

VOTE: 4-0 to Grant the Use Variance

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

MM- Just to refresh our memory are this going to be trucks, 18 wheelers? PC- Trucks, some tanks, some trailers, just straight trucks. Parking plan was design to accommodate the type of trailer so, that will give us enough space for a truck or a cabin it will fit on those spaces.

AZ – Looks that this is exactly what we asked for and it’s seeing that they can easily fit up to 12 with no problems

JB – Perfect fit

MM- Is that parking pave? PC- The driveway is pave, the parking area is crushed stone

MM – So, the Board is agreed to change the request conditions up to 12

AZ- Motion ZBA-2018-10 to **Approve** the Review of a Use Variance under §181.313C11&12 to operate a Trailer, Tank Sales & Semi-Trailer Truck Sales and Maintenance Business located in the Industrial District with the amended conditions #1, 2 & strike #3. Conditions to read:

1. Certified Plot plan as submitted
2. Not more than 12 vehicles for sale

JS - Motion Seconded

VOTE: 4-0 to **Approve** the Review

ZBA-2018-31 **Craig Coppinger** **42 SKYVIEW DR** **7:15PM**
Special Permit under §181.34 for an Accessory Apartment located in the Rural Residential District at 164/6/3

Petitioner both agreed to move forward with 4 member Board

Presentation given by Craig Coppinger and Peter Goguen contractor stating that they are looking for in-law Special Permit to build a one bedroom with kitchen as well bathroom on the basement section of the house. Property has a walk-out baseman, this was use as a daycare from previous owner and already has a half bathroom. The in-law to be occupied from mother and father in law, entryway will at the back-area end of the garage which is basemen level. We have plenty parking on the property, there was a small shed at the front of the house which we move to the back to make some more room for parking plus 2 car garage.

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

JS- What is the SF on the house now? CC- It is 2000 SF and accessory is going to about 600 SF

AZ- Do you have a plan to reconvert the unit to a single family once no longer need it or to sell it? CC- No we haven’t thought of that, I did some research and I know that we need to renew it every 5 years.

AZ- Meet the special permit criteria

AZ- Motion ZBA-2018-31 to **Grant** the Special Permit under §181.34 for an Accessory Apartment located in the Rural Residential District with standard conditions:

1. Property not to be sold or conveyed as a 2 family
2. Special permit expired in 5 years and must be renewed prior to expiration
3. Special Permit will terminate upon the transfer of the property
4. Dwelling is to be owner occupied
5. Accessory Apartment is to be occupied by a relative of the owner
6. Upon the expiration of the Special Permit the petitioner will restore the property to single family use pursuant to the plan attached to the affidavit. Including any amendments by Zoning Board of Appeals.
7. In all other respects, use of the accessory apartment shall comply with §181.34 of the City of Fitchburg Zoning Ordinance
8. A copy of this Special Permit shall be filed with the Registry of Deeds.

JB- Motion seconded
VOTE:

4-0

to **Grant** the Special Permit

ZBA-2018-28 **Aysia Wanner/Sarah Vincent** **140 JACKSON AV** **7:30PM**
Special Permit under §181.3566 to reinstate an abandoned/vacant building as a single-family dwelling located in the Industrial District at 59/12/0

Petitioners both agreed to move forward with 4 member Board

Presentation given by Aysia Wanner and Sarah Vincent stating that this will be a good improvement to the neighborhood as well the City. We understand that property is located on the Industrial Zoning District which we don't mind, currently where we live the train goes by right back of the house and we have 3 boys living at the house, so we don't think that it's going to be an issue. This house contains 4bedrooms and 4bathrooms a little over of 2,000 SF with plenty parking and a big yard for family to enjoy.

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

JS- Just as curiosity for the time this house been abandoned how much work would you need to do? AW- Not much honestly the house is in very good shape and most work is cosmetic. JS – When this house was built? AW – 1940

AZ- Parking on the property satisfy and are you aware of the noise? AW- Yes, we are aware

AZ- Motion on ZBA-2018-28 to **Grant** the Special Permit under §181.3566 to reinstate an abandoned/vacant building as a single-family dwelling located in the Industrial District with no conditions.

JB- Motion Seconded

VOTE:

4-0

to **Grant** the Special Permit

ZBA-2018-33 **Elcevich, LLC /John Zarrella** **915 SOUTH ST** **7:45PM**
Variance under §181.535 for the construction of a Free Standing Sign 2' from the side line of South St. and the bottom of the sign will be street level located in the Neighborhood Business District at 182/2/A

Only 4 Members were present and (AZ - Recused himself for the hearing)

MM- This is going to be short for you, we don't have a quorum to hear your case tonight

John Zarrella- Not a discussion? MM- No

MM- Unfortunately we have 2 Board members out sick and we are only 3 members available for your case, so will have to do a Mutual Agreement extension of time for next month meeting November 13, 2018 JZ- Okay, that's my only option let's do it

JS- Motion on ZBA 2018-33 to Grant a continue to **November 13, 2018** with a mutual agreement for extension of time

JB- Motion Seconded

VOTE:

3-0

to **Grant** a continuance on November 13, 2018

ZBA-2018-29 **Joshua Collette** **31 HANNAH LN** **8:00PM**
Variance under §181.414 to erect a deck on the rear of the structure located in the Rural Residential District at 317/17/0

Petitioner agreed to move forward with 4 member Board

Presentation given by Joshua Collette stating that when he bought the house a year ago it looks like that there was a deck on the back of the house, which it was torn down. Actually the house is design to have a deck on the back yard section, the back of the property are all woods no houses are there. My side neighbor is very far away, so this will not injurious or detrimental to the public welfare.

Those Seeking Information: None

Those Opposed: None

Those In Support: None

JS- How far is the deck from the property line? JC- it is about 50 feet set back

MM- The board most the time wants to see certified plot plan more definite, but on my personal opinion where this land is there is so much excess and use land behind it that it can be develop and use for something like this, and the setbacks is something minimum from what the setback requirements are.

AZ- The setback it doesn't seeing is affecting anybody, which is nothing back there

AZ- This is seeing a very straight forward on my opinion it meet the criteria

AZ- Motion on ZBA -2018- 29 to **Grant** the Variance under §181.414 to erect a deck on the rear of the structure located in the Rural Residential District with plan as submitted with conditions:

1. Make sure topography is safe to do so
2. Built it to code compliance

JB- Motion Seconded

VOTE:

4-0

to **Grant** the Special Permit

ZBA-2018-30

David & Lorie Petrucci

1280 ASHBURNHAM HL RD

8:15PM

Variance under §181.3433 to erect an 1100 sq. ft. addition for an Accessory Apartment located in the Rural Residential District at 77R/23/4

Petitioner both agreed to move forward with 4 member Board

Presentation given by David and Lorie Petrucci stating that they own and been living in the property for 17 years now, our kids had grown and move out. However we have a son and his family lives with us, there are 3 children and they are occupying most of the house space. We don't want to leave our place we like up there therefore we want to do an addition and build an accessory apartment.

MM- So, you meet the setback requirement right? DP – Yes – MM – what's the foot print of the existing house? DP – 28X38= 1,064 sf, it's not a big house, it may seeing bigger but is not

Those Seeking Information: Tom Albuit of 1242 Ashburnham Hill Rd– Not sure why this accessory apartment has to be more than requirement 800SF – There is already a foundation been made and it's not connected to the main house

Those Opposed: None

Those In Support: None

JS- About the breezeway it's that enclosed DP- Yes it is – JS- So, this will have walls on each side and to go through and it to get in the main house right? DP – Right, that's how we would like to connect it between the 2 houses - JS- Why it must be 1100SF? LP- we feel that 800SF is too small, we have 10 grandchildren and would like to have family reunion at our place- JS- So, to convert the basement into a unit is not an option? DP – No JS – Because Variance is a very hard to get relief off and it's because of all the specific criteria that you have to meet

AZ- No work is in progress, no construction? No foundation or anything yet? DP- No – AZ- This is a single story and it's going to have basement? DP- Yes – AZ- What are the plans to re-convert it into single family in the future? DP – We are not planning to leave until we gone and after that we don't know, we don't have a plan we haven't discussed it because we didn't know about the rule.

MM- When you submit the application did you review and look the accessory apartment criteria? DP – Yes – MM- Okay, because what it supposed to be looking at it's at the intent of the by-law. This intent was, if you own a large home for you and you are enabling and want your children to come in or vice versa, so, the intent is to allow you to take up to 800sf of the existing house foot print to provide for an accessory apartment. You can also according on the by-law it allow you to expand up to 15% on addition, so, in the future it can be converted back to a single family dwelling. DP- Not sure, if we want that- MM- This is way above the 800SF and is not utilizing the existing foot prints from the current house, so, you are adding a breezeway and essentially you are building a second house right? DP – Yes MM – Which according to Rural

Residential Zoning 2 family are not allow, so, this is a lot that you are asking for a variance. It is a large conversion for what an in-law it should be, and it doesn't show how it can be back converted

JB- We can recommended you to review 181. 34 and 181.9615, you can find the reason of why we give a variance and they are very limited, so if they don't fit within on those guide lines we don't usually grant a variance

MM- Would you like the opportunity to continue and try to discuss with your family maybe some other options? DP – yes

JS- Motion on ZBA-2018-30 to **Grant** the Continuance under §181.3433 to erect an 1100 sq. ft. addition for an Accessory Apartment located in the Rural Residential District to **November 13, 2018 at 8:00PM**

AZ- Motion Seconded

VOTE: 4-0 to **Grant** the Continuance to **November 13, 2018**

ZBA-2018-32 Kelly Wolski & Christopher Cordio 35 JEANNETTE ST 8:30PM

Variance under §181.355 to erect a 26' x 24' attached garage with a room above leaving +/-7' to the property line located in the Residential A-2 District at 101/11/A

Petitioner both agreed to move forward with 4 member Board

Presentation given by Kelly Wolski and Chrisopher Cordio stating that they are looking to put a 16x24 garage on the right-hand side of the property to have some space to park on the winter time. We want to have a family room above it, the house itself is small when we bought it so we are trying to make the necessary improve to grow our family there.

Those Seeking Information: None

Those In Support: James Papas – I know Chris now for a couple of years and I been involve in the real state, on the last 10 months we purchase 8 properties and all were vacant and Chris been fixing them up and pull all the required permits 5 of them been sold and occupied; so everything he does is legally permitted. All I wanted to said is that this is an owner-occupied property, he wants a garage and that is high level of living and beneficial for the neighborhood

Kevin Stoddard of 48 California Ave- I am behind Chris property lived there for 34 years and since Chris bought the house is making the neighborhood clean and neat, before he bought the property there was a lot of garbage outside, rats in the neighborhood, all I can see is that Chris wants to improve our neighborhood.

Paul Vallancourt – I am just at the side of the garage I build that house 30 years ago and I am agreed on that Chris is trying to make and look our neighborhood nicer, He asked me to put the garage I think is a great improvement for the property, so we told him to go ahead.

Those Opposed: Rick Valle from 56 Jeannette St. – More I am looking is for clarification in this case, because my concern is the petition has presented by non-owner the owner is an investment and Chris history it is seeing likes to flip-house, so I don't want to give him the opportunity to extend those square footing and then sell it. I know I must take his word, but this will be on the back of my mind. Are you planning to sell it? James Papas- It is a good question he brought up, that property was purchase under James Papas Trust which is my entity that I represent. This was 1031 exchange and he bought the property and he lease it to Kelly for one-year period after that time she has the right to buy it. They put pledge owner occupied they sign one-year lease I have the lease with me to leave on the property, after that they can finance with a financial institution and they plan to live in it.

MM- On a simple terms, who owns the property? JP- owns the property and lease the property to Kelly with one-year option to purchase it from the same price we bought it.

JS- The application was submitted by Kelly and Chris, but they can't ask for zoning relief because they have no cause only the owner can request Zoning relief.

MM- We want to make this short for everybody, if you look the variance criteria is you are seeking zoning relief to the hardship if you don't own the property there is no hardship.

AZ- The problem here is not who is here, the problem is who apply. Since that you apply on your own names, so we don't have a petition from the real owner. On this case will be the owner who would have to reapply.

AZ- Motion on ZBA-2018-32 to Leave the **Withdrawal** without prejudice under §181.355 to erect a 26' x 24' attached garage with a room above leaving +/-7' to the property line located in the Residential A-2 District

JB- Motion Seconded

VOTE: 4-0 to Leave the **Withdrawal** without Prejudice

ZBA-2018-34 Edgewater Construction, Inc. 592 WESTMINSTER HL RD 8:45PM
Variance under §181.414 to divide the lot leaving less than the required area located in the Residential A-2 District at 187/15/0

Petitioner both agreed to move forward with 4 member Board

Presentation given by Brian Tobin and Elijah Ketola stating that they would like to take one parcel land putting into 2 lots, one of remaining lots will be to build a single-family house. Effectively we are asking for a minor dimensional Variance for the second resulting lot from the division of the 2 lots. The extra space on the current lot now it's one structure on the parcel the extra space on where we are working to turned into a 2nd lot is effectively function as an abandoned piece of lot, it not been well kept and it's a potential hazard safety for kids who like to play in there. The additional propose structures with respect of the soil topography we will have increase 60-foot of the elevation, going from one side to the other side of the parcel and that increases gradually in 20 foot increment. Was planned a 50 foot width pave driveway laying of the foundation from an engineer opinion, and also in our opinion it will resolve the soil stability. Is not detrimental to the public and will increase property value, not just for this property also for surrounded parcels. The second lot is been created is full compliance with setbacks requirements and the minimum of 12,500sf, the remaining lot with the structure also substantially complies therefor we are asking for minor dimensional Variance.

Those Seeking Information: None

Those Opposed: None

Those In Support: None

MM- What is the requirement for that zoning district? BT- 12,500 sf – MM- How much are proposing for each? BT- Lot #1 will 14,939sf and Lot #2 will be 7,560 – MM- You are reducing a conforming lot size to a non-conforming by about 35%? BT- Yes, but as now its abandoned

JS- Drive way is at the other side of Eaton St? BT- Good question, we are requesting both variance for the minimum on the lot and the driveway

AZ- You said that the property is look abandoned, but who owns the property? BT- This is a particular unique position where he is a dual agency of both land owner and the perspective purchaser and we apply with owner's permission acting on their behalf, He can send you the affidavit from my clients

MM- When you apply for a variance we looked the book and see the by-law, and we really shouldn't be making conforming or non-conforming lots into more non-conforming. He look the best for the City and this doesn't seeing is a good fit, also the topography in this land is pretty interesting beside off this he doesn't see the hardship because who owns the house also owns the land - BT- We fully appreciate your perspective without agreed with all you said, but as I said earlier the safety is a hardship one component

AZ- Where is the hardship from current owner? Why would be building a house instead of keeping it nice and do some rehab to it not will be better? BT- The owner is not on a financial condition to building a retaining wall, but is on the financial condition to sell this unit to a builder that will create the extra structure enforcement to the topography conditions by the driveway by the foundation, and it gives the difference for what are you looking for the hardship

MM- Not because other houses in the neighborhood are 5000SF lot, we are going to make this 5000SF lot.

BT- We would you like to continue in order to bring more detail on regarding structure and financial hardship

MM- Sure we can do that

AZ- Motion on ZBA-2018-34 under §181.414 to divide the lot leaving less than the required area located in the Residential A-2 District to **Accept** the Amendment the petition to add the name of the owner and **Grant** a Continuance under a Mutual Agreement of Extension of Time to **November 13, 2018**

JS- Motion Seconded

VOTE: 4-0 to **Accept** the Amendment and **Grant** the Continuanace to **November 13, 2018**

ZBA-2017-10 **JMC Apartments, LLC** **234 DANIELS ST** **9:00PM**
Continuance

Review of Conditions on a Special Permit under §181.3561 to reinstate a vacant/abandoned building as a 2-family dwelling located in the Residential B District at 77/15/0

Presentation given by stating that he had a broken arm and a surgery, and he is not in physical condition to continue with the project for the next couple weeks. However, from the last review all the outstanding was the parking lot which is now complete and the shed to go down to the basement been rounded out and made a regular door to go downstairs. The biggest and expending thing to do was the parking and is now finished, and everything else has been compliance as the board has suggested. You have parking plans that had been presented and submitted in previous hearing, in which obviously there fit 6 cars in the property, therefor the uses of such is a three-family dwelling.

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

AZ- Are you going to stripe the parking? Per City Parking Ordinance it says that parking must be stripe – Yes, will do accordingly to the City Ordinance, but at this point I am not in condition physical and financially. I had to use money out of pocket to continue and finished the job which was complete and code compliance, except to stripe the parking and the entrance stairs to the basement which I did though that was a big of a deal. AZ- Out of the basement door and we understand that you said is not a big deal, but 3 or 4 times now we have put it as a condition and it's has not been fully finished and the first time we asked you to do that was a year ago. D- The time it took me to get this property rented and start generated some income was a long time, I had to use money out of pocket to continue and finished the job which again was code compliance. AZ- We need you to understand is when the Board put a condition of a Special Permit is what we had been decided, everything we put in here is a condition of the Permit were granted. It's not a matter of Building Code, if it's not done you haven't done everything you needed to do D- Give me another date and I will come back on the summer time and that will be taken care off, it took me almost a year to get this property rented. At this point I can't do it I got a broken arm and just can't afford it, and I am self-employed no one works for me.

MM- The place is looking good you done must everything except those 2 things that already been dressing, the whole board and this has been since the beginning and it's in here about the stairway and we are not pushing you now we understand where you are at and that is going to take you a while, but the stair case at front that has a play-wood and stuff on it, it's need to get done. D- Yes, I will do it just need some more time. MM- So, what do you need? Next June 2019? D- yes, I Agree it probably will be before that, but definitely will be complete by June.

AZ- Motion on ZBA-2017-10 under §181.3561 to reinstate a vacant/abandoned building as a **2-family** dwelling located in the Residential B District to **Grant** a continue to **June 11, 2019** whit conditions

1. Review June 11, 2019 at 7:00PM
2. Stain stairway to be complete at time of Review
3. Parking to be stripe

JB- Motion Seconded

VOTE: 4-0 to **Grant** the Continuance to **June 11, 2019** at 7:00PM

ZBA-2016-26 **Brett Usher & Silvia Cavillo-Hayes** **162 MARSHALL ST** **9:10PM**
Continuance

Review of Conditions on a Special Permit under §181.3561 to reinstate the abandoned/vacant Building located in the Residential B District at 3/68/0

Presentation given by Brett and Silvia Cavillo-Hayes stating that they been looking for some estimates to move the retaining wall, by doing this they may able to extend the parking as has been required, also trying to save some money so they can proceed with the project. Estimates we are getting are around 37 thousand dollars and we turn a copy of it to the building department, so we think it's going to take us about 2 more years. We need to save 37 thousand dollars or do a 2nd mortgage on the house possible next year.

Those Seeking Information: None

Those Opposed: None

Those In Support: None

JS- It has been more than 2 years in this particular case since 2016 – BC- yes, it's been a very long time

MM- You don't think it would be easier to convert it into 2 family-dwelling? BC- We did so much work into this building and invested too much money into it, and we don't want to do that.

AZ- Understand the financial streams, but none of this was unknow, all these were the requirements and not too comfortable giving you 2 more years to run a 3 family with not accrue parking, that's not a Special Permit that's essentially a temporally Variance from the City Ordinance. And there is nothing to justify the size from the property parking spaces that it works better as a three-family for you, it's just not a Variance Criteria, if we are talking about Variance the requirements are a lot narrow. SC- We can try to work on it and may takes less than 2 years. BC- We already had put the driveway on the back and you said that isn't big enough AZ- Right, you told us how big was going to be at the beginning SC- Most of this been new to us and a lot of this has been a misunderstanding or not reading the measurement incorrectly

MM- We understand that, but the City can't take the burn on that we base our decision to allow you to have a 3-family house base on the parking. BC- Can we get another year?

JS- Not comfortable doing that

AZ- The part of the driveway that was a survey error is understanding, but every single condition was put on this has gotten done most later and half done, and we have tweeted some more, like the front yard part it didn't get resolve until we sent you the violation noticed

JB- Just looked the packed on this and we had our 1st public meeting back on October 11, 2016. At that time, it was decided:

A. Building was a 3-family dwelling and will remain as 3 family

B. The property will be owner occupied and that has not yet taken place

So, by reading this I can show that it's has been a very long time, and all initially said, and the bigger problem is because they said that the property was going to be owner occupied. The Board would never granted the Special Permit for the 3-family dwelling, if we had known that they just wanted to put a three family at there and not plan to live in it.

AZ – Motion on ZBA-2016-26 under §181.3561 to reinstate the abandoned/vacant Building located in the Residential B District to **Amend** the Special Permit and to **Grant** a Permit for a 2-family with parking as current and other conditions as previously stated:

1. **Petitioner to submit a definitive plan for parking and snow removal.**
2. **Snow removal plan must EITHER show snow removal entirely on petitioner's own property OR signed agreement by neighbors allowing for snow removal onto their property.**
3. **Plan submitted must EITHER show a minimum of five dimensionally conforming spaces in the rear (including a maneuvering aisle) OR elect to reduce occupancy to 2 (two) units (including removal of third kitchen). Maneuvering aisle may be as little as 14' *provided that all other dimensional requirements are complied with, given that the Board has previously approved a plan with a 14' aisle for this property. (PLAN SHALL BE SUBMITTED at the June 12 Review, though the physical site work need not be completed by that time.)***
4. **In either case, unpaved green space must be maintained across the totality of the frontage, excluding the driveway—planters or other artificial containers, even if constructed and/or installed so as to be immovable, will not meet this requirement. Some form of “blocking” material, whether railroad ties, trees, shrubbery, or other comparable must be employed to render the green space unusable for parking purposes—this requirement is in addition to, not in place of the requirement that all such space be reduced to planted, unpaved green space.**

JS- Motion Seconded

VOTE:

4-0

to **Amend** the Permit and **Grant** a Permit for a 2-family

located in the Residential C District to Grant a continuance to **November 13, 2018**

JS- Motion Seconded

VOTE: 4-0 to **Grant** the continuance to **November 13, 2018**

4. MISCELLANEOUS

ZBA-2018-25

Raffael DeFeo

318 FIFTH MA TPK

Variance under §181.4214 & §181.4215 for a fence over 6' high on a corner lot located in the Residential B District at S46/6/0

Raffael DeFeo - Couple years that been kind of crazy on regards to my house, because a while ago a car smash on the corner of my property he uses to have a 35/44 tree at the front of my yard. And the elbow of the water main, the car stops on top of fire drain and it's was blocking to shut it off, and the tree crack part of the foundation. The reason the fence was done the way it was because when they were digging into my yard to fix it, there was 6foot fence and it was run closer to the elbow of the road. So, the petitioner went to meet with the building department and explained that he was going to take some of the fence down to fix the yard, he also asked if he could pick a fence because since the gas station came in there is a heavier traffic, so its dusts come through his property. Bigger reason to have fence the property is because is more comfortable to live, also its helps the next-door neighbor and it makes it easy to maintain the property neat and clean, by over the years he been living there he tries to maintain the property and increase it value.

MM- He understand the reason of the fence been over 6feet high just on the side, right? Yes

MM- It was easier if you shall up last meeting – Well what happened was that he was unable to attend, and he try to send an email and it was sent back to him, but it got into his spam and didn't know

AZ- Motion on ZBA-2018-25 under §181.4214 & §181.4215 for a fence over 6' high on a corner lot located in the Residential B District at S46/6/0 for **Reconsideration to November 13, 2018**

JS- Motion Seconded

VOTE: 4-0 to **Grant** Reconsideration for **November 13, 2018**

ZBA-2018-21 FBC19-62, LLC

126 PACIFIC ST/183 CEDAR ST/191 CEDAR ST

Appeal to Overrule the Building Commissioner's Decision for the need of a Special Permit from The **Planning Board** under§181.752 in a Residential B District at 13/51/0, 13/50/0 & 13/48/0

We have a Mutual Agreement for Extension of Time that Petitioner asked about 2 weeks prior previous hearing meeting. This Agreement was as a mutual consent between the petitioner and the Zoning secretary.

AZ- Motion on ZBA-2018- under the Appeal to Overrule the Building Commissioner's Decision for the need of a Special Permit from The **Planning Board** under§181.752 in a Residential B District for **Reconsideration to November 13, 2018**

JB- Motion Seconded

VOTE: 4-0 to **Grant** Reconsideration for **November 13, 2018**

5. ADJOURNMENT