG - I would have liked to have seen the building on the inside, to get a better idea about what I'm looking at.

MM - You didn't submit a parking plan, but can you give me a layout of the garage; it's real close to the neighbor's property and to the street. Also, there's a driveway between the garage and the house. – JB - The concept would be keeping the driveway as is, and I can extend further up or I

can extend further out; there is plenty of yard. I definitely have at least one space available for client, with an extension, it could at least fit one other car.

MM - Have you done any investigation with regards the project cost? To see if the project is viable – JB - I had a contractor look the project, because I did have another thought of maybe extending a three season room; but he felt that the garage was the best option. I have not monetarily gotten any quotes from plumbers, electricians, I wanted to figure out if this was doable or feasible before I really started investing money into the project.

MM – Is there anybody in the audience or virtual to speak on, for or against the petition?

Susan Gravel of 31 Harugari Street stating: I've lived on Harugari St. for 18 years. I've been a lifelong Fitchburg resident; I am 61-years old. I think putting a business on this street is absolutely absurd; we have an existing busy daycare at one end of Harugari. On the other end, which is about her house, driveway and garage, there are parked five to six cars along the road to the edge of her property. Also, a new apartment complex is going in on the end of Harugari, which would be more traffic. Harugari's a short busy street, and during snow time where are these clients going be parking?

JB - I understand her concern, and that's why I'm going through the city to ensure it's done the proper way

Susan Gravel – I wanted to add that having all this extra traffic, it's going to become a safety issue and it involves everybody on that street from the top to the bottom

JB - How many chairs are you going to have – JB - One

MM - The board consists of five members, but we are only four here to vote tonight. So, you are going to need a unanimous vote in order for the petition to pass, we always ask the applicant if they would like to continue it, for one or two months until we have a full board. – JB - I'm comfortable moving forward

JR - I would like to see some more information, a little bit more in terms of what is it going to cost, if it feasible and so forth. It seems it's a good intent and some ways that it could work out and perhaps to make a site visit to get a better lay of the land; it would be helpful

JB – Agree with Mr. Reynolds

BG – Also, agree

MM - We have a strict criteria that we have to adhere to make our decision based on, and trying to understand the impact and where do I see two uses on one property. It's a residential neighborhood, but putting up a business where the property setbacks are very close to the abutter and from the road as well. So, we're going to ask for a continuance to December 12, 2023, under a mutual agreement of extension.

BG – Motion in the affirmative on ZBA-23-28 under §181.78 & §181.94 to **Grant a Continuance to December 12<sup>th</sup>, 2023**

JB – Motion Seconded

Roll-Call Vote            4 – 0            to **Grant a Continuance to December 12, 2023**

**ZBA-23-23**

**David Bilotta**

**0 GALE ST**

**7:30PM**

***Continued:** Variance under §181.93 of the Fitchburg Zoning Ordinance seeking a relief for a dimensional frontage requirement to erect a two-family dwelling pursuant to §181.416 located in the Residential B District Map 110 Map 3 Lot 0*

Present were Elisha Erb (Attorney) representing the petitioner, David Bilotta (Petitioner) and Ian Brennan (Potential property buyer) stating that, it is my understanding that this petition was reviewed by this board previously and you conceptually approved it, so what we have here is a technical problem.

MM - I believe it was the Planning Board that approved a different plan

Attorney Erb - The problem was that under the City zoning by-law, and under infill lot. This lot meets all the requirements of an infill lot, with one exception. Which is to have a road to the lot either on an approved subdivision plan, or on a street that the City Clerk has certified meets standards of the city. The problem was that subdivision control came in about 50-years ago, and therefore we had subdivision approval plans. This lot was created more than 50 or 100-years ago, and therefore we don't have any plans. The lot meets city standards, and I'm making a suggestion to the Board. If the Board approves this, I would suggest this language (Exhibit "A") to be add your decision to meet the objective of the requirement for a standard infill lot.

MM - Can you speak to frontage – EE – It's 121 feet.

MM - Is there a new type of plan that were presenting here, or no? – Atty. EE – Not at all, the problem is the lot was created before subdivision, therefore there is no subdivision plan. MM - In which lot – EE – Lot or parcel #3, which was created long before subdivision, therefore we don't have an approved subdivision plan. We can show existing plans, it's purely a timing issue it's the problem

MM – There are three lots all together – DB – Yes, they were created under an NRA plan subdivision in 2008

MM – So, those three lots were created out of one lot in 2008 – DB - Yes

MM - When you subdivide it, did you create lot #3 – DB – Yes, in 2008 the Planning Board approved two lots #1 and #2, because they had existing frontage

MM – So, still lot #3 was created with no frontage, because frontage has be on an approved road – Attorney Erb – Not under 181.425 the infill lot by-law

MM – Our by-law under 181.4252 states that in the RB Zoning District, pursuant to a special permit and site plan review from the Planning Board, an existing lot with at least 5000 square feet may serve as the location for a single family dwelling. Any of the dimensional requirements of this Ordinance, including but not limited to lot frontage, width and building setbacks, may also be reduced or eliminated by this Special Permit, provided that the Planning Board makes a determination that the proposed dwellings are consistent in scale and setbacks with abutting structures, and those in the immediate neighborhood. The Planning Board may impose conditions for the use of such infill lots including but not limited to landscaping and maximum lot coverage. – Attorney Erb – Therefore, we feel comfortable if we went to the Planning Board, that they will grant the infill lot. In the requirements to an existing road, that's impossible

MM – It also says infill lots must have frontage on an existing approved way, and which the Planning Board determines to provide suitable access to the building portion of the lot. Approved ways include a public way, a way which the City Clerk certifies is maintained and used as a public way, or a way shown on a plan thereto approved and endorsed in accordance with the subdivision control law. A paper street is not an approved way. – Atty. Erb – And we can't meet that requirement, also remember under infill lot, its not a requirement

MM – Is there anybody in the audience or virtual to speak on, for or against the petition?

MM - It says the Planning Board may approve a reduction in frontage – Atty. Erb – Yes



MM - This is the Zoning Board, and right now, the application before us is for a variance based on frontage. So, we can proceed with the application, or you have the right to ask for leave to withdraw, so you can reapply under a new application or under a new section. If you want to apply for an infill lot provision, you should go to the Building Department, get a letter of determination and then go to the Planning Board to proceed for a request through them. So, if you don't want to proceed with the application that was made before the board, you should ask for leave to withdraw and then reapply either to the Board under a different by-law, or to the Planning Board under a different by-law. That way if we move to a vote tonight, and it's not favorable it may have a negative impact on your ability to proceed. – Atty. Erb – But I would have two years deadline

MM – No, only if we deny it – Atty. Erb - We will withdraw, and come back with a different request.

JB – Motion in the affirmative on ZBA23-23 under §181.93 & §181.416 to **Approve to Leave to Withdraw** without prejudice as requested by the applicant

JR – Motion Seconded

Roll-Call vote 4 – 0 to **Approve the Leave to Withdraw** without prejudice

**ZBA-23-29**                      **Peter Collette**                      **71 CENTRAL AVE**                      **7:45PM**  
*Variance under §181.93 of the Fitchburg Zoning Ordinance seeking a relief to erect a 10 X 16 deck on the rear side of the existing house encroaching the rear set-back leaving 30.2' feet pursuant to §181.416 located in the Residential A District Map 239 Block 1 Lot 1*

Present was Peter Collette (Petitioner) stating that, as you can see by my submitted plot plan, I also own the property on the back, on which I grew up, belonging to Warner Ave., and shares the rear setback. We purchased the land from a neighbor in 2003, and constructed the house, raised our family. Our three kids who have since graduated from college, and now without college payments we can afford to do a little home improvement, such as putting a deck on the back of our house. I'm aware the setback is 35 feet from the rear; currently we're 40-feet and hoping to put a 10 foot deep deck, by 16 foot wide. Only be about two feet tall off the ground

JB – The shares rear setback property still owned by your family now – PC – Yes

JB - Does the deck encroach towards their property – PC – Yes

JR - It seems the house is perpendicular to Central Ave., but the lawn in the back runs out of angle. However, a 10 X 16 deck doesn't appear to have any negative impact on the neighborhood.

BG - A 10 feet extension off the back of your house in the center, and 16 feet extension, how much square footage would that leave between your mom's property? – PC - 30.2

MM – Due to the structure you have a window in one area, a chimney in the other area and a garage off to the right. Based on the design of the house doesn't seem any other option on where to erect the deck, there's some nice area, but not conducive to the use of a deck. The house isn't square centered on the lot, it's a bit on the angle, and it's parallel with Central Avenue.

MM – Is there anybody in the audience or virtual to speak on, for or against the petition?

None

MM – We are only four members, and if you would want to move ahead tonight, you would need to get a unanimous vote. – PC – Yes, I understand

JR - Looking at the shape of the lot and field, the home isn't perpendicular to Central Ave. The rear line appears to be different as noted, the west length is hard to read that's the degrees is over 94 feet, the north property boundary is 109, and that's a delta of 15 feet. The setback required is 35 feet, proposed is 30.2' fee, so given the size of the lot that there is a 15 foot difference in the shape of the lot; the five foot variance going from 35 to 30 feet becomes acceptable

JB – Agreed with Mr. Reynolds and in favor of the petition

BG - It would be an improvement to the use of the backyard and to the neighborhood

MM – Due to the topography and the design of the structure, there's only one proper placement of the proposed deck. Also, in favor

JB - Motion in the affirmative on ZBA23-29 under §181.93 & §181.416 to **Grant the Variance** with the following conditions:

- 1. The deck is to be built according to the submitted plan.**
- 2. The owner is granted relief from the rear yard setback requirement of 35 feet, to a reduced rear yard setback of 30.2 feet as stated on the submitted plan.**
- 3. No relief is granted from any other provision of the Zoning Ordinance.**

BG – Motion Seconded

Roll-Call vote            4 – 0            to **Grant a Variance** with conditions

**ZBA-23-30                    Matthew Thibeault                    177 ETONIAN PKW                    8:00PM**  
*Variance under §181.416 of the Fitchburg Zoning Code to reinstate an expired variance (ZBA-2020-21) on a relief for a dimensional frontage require to erect a new single-family dwelling pursuant to §181.416 located in the Rural Residential Map 70R Block 40 Lot 1A*

Present was Matthew Thibeault (Petitioner) stating that, I purchased this lot in January 2021, prior to that I came before the board to get the variance approved on behalf of the seller of the property. I was granted the variance in January 2021, I started clearing trees and to clear the lot on my own. In June of 2021 I met with one of the abutters Mr. Rodier and we moved the easement, so I no longer have to use his driveway to access the property. We agreed and it has been recorded with the Registry of Deeds. August 2021 the temporary access road was put in, so we could get vehicles in and out. November 2021, I wanted to sell the property, but thanks to the variance extension in February 2022, I decided to move forward. September 2022, which was when the first permit was pulled, and missed the extension of the variance by a month roughly.

After we had the well drilled I had some pressure issues to meet the four and a half minimum required by the city, so had to go in front of the Board of Health for a special permit, which it was granted with conditions. I redesigned the house, we were at 1500 square feet, and changed to about 700 square feet, basically cut it in half to save costs. Then went to apply for the building permit in March 2023 and that's why I am back here.

CT - I'm looking at the grounds on which the variance was granted the last time, because as you know we have to have an issue related to the shape, the soil, the topography or an existing structure that creates a substantial hardship. I believe the issue was shape of the lot, as it lay along the road and the access driveway as it turned. Certainly, it's a lot with ample area, and if there is not a single family home that's buildable on the lot; I don't know what else you would do with it in that area, and not being able to have any use of the lot. It seems to me, as a board member, that is a hardship. I also hope this issue does not come up again, as far as expiration of the variance. We look for a building permit to be applied and not just a well permit in order to exercise the variance. – MT - Understood



holders on a specific issue; with either as far as non-compliance on completion and only addressing things that have actually become a problem.

Another category would be high priority, where we have some greater concerns and we want to make sure things happen along the way correctly. We're not dealing at the end of the project and now it's too late to fix it, or if the building needs to be demolished because of safety issues. Any permit or variance we wanted to ensure conditions were completed would have a provision stating, the certificate of occupancy would not be issued until the Board had confirmed that the conditions were met and it would have an expiration date on it. So, I think we would do is variances one year in conformance with the statute, special permits 2-years and a provision of expiration on transfer of any portion of ownership interest prior to the certificate of occupancy being issued. Conditions are imposed and the impetus is on them to ask to come back to the Board for their completion review, so we're not bringing people back over and over again; it's a waste of all of our time.

JB - It's a great idea and a great movement

Mr. McLaughlin and Mr. Gallagher – Also agreed with all proposal

## **8. ADJOURNMENT**

MM - Motion to adjourn

JB – Motion Seconded