

Sep 07 2023 12:42 pm



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

MEETING MINUTES – JUNE 13, 2023

Legislative Building, 700 Main Street.

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

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
4. MEMBERS ATTENDANCE REMOTELY: Eric Chartrand
5. MEMBERS ABSENTEES: James Reynolds
6. Hearings: Started at 6:05PM

| CASE No.                                                                                                                                                                                                | APPLICANT  | PROPERTY     | TIME   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|--------------|--------|
| ZBA-2022-01                                                                                                                                                                                             | Nghia Tran | 47 SCHOOL ST | 6:00PM |
| <i>Review of the Special Permit under §181.335 of the Fitchburg Zoning Code to convert a large single-family into a two-family dwelling located in the Residential B District Map 18 Block 30 Lot 0</i> |            |              |        |

Present was Danny Tran, on behalf his father Nghia Tran.

CT – At the last meeting, most conditions were met, but the outstanding condition was the eaves being repaired with trim matched more closely to the original trim. Has the building been sold? – No, still listed

CT – Conditions stay with the property. Such as, to be operated as a two-family with no more than three bedrooms per unit. Property is subject to use under the Special Permit, as a two family only. No other uses without the required permission from the Board for any future owner.

CT – There were portions of the project that we like, and portions that we were less than thrilled about. The eaves is one of them, simply because it’s an obvious repair to match the profile. However, they put a lot of effort into the construction on the stone wall, and the addition of the fence and that was a great job. In addition, they did work to preserve the exterior historical architectural elements of the property.

MM – Motion in the affirmative on ZBA-2022-01 under §181.335 to Approve the Review with conditions as noted:

1. To be operated as a two-family with no more than three bedrooms per unit. (Continuing)
2. To be constructed substantially in accordance with the submitted plan dated 1/20/2022 by TAJ Engineering, LLC and the building plans submitted by G. Castillo date 1/24/2022 (Complete)
3. All exterior architectural features to be preserved and repaired in their current state or replaced with an architecturally accurate substitute. (Continuing)
4. Exterior colors to be consistent with a Greek Revival home according to the historically accurate color chart of Historic New England , a charitable organization devoted to the preservation of New England architecture and history. (Continuing)

5. The front stone retaining wall lining the street and the driveway to be repaired, maintaining the same surface materials as are currently present in the existing retaining walls. (Continuing)
6. The new retaining wall to the side of the driveway to be constructed of similar materials and appearance to the front stone retaining wall. (Complete)
7. Fencing to screen both the rear and the side abutters to be built on the property. (Complete)
8. Construction to be completed within 12-months of the issuance of the special permit. (Complete)
9. Property site to be kept clear of debris during construction and construction to occur within appropriate hours as allowed by City ordinance, minimizing the noise, dust, and any disturbance to any neighbor (Complete)
10. Dumpster to be emptied regularly. (Complete)
11. Construction vehicles to be parked off street to the extent possible. (Complete)
12. All debris to be removed upon completion of the project, as well as the dumpster. (Complete)
13. The eaves fascia board up at the roof line corner to be properly install and constructed of matching material (Added by the Board on 5/9/2023) (Complete)
14. All conditions are satisfied and the review is approved.

JB – Motion Seconded

Vote 4 – 0 to Approve the Review with conditions

**ZBA-2022-30**

**KM R2 Realty LLC**

**80 SOUTH ST**

**6:10PM**

Review of a Special Permit under §181.333 of the Fitchburg Zoning Ordinance to alter an existing nonconforming structure providing for a substantially different purpose (multifamily housing) located in the Residential C District at Map 68 Block 65 Lot 0

Present were Tony Molina and Barry Kottler (Owners)

CT – Special Permit was granted in October 2022, and this is a review to know how construction is going. We received a copy of the site plan approval from the Planning Board, so you had estimated 15 to 18 months for the construction to be completed. Units to be one studio apartment over the garage, one-bedroom, and five two-bedroom units; has there been any changes – TM - No

CT - Exterior architectural elements to be preserved, restored, or accurately replaced design work around the windows. Elements above the roof line copper on top of the roof and woodwork in the front peak. One of the points that was discussed was the replacement of the slate roof, has that proceeded according to plan? – TM - We hired a company that specializes in the slate roof, so we restored the entire steep roof and it's going to stay as is.

CT - The interior architectural elements were to be preserved. Such, the entryway coffered ceiling in the living room, the oak stairway and all oak floors. How have your efforts gone on that? – TM - We have taken care with the elements, but we have a special condition in place, so that we can put back some parts or anything that didn't need to be removed.

CT – So, what has been removed? TM - Some of the trim going through walls to get insulation into the building.

CT - The property including the landscaping, to be maintained during construction, debris to be picked up and dumpster to be emptied regularly – TM - Yes

CT – Property still owned entirely by KM R2 Realty LLC. – TM - Yes

CT - Have you recorded the special permit and provided a recorded copy to the building department? –  
TM – Yes

CT – Is anyone present or virtual would like to speak on, in favor, or against the petition? None

CT - We have one response from the Planning Department, see exhibit “A”

BG - My only concern is the Gray tone color, and the building is sort of brownish tone. Is there a plan to  
sort of color that Gray to make it look uniform? – TM - We are planning on painting the whole house,  
and trim on the exterior so that everything looks intact.

BG - Type of paint will you be using? – TM - Masonry paint with texture or concrete especially

BG - Will the color be similar to what the building currently is? – TM - It's going to be a little lighter, in  
certain areas on the soffits you can see when the building was originally painted; so we kind of try to  
match that

BG - I noticed there was a chip on the bottom of the granite stairs where the railing was. What is your  
intent to work with that? – TM – What we are going to do is, on the porch side we have a three pieces  
of granite which we only need two of them. The third one is holding the upstairs, so with the chip we're  
going to carry that to replace the one at the first step phase of the street. To make it match, and in that  
porch we're going to rebuild it with granite that we restore from the property from other areas. So, it's  
going look original to the house.

BG - In terms of the walkway between the stairway, and the entrance front door; what is the plan for that?  
– TM - We're restoring the brick the way that the top of stairs are to match, and then we'll reposition  
all the bluestone.

JB – Visited the property and everything is meeting the conditions, that I saw, and I have no problems

MM – Agree with Mr. Byrne

CT – Some of the Planning Board conditions are that the applicant must confirm with Water Department  
that suitable water service exists at the property, and is responsible for upgrading or replacement if  
needed. Has that been taken care of, and how? – TM - We're going to replace everything coming into  
the building, all the utilities.

CT - That also applies to the sewer – TM - We have an existing 2-inch water line, which we're going to  
keep but we're going to have an additional one.

CT - Rehabilitation of the sidewalk and curbing along South St., is that in the works or in the future works  
– TM – Future, we are looking to finish all the utility work first.

CT - Landscaping plan with the relocation of the dumpster, and do you have the EV charging stations  
located – TM - We are setting up some on the back corner of the building, there will be two stations  
for EV.

CT - Did that require an upgrade of the electrical service – TM – Yes, we are upgrading the whole system  
in the building.

CT - Are you still within your 15 to 18 months projected – TM – Yes, I say realistically early 2024 for completion.

CT - Do you think that you'll have made substantial progress and be near completion by December – TM - Our target is to get all the exterior work completed by November.

MM - Motion on ZBA-2022-30 under §181.333 to Continue the Review to December 12, 2023 with conditions:

1. **Petitioner shall comply with any and all conditions listed in its site plan as approved by the Planning Board as a condition of this special permit**
2. **There is to be 1 studio apartment over the garage, 3 one bedroom units and 5 two bedroom units.**
3. **Exterior architectural elements to be preserved, restored or accurately replaced (design work around windows and elements above the roof line, copper on top of the roof and wood work in front peak) A more detailed list and photos will be on file with the Building Department for reference.**
4. **Interior architectural elements to be preserved - Restore entryway, coffered ceiling in living room, oak stairway, and all oak floors that can be restored.**
5. **Property, including landscaping, to be maintained during construction, debris to be picked up and dumpster to be emptied regularly.**
6. **This Special Permit will automatically expire/terminate upon the sale/transfer of the property from KM R2 LLC prior to issuance of the occupancy permit, except as a reorganization of the corporate entity which retains the existing owners.**
7. **Review December 12, 2023.**

JB – Motion Seconded

Vote 4 – 0 to Continue the Review to December 12, 2023

**ZBA-2021-27 James Pappas / 808 Main St LLC 808 MAIN ST 6:25PM**  
*Review of a Special Permit under §181.94 to open and operate a cold storage warehouse that is not allowed pursuant to §181.313E3 of Fitchburg Zoning Code located in the Downtown Business District Map 29 Block 31 Lot 0*

Present was James Pappas (Petitioner), reside at 97 town farm road, Westminster

CT - As I recall this is the second time that we've had a review meeting, the last time was in November. At that time, the storage space was certainly not in operation, can you tell us what progress has been made; you worked on upgrading the electrical, gas meter and had hired a roofing company. – JP - Since that time a brand new roof went on, which finished about 3-weeks ago. I can't do anything else to the inside of the building, until the roof gets put on, but at the same token that's not the only reason why it hasn't gone forward. We had finished other projects on Main Street, and the next thing we'll be doing is the 808 Main Street. I'm trying not to carry too much debt, so I'm doing this out of working capital, and that slows things up a little bit. I hope the city sees that the projects I do, have a quality work

CT - One of the reasons the special permit was allowed, was because you were experiencing a financial hardship, in the carrying of the building without finding adequate tenants. It's now been a year and you've continued to carry the expense, so I would generally think that, if the expense was a substantial hardship, you would have moved quicker to renovate the space, and as you might be aware that special permits do expire, if they're not put into substantial use. I acknowledge that you've made the roof repair, and utility upgrades. Speaking as one board member those aren't specific to the use that was approved, I am not positive that was putting the special permit into substantial use. I would caution you to be mindful of that deadline. – JP – Okay

CT - Has the decision been recorded with the registry of deeds? – JP - Has not

CT – So, that is another item that implicates the fact of whether or not, the special permit has been put into use. – JP  
- I will do that next week

CT - We have a number of conditions on this special permit, I'm going to guess that none of them have been met at this point in time. – JP - So. The roof is an \$85,000 purchase; there were two HVAC systems that had to be removed. Therefore, to do anything inside it was very difficult, but that has been completed. None of the other issues has been, which camera system, elevators are. I am being told that the elevator has to be replaced, not just repaired. So, that's another expense that it could cause a little bit of a delay. I'm willing to take care of it, the building is up and running. It's not an eyesore, but things take time and capital.

CT - I'm also going to share the planning departments comment on this review, see exhibit “A”

CT – Is anyone present or virtually who would like to comment on, for, or against this matter? None

BG - I'm happy the roof got done, and with the fact, going a little slower and you're doing a quality job. I'm okay with that

MM - This is a unique building on Main Street, it's in a nice condition and he keeps it very clean. I think we need to be patient, but my comment would be that when you get some time; if you could do a little of the landscaping out front. Other than that the building is neat it's clean, and he's moving ahead at the applicants pace. I'm okay with another continuance.

CT - I do not want you to by accident run afoul of this deadline, the decision was December 13th 2021. Which means two years is coming up this December, and I'd like to schedule a review in November so that you can give us an update; if you have put the special permit into substantial use by that point. Definitely going to include recording at the Registry of Deeds, as well as the use of the property then the two year deadline will no longer apply.

MM - Motion on ZBA-2021-27 under §181.94 & §181.313E3 to **Continue the Review to November 14, 2023** with conditions:

- 1. Signage shall be designed to match the character of the building and be unobtrusive.**
- 2. No additional chain link fencing shall be added to the property.**
- 3. Hours of operation to be from 7:00 a.m. to 8:00 p.m.**
- 4. Construction and a certificate of occupancy shall be completed on the second floor and a Review Hearing shall be conducted by the Board prior to a building permit issuing for the first floor; the Board reserves the right to institute additional conditions at that time.**
- 5. Interior and exterior surveillance systems shall be installed to alleviate any burden on Police or Fire.**
- 6. Any exterior modifications to the building or landscaping must be approved on Review.**
- 7. Dumpster shall be moved to provide adequate access in the passageway for vehicles and parking.**
- 8. Business shall not be operated as a nuisance.**
- 9. Sunset clause: Transfer of ownership from 808 Main Street, LLC.**
- 10. Review November 14, 2023.**

BG – Motion Seconded

Vote 4 – 0 to **Continue the Review on November 14, 2023** with conditions

**ZBA-2022-31**

**Yael Dario Recio**

**56 CULLEY**

**6:40PM**

*Review of the Special Permit under §181.313 of the Fitchburg Zoning Ordinance to open a motor vehicle body and paint shop located in the Neighborhood Business District at Map 33 Block 58 Lot A*

Present were Yael Dario Recio (Owner) and Ricardo Araujo (Interpreter)

CT – Special Permit was approved in January 2023 with a number of conditions, I would review those conditions and have you respond on whether or not they've been met. Are you open for operation yet – RA – No, he is in

the process of upgrading the overhead door, and it's going to be building a second overhead door for the spray booth. To have an easy exit and entrance for the car, so he obtained a building permit to do the work.

CT - Note for the minutes that this is permit number B-23-654 to open an existing cinder block wall in the left front of the building, to install a new overhead security door, 9 foot height.

CT – Signage, there's no sign up there yet. Are you going to do the sign yourself, or hire a contractor – RA – He is going to use D & G which is a local sign business.

CT - Inspections from Building and Fire department to be completed for the spray booth prior to certificate of occupancy, have those inspections been conducted? – RA - No because the spray booth is not complete yet. Door has to be installed first.

CT - The exterior to be painted by May 31<sup>st</sup>, and the existing fence to be replaced with chain link painted black with privacy flaps, so that fence is not black. – RA – it's going to be painted, if you want to be paint

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

BG - Do you have that door scheduled to be installed? – RA - Contractor is waiting for the header metal to arrive, expecting to come tomorrow and as soon as they have it they're going to start with the installation

BG - Why you chose black on the back of the building, and didn't make it uniform with the rest of the building gray. – RA - That's a kind of waterproof insulation, it's a tar. It's going to stay for a little bit, before we paint to level and settle the humidity to cure properly.

BG - Parking lot paved, has that been scheduled yet- RA – No

BG - I thought that a black chain link fence was going to be installed, that's the request was a black chain link fence; not a fence painted black. Why the decision was made to do a solid fence? Is that going to be the permanent finish or is there a plan to paint it. – RA – To be painted

MM - Behind the building, there's still a lot of wood debris. If you could get that cleaned out, for the residential houses above so that looks clean

BG - I'm willing to allow them to paint it, to make the site look uniform. At the next review we could decide if it is aesthetically acceptable, instead of having them remove it. If it all painted harmoniously with the building, would probably look pretty nice; maybe even better than the chain link

CT - I think you will be uniquely able to fix this problem, because it's within your chosen profession, within what you do for a living. However, I don't mind the modification, I think the modification is a good idea. What I don't like is modifying the conditions that the Board set out, without asking the Board. I'm going to say, in the future if you're going to change something that we have set forth as a condition, come back to the Board and ask us.

CT - As I'm looking the conditions, which are going to require modification, that would be the description of the fence, timeline for completion and a review date.

MM- Six months.

CT - We did not put in a specific condition prohibiting a certificate of occupancy from issuing before completion of the conditions. If the conditions are completed before October, you would therefore be able to approve that through the Building Department and then proceed.

RA – Would like to add that two weeks ago, we had one estimate, and waiting for another estimated price on the paving. - MM - Let's try to get the paving done for November

MM – Motion on ZBA-2022-31 under §181.313 to **Continue** the **Review** to **November 14, 2023** with amended conditions as follow:

1. **Property is to be used for motor vehicle body repair and painting only with two bays, including on the spray booth; no non-body auto repairs, sales, or other services**
2. **Professional signage only – no temporary vinyl banners**
3. **Not to be operated as a public or private nuisance**
4. **No offensive fumes or odors, and no outside storage of vehicle parts.**
5. **The dumpster is to be located within the fenced area**
6. **Any unregistered cars to remain on property no longer than two months**
7. **Parking according to plan dated January 10, 2022, and submitted with this application**
8. **Hours of operation 8:00 AM TO 6:00 PM Monday through Friday and Saturday 8:00 AM TO 4:00 PM**
9. **Inspections from the building and fire department to be completed for the spray booth prior to Certificate of Occupancy**
10. **The Building’s exterior is to be painted in a good and workmanlike fashion by October 31, 2023**
11. **The existing fence is to be replaced and painted in uniformity with the color scheme of the building**
12. **Petitioner shall pave the parking area with asphalt by November 14, 2023.**
13. **Sunset Clause – Special Permit to expire/terminate upon the change or transfer of ownership of the business from Yael Dario Recio**
14. **Review – November 14, 2023**

JB – Motion Seconded

Vote 4 – 0 to **Continue** the **Review** to **November 14, 2023**

**ZBA-2022-14 Daniel Estevez 76 SUMMER ST 6:55PM**  
*Review of a Special Permit under §181.94 of the Fitchburg Zoning Ordinance to operate an adult daycare service pursuant to §181.313C1 located in the Neighborhood Business District Map 70 Block 13 Lot 0*

CT - There is no person present in the meeting area, and there is no person waiting to be heard online. The Board did not received any communications on this matter, and we have no persons present to speak on, for, or against this matter

BG - I'm concerned with where he stands with the permitting from the state, it's unfortunate that he isn't here right now to answer those questions.

CT – There was supposed to be an outdoor recreation, or outdoor sitting area constructed. At my visit I didn't see any evidence of that.

BG - Which raises the concern that maybe there's some difficulties with permitting, on a state level.

CT - I did see that the handicap access ramp in the front of the building had been recently paved with asphalt, which was one of the items that we had asked to be fixed.

CT - Working with state agencies can be cumbersome, so we should put this out a couple months as we typically do give an applicant an opportunity to show up.

MM - Motion on ZBA-2022-14 under §181.94 & §181.313C1 to **Continue** the **Review** to **September 12, 2023**

1. **Operated substantially according to two submitted plans, one dated April 8, 1980 and the second labelled as a second-floor plan.**
2. **Hours of operation 8:00 AM to 4:00 PM Monday through Saturday.**
3. **No plastic or vinyl banners, professional signage only.**
4. **Applicant shall only operate as an adult day health facility licensed by the Department of Public Health.**
5. **Sunset Clause – Special Permit shall terminate/expire upon the sale/transfer of the business from Families Together, LLC.**
6. **Property Owner shall repair the entranceway pavement.**

**7. Further, review – September 12, 2023.**

JB – Motion Seconded

Vote

4 – 0

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

**ZBA-2022-33**

**Christopher Cordio**

**109 OAK HILL RD**

**7:10PM**

*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 have no persons present or remotely to speak for, on, or against this matter. We have an e-mail from the applicant who apparently called on Wednesday, to ask for a continuance until September 12th of 2023

MM – We know that the applicant is doing some other projects within the City, so this project is lower priority

BG - A reasonable request is that the site be cleaned a little bit better, there is some unsightly trash behind, and a lot of over growth. The parking lot has several pieces of broken pavement, if it could just appear to be not so vacant.

CT – At this time, we do have a planning department comment, please see exhibit “A”

MM - I certainly think it needs some extensive renovation to the site for improvement, perhaps a site plan review which usually requires a landscaping plan. Specifically the concern here is storm water management.

MM - We should consider the modification of condition #12, specific to the site plan review.

CT – I Agree; the parking lot deteriorates more and more each day, so I don't know if there was some work done, but it is in substantially worse condition than it started.

MM - Motion on ZBA-2022-33 under §181.313 to **Continue the Review to September 12, 2023**, striking condition #12 and to insert the language: “Site plan review be required in accordance with the zoning ordinance.” And the following conditions:

- 1. Parking and structure to be constructed according to plan submitted dated December 12, 2022**
- 2. Hours of operation: 11:00 AM to 2:00 AM seven days a week, subject to reduction or modifications by the License Commission**
- 3. Any conditions imposed by the License Commission are incorporated and become part of the Special Permit**
- 4. Parking area to be paved and striped and adequate to meet the needs of employees and customers, with two handicapped parking spaces to be constructed**
- 5. Occupancy not to exceed 150**
- 6. A sign plan, including design, dimensions and location, to be submitted at review and prior to installation of any signage**
- 7. Exterior of structure to be completely resided with vinyl siding, roof replaced and any dumpster to be screened by vinyl fencing**
- 8. The site is to be kept clear of construction debris, dumpsters emptied regularly, and overgrowth maintained during construction**
- 9. Construction to be completed by August 31, 2023**
- 10. Sunset Clause – Special Permit expires upon transfer of ownership from Christopher Cordio or his wholly owned entity designated to the Building Department within 30 days of the date of the decision**
- 11. Not to be operated as a public nuisance**
- 12. Site plan review be required in accordance with the Zoning Ordinance. (Modified June 13, 2023)**
- 13. Review – September 12, 2023**

JB – Motion Seconded

Vote

4 – 0

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

**ZBA-2023-10**

**Lewis Colten**

**21 UNION ST**

**7:25PM**



*Review of the Special Permit under §181.94 of the Fitchburg Zoning Ordinance to reinstate and change the use of a vacant/abandoned 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*

Present were Vanessa Sangster of 64 Middleton St., Providence RI 02909, and Edwin Veliz of 75 Beach St., Fitchburg. (Both partners' owners)

CT - Have you recently become owners, because there was a sale contemplated the last time this was before the board; and you said there's three owners. – VS - Yes

CT - Have you submitted a copy of the new deed to the building department? – VS – Not sure, if sure my real estate agent submitted it.

CT – So, we're not in receipt of that. We need to confirm that at the Registry, and did you buy it under an entity; and what is the name of the LLC. - VS – Ceve Property Investors LLC

CT - Please deliver a copy of the recorded deed to the Building Department, and the Building Department generally needs the owner of the property to apply for relief, but there's a request to change the special permit, is that right? – VS - I'm not aware, I recently just found out about this meeting yesterday. So, I'm not fully aware of what was taking place, I just chose to be here to represent.

CT - We had a review for the special permit that was issued under the old owner. Has the old owner told you about any of the conditions on the property? – VS – No, I know that it's a most recently a church, and we're trying to convert it into a single family.

CT – Right, let yourselves be known to the Building Department, make sure that you have what you need in order to comply with the conditions. A single-family use is what was allowed, so you're not seeking to change it to anything other than single-family – VS - No

CT - In general what we wanted was to make sure this was not used as student housing, or as a lodging house. So, that means it can be rented to one single-family, but you're not going to rent each separate bedroom to a number of different students.

CT – At this time, we should continue this matter to next month, so new owner could become more familiar with the list of conditions on the Special Permit

JB - Motion on ZBA-2023-10 under §181.94 & §181.333 to **Continue** the **Review** to **July 11, 2023**.

MM – Motion Seconded

Vote 4 – 0 to **Continue** the **Review** to **July 11, 2023**

**ZBA-2023-19** **Debra Lord** **808 FISHER RD** **7:40PM**  
*Special Permit under §181.313D1 of the Fitchburg Zoning Ordinance to keep miniature goats on the property yard less than five acres of land pursuant to §181.94 located in the Rural Residential District Map S11 Block 29 Lot 0*

Present was Debra Lord (Property Owner), stating that we want the miniature goats as pets. My son just got full custody of his daughter, and we wanted to teach her how to be responsible and to take care of animals. She is a little scared of my son's dog, but she's starting to come around and is getting used to them. We have it all fenced in for the goats, they have a house and two heaters; one for the water in the winter and one for the heat inside their shed. They have a tree for shade, a big rock to climb on. We aren't keeping them for livestock, or to milk.

CT - What the life expectancy is of the goats? – DL - They can go up to 15 to 20 years

CT - Are they both of the same gender? – DL – Yes, they're both female

CT - Is there any thought to breeding them? – DL – No

CT - Are you undertaking any kind of veterinary care certification? – DL – Yes, I have immunization papers, one has already had rabies shots, and Christie already had part of her horn removed.

CT - Your lot is an acre and a third. – DL - Yes

CT - You already have the goats? – DL – Yes, we got them three weeks ago

CT - The fence is 60 by 40 right now, and it's four feet high. – DL – Yes

CT - How tall are the goats? – DL - Maybe 24 to 30 inches, not even 30, about 2-feet high.

CT - Is it chicken wire, is it wooden board fencing. What's the fencing material? – DL – It's chicken wire

CT - Did you sink the posts in with concrete footings, or no? – DL – Yes

CT - How far down did you go with the concrete footings? – DL – 6-feet deep each post

CT - How big is the shed, where they're going to be stored during winter? – DL - It's 8-feet high, probably 10 by 12

CT - How far away from the property boundary on the side street is the goat fence? – DL – I would say 50 to 60 feet from the driveway, but they're back of the barn so probably 75-feet

CT - Are you storing the feed in the barn? And where are you storing the waste? – DL – My son's going to compost that, we're going compost right near the garden in the back, for reuse in the garden

CT - Where is it stored right now? – DL - He has put it in a pile for now, but he's going start putting it in the compost.

CT - We have some comments, we did receive an e-mail from Ralph Miller and Joe Poznick, abutters. Please see Exhibit “A”

CT - Is there anybody in the audience who would like to make a statement or ask a question?

Ralph Miller of 828 Fisher Rd., I am the nearest neighbor. I want to ensure there'd be no more than two goats. In addition I want them to be the miniature breed, and that they be does, no bucks.

EC - My only concern would be if the property served by sewer or septic – DL – Septic

EC - So, you definitely should check with the Board of Health in regards to this, if they have any concerns.

CT - Mr. Chartrand, do you have any recollection of whether there is licensure required for these animals, either through the City Clerk or the Board of Health? – EC - I do not, because that's not real agricultural farming, but it would be with the Board of Health if they have regulations on this.

JB - Visited the property, and saw where the goats are going to be. Everything looks good

BG - I will note that the area was nicely and professionally done, I shook the post and I would agree that the posts were very sturdy the gauge of metal was used to keep the goats in their area is adequate. During my visit noticed that there was one had surgery on its head, and it seems to me that it was more of saving an animal, that may not otherwise have been saved. My concern is the bedding be moved to the back of the property away from the abutter, because with the crosswinds the area is in a close proximity. So, I think that's reasonable to put the bedding behind, and I'm going to add a suggestion, if the odor still prevails the applicant be willing to take the bedding off site, and dispose of it into a compost pile.

CT – Reviewing the Special permit criteria, is there any impact on traffic flow or safety, Neither. It's not going to decrease the amount of parking, and no effect on access to the site and adequacy of utilities, and other public services.

CT - The neighborhood character, would you agree that it's rural in nature? – DL - Yes

CT – Any potential fiscal impacts on the natural environment, due to what you're doing – DL - I don't think there's going be

MM - This request is for special permit relief, where the property is under the required 5-acres. Conditions that were mentioned by Mr. Miller, are typically the ones we would put on. I agree to add those conditions.

CT – Mr. Gallagher, I have two questions: First, is in your opinion the height of a fence at 4-feet adequate to prevent the goats from leaping out. – BG - They do tend to jump, but these are miniature goats, and they were friendly and they didn't have that type of aggressive demeanor. Females tend to be a little bit more docile, so I do not see them being able to scale that fence easily

CT – Second, are the facilities adequate for the care of the goats in the winter, or the very cold months, or will they need to be moved to a different place – BG - I asked the applicant that she had expressed that there are two heaters, one for the water and then one to keep it warm inside. I would think somewhere between 45 and 50 degrees

CT – I am in agreement with what Mr. McLaughlin had said and with the suggested conditions.

MM - Motion on ZBA-2023-19 under §181.313D1 & §181.94 to Approve the Special Permit with the following conditions:

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 conditions.**
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 – Special Permit shall terminate/expire upon the sale/transfer or change of ownership from Debra Lord.**
14. **Review – October 10, 2023**

BG – Motion Seconded

Vote 5 – 0

to Approve the Special Permit with conditions.

(Roll call EC)

**ZBA-2019-40**

**Jose Santos**

**1033 MAIN ST**

**7:55PM**

*Review of the Special Permit under §181.313C11 & 12 to occupy the building for Automobile Sales business and Repair services located in the Central Business District at Map 18 Lot 90 Block 0*

No one was present in the audience or virtually.

CT – Now this is before us because there has been a nuisance complaint, which is dated January 9<sup>th</sup>, 2023. The business owner has a special permit to operate a small auto repair, and according to the complainant, the business owner is violating the special permit conditions by doing repairs outside. Also, my understanding is that the business owner may no longer be the person who owns or operates this business, but we don't have any specific evidence to support it. I went by today and it was certainly closed.

MM - We have a permit holder who has not shown up in response to the request to come to the meeting; special permit has a sunset clause for the sale or transfer of the business or the change or operation from Jose Santos.

CT – I want to ask to our Zoning Secretary what was done to contact Mr. Santos. - Secretary - Notification was sent by mail to both, business and property owner. Also, sent an e-mail and a phone call on June 2<sup>nd</sup> and spoke to Mr. Jose on where he stated that he was planning to be here tonight. However, I also want to make the Board aware that we have a new application on our July's agenda.

CT – So, that is a different applicant than the current. – Secretary – yes and apparently is a new property owner as well

CT - That's a fair amount of evidence that Mr. Santos is no longer operating this business

MM - I would like to note, that last month, I don't have specific day, but I went by and state police appeared to be knocking the door down. I have seen people working on their own vehicles with the garage doors open and outside the garage, but I haven't seen Mr. Santos at the property. I think at this point we should move to a vote to revoke the Special Permit

CT - I am going to note, that condition #5 of the special permit is auto repairs within the building only. In addition, condition #10 is the sunset clause upon the sale transfer of the property or change of operation from Jose Santos.

MM - Motion in the affirmative on ZBA-2019-40 under §181.313C11 & 12 to Approve the Review with all stated conditions to remain:

JB – Motion Seconded

Vote 0 – 4 to Approve the Review with Conditions, and therefore the Review was DENIED.

A second motion was made to revoke the Special Permit for violating condition #5 & #10

JB – Motion in the affirmative on ZBA-2019-40 under §181.313C11 & 12 to **Revoke the Special Permit** due to the violations of conditions #5 & #10. Which were:

**#5 – Auto repairs within the building only**

**#10 – Sunset Clause – Special Permit will terminate/expire upon the sale/transfer of property or change of operation from Jose Santos**

MM – Motion Seconded

Vote 4 – 0 to **Revoke the Special Permit** due to violation of conditions.

## 7. MISCELLANEOUS

## 8. ADJOURNMENT