

CTIY OF GARDNER
ZONING BOARD OF APPEALS
GARDNER MA 01440

(978) 630-4007

June 20, 2023, at 6:30 P.M.

Zoning Board of Appeals
In-Person Meeting
Room 103, Annex Building, City Hall

PRESENT MEMBERS

Raymond LaFond, Chairman
Randall Heglin, Clerk
Dave Antaya, Member
Melory Cornett, Member

ATTENDEES

Steven Rockwood
Brian Spalding
Matt Dan
Patrick J Fisher
Jennifer Jensen
Jennifer Wood
Stephen Madaus
Maggie Don White
Christof Chartier

Chairman LaFond call to order tonight's meeting of the Gardner Zoning Chair recited the ground rules by which the board operates. Asked if anyone objected to the taping of the meeting. No one. Request to silence all cell phones during the meeting.

Chairman LaFond proceeds to read the agenda:

<u>Cases #</u>	<u>TYPE</u>	<u>NAME/ADDRESS/ REQUEST</u>
Case # 04/01/2023(con)	SP	Christof Chartier, 20 Rock Street, PID #M22/1/21. Two-Family Condo.
Case # 05/01/2023(con)	SP	Patrick J Fisher, Lot 1 Green Street, PID #M47/17/6. Two-Family dwelling.
Case # 05/02/2023(con)	SP	Michael Amblo, 437 Main Street, PID #R22/22/13. Auto detailing & pressure washing.
Case # 05/04/2023(con)	V	Jonathan Bombaci, 163-165 Pine Street, PID #R22/6/8. Amend parking relief.
Case # 06/01/2023	AA	Acadia Healthcare Co., Inc., 354 Main Street, PID #R22/16/9. Medical Clinic.

First Case: Sitting as a Chairman, LaFond, Melory Cornett, and David Antaya as members.

Case # 04/01/2023(con) SP, Christof Chartier, 20 Rock Street, PID #M22/1/21. Two-Family Condo. Christine M Tree, the Attorney, this is a continuance case from our prior meeting. The case ended with the members requesting a report on hazardous waste disposal. It was forwarded to us by Trevor Beauregard, Director of Community Development and Planning from the city of Gardner. The report indicates that all the asbestos was properly removed from the site. There was testing done on the air quality as well. An

Inspection was administered to confirm the removal of the asbestos and the tolerances for a clean site after the asbestos removal. That was the last requirement from the board.

The two reliefs that we're looking for.

1. The confirmation so a finding that the lot is grandfathered as far as buildability even though it is a slightly undersized frontage. The frontage in the district is one hundred feet and what the lot has is 94.5 feet. Following the adoption of zoning between 1970 to 1973, the lot has been grandfathered. As a lot with less than the required frontage.
2. The second driveway on the property and a plan depicting the proposed location have been submitted and reviewed by you. This is going to be a two-unit condo and we do believe to need special permit criteria. But in general, the addition of the second driveway is going to result in a property that is presented to both the owners and the neighborhood as two single families. Christine M Tree and Christof think that it will be more confident with the neighborhood with its character. As well as creating a better living environment for the two families in this house. I am happy to take any questions, but this is the end of the presentation.

Mr. Antaya asked if they are going to have two entrances.

Attorney Tree answered yes one from Rock Street and the other from Water Street. The owner has agreed to give an easement to the city for snow storage on the property to help with the snow removal issue on Rock Street which is a dead end. That has been reviewed with the DPW the city engineer, Rob Oliva, and he had gone over the perimeter of what would be a good area for the snow removal.

Mr. Antaya mentioned that the other issue that was discussed was if you could grade a little in the back to address a neighbor's concern.

Mr. Christof replied that the abutter Mark Montville was in the corner. Yeah, that is still my intention to regrade as discussed.

Mr. Antaya replied okay. I know that you mentioned that if there was an excessive amount of work you weren't going to do that to grade the whole thing. But I know that issue with the water on that corner.

Mr. Christof replied we went over with that neighbor on site I have a cell phone number once I get going with this, I was going to have him be part of that conversation with whoever does my site work.

Mr. Cornett asked if Christof would be opposed to a condition.

Mr. Christof replied no he would not as long as it's not too specific. I don't mean without a site plan.

Mr. Cornett replied I understand.

Mr. Antaya mentioned that the only reason that they recommend a condition is that the water was pooling on that corner.

Mr. Cornett explained that the condition would be directing the water away from that corner. Not how to do it. That was my only concern.

Chairman LaFond explained that on the site visit, they looked at the area the abutter was talking about.

We are not engineers but I know that you know what the abutter is talking about I know that the problem will be rectified. I know there was a question earlier about being on two streets I guess the postal will assign the addresses. Does any of my members have any questions? None.

Does anyone have any comments or questions regarding the Rock Street property and what is going to happen? Let it be known that there are no questions or comments from anyone in the audience.

State that the board did do a site visit. It was laid out approximately where the condos would be structured all the setbacks needed so there are no other issues except for the two issues mentioned.

Can I have a motion to close this hearing?

Mr. Cornett replied so moved.

Mr. Antaya replied seconded.

Chairman LaFond asked Any discussion.

Mr. Cornett answered none.

Mr. Antaya answered none.

Chairman LaFond asked all in favor.

Mr. Cornett and Mr. Antaya answered aye.

Chairman LaFond expressed that he would like to make a final decision on this case since it has been seen for several months. Motion to render a decision.

Mr. Antaya answered motion to render a decision.

Mr. Cornett answered seconded it.

Chairman LaFond stated that there would be three conditions.

1. Second driveway where is located.
2. This is a grandfathered lot.
3. Alleviate the water situation, in the right-hand corner of Rock Street.
4. Insulation of the easement for the snow storage. As it's outlaid on the plan that was recently submitted. We will get you the date of that plan.

All those in favor of granting with four conditions as we spoke of say Aye.

Mr. Cornett and Mr. Antaya answered Aye.

Chairman LaFond all those opposed. No opposition.

Special permit granted with the conditions.

Second Case: Sitting as Chairman LaFond, Members Heglin, and Cornett.

Case # 05/01/2023(con) SP, Patrick J Fisher, Lot 1 Green Street, PID #M47/17/6. Two-Family dwelling.

Patrick Fisher explains that he had staked out the house, the septic system, and the driveway so the board members could look at it, and originally was an accepted plan by the person that owned the property which I bought it from. But they have passed away and I pretty much wanted to do the exact same thing they were doing. Follow the rules and got the board to come up and look at it. I gave them all copies of the plans which show the septic system 221 feet from the road. The driveway was opening in the stone wall twenty feet. Then the house setback was three hundred feet. The well was setback another fifty feet from where the house is. It's a twelve hundred feet duplex with three car- garage in the middle and a single-family house on the other side. I'd like to do it on a slab because I'd saved a lot of money on the wood. Probably stick build it you know we'll go through that I'd get the permits. I was told to come here, and you decide what you wanted to do.

Chairman LaFond stated that Mr. Fisher did a great job presenting. I'll say the board did visit that site and looked at the locations of where the septic system is going to be placed the well, and the driveway. A decision was made on May 2, 2019, it was presented at that time, and it was approved. It did have 5 conditions.

1. The driveway entrance can be no further South on Green Street Route 140. The existing break in the Stonewall was outlined in the submitted drawing.
2. The final house design and construction must be submitted to the board at the meeting on April 16th you've submitted the drawing of the house.

Mr. Fisher answered yes.

3. Driveway must be constructed such that drivers will not back out onto Green Street. To exit the property there must be a paved driveway apron at least twenty feet long. The Special permit also stays with the owner and if the property is sold the new owner must apply for a new Special permit.

Mr. Fisher stated that a condition of the previously granted Special Permit was problematic, specifically if the property is sold, an application for SP is made to Board. If something happened to me, I don't expect to make it that much longer. I'm not worried about where I'm going but I'm concerned about my wife when I pump half a million dollars into a duplex. To get her to live up there. Something was to happen, and she

wanted to sell that somebody couldn't get the paperwork to go through the right way or the banks fiddled around because they wouldn't allow the money to be moved. I just don't want that other condition out there that sticks with me. I'd like to see that as a permanent duplex lot. You know you made that a duplex lot out of a single lot. That way I wouldn't be jumping money into something that she couldn't get back. I think it causes hardship for her. The way things are we don't know what's going on in this country anymore. I just don't want to be naïve and think that everything is going to go smoothly when anything could happen. So, I'll let you decide what you want to do.

Chairman LaFond asked the members if they had any comments or concerns.

Mr. Cornett commented that he sees no reason to have that condition. He certainly would be in favor of removing this condition.

Mr. Heglin commented that there was a rationale when they had added that condition in the previous Special Permit.

Chairman LaFond commented that originally a special permit goes with the owner. We have to make a decision or an exception to this.

Mr. Heglin explained that there was an opposition originally and communication as well as I remember.

Chairman LaFond, is there anyone in the audience that has any comments or concerns regarding this application? Okay. Let it be known that no comments or opposition. The purpose of that is the last meeting back in 2019, we had one or several people that were in opposition to what you wanted to do at that time.

Mr. Fisher stated that he had spoken to all the individual neighbors near that house and there are all full.

Short Recess

Chairman LaFond asked Mr. Fisher about the house plans that you submitted in your package this time. Those are the plans that you continue to go with.

Mr. Fisher answered yeah pretty much. Those were modular homes on each side. The only way I would buy a modular home was I'd buy the box. Because I can't stand looking at the rafters looking down the road and got sags in them and problems. Buy a wrapped box and do it that way if I did a module. But I would probably do a stick build because I've done over 44 stick-built homes all by myself and over four hundred homes.

Chairman LaFond asked Mr. Fisher you will not have a second floor on that. Those two units will be one level. This is like a single-level ranch home.

Mr. Fisher replied you know it's hard you get old climbing stairs. That's the whole purpose of this.

Chairman LaFond explains that the 5 conditions from 2019, will remain and the plans submitted will be reviewed by the building department and confirm that that is the plan for the one-story two-family house. It looks like a large ranch house.

Motion to close this hearing.

Mr. Heglin so moved.

Mr. Cornett seconded it.

Chairman LaFond asked if any discussion. None.

All of those in favor of closing.

Mr. Heglin replied Aye.

Mr. Cornett. Replied Aye.

Chairman LaFond asked if anyone objected. No. Meeting closed.

I'd like to move forward with a decision at this time. Is the board members open to a decision?

Mr. Cornett responded yes.

Mr. Heglin responded yes.

Chairman LaFond carries a motion.

Mr. Cornett is so moved.

Mr. Heglin seconded it.

Chairman LaFond, there are 5 conditions if this is granted.

1. The driveway entrance will be no further south on Route 140 than it currently is with the break in the stone wall.

2. The final house design construction must be submitted to the building commissioner for approval according to the building code. It will be of one level and a two-family house.
3. There must be a paved driveway apron twenty feet long off Route 140
4. Driveway must be constructed so drivers or people exiting the property will not back out onto Green Street.

Mr. Heglin requested a discussion about condition number 5. Taking into consideration what Mr. Fisher said about new potential buyers in the future.

Chairman LaFond stated that the special permit could stay with the property instead of the owner. We can't forecast what the board may say in the future.

Mr. Heglin's response was that they are not sure what the future members would say either.

Mr. Cornett said I don't recall why it was there.

Chairman LaFond commented that a Special permit is required for that property. Because of the Two-Family. I don't think that there is an issue this will always be two-family. Unless we put a condition stating that these two families will always be on one level. In case another owner comes to the property.

Mr. Cornett and Mr. Heglin agreed that they would like to strike out number 5 of the conditions.

Chairman LaFond said that he is ok with that. So, we stay with the other four conditions.

Mr. Heglin and Mr. Cornett agreed.

Chairman LaFond all those in favor of granting this application for a special permit with the four conditions that were read. Say aye.

Mr. Heglin and Mr. Cornett said, Aye.

Chairman LaFond asked all those opposed. No opposition.

Unanimously granted.

Chairman LaFond explained that the decision will be written within fourteen days. Then you will be recorded with your deeds in Worcester. Once you receive the decision there is a twenty-day waiting period according to the law before you can start any construction or anything. Those twenty days period give any abutters or interested parties who would like to object to our decision and to appeal it through the courts if they desire to do that.

Third Case: Sitting Chairman LaFond, Randall Heglin, and Melory Cornett as members.

Case # 05/02/2023(con) SP, Michael Amblo, 437 Main Street, PID #R22/22/13. Auto detailing & pressure washing.

Chairman LaFond excuses Mr. Amblo for not being present as he works in the evenings.

Jennifer Wood, the property owner, explains that Mr. Amblo is renting. I own and operate at 457 Main Street in Gardner an ambulance company. The 437 was formerly Bruce's Auto for many years. Wood Ambulance had a problem with parking. When Bruce decided to retire, we purchased the building from him. I had zero intention of becoming a landlord and renting out the space. Well, Mr. Amblo approached me very persistently and said it would be a perfect place to start his dream of an auto detailing shop. I gave him a shot and worked together step by step and see where he went. So, he took the opportunity and started the paperwork process and he's been learning as he goes. He comes to me for guidance and came to the board and presented everything all by himself. My husband and I have agreed to work with him as each development go to help him become a successful business for Gardner. We believe that giving that is important to bring new business to the community is important as giving young people a shot. He is working the night shift right now as he was unable to get time off. I'd figure id come and support.

Chairman LaFond explained that he did answer all ten questions that are not going to negatively impact the city. It has water and sewer. Initially, he will work by himself but then he's going to get a couple of fellows that will probably work with him. There is adequate parking.

Mrs. Wood answered yes.

Chairman LaFond mentioned that they had talked during the site visit and that the parking lot will be refurbished.

Mrs. Wood replied yes, I will be regrinding or like get that taken care of.

Chairman LaFond explained that during the site visit, they had talked about the outdoor exterior lighting. Since Mr. Amblo will be conducting some work outside. We did ask Mr. Amblo if he was storing any vehicles on the property. He did answer one or two on the property. I don't plan to have a large inventory of vehicles to be worked on.

Mr. Cornett the only issue that I can recall is when he washes the car inside the drainage would have to be addressed.

Mr. Cornett explained that that would be one of the conditions.

Chairman LaFond asked Mr. Thomas Zuppa, our Building Commissioner if he could address the drainage situation.

Mr. Zuppa explained that he had a conversation with the plumber inspector and defer to the plumbing inspector's judgment on this. But the plumbing inspector's code is very specific on this. If there is a garage bay door and vehicles are brought to the building, then drainage is required. Then to be approved they have to go through all the appropriate building codes, electrical, etc., and a Certificate of Occupancy.

Chairman LaFond comments that if they do grant it has a condition that he must comply to get a certificate of occupancy.

Mr. Heglin replied I'd rather have Mr. Ambo would have to comply with all the inspections necessary.

Chairman LaFond asked if there is anyone in the audience that have any comments for or against the special permit request for the car washing detail business.

Matt Premium Comment, I think that is nice to see a young person wanting to bring in a business and if they have to put in a drain, it will have a high cost, especially for a young man. It would be nice to see everyone working together to try and bring young people to start new businesses in our community. I'd love to see a way that that would happen.

Mrs. Wood asked what if he wanted to vacuum and wash the car inside the building.

Mr. Zuppa explained that the building code is very specific about that construction type and what folks' intent to do. It would be best to defer to the Plumbing inspector.

Mr. Heglin stated again to my comment that all that he has to do is get in touch with the appropriate inspection authority.

Chairman No comments from the audience or objections. Let it be noted that there are no comments or objections. Motion to close this hearing.

Mr. Cornett so moved.

Mr. Heglin seconded it.

Chairman LaFond asked if there is any further discussion. None.

Meeting closed.

Motion to a decision.

Mr. Heglin so moved.

Mr. Cornett seconded it.

Chairman LaFond stated I think we should add a condition Mr. Heglin can you state it again for clerical.

Mr. Heglin stated the applicant shall seek approval from the appropriate authority for the inspections of the business.

Chairman LaFond stated to obtain a certificate of occupancy.

Mr. Heglin stated that he needs a business certificate too to operate.

Chairman LaFond all those in favor of granting this special permit request to Mr. Amblo with that condition attached.

Mr. Cornett and Mr. Heglin replied Aye.

Chairman LaFond asked all those opposed. No opposition. Special Permit granted.

Fourth Case: Sitting as Chairman, Heglin, Melory Cornett, Dave Antaya

Case # 05/04/2023(con) V, Jonathan Bombaci, 163-165 Pine Street, PID #R22/6/8. Amend parking relief.

Matt Premium, a partner from Millenium Holding Group, is a plan in that we need four additional parking spots for our Harbor complex or in case there is a snow band for the winter. We are proposing

that we build an additional parking lot on another one of our properties at 105 Washington Street. If you have the printout here. We would like to build an access driveway along the parking that's already there in the back. Towards the front for an additional four spots in case of overflow in that circumstance.

Mr. Heglin: Okay. Thank you. A site visit was held on the Washington Street property to see where the proposed parking was to be located. There was some correspondence that was sent. Mariela is the correspondence here.

Mrs. Negron: The correspondence is in the correspondence folder.

Mr. Antaya explained that the correspondence was only for pages of the plans no write-up was done.

Mr. Antaya those 4 drawings are the correspondence.

Mr. Heglin Okay. I thought there was a write-up.

Mr. Antaya, there was no write-up.

Mr. Heglin: Okay. On the site visit and the last meeting, there was some discussion about dedicating certain parking spaces at 163-165 for compact cars because of some turning away radius issues. The two tandem spaces were originally approved as part of the original special permit. Then four satellite parking spaces on 105 Washington Street. That's what I remember.

Mr. Cornett: The tandem spaces I'd also go to the same apartment.

Mr. Heglin: it was a condition on the original special permit.

Mr. Antaya: We are on the same wavelength there.

Mr. Heglin asked Mr. Premium if there was anything else new.

Mr. Premium No, I don't think so.

Mr. Heglin opened it to the audience again this is a continued case. It was well presented at the last meeting. I'll open it up to the audience if anyone has any comments or questions regarding this application. None.

Any questions from the board?

Mr. Cornett yes, I do have one. I saw the drawing that came through and you were talking about the parking areas up on the left from the front of the house being towards the front left-hand part of the building. That you would access that from the rear. Again, to the left-hand side of the building. Now I have two questions:

1. Do you intend to pave that?

Mr. Premium We are going to use reclaimed asphalt. So, it doesn't interfere with drainage.

2. Now how much room do you have from the edge of that driveway or internal access. I think we're going to end up calling it, travel lane to the property line.

Mr. Premium do you mean on the side of the property?

Mr. Cornett replied yes.

Mr. Premium replied we have twelve feet.

Mr. Cornett, you'll have twelve feet from the edge to the edge.

Mr. Antaya from the house to the boundary is twelve feet.

Mr. Cornett once you put in that driveway from the right-hand edge of that if you're facing towards Washington Street to the property line how much distance you're going to have?

Mr. Heglin, he is asking what's the distance between the property line here and the edge of the driveway.

Mr. Premium answered I believe that is two feet.

Mr. Cornett replied that could end up being a problem. Typically, is required five feet. So, we get into this discussion that does that comply or not. That's something the board is going to have to talk about. Because is that really a driveway is it an internal travel lane? Then what are the requirements? It's not clear at this point.

Mr. Heglin, I think if I may that might be a decision for the zoning enforcement. We may need time to refer to the building inspector.

Mr. Heglin if it did violate the zoning for that property.

Mr. Cornett. Then you need a variance.

Mr. Heglin for that Washington St property.

Mr. Premium Is that because of the travel lane as opposed to parking because it would run a lot?

Mr. Heglin, I understand the zoning code. On the driveway. Mel is correct. I think it's a five-foot offset from the property line. The question is whether that a considered a driveway or is that considered like internal access. I don't know if there is a difference.

Mr. Cornett you are going to change the surface to driveway type of surface regardless of what you call it.

Mr. Premium Can we use crushed rock instead would that help?

Mr. Cornett, I don't know.

Mr. Antaya replied you don't have grass there. I guess as part of the definition or criteria.

Mr. Cornett so we are going to need an opinion, I think.

Mr. Premium if there is something that you would like there, I'm happy to.

Mr. Cornett is not a matter of what we want. I am talking about the zoning codes.

Mr. Antaya, what were you thinking of the service for the four cars? Where are you thinking of putting down or having?

Mr. Heglin is it going to be the regrind as well?

Mr. Antaya okay. So, it was re-grind for I'll call it a travel lane up into where the cars were going to park.

Mr. Premium yes.

Mr. Cornett pointed out that there is an issue here.

Mr. Heglin explained that this variance is for Pine Street.

Mr. Cornett expressed that he understands but they can't meet the Pine Street requirements. It all comes in one package so speak.

Mr. Cornett asked about the time constraints of the application.

Mr. Heglin the application for the variance is dated April 14, 2023.

Mr. Cornett, we are fine then. If they need a second variance, we may need an extension.

Mr. Heglin, do we want to continue the hearing, and then we can send a note to the building commissioner for an opinion?

Mr. Cornett, I think that would be my recommendation.

Mr. Zuppa, I would be fine with the continuance. That way I can look at the property to see what was proposed and what the setbacks are. As you stated see if it is an interior access driveway different from an access driveway. One dispenses to the road, and one does not. If there is a five-foot buffer required from the edge of your pavement just popular okay. So, if you can't achieve that it would happen most likely be a variance. But I will investigate it.

Mr. Premium replied okay.

Mr. Antaya a question that I have is. There are twelve feet from the house to the boundary. Does it need to be more than seven feet to travel?

Mr. Cornett that is why we need him to look.

Mr. Antaya asked if Thomas Zuppa, our building commissioner understood what he was asking.

Mr. Zuppa replied yes, I do. I think it would be best to look at the property first. Cross that with the size requirements for parking spaces and that would give me a chance to look at your plan as well.

Mr. Heglin advised the applicant's representative to come up a plan or survey showing the property line. Advice to go through your file of when you purchased this property? There's probably a mortgage plan. That will show Washington Street. It will give you a good idea of the real estate on the side of the house. Mr. Premium replied absolutely.

Mr. Antaya commented that this is part of Pine Street's proposal just to reiterate that the Pine Street parking depends on the type of vehicles. That your tenants had you were going to assign them I believe the appropriate parking spaces so they could turn around. I believe that was part of your plan.

Mr. Premium replied yes. We have two spots in there that are dedicated to compact cars. We were going to coordinate with who had the compound cars that they would park in those two numbers six and seven spots.

Mr. Antaya that could change. Those are not going specifically to an apartment. Say parking spot number six went with apartment six. It's going to be a depending.

Mr. Premium replied resident's needs. Absolutely.

Mr. Antaya replied you'll be changing that okay. Except for number eight.

Mr. Heglin replied if we extend this hearing will be exceeding ninety days. I will not be able to be here at the July 18, 2023, meeting. Shall we move the July meeting to July 11, 2023?

Mr. Antaya asked Mr. Premium if July 11, 2023, works for him.

Mr. Premium agreed.

Mr. Heglin stated a motion to continue the hearing to July 11, 2023.

Mr. Cornett replied so moved.

Mr. Antaya seconded it.

Mr. Heglin all those in favor. Aye.

Mr. Cornett and Mr. Antaya replied Aye.

Mr. Heglin all of those opposed. None. In the meantime, I will send something formal to the building commissioner.

Mr. Premium replied thank you.

Fifth Case: Sitting Chairman LaFond, Randall Heglin, and Melory Cornett as members.

Case # 06/01/2023, AA, Acadia Healthcare Co., Inc., 354 Main Street, PID #R22/16/9. Medical Clinic.

Chairman LaFond reads the denial letter reason for the denial. You have enquired about being an outpatient abuse center for the treatment of Opioid independence. This property is located within commercial two, Com2, zoning district. The three viewers determined this proposed use would be classified as under six hundred seventy-five city of Gardner table of uses item twenty-one as a Medical Clinic or Outpatient Medical Facility. A Medical Clinic or Outpatient Clinic would require a Special Permit from the zoning board of appeals. That is what it was denied under as you run a Medical Office. This was denied under T. Siriphan who's the city at the time because of what was happening with our building commissioners.

So, I will turn the table over to you. Introduce yourselves with your contingent.

Stephen Madaus, of Miracle Connell at Worcester, on behalf of Acadia Healthcare Company. Tonight, I have here Mr. Brian Spalding, he is the assistant director of design and construction for Acadia. Also Ms. Jessica Fortier, Clinical Director of Acadia's, Pittsburgh location. Mr. Matt Davis Regional Vice President of Acadia Healthcare. As you Mr. Chairman we are here this evening on an appeal of the building commissioner's zoning determination that Acadia's proposed use at the property located at 354 Main Street qualifies as a Medical Clinic or Outpatient Medical Facility. I recognize as of this evening we have a new building commissioner, so it was the prior Interim Building Commissioner that issued the determination that we've appealed. That Interim Building Commissioner determined that the use did not qualify as a Medical Office. The subject property on Main Street is located in the Commercial Two zoning district. Pursuant to the table of uses in the city's zoning code. A Medical Clinic or Outpatient Medical Facility requires a Special Permit in that zoning district whereas a Medical Office is permitted use in that district. Applying Acadia's proposed

use of two defined terms of the zoning code. We believe that the proposed use clearly qualifies as a Medical Office and does not meet the definition of Medical Clinic or Outpatient facility while the two definitions are similar, and they're found in section six hundred seventy-five – two hundred ten B of the zoning code. I know I provided that in my submittal to the board. The primary difference we discovered is that a Medical Clinic provides ambulatory emergency medical care. Acadia's proposed use does not include ambulatory emergency medical care. There's a gross submitted narrative describing the use. I don't know if the board had a chance to review that document. But we can certainly answer questions about the use. Some of the highlights from that submittal and Acadia's proposed use will Specialize in Outpatient Care emphasizing treatment of addiction disorder through medication-assisted treatment and support services. While the use will include a dispensary for medication it will not include a pharmacy. Acadia's proposed use is not designed or equipped to handle acute Medical Emergencies. It will not provide Ambulatory Emergency Medical Care. Therefore, Acadia's use is similar as an Office-based service provider to a doctor's office or a Dentist's office. In making his zoning determination the Building Commissioner looks outside the four corners of the city's zoning code to alter or amend the definition of Medical Clinic. He cited healthline.com and law insider which are some kind of online dictionary or something I'm not certain. He applied terms from those outside sources to Acadia's proposed use. This enabled a conclusion that Acadia's proposal qualifies as a Medical Clinic and not as a Medical Office. Massachusetts case law is clear. When the uses are defined specifically within the zoning bylaw there's no reason to look to outside sources. It's only when a term is vague or not defined that you could look outside the zoning code as stated. In the submittal, Medical Clinic and Medical Office are both defined and those are what should have been applied to our proposed use and without Ambulatory care and it's a Medical Office. For those reasons, we believe our use flaws within Medical Office. It was improper to seek out sources to blur the definitions set forth in the zoning code and arrive at the contrary determination. So, we respectfully request that this board overturned the decision of the interim Building Commissioner. Finds that Acadia's proposed use fits and falls within the definition of the Medical Office. We are with all these wonderful people and available to answer any questions about the proposed use and how it would operate at that location on Main Street. Chairman LaFond Thank you councilor. I'll just ask my board members if they have any questions up front before I start.

Mr. Cornett and Mr. Heglin answered not yet.

Chairman LaFond, are there any representatives of the city that would like to speak regarding this application?

Mr. Zuppa, Gardner's Building Commissioner, asked if this is the first appearance before the board. This is not a case that I've had a chance to look at. I've got a stockpile at my desk. I think it may be early to render a decision based on the interpretation of an Interim Commissioner. With the board's approval, I think that it's probably best that we continue it. Give me a chance to look at it a little more closely.

Chairman LaFond had the same thought process I was going through. Because it puts you in an unfair position to render a decision or at least render comments regarding we'll call it two building commissioners to the city clerk and Mr. Hanks without really reviewing the case. You know in the essence of time, and I want to ask the counselor would you and your clients be open to having us continue this to next month.

Mr. Madaus answered yes.

Chairman LaFond okay. I think that would give everybody an opportunity to look. I mean I went through all the material, and I've read the definitions of Medical Clinic and Medical Office and it is a fine line sort of how it divides it. I do have the letter submitted by Jessica Fourier Goss and I will not read it this evening because I think I want to defer any activities on this case until next month. That will give everyone an opportunity to be better prepared. Have our building commissioner look at this. Then go forward this is an appeal of the prior commissioner's decision. If the board agrees with his decision, then if you agree with that then you have to file for a Special permit at that time. If we overturn it, then you have conversations with the Building Commissioner there'll be a buy right to do this and the board would be excluded from this. From any further activities, it takes all three votes.

Mr. Madaus commented Mr. Chairman if I may be to continue to the next meeting in July which I think is that okay.

Chairman LaFond asked if Mr. Madaus's clients are okay with the next meeting being on July 11, 2023, okay. Mr. Madaus answered yes. I also the new building commissioner is new. I did submit a kind of brief in the letter explaining our position. So that is available to him.

Chairman LaFond explained to Mr. Madaus that after tonight ill be returning this file back to the office, so he has free reign on it. I know I read the definition at least six times because it's so closely aligned.

Mr. Madaus yes.

Chairman LaFond replied as your introduction stated ambulatory case is really about the two words that separate the two definitions.

Mr. Madaus expressed that he thinks that the former ambulatory care requires a special permit because that would be more intrusive upon the neighborhood if you will.

Chairman LaFond replied that is correct.

Mr. Madaus of course is a Medical Office.

Chairman LaFond yes granted by right per our ordinance.

Mr. Madaus that's why one requires a special permit, and one is on all right.

Chairman LaFond I am going to ask a motion to my members to continue this case say July 11, 2023.

Mr. Heglin answered So moved.

Mr. Cornett seconded it.

Chairman LaFond is all in favor of the continuation.

Mr. Heglin and Mr. Cornett answered aye.

Chairman LaFond any opposition. None.

This case is continued to July 11, 2023.

MINUTES

The site visit of March 30, 2023. This was the meeting with Stacey Kazinskas, and Attorney Christine M Tree, regarding the proposed "Airbnb". Mr. Antaya and Mr. Cornett had the opportunity to read them. Chairman LaFond asked if they would like any changes or corrections. Mr. Cornett and Mr. Antaya answered no. Chairman LaFond gave the opportunity to sign the site visit minutes. Vote to approve minutes; unanimous.

The site visit of May 23, 2023. This was a meeting at Mr. Angelo's prefer proposed work location on 437 Main Street property owned by Jennifer Wood, of Wood's Inc., that's when we viewed the site and that was myself, Chairman LaFond, Mr. Cornett, and Mr. Heglin. We had an opportunity to read these. Mr. Heglin answered yes. Also, Mr. Antaya was on the Pine and Washington Street site visit. That's also added. Lot one Green Street there were the minutes that we visited that site, and the third visit was one hundred fifty Washington Street. Chairman LaFond asked if any changes. Mr. Heglin answered no. Vote to approve minutes; unanimous.


ELECTION OF OFFICERS

Mr. Heglin stated I'll make a motion that we defer that to the July meeting because all the other members except for yourself (Mr. Chairman) are fully appointed. Chairman LaFond answered okay.

NEW BUSINESS

None.

Chairman LaFond's motion to adjourn. Mr. Antaya's motion to adjourn. Mr. Heglin seconded it. Mr. Cornett third. Chairman LaFond, All in favor. All present members, Aye.



Raymond LaFond, Chairman



Dave Antaya, Member



Randall Heglin, Clerk



Melory Cornett, Member