



ZONING Board of APPEALS

718 Main Street – Suite 201B

Fitchburg, MA 01420

FITCHBURG CITY CLERK

2023 JUL -6 AM 8:56

MEETING MINUTES – APRIL 11, 2023

Note: This meeting was with remote option!

- 1. Call to Order Christine Tree PLEDGE OF ALLEGIANCE ALL
- 2. Communications Christine Tree
- 3. MEMBERS ATTENDANCE: Christine Tree (Chair), Michael McLaughlin (Vice-Chair), Joseph Byrne (Clerk), Brian Gallagher & Eric Chartrand
- 4. ABSENT MEMBERS: James Reynolds
- 5. ALSO IN ATTENDANCE: Mark Barbadoro (Building Commissioner)
- 6. Hearings

CASE No.	APPLICANT	PROPERTY	TIME
ZBA-2022-13	Adam Pishdadian	76 PRICHARD ST	6:00PM
<i>Review of a Special Permit to reinstate a vacant/abandoned building and convert 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 at Map 31 Block 80 Lot 0</i>			

The presentation was given by Adam Pishdadian stating, I was out of the country visiting family. To give this Board some updates, I hired an electrician before leaving the country, paid some money and he didn't do the repairs. So, now I need to hire another electrician to do the wiring.

CT - Driving by the property you might have done some work on the front granite steps, but I didn't see anything else going on. – AP – I'm trying hard, so next time will show some progress

CT – Reads conditions, so we can go through where you are with them. #1- First floor is going to be a 2 bedroom and 2nd floor is no more than four bedrooms. – AP - I really needed three bedrooms, any ability that I could get that approved

#2- Project to be completed within 16-months, so that brings us I believe to October of this year. Do you see any problem complying with that, at this point in time? AP - I can't say at this time, its more the outside, the inside is the flooring. Hopefully it can be done, but if I need more time, I will ask for.

#3- The front porch is to be repaired or replaced.

#4- The granite steps – AP – Need to put the railing on it and trying to get the last step match with the rest of them, due to that they don't make granite anymore.

The requirement was similar, so it doesn't have to be exactly the same.

#5- Dormer in the right-hand stairwell to be removed within three months after your occupancy permit issue, so that's not to be done yet.

AP - The bridge on the top the fire department told me that they might need that, and to repair it and keep it.

MM - I know we had talked about wanting the bridge removed. If the Board or the Fire Dept. feels that it does need to be remain, I would most certainly want to see that completely removed and rebuilt to code, because it's in horrific shape. It should be replaced and meet with fire safety requirements, so I think that's what it states in the decision.

CT - The last two conditions third floor is not to be a living space, and then the review date

CT – Is there anyone in person or remotely who wishes to speak on this matter for, in favor or against the petition – There is none.

BG - First floor to be a two-bedroom is that still the plan. - AP - First floor original was four bedrooms, you conditioned it to 2-bedroom, and I do need three.

CT - I'm going to speak to my concern about changing the number of bedrooms, the reason we limit the number of bedrooms is to decrease the density in a neighborhood. How many people are living there, and the impact they have on the neighborhood. In your case, you have a building with no parking whatsoever. While you may be occupying it with your family now, any subsequent persons who buy the building after you may not be occupying it and now we may have four separate people renting on the second floor and three separate people renting on the certain first floor. Which would mean up to seven more cars on the road, where there is no parking.

CT - Reads comments from other departments into the records, first Board of Health and the second from building inspection services. See Exhibit "A."

CT - I'd be willing to consider a change to the bridge at the back as discussed, remove or replace in accordance with Fire Department.

Commissioner Barbadoro - It looks like that bridge might be necessary to get people in and out of that building, but I'm going to have the inspector who's reviewing the project to take a careful look at it if that bridge is to remain, to make sure that it is kept in a stable and safe condition.

CT - Amendment to condition #6 the existing walkway from Pleasant St. to the third floor of the structure be removed or, if required by the fire department, replaced in accordance with all safety and code requirements.

CT – Finally, I have been talking about the special permits being recorded, I think an additional condition stating that the special permit will expire if it's not recorded within 45 days, might be appropriate and to deliver a recorded copy to the building department.

MM - Motion on ZBA-2022-13 under §181.332 to **Continue the Review to July 11<sup>th</sup>, 2023**, as conditions stated amending #6 and adding two new conditions:

- 1. First floor to be two-bedroom, second floor to be no more than four bedrooms.**
- 2. Project completion within 16-months**
- 3. The front porch is to be repaired or replaced as needed.**
- 4. Granite steps to be repaired or replaced as needed and replacement to have a similar facing style.**
- 5. The dormer and right-hand stairwell are to be removed within three months after the occupancy issues.**
- 6. The existing walkway from Pleasant St. to the 3<sup>rd</sup> floor of the structure be removed or, if required by the Fire Department, replaced in accordance with all safety and code requirements.**
- 7. Applicant to comply with all fire safety requests from the Fire Department**
- 8. To the extent the fire safety requirements conflict with a condition of this Special Permit, the fire safety requirements shall prevail**
- 9. The third floor is not to occupied as a living space.**
- 10. Special Permit to be recorded within 45-days or Special Permit shall expire.**
- 11. Review – July 11, 2023**

JB – Motion Seconded

Vote

5 – 0

to **Continue the Review to July 11, 2023**

**ZBA-2022-33**

**Christopher Cordio**

**109 OAK HILL RD**

**6:15PM**

*Review of a Special Permit to open a restaurant under §181.313 of the Fitchburg Zoning Ordinance located in the Residential C District at Map 63 Block 32 Lot 0*

CT - We received a phone call from Mr. Cordio on April 3<sup>rd</sup>, asking for some additional time on his Special Permit review. Requesting a continuance to June 13<sup>th</sup>, 2023

CT – On our correspondences, from Board of Health don't have issues to report. From Building Inspection services is a comment please see Exhibit "A"

CT - I did make an inquiry with the License Commission as well, and there's no application that's yet been submitted on this property.

MM – I was there this evening, and it looks like nothing has been done.

CT – I've gone by, and he hasn't been working on the property yet. We already have a full agenda for May, so I'm not unhappy about continuing this to June.

MM - Motion on ZBA-2022-33 under §181.313 to **Continue the Review to June 13<sup>th</sup>, 2023.**

JB – Motion Seconded

Vote

5 – 0

to **Continue the Review to June 13<sup>th</sup>, 2023.**

**ZBA-2022-21**

**Tara Pena**

**447 WATER ST**

**6:30PM**

*Review of a Special Permit under §181.94 of the Fitchburg Zoning Ordinance to continue the business operation of an Auto Dealership and Repair pursuant to §181.313D11&12 located in the Neighborhood Business District Map 95 Block 59 Lot 0*

CT - We are here to review the Special Permit, and I did want to say that one of the outstanding issues was the chain link fence in the back. I did drive by today and see that it been replaced, so I assume that's been resolved.  
– TP - Yes it has

CT – I am glad to hear it, so I am going to review the conditions and if you can just give me a response on each condition. The first is to be operated according to the submitted plan dated June 9<sup>th</sup>, 2018. TP - Yes, it is.  
#2- No plastic or vinyl banners professional signage only – TP - Correct  
#3- No exterior storage of junk and no inoperable or dismantled vehicles outside of the property – TP – Correct  
#4- No parking on the sidewalk or street – TP - Correct  
#5- Hours of operation are Monday through Friday at 8:30 to 7:30 and Saturday 9 – 3 and Sunday closed – TP - Yes  
#6- You still own Pena Motors LLC., which is still the owner and operator of the business? – TP – That's correct  
#7- Not to operate as a public nuisance, have you received any complaints from neighbors or abutters? - TP – No, we have not  
#8- Property owner to remove and replace chain link fence as we discussed, although I will say our condition is for vinyl or superior product. I believe you have a chain link fence. - That's what I thought, I was under the assumption that you meant an opaque so that you couldn't see through. However, when I discussed this with my husband, Harold Mateo the property owner is the one that told my husband that it had to be the metal chain link. That's what we were told by the owner so that's the direction that we went.

CT - Did he give a reason? – TP - That's what the board had told him

#9- Property owner to remove signposts concrete and wires, has that been completed – TP - I don't know, I don't have a confirmation on that.

CT – Is anyone in the audience or virtual who would like to speak on, for or against this petition? None

Commissioner Barbadoro – Special Permit decision has not been recorded; I cannot find it at the Registry of Deeds. Special Permits are not effective until they are recorded, so Miss Pena technically speaking she's off grading without permission.

TP - You mean today's decisions. CT - The one you originally received.

CT – We will add a condition that says, if it's not recorded and a copy produced within 45 days the permit will expire.

BG - I believe condition #9 has not been completed, the last time I visited the site the jagged metal was still above the ground along with the wires exposed.

MM - When we look at these projects and get a parking plan it's a flat visual. I've gone by the property for the last several months and it seems there's too many vehicles on the property. There are vehicles being parked out front on the sidewalk, impeding pedestrians who have to walk in the front. After the recent snowstorm and look at how snow removal impacts vehicles in the rear, and currently there are vehicles in that snow storage corner.

CT - In the first condition it's to be operated according to the plan from 2018, and on that plan, we have nine designated spaces. Which one and two are employee parking, three and four are customer parking, and then five through nine are for display vehicles. So, that does incorporate the concerns about too many vehicles, and yes in the center area has vehicles for sale not parking. – TP - I know we are our license for eight vehicles, and I don't believe we have more than that on the lot.

MM – So, we have a conflict between the license commission, and the zoning decision. – TP - We're getting very busy, the business is growing. We are actively looking to purchase another lot, I know that doesn't help immediately with the issue, but that is our plan.

MM -When the case was initially before us, there were two plans submitted for parking one shows eight and one shows 5. We approved five, but my question would be to Miss Pena is what got submitted to City Council. – TP - It was eight, we used the survey that Harold originally had done, and which was provided to us.

CT - I believe this is not an allowed use in the district anymore, and so this was a continuation of what had been approved previously, with plan date June 9, 2018, which is what we could continue doing.

EC - In the near future possibly separating the business, could be a good idea.

CT - Miss Pena, do you think that you'll resolve the question of whether or not you're going to move within the next six months? – TP - I would say that we'll have much stronger clarification on what's going to happen within six months, whether the move will take place.

CT – So, I'd be looking for a September review, I would be looking for compliance with the customer parking spots immediately. I would also be looking for the decision to be recorded or it would expire within 45 days. I'd like to receive a written response on the removal of the signpost, concrete and wires, so you need to talk to Mr. Matteo about that and give us an update on when that's going to be done from him.

MM – Motion on ZBA-2022-21 under §181.94 & §181.313D11&12 to **Continue the Review to September 12, 2023**, with the conditions amended and added as stated by the chair.

- 1. To be operated according to the submitted plan dated June 9<sup>th</sup>, 2018.**
- 2. No plastic or vinyl banners, professional signage only.**
- 3. No exterior storage of junk and no inoperable or dismantled vehicles outside of the property**
- 4. No parking on the sidewalk or street.**
- 5. Hours of operation are Monday through Friday at 8:30 to 7:30 and Saturday 9 – 3 and Sunday closed.**
- 6. Sunset Clause – Special Permit shall terminate/expire upon the sale/transfer of the business from Pena Motors LLC.**
- 7. Not to operate as a public nuisance**

8. **Property owner to remove and replace chain link fence on top of the wall rear side of the property with vinyl fencing or superior product within 60 days of the date Special Permit is issued. – COMPLETED.**
9. **Property owner to remove signposts, concrete and wires within 60 days from the issue of the Special Permit.**
10. **Original decision to be recorded with the Registry of Deeds and a recorded copy to be submitted to the Building Department within 45-days or the Special Permit will expire.**
11. **Review – September 12, 2023**

BG – Motion seconded.

Vote

5 – 0

to **Continue the Review to September 12, 2023**

**ZBA-2023-12**

**Mina Ghobrial**

**219 HIGHLAND AVE**

**6:45PM**

*Continuance:*

*Special Permit under §181.94 of the City of Fitchburg Code to reinstate the variety convenience store and add a package store to serve beer and wine in the existing pizza store pursuant to §181.313 located in the Residential B District Map 22 Block 16 Lot 0*

CT – This is a continuance from March 14, 2023. How many employees do you have at the store? – MG - Two plus myself.

CT – So, there's an existing permit for you to operate the pizza store, and that had required that there be eight spaces of off-street parking. On my site visit I did see four on highland Ave., and you're saying that you have eleven on the side of the building. Those are diagonal spaces 8-foot in width, do you know how long are they? – MG - The landlord measures them

CT - There was a dumpster and it seemed to be blocking the exit. – MG – Yes, supposed to be at the other side, but when they knocked down the house, they move it.

CT - What's your hours of operation? - MG – 11:00am to 9:00pm Monday through Saturday, Sunday's closed.

CT - What's your occupancy or how many seats? – MG - Around 30

CT - You had asked for two things, you wanted to serve on premises. To have a pouring license for the restaurant, and you would want the convenience store. So, we have a determination from the building commissioner that says, pouring license is something that you would be allowed. It's in order to operate the convenience store that you need the special permit from us, and I'm going to tell you right now that my main concern is with the package part of that, not necessarily the convenience store. The package part of being so close to the to the college, do you have any comment on that? – MG – No

CT - Is the convenience store a viable option for you, would you still do it, without the package license? – MG - Yes

CT - We do have some correspondence, a letter from Jay Bry, who is the vice president for finance and administration at Fitchburg State, see Exhibit “A”

CT - Is there any person in the audience or online who would like to speak on this petition on, for, or against? None

JB - I'm all for it, because it's another revenue stream and it'll keep them there in business.

MM - The board usually requires a certified plot parking plan, but I will leave it to the Board to decide. As far as the selling of alcohol, my only concern is because of the density of underage kids in that area. Will those parking spots be striped? – MG - No

CT – Actually, because it's a little bit tight on the back of the building, I do think it would be good to have those spaces striped. As well as having that parking traffic flow to be in one direction, because the prospect of backing out onto the street doesn't seem safe. So, a directional arrow painted go around the building to get out, and the spots should be meeting the parking dimension stated in section 181.5142, and at a minimum of eight spaces. I'm

more willing to have the pouring license go forward, I'd like to see how you operate with a pouring license before you operate with a package store, it's going to be challenging to operate both things at the same time.

JB - I'm all for either, I would prefer not having the pouring and having the package store. So, that there's none consumed on the premises, but if we're going to allow both that's fine with me too.

BG - In favor of being a package store along with the convenience store.

MM - I'm certainly in favor of the convenience store, not so inclined with the package store yet.

MM – Motion in the affirmative on ZBA-2023-12 under §181.94 & §181.313 on the allowance of the Special Permit for the Convenience store with the ability to Operate as a Package Store.

JB – Motion Seconded

Vote 2 – 3 to allow for the **Convenience Store** with the ability to **Operate** as a **Package Store**. Therefore, the **Operation** as a **Package Store** has been **DENIED**.

(CT & EC)

MM – Motion in the affirmative on ZBA-2023-12 under §181.94 & §181.313 to **Approve** the **Special Permit** to **Operate** as a **Convenience Store** with the following conditions:

1. **No on-site service after 11:00PM in compliance with the ABCC.**
2. **Petitioner shall not operate as a package store, so-called, for the sale of alcohol to be consumed off-premises.**
3. **Any conditions from the License Commission as to the on-site beer and wine pouring license would be incorporated into the special permit conditions.**
4. **Dumpster to be moved to the rear corner so as not to impede the flow of traffic through the parking lot.**
5. **Hours of Operation 11:00AM – 9:00PM Monday through Saturday, closed on Sundays.**
6. **Petitioner to submit a certified parking plan meeting standard parking dimensions as listed in §181.5142 prior to the review meeting in October.**
7. **Parking spaces to be striped and directional arrows painted on the pavement indicating that traffic would enter the parking lot from Pearl Street and proceed one-way around the building exiting onto Highland Avenue.**
8. **Special Permit decision to be recorded at the Registry of Deeds and a copy of the recorded Special Permit to be provided to the Board prior to the review meeting.**
9. **Review – October 10, 2023**

BG – Motion Seconded

Vote 5 – 0 to **Approve** the **Special Permit** with conditions.

**ZBA-2023-03**

**Rhonda Stebbins**

**53 MECHANIC ST**

**7:00PM**

*Continuance:*

*Special Permit under §181.94 of the Fitchburg Zoning Ordinance to keep chickens in a multi-unit property pursuant to §181.313 located in the Residential C District Map 18 Block 71 Lot 0*

CT - At the last meeting you were asked to provide some additional documentation relative to your claim for a reasonable accommodation, and we went through the HUD questions on an emotional support animal. Have you been able to locate the documents or provide any evidence in support of your claim?

– RS – Yes, I do

CT - The other document you provided was a veterinary testing, so negative for certain diseases – RS – Correct

RS – The chickens haven't left yet, there still snow on the ground to move them at the NH location. Hopefully all the snow will have melted by May.

CT - Is there any person present or virtually who wishes to speak on, for or against this matter? None



nature where they did not meet the 25-foot setback, then the board could issue a special permit. That's why on the application I requested both reliefs, I do believe under the circumstances the property would meet the requirements for a variance to be issued because of the shape and the topography of the lot.

The topography it's probably 590 of the front elevation to 610 to the rear of the property, it's about a 10 to 15-foot elevation. A literal enforcement would impose a hardship in the zoning district, that we're in an RB zone a 2-family is allowed by right, a 3-family would be allowed by special permit. We show the building the only way it could probably be situated on this particular lot, and even if the applicant were file for a straight two family. I still believe that the way the building would fall there would be a portion of this, where it might not meet this 25-foot requirement on Grand Street. And considering the other properties in the neighborhood, and the overlying district by granting a variance. I do not believe that it would be a substantial detriment to the bylaw overall, based on the assessor's map, Mr. Mathias did do some calculations of the other properties in the area. You'll find is some of the properties have offsets anywhere from as low as three feet to 12-feet. So, this sideline frontage requirement of 15 1/2 feet is greater than the other homes in the neighborhood.

CT - The special permit is available only for the front yard exception, not the rear yard exception. – PC – Correct, and I do not believe that there is the rear yard violation

CT – And that's because of the orientation? – PC - If we use Norwood Street as the front yard, that will make the northerly boundary, which abuts the other land formerly of Mr. Matthias. A sideline of 15.8 feet, and rear would be 30.5 which it's 30-feet.

CT - Which boundary would you be looking at is the rear yard? – PC - So, if we measure the front yard from Norwood Street it's 64-feet, and then we would treat the 30.5-foot side as the rear yard. So, the only relief the applicant needs pertains to the side yard, on Grand Street.

CT - I looked at the ANR plan, which it was done in September of 2022. At that time both lot 1 and lot two were owned by Mr. Mathias, and that's still the case. – PC – Correct

CT - How have you avoided the problem of infectious invalidity? – PC - I don't believe that under this circumstance infectious invalidity, the lot was not previously non-conforming brought into compliance and then subsequently a non-compliant it was always a conforming lot.

CT - 52 Norwood Street is a four-unit dwelling, our multifamily regulations have a lot area requirement that for each unit, the lot size be equal to at least 1/3 of the minimum lot size in the district which is 10,000. So, in other words each unit must add 3,333.3 square feet, for that four-unit dwelling that should be about a 13,000 square foot lot; and the lot is 10,100 square feet. So, the creation of lot 2, rendered lot 1 as a non-conforming lot. – PC - I don't believe that was mentioned by the determination, so I did not have a chance to thoroughly review that.

CT - I would like you to have an opportunity to provide a response to that question, or why that is not the case. It would have to address it for both parcels, because I don't think if infectious invalidity is applied you can't create the nonconformity for either one.

Commissioner Barbadoro – It sounds like the Board may be inclined to continue this to a later date, I would ask through the chair that perhaps it could also address the parking dimensional requirements on both parcels.

CT – Is anyone in the audience or virtual for any questions or comments in this petition? None



Commissioner Barbadoro - I also wanted to be clear the way the bylaw is written, it's confusing that the requirements are in two places. One is in definitions, and the other is in the standard dimensional requirements. However, the narrowest portion of frontage on a corner lot would be determined to be the front, and the longer portion of voting a street is then considered a side. But the sides that abuts the streets must comply with the minimum frontage requirements. The applicant is correct, there is a special permit provision for a reduction.

CT - We do have two letters that were submitted, one e-mail has been sent by Jonathan and Suzanne Bert of 17 to 21 Grand St., and 22 to 24 Norwood St. Second letter has been issued by a Julia Dorothea Fink of 668 Westminster hill Rd., see Exhibit "A"

BG - Has the applicant given any consideration to constructing a 2-family, as opposed to a three. – PC – Yes, his preference obviously would be a 3-family

MM - Does the existing three-family have off-street parking? – PC - It's a 4-family, and there is sufficient parking off street and is the parking accessed through Felton St.

MM - I've been looking at this from the special permit, and from the variance; but to me this is a self-imposed hardship.

CT – I am inclined to give some additional time to be fair, so there are three things if you choose to come back before us. I would want to have information on whether infectious invalidity applies to this plan. Demonstrating that preferably with case law. On the request for the special permit on the front yard, an affidavit including the list of all abutters and a table showing what their frontages is as measured on the assessors GIS website. And to respond on treatment of what is the rear yard what is the front yard what is the side yard. – PC - If we are not able to get past the infectious invalidity, then essentially, I would request that the application be given leave to withdraw without prejudice.

MM - Motion on ZBA-2023-13 under §181.93 & §181.4216 to **Grant a Continuance to May 9, 2023**

BG – Motion Seconded

Vote 5 – 0 to **Grant a Continuance to May 9, 2023**

**ZBA-2022-05 AG Dream Flip LLC 83-85 MARSHALL ST 7:30PM**  
*Review of the Special Permit under §181.3366 of the City of Fitchburg Code to reinstate a vacant/Abandoned building as a 3-family dwelling located in the Residential C District Map 10 Block 64 Lot 0*

The presentation was given by Nadel Antonio (Property Owner) stating, that the project hasn't started yet, due to weather. Finally, it being beautiful we are hoping to start by next month, so I'm looking to get, if I can, a motion to continue for July or August meeting, and we should be wrapped up by then. I have some conditions that I have to resubmit to the building department, I can do that tomorrow.

CT - We had a 11-conditions, and you're saying that work has not started at all. Which most of it, is all outside work. – NA – Correct, we think by August we should be done.

CT - One of the concerns I have, is that you have dug the hole for the parking and that extends right up to the stone retaining wall. It doesn't look very stable, and it's been that way for a while. – NA - That'll be part of a parking area we're going to reinforce that by next month.

CT – Also, there's certainly a number of cracks in the retaining wall in the front, I'm concerned that the situation being as it; is this is a hazard and don't want to have injure anybody. – NA – Agreed,



energy code because, the governor signed a climate bill that says we'll be net zero by 2050. So, they've started to aggressively attack the code as a means of compliance. – MI – I do have a budget for that, I bring like 20% to 50% out in case something doesn't match up with the budget; I have to put it from my own pocket.

CT – Still parking is an issue, but when we were in the building there were definitely some structural issues. The floor sagged and it's unlevel, from the appearance that there was water in the basement, and one of the primary concerns I have is that you are not going to be able to finish the project once you start it. We don't want to have a half-finished building, and I'm going to ask the commissioner whether he was able to review any recent information about the structural integrity, and the repairs necessary in the building versus the provision for that in the budget. – Commissioner Barbadoro - I have not had an opportunity to review the project. However, I have heard concerns about water in the basement and perhaps a severe settling of floors, and I wanted to let the board know that from a safety perspective the Building Department will make a building safe; but in any specific thing, say drainage, shall be mitigated with the Fitchburg stormwater system, if you wouldn't want to say something to the effect that the sagging floor shall be jacked up and brought back to level as part of the condition.

CT – Is anyone in the audience or virtual who would like to speak for, on, or against this petition? None

BG - Is there a plan to repair the retaining wall, which is slanted and appears to be falling into the property? – MI - I could look at reinforcing it.

BG - In terms of square footage is there enough room for a car to back-up in the proposed parking in the back, without going onto the neighbor property. – MI – So, for a two-family 4 parking spaces are required, so there would be one in the back and three in the front. If we put two in the back, it's going to be a lot more challenging to get out. With one the parking would be more solid.

BG - What would be your plan for snow removal. – MI – Pushed to the back towards to the retaining wall.

MM - You had mentioned that you can park in the back, how we are going get out without backing into the next-door neighbors parking lot. – MI - Literally you would have to do a 3-point turn in the backyard

MM - Do you know whether that can be done or not? – MI – Not sure

MM - I don't think you can do it. However, the basement it appears that somebody had dug and pushed dirt up against the foundation walls, how is that all going to be addressed. – MI – First of all clean the whole foundation out, and then we can do a little bit of flashing around. Let it dry out, and most of those foundations, they are made of rocks, which it is easy for water to go through. Once a structure is abandoned and for so long it tends to get moldy, but it's going to be dry for whoever lives in there.

CT - I don't think that you can meet parking with the plan, because I don't think you can drive down that common shared driveway. The building on the other side has gas meters sticking out into it, both properties have stairs sticking out into it. We have to consider it with compromised parking, for three in the front. When you approached us the first time, you were asking for three bedrooms per unit. – MI - Yes

CT – Would you still consider the project as a two bedrooms per unit? – MI – Yes, I could do two and two

CT – At this point this is the best proposal this Board has seen for this building, it's not perfect but it reduces it from a four to two-family and that I find beneficial. I have thought about the concept of the City taking and holding a \$5k deposit, from the applicant to be returned upon completion of the project.

MM - Motion on ZBA-2023-02 under §181.3332 & §181.313 to **Approve the Special Permit** with the following conditions:

1. Property to be operated as a two-family with no more than two bedrooms per unit.
2. Property shall be upgraded to current applicable Building Code as required under said Code.
3. All work shall be completed in a good and workmanlike fashion and properly permitted, inspected and certified to be complete.
4. Construction shall proceed in three Phases as follows, with Petitioner being required to complete each phase to the satisfaction of the Building Department before proceeding to the next phase.
5. Phase One:
  - a. A safety inspection to be conducted by the Building Department.
  - b. Petitioner to comply with the requirements of the Building Department after inspection for safety.
  - c. Petitioner shall ensure all floors are level, installing jacks, support beams or any other building element necessary to bring the floors to level.
  - d. Petitioner to install water mitigation measures in the basement mitigating any air quality issues arising from the moisture in the basement, with sufficient and legal connection to the stormwater system or other legal redirection of water entering or arising from the basement.
6. Phase Two
  - a. Petitioner shall replace the roof, doors and windows, siding, and exterior trim.
  - b. A modified engineered plan indicating a location for snow storage in the rear of the property shall be submitted to the Building Department with a copy to the Board.
  - c. Petitioner may proceed on any interior construction or modifications, but completion of interior work is not required for completion of Phase Two.
7. Phase Three
  - a. Petitioner shall repair the granite wall in the rear of the property so that it is both safe and stable without danger of collapse onto the property.
  - b. Petitioner shall install landscaping in the front of the building, including plants, shrubs or trees usually installed in residential uses, between the structure and the parking spaces.
  - c. Petitioner shall install green space for residential use in the rear yard.
8. The number of required parking spaces shall be reduced to three spaces as designated on the plan dated October 5<sup>th</sup>, 2018, which shall be striped.
9. Snow removed from the parking area shall be stored at the rear of the property as designated on the modified engineered plan or removed from the lot.
10. Property to be keep clean of debris and overgrowth during construction and dumpsters regularly emptied.
11. Construction to be completed by the next Review Date of November 14<sup>th</sup>, 2023.
12. Applicant shall submit a \$5,000.00 deposit to be held in a special account by the Treasurer and may be disbursed and applied, under the direction of the Zoning Board of Appeals, as compensation for any qualified consultant employed by the Zoning Board of Appeals regarding this project pursuant to M.G.L. c. 44 §53G. Any funds remaining shall be returned to the Petitioner or his written assignee upon satisfactory completion of the project in accordance with this Special Permit and to the City's general fund forfeit.
13. If this Project is not satisfactorily completed within the 18 months of the date this decision is filed with the City Clerk, the forfeited funds shall be allocated to the Building Department's demolition fund.

JB -- Motion Seconded

Vote

4 - 1

to Approve the Special Permit with conditions.

ZBA-2023-10

Lewis Colten

21 UNION ST

(MM)

8:00PM

Continuance:

*Special Permit under §181.94 of the Fitchburg Zoning Ordinance to reinstate and change the use of a vacant/abandoned nonconforming building from a church to a single-family dwelling pursuant to §181.333 located in the Residential C District Map 44 Block 141 Lot 0*

The presentation was given by Lewis Colton on the owner's behalf, stating that this property presently is a church with a mixed-use residence on the second floor. The present owner who has it is in extreme financial difficulty, and she's trying to sell it. However, we believe that the proper approach to make this property fit in with the neighborhood, which sits between one- and two-family dwellings, is to turn it into a single family. Which also will go on the tax rolls, and it'll be consistent with the rest of the neighborhood. Currently, we have a potential buyer, who wants to buy it as a single family. Originally this was built in the 1900's, and it has some issues. One of the big issues is that none of the houses on this block have parking. Some of the benefits of what we're looking to do are, taking it off the abandoned role, fixing it to be attractive as a one-family. Also, it will be removed of the intensity of parking from a church use.

This property was originally built I think a one or two-family and did not have off-street parking. There was no other way of getting off-street parking, except trying to get an agreement with anybody in the area. Which I have done quite a bit of due diligence work, and talked to everybody I could trying to get a parking agreement in properties nearby; for instance, across the street, what appears to be a very large parking lot belongs to the school and is used for housing. As much as I tried, they simply said every single spot has been assigned to a student and there's no space available. As from the University of Fitchburg, again they don't let anybody that's not associated with the university use the parking areas.

CT – At the last time you were before us, you stated that there was an existing agreement for the sale of the property. is that still the case? – LC - Yes

CT - My concern is that this is going to be used for student housing being close to the university. – LC - The plan I presented, it's hard to break up, the way I'm designing; it's designed for a larger single-family home.

CT - As I look at this it's going to have 4-bedrooms and 4-bathrooms. When I look at it, I see something that could be quite easily converted to use as a lodging house with individually rented bedrooms, with private bath and shared common space. Which is something that happens quite frequently. Have you looked into rental spaces at the train station garage? – LC – Yes, and it's expensive, I would hope that we could make a case for the pre-existing non-conforming use.

CT - I'm going to note from my observations driving around that neighborhood and looking at this from above on Google Maps, that every other building on that block has off street parking, a driveway, a garage. Which I think is in your favor, because if they have off street parking then it lessens the congestion on the street, but it's a small street and it's a one-way street. There is only parking allowed on one side of that way.

CT - Is there any person present or virtual who would like to speak on, for, or against this petition? None

BG - Do you know what the roof is consisting of? It's asphalt or slates – LC - Asphalt

BG - It looked the roof was constructed of slate, and if that is the case the way snow comes off slate it would be a safety issue. You have to install snow guards around. – LC – Yes, for sure

BG - What about using public parking? – LC - There are three public parking locations, and it's \$65 per month, per space. However, that's something to make the new owner aware of.

EC - It would be a lot of work to change it from a church to a single family, but a single-family use would be a lot less parking than a church. I will say I do not like all individual bathrooms, people are notorious in Fitchburg for renting to students.

MM – Agree to be reinstated as a single reducing the numbers of bathrooms.

JB - Motion in the affirmative on ZBA-2023-10 under §181.94 & §181.333 to **Approve the Special Permit** with the following conditions:

1. **Not to be used as student housing or lodging house.**
2. **Either a) the roof shall be removed altogether and asphalt shingles installed, or b) slate roof to be repaired or replaced and snow stops to be installed along the perimeter to limit the snow from coming down.**
3. **New vinyl siding to be installed over existing siding.**
4. **Windows to be replaced with new windows.**
5. **The dwelling shall contain no more than two and a half baths**
6. **Exterior renovations to be completed within six months after the date of this decision.**
7. **Off-street parking to be provided by leasing two parking spaces at the train station garage or other private off-street parking area, if the same can be located within 800 feet of the lot boundary line.**
8. **No occupancy permits to be issued until all conditions have been met and an inspection conducted by the Board with review approved.**
9. **This special permit to be recorded at the registry of deeds within 45 days of the date of filing with the City Clerk or the special permit shall expire.**
10. **Review Date - June 13th, 2023.**

MM – Motion Seconded

Vote

5 – 0

to **Approve the Special Permit** with conditions.

**ZBA-2023-06**

**Veronica Greene**

**220-222 CLARENDON ST**

**8:15PM**

*Continuance:*

*Special Permit under §181.94 of the Fitchburg Zoning Ordinance to change a nonconforming structure for a different use from a two-family onto a 3-family dwelling pursuant to §181.333 located in the Residential B District Map 90 Block 49 Lot 0*

The presentation was given by Leslie and Veronica Greene stating, looking to convert the existing two-family to three-family dwelling. Adding the third floor partially finished attic to a one-bedroom unit, for our parents. Currently, here's a bathroom and hardwood floor.

CT – Usually, when units get converted for in-laws, they're on the first floor and not the third floor. How are you going to manage the accessibility issue. – VG - Currently, they live on the third floor of their building in Saugus, and once they're on the second floor it's not that much difference to get up to the third floor.

CT – You are planning on providing all six off-street parking spaces. – LG – Yes, it's right on the proposed parking plan, and there's also space for snow removal

CT - Existing driveway. – LG – Yes, we just push it right up to the fence, so that wouldn't cause any additional traffic concerns on Chester Street. All the proposed parking would be able to back out or drive out right into the existing driveway onto Clarendon and Chester Street without any issues.

CT - Any exterior modifications other than the parking? – LG – No, no exterior modifications beside paving the driveway and creating the extra space for the parking.

CT - What the second egress – LG - Will be inside connecting the current that's in there already.

CT - How long do you think it will take to complete the project? – LG – Not more than four to six months

CT - We had received some communications on this petition, please see exhibit “A”

CT – Is anyone in the audience or virtual would like to speak on this matter? None

BG - Do you plan on doing any repairs to the third floor? – LG - Bringing it up to modernization, new vanity, new mirror. Plumbing and everything else its working perfectly fine

BG - Does the kitchen currently exist? – LG – No, there's nothing up there at this point other than the bathroom

CT - Do you know whether the third floor is more than 800 square feet? – LG - I believe it is, yes

CT - Without objection I'm going to close public hearing and we're going to move to deliberations.

CT – So, there is off-street parking resolved and it's a neighborhood of multifamily dwellings, and we have only one bedroom going in. Generally, inclined to approve this with some conditions.

EC - I'm not in favor, because when you move from a two to a three, it requires sprinklers, a whole new meter. It is a lot of work, so they would be better off making everything; except an apartment for their in-law. It would be very expensive to do this, this way.

MM - Motion in the affirmative on ZBA-2023-06 under §181.94 & §181.332 to **Approve the Special Permit** with the following conditions:

1. **Third unit to contain no more than one-bedroom and one-bath.**
2. **The parking to be constructed according to the plan dated March 2, 2023**
3. **No exterior modifications to be made to the building due to the conversion of the third unit.**
4. **Parking area and driveway to be paved with asphalt shores.**
5. **Parking to be striped.**
6. **Completion date by November the 14<sup>th</sup>**
7. **Property to be kept clean during construction any dumpsters to be emptied regularly.**
8. **Review – November 14<sup>th</sup>, 2023**

BG – Motion Second

Vote 3 – 2 to **Approved the Special Permit** with conditions - (MM & ER)

Therefore, the **Special Permit** was **DENIED**, due to failure to receive a supermajority vote of at least four members.

7. MISCELLANEOUS

8. ADJOURNMENT