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Barney Heath
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MEETING MINUTES

Wednesday, October 23, 2024.
7:00 p.m.
Hybrid and remote via Zoom

Board Members Present: Michael Rossi (Chair), Brooke Lipsitt, Elizabeth Sweet, Stuart Snyder, and Denise Chicoine (remote).

Staff Present: Jonah Temple, Deputy City Solicitor; Jennifer Wilson, Assistant City Solicitor; Brenda Belsanti, ZBA Clerk; Jennifer Caira, Deputy Director of Planning; Katie Whewell, Chief Planner; and; Anthony Ciccariello, Commissioner of ISD; Andrew Mavrelis, Deputy Commissioner of Inspectional Services.

A public hearing of the Newton Zoning Board of Appeals was held as a hybrid meeting in person and virtually via Zoom on Wednesday, October 23, 2024 at 7:00 p.m. on the following petitions:

1. **#04-24** Kayvan Sabery of 17 O'Rourke Path, Newton, appealing the August 5, 2024 Notice of Violation issued by the Commissioner of Inspectional Services for a tree house built in violation of Section 3.4.3.A.1 of the Newton Zoning Ordinance. The subject property is located at 17 O'Rourke Path within a Single-Residence 2 (SR-2) zoning district and consists of a 10,185 square foot lot

2. **#06-24** The Newton City Council appealing the August 14, 2024 determination of the Commissioner of Inspectional Services in response to a request for zoning enforcement for alleged violations of the conditions of special permit #195-23 at 16-22 Clinton Street. The subject property is located at 16-22 Clinton Street within a Business 2 (BU-2) zoning district and consists of a 10,403 square foot lot.

3. **#07-24** Jason Gee of 13R Lincoln Street, Newton, appealing the August 14, 2024 determination of the Commissioner of Inspectional Services in response to a request for zoning enforcement for alleged violations of the conditions of special permit #195-23 at 16-22 Clinton Street. The Subject property is located at 16-22 Clinton Street within a Business 2 (BU-2) zoning district and consists of a 10,403 square foot lot.

4. **#05-24** Molly Gasnick of 21 Newtonville Avenue, Newton, appealing the August 20, 2024 Notice of Violation issued by the Commissioner of Inspectional Services for operating a non-registered short-term rental in violation of Section 6.7.5 of the Newton Zoning Ordinance. The subject property is located at 21 Newtonville Avenue within a Multi-Residence 1 (MR-1) zoning district and consists of a 6,000 square foot lot.

5. Approval of meeting minutes dated September13, 2023; September 27, 2023; October 25, 2023; November 8, 2023; and November 29, 2023 meetings.

Agenda Item 1: #04-24 Kayvan Sabery, 17 O'Rourke Path, Newton. Sitting Members: Michael Rossi (Chair), Brooke Lipsitt, Elizabeth Sweet, Stuart Snyder, and Denise Chicoine.

Documents Submitted:

1. Appeal Application dated August 29, 2024.
2. Narrative from ISD dated October 15, 2024.

Testimony:

Mr. Kayvan Sabery, 17 O'Rourke Path, Newton, stated that the treehouse had been a father-son project started many years ago and was finally completed. The treehouse has emotional value for the family because his son has health issues and it's a place of peace for him. He did not realize they were not compliant since it is their backyard and not realizing zoning in Oak Hill on his property has two front setbacks. He wants time to be able to take it down over time to be able to save the materials to reuse it and redo it in compliance. He would like to wait until spring.

Mr. Mavrelis presented and reviewed the history and evidence for the violation.

Public Comments:

Kirsten Smith, 24 O'Rourke Path, Newton, stated that the last two summers there were loud parties in the treehouse multiple times a week. The kids would park at the end of O'Rourke Path and walk down. There was a motorcycle on the path. Loud music and a lot of pot smoking. It's been a challenge for the neighbors due to the noise. The first complaint came in 2023. It should not take until spring to be addressed.

Emily Saltz, 10 O'Rourke Path, Newton, stated that she wants to feel sympathy, but there was no building before 2022. The loud partying is constant and if you ask them to lower the noise the kids are extremely rude. The college son is partying in the summer and is not in favor of it even being moved. It is close quarters there and it is not a place for a large structure for partying.

Deliberation:

Ms. Lipsitt asked Mr. Sabery if the Board agreed to give him time to take it down would he assure the Board that it will not be used before it's taken down.

Mr. Sabery agreed to not allow the treehouse to be used.

Mr. Snyder stated he was confused about how ISD was presented with information that seemed inaccurate. The neighbors of justified in their outrage. How do we know that everyone will act in good faith if we give the appellant more time they will abide the condition to not use the structure. Is it in the purview of the Board to condition the timing of the deconstruction and the fines be enforced?

Attorney Wilson stated that the Board can condition the timing and fines.

Chair Rossi asked about the date stamps on the photos submitted to ISD.

Mr. Sabery stated that there was something there before and it was taken down and rebuilt. He has been in the neighborhood since 1998. We are a quiet family and will not allow his son to have any large gatherings.

Chair Rossi stated that Mr. Sabery has asked for accommodation and the Board is split on granting accommodation. The Board wants to know the appellant will act in good faith. The photograph in Exhibit G was submitted by the appellant. Appellant stated that the picture was from 2013 and then taken down due to an issue with one of the posts and put back up.

Ms. Lipsitt stated she is troubled by the photo and date stamp. The statute states that the structure would have had to be in continuous use for 10 years. So whether the photo is real or not doesn't matter because it was taken down during the 10 years and not in continuous use.

Mr. Sabery agrees that it is not in compliance, but he is not in good health and needs help to take it down.

Ms. Lipsitt asked the appellant if he was asking not to approve the appeal but to just delay the enforcement.

Mr. Sabery stated that was correct and that he just wanted a delay until spring to take it down.

Mr. Snyder asked ISD what the reasonable amount of time it would be to get this taken down.

Mr. Mavrelis stated that they normally give 30 days and that is for an entire house.

Mr. Snyder made a motion to close the public hearing and was duly seconded by Ms. Lipsitt.

The motion passed unanimously 5-0.

Mr. Snyder made a motion to deny the appeal. The appellant will apply for a demolition permit and allow 60 days for demolition with the condition that the structure not be used in the interim or face enforcement and was duly seconded by Ms. Sweet.

The motion passed unanimously 5-0.

Agenda Item 2: #06-24 Newton City Council, Newton. Sitting Members: Michael Rossi (Chair), Brooke Lipsitt, Elizabeth Sweet, Stuart Snyder, and Denise Chicoine.

Agenda Item 3: #07-24 Jason Gee, 13R Lincoln Street, Newton. Sitting Members: Michael Rossi (Chair), Brooke Lipsitt, Elizabeth Sweet, Stuart Snyder, and Denise Chicoine.

Documents Submitted:

1. Appeal Application from Jason Gee dated September 13, 2024
2. Appeal Application from John Oliver, Newton City Council dated September 13, 2024.
3. ZBA Memorandum from Planning Department dated October 16, 2024.
4. Letter to ZBA from Attorney Ugino dated October 22, 2024.

Testimony:

Mr. Jason Gee, 13R Lincoln Street, Newton stated he would like to allow the Councilors to speak prior to him.

Councilor Maria Greenberg, 108 Adams Street, Newton, presented the history and substance of the meetings and plans for the project at 20 Clinton Street prior to construction as compared to what is currently being built.

Councilor Alison Leary, Newton, presented evidence for the ZBA to uphold the appeal that has been filed stating that the Council and Land Use Committee did not approve the project that is currently being built.

Councilor John Oliver, Newton, stated that there seems to be a tale of two projects. The raising of the grade has the build looming over the abutters. The architectural plans inaccurately show the grade at the site. The files and plans that were provided during the Special Permit Process were inaccurate.

Mr. Gee stated that the documents used to present to neighborhood are used to show the abutters what to expect and in this case that was not done in this case. The neighbors are not experts, but we expect that the plans shown to us should be realistic. This is a big impact on the neighborhood and most residents are generational. This is a big impact on the abutters' real estate values as well.

Ms. Caira presented the plans and renderings that were submitted and approved under the Special Permit and the Building Permit and compared the two.

Mr. Ciccariello stated that ISD has inspected the property and noted that the retaining walls were higher than the approved plans, but these would be corrected before final build. The retaining wall is the only thing that could be found wrong on that date. They are following the City Council approved plans.

Attorney Jeff Ugino, Norwood, representing 20 Clinton Street LLC, stated their position is inline with Planning and ISD and the builder is sticking with the plans submitted. This is a go around to appeal the Special Permit which is well past the 30-day deadline. The appellant has taken down the walls and the project is ongoing and will be in full compliance with the civil plans.

Public Comments:

Janine Stewart, 251 Adams Street, Newton, representing her mother who lives at 25 Lincoln Road, Newton, stated that they went to the community meetings and were shown the renderings. We were told it would not be any higher than the house next to it. The project towers over the house. We believed Attorney Buchbinder when he told us this since we are lay people and don't know how to read plans. Everyone feels lied to.

Steve Johnson, 12-14 Clinton Street, Newton, stated he is a direct abutter. He is a Newton Firefighter and a licensed contractor. The foundation is eight feet off the sidewalk and came into ISD to report that it may be way too high. He was told that the plans were being followed. The roofs have been lowered which is not following the Special Permit. The walls have not been lowered. The walls abutting his property are over four feet high. The plans looked like there would be a raised bed filled with arborvitae. There is now a fence that may be installed. The grade change has been ridiculous and not what was proposed to us.

Terry Sauro, 44 Cook Street, Newton, stated she lived on Lincoln Road for 48 years. The community meeting we were shown renderings. We assumed all plans matched. What is seen with your eyes and what you see on paper is completely wrong. Why did the grade change? It is now a hill of a driveway to get into the garages. The developer will leave with his money and we will be stuck with this.

Lois Flynn, 19 Lincoln Road, Newton, stated that it is much higher than it was supposed to be. We trusted that the height would be where they said it would be. The balconies that were added on are over her backyard. She asked for privacy screens on them. There is no sun and the windows look directly in. If you stand in front of her house the development looks as if it is attached to her house it's so close. It looks like one big house. She is wondering what will happen to the water with the pitch of the ground now and is concerned it will be in her house. They were lied to.

Al Cecchinelli, 224 Chapel Street, Newton, stated that the attorney stated that there is no evidence of wrongdoing. It seem there are two different sets of plans – one for the special permit and one for the building permit. That seems fraudulent. It's bait and switch. The City should be working for its residents. Make special permits special again. It's not special just so the developer can make more money. It should be for a reason not for monstrosities in residential areas.

Councilor Tarik Lucas, Central Avenue, Newton, asked why was ISD given inaccurate information. The architectural plans are not what is there right now. Why didn't City staff properly vet the two different plans? Why did the City staff present the architectural plans during the public hearing? Why did the City staff not present the civil plans? That was not given to the Land Use Committee. There are two different plans that were presented to Land Use and what is there now. The developer pulled a fast one. We need to ask them to lower the buildings to what was promised.

Councilor Susan Albright, 75 Commonwealth Avenue, Newton, stated that she was impressed with how the ZBA went through the 78 Crafts Street plans. That doesn't seem to be what happened with the Land Use Committee. What was approved is not what has gone up. The neighborhood needs some relief.

Councilor Marc Laredo, Newton, stated that there are two different projects. There is the project that the Land Use Committee thought they were approving. Then there is the project the Planning Department told ISD what the approved project was. This situation goes to the heart of what they do on the Land Use Committee and the integrity of the land use project is at issue. The Land Use Committee relies on what is given to them by petitioners and they certify it is true and accurate. Renderings are a required part of the project. We were told that is what was going to be built. The information provided was inaccurate. The ZBA has a critical obligation to uphold the integrity of the special permit granting authorities. ZBA should overrule ISD and grant the appeal. The City Council has never taken such a step to do this, but feels this needs to be done to maintain the integrity of the process.

Councilor Andrea Kelley, Newton, stated that she feels the City Council and Land Use Committee let the neighbors down. The civil plan presented was incomprehensible and is usually vetted by Planning and Engineering. Plans showed something that did not get built. The neighbors agreed to it as shown. This should have never happened as it did.

Councilor Julie Malakie, Newton, stated that one job is to restore public trust in the process. Developers come in for forgiveness instead of permission and it causes mistrust. She will now have a problem voting on any special permit that comes in. The plans should be in plain English and will now be conditioned to be the height we have been shown. Please support the City Councils request.

MaryLee Belleville, 136 Warren Street, Newton, stated that ISD said that information is provided at the building permit stage, whether it is approved or not, and the permit is granted. There is no formal quality control of what is being built to the permit is being adhered to until someone complains or its called out. There is a gap between approval and a certificate of occupancy. There needs to be more oversight in the process because it is too late once the project is built. This is a great example where the City needs a more rigorous process as things are being built.

Gabriel Turesky, 122 Hawthorne Street, Newton, stated that the neighbors were supportive of the project until this went up. If the developer would not be happy if he had to live next to this.

Kathleen Kooril Grieser, 258 Mill Street, Newton, stated she was very disappointed as a resident to see what has happened. She has respect for the Councilors and they were presented with plans that were misleading and there seems to be no way for the City to make things right is disconcerting. The neighbors were treated contemptuously and the remedy should be severe. This should not be allowed to happen. The government is supposed to protect the residents that live here not enrich the developers.

Ms. Chicoine asked for clarification from Mr. Ciccariello if the inspection of height and grade were in compliance.

Mr. Ciccariello stated that the height of the building is a couple of inches lower than approved. The walls were lowered, but won't know about compliance until end of project since final grading is not done yet.

Ms. Chicoine asked Ms. Caira if the civil plans were part of the Land Use Committee consideration.

Ms. Caira stated that they were.

Chair Rossi stated that the height of the building itself is not the key issue but where it is measured from. Is the grade of the building consistent with the civil plans?

Mr. Ciccariello stated that the grade was consistent with the plans.

Ms. Lipsitt stated that she was very unhappy with the entire situation. Her first concern is with the architectural plans. The plans do not seem to be stamped and authorized by the architect.

Ms. Caira stated that there is not a requirement for plans to be stamped and signed at the time of Special Permits. Sometimes they are and the building permit plans have to be stamped and signed. There is a blanket certification at Special Permit that what you are submitting is accurate and complies with the Zoning Ordinance.

Ms. Lipsitt stated that the Council claims they are not accurate. In particular the retaining wall and the grade height is the central issue here. The building's height is fine. The issue is the grade has appeared to have been raised which then makes the buildings appear higher. Pages nine and ten of the plans appears to make the site lower than the abutting properties and people relied on that drawing as what the finished product would look like. Drawing #4 where the arborvitae is planned appear lower than the abutting properties. Drawing #5 there appears to be a retaining wall at the rear with a fence above it. She understands why there was a mistake, but the challenge is what to do. How does it get rectified? She can't imagine the Board says take the buildings down. We might expect the developer to take down the extremely unattractive retaining walls that were put up and to provide screening if desired by abutters.

Mr. Snyder stated that he agrees with Ms. Lipsitt. Mr. Gee stated something has gone wrong and he is correct. Has what has gone wrong dishonestly, improper, or bait and switch by the developer. If that is the case then he feels the punishment is different than if it was just a simple miscommunication. He wants to try to understand where the disconnect occurred. What was before the Council at the point of Special Permit time? Were architectural and civil plans available?

Ms. Caira stated that initial submission had both sets of plans at the time of special permit application and they were cited in the Council order for the special permit.

Mr. Snyder stated the disconnect seems to be the level of detail in the civil plans versus the lack of measurement and detail of the architectural plans. Where is the bait and switch?

Ms. Lipsitt asked for clarification from Ms. Caira that the civil plans were filed and referred to in the Council decision but if the civil plans were presented to the Land Use Committee.

Ms. Caira stated that they were not because typically the for a project this scale the presentation is pretty brief and Planning submits a memo and the agenda that links to the website with the plans. The assumption is that the members are familiar with the materials prior to the meeting and Planning

presents a summary and as part of the presentation states high points and points where there may be concern. They do not go through in detail all of the plans submitted. Usually there is a decision in one or two meetings. It is very different than the large projects that come through the ZBA with the 40Bs or the large projects that Council for special permits that have several meetings. Since this issue Planning has adjusted the presentation, are adding more things to the memo with grading, and asking for site sections that clearly show existing and proposed grade changes. Prior to Planning was working to change the zoning ordinance from height to existing grade. This has long been an issue. Raising the grade on these types of projects is very typical.

Ms. Sweet stated that one of the memos that there was acknowledgement from Planning that there seems to be inconsistency from the architectural drawings to the civil plans. Is it the case that the Planning Department knew this was somehow off or not?

Ms. Caira stated that she is not sure if at the time that was the focus or not. The focus is on the site plan, civil plans, architectural elevations, and facades. Reviewing more for massing and articulation as in changes in plane and materials. Planning can't verify if they are accurate because there is no scale and are three dimensional from different views. These are used as tools and are not cited as an approved plan. We don't rely on the architect for grading. That would be the civil plans. To create the renderings they use all kinds of software and for something this small not very sophisticated software. It doesn't show full picture.

Ms. Sweet stated that at community meetings there was a statement made that the buildings would be no higher than the surrounding buildings. That seems like a commitment that was broken. Maybe it was malicious and maybe it wasn't. Does a promise in a community meeting have any weight in our Board decisions? Does it constitute something fraudulent that there be a severe response or is it a miscommunication that there can be a remedy?

Chair Rossi stated that it was a legitimate question. There have been serious problems in the process, but need to focus on the ZBA job in this situation. What is the Board authority? We have a decision made by ISD dated August 14, 2024 and it's the Board responsibility whether that decision was correct or incorrect. The process is beyond what we have the ability to weigh in on. Can Legal address that?

Attorney Temple stated that he agrees that there were issues, but the Boards review is limited as was the Commissioners review was limited in his review of the special permit conditions and plans. ZBA decision is whether his review was reasonable and it needs to stay top what's in the special permit conditions and are they being followed. Anything else is irrelevant to this proceeding.

Chair Rossi asked Councilor Oliver what he feels the Commissioner got wrong in the August 14th letter and the basis for a reversal by the Board.

Councilor Oliver stated that within the special permit ordinance 7.3.1.b.1 states that the architect of record shall certify that their renderings are an accurate representation of the design of the project. What Planning thinks of them is not in there. That is what was shown to us as materials for the special permit. This is how it will present from Clinton Street on page 2 of the architectural plans and that is the point. What the Commissioner got wrong is the architectural plans are not accurate. Were the site plans accurate after going through all the contour lines, tables, details, and numbers they probably did

match what was being built, but it was not even close to the architectural plans. The photos submitted and Photo #4 there is a 3–4-foot reveal below the first floor of the building, but it is not on the architectural plans. Two totally different projects. We made a decision on the renderings presented to us.

Chair Rossi asked if the Councilors had access to both architectural plans and site plans.

Councilor Oliver stated that they did.

Chair Rossi stated the Commissioners job is pretty technical. He is charged with making detailed measurements that require numbers not renderings. How can he do his job with architectural renderings that don't have any measurements or numbers.

Councilor Oliver stated that is the question because the ordinance states that the architectural plans have to be accurate.

Chair Rossi stated they have to be accurate, but what is considered accurate. They show a difference in the grading, but no measurements. He agrees that it shows the rear lot higher.

Councilor Oliver stated that the drawing on Page 10 it clearly shows that Clinton Street is below the grade of Lincoln Road. There is inaccuracy between the two plans. The architectural plans need to show measurements like the site plans. There is work done in Planning and ISD that Council is not involved in. The site plans in the special permit process and the building permit process hopefully match. The difference is that Council has nothing to do with the building permit process. Council grants the special permit and that is what is supposed to be built. What is shown isn't what is being built.

Councilor Laredo stated that this not a court of law to see what actual intent was of the developer. You can infer from conduct if it was deliberate or not. The community at meetings was told explicitly that this is what it is going to look like. A rendering is not a measurement, but it is crystal clear that these renderings is not what went up. The plans and what ended up being built. So it can be inferred that there was a reckless disregard of what it would look like, but sufficient to get beyond there was a little mistake. The authority of the ZBA is a judicial body, like the City Council, that has a power to make sure that the proceedings in front of them are fair. If someone came in and lied the Board would have the authority to not allow that. So there is authority here to act. The issue is what the City Council looks at, not Planning, and the zoning ordinance states the renderings should be accurate.

Mr. Snyder stated that both Councilor Laredo, Chair Rossi, and the Legal Department all make fair points. When part of the City Council or Planning Board and making a decision it's not a stretch to know not everyone there will be looking at every detail of the civil engineering plans even if they are part of the package. There are other parts of the package which are the renderings which are supposed to be accurate. If the Board authority is only to decide whether or not ISD made the right decision then there should still be a factor was the information ISD made their decision with accurate and complete.

Chair Rossi stated that ISD relied on the civil plans for grading measurements. City Council is stating there is another set of plans. How should the Board use the architectural plans to judge how the

Commissioner does his job? How would the Commissioner use those plans to decide if the build is accurate.

Mr. Gee stated that the documents were intended to be used together. The civil plans reference the architectural plans. The Commissioner has an opportunity to look at both and conclude they are different. The initial meeting in July was the first time the Commissioner had seen the images. At the very least there should be an opportunity to look at why the plans are inconsistent. Planning is making an assertion that they are consistent. It is pretty obvious that they are not.

Councilor Greenberg stated that ISD did say they had never seen the package on the desk. The Land Use order references that package. Planning is describing the renderings as illustrative, but the Council was not told that at the hearings. The Council was not told that they were not accurate or not to pay attention to them. They were presented by the petition as accurate. There was no need to further investigate.

Ms. Lipsitt stated that she agrees that the plans to not agree with each other. Ms. Caira stated the civil plans were not shown to the City Council therefore the only plans they had to rely on were the architectural plans. So the architectural plans should be given more weight not less. What is the remedy being proposed by the appellants?

Mr. Oliver stated that the final project matching what was shown would be great, but probably unrealistic. There are significant opportunities for mitigation for the developer to have a conversation with the appellants. When there were concerns raised all communication ended. The grade should be what the original grade that was existing.

Chair Rossi stated that the Board needs a number for grade for the Commissioner. He agrees that Council was misled, but the renderings don't give a number.

Councilor Leary stated that the outcome requests in the application ask for buildings and retaining walls be returned to the heights the Land Use Committee as present in June 6, 2023, address the water management issues on abutting properties on Lincoln Street caused by the retaining walls, adding screening to the balconies as requested by the abutters, and compensation to abutter that had damages to property of $500. It's difficult to answer and the City Council recently changed the ordinance to reflect the measurement from the existing grade not the proposed grade and that will solve the problem going forward. The grade was raised in part to accommodate the new stormwater system and that was never brought up. Requesting 60 days to come up with a remedy and come back with requests.

Ms. Lipsitt asked what would happen in those 60 days and if she suggested a stop work order

Councilor Leary stated that would be a possibility.

Councilor Laredo stated that some time would give everyone a chance to come up with remedies that would be beneficial to everyone. There is a hesitancy to demolish the building and start over. This may be an opportunity for the developer for a sit down and have discussions for remediations. Prior to a ZBA decision it would force people to have a discussion.

Chair Rossi asked Attorney Temple if the Board had the authority to hold the item and continue the public hearing.

Attorney Temple stated that it could be done. The decision needs to be filed by December 20th.

Chair Rossi stated that there is a regular meeting date on November 20th that could be used.

Councilor Laredo stated that it would work. He asked for an order to not grant a certificate of occupancy until everyone came back for that meeting and report.

Attorney Ugino stated that no evidence has been presented that would have supported the appeal against ISD. The purpose of the rendering clearly shows the buildings would be taller. There are no measurements and Ms. Caira noted there are no measurements.

Councilor Laredo asked for Attorney Ugino to arrange a meeting and Attorney Ugino agreed.

Chair Rossi stated that the ZBA is not in a position to issue a stop work order and the buildings are far from a certificate of occupancy. The developer is aware that there is no certainty how this will develop.

Ms. Sweet made a motion to continue the order to November 20, 2024 and was duly seconded by Mr. Snyder.

The motion was passed unanimously.

Agenda Item 4: #05-24 Molly Gasnick, 21 Newtonville Ave., Newton. Sitting Members: Michael Rossi (Chair), Brooke Lipsitt, Elizabeth Sweet, Stuart Snyder, and Denise Chicoine.

Documents Submitted:

1. Appeal Application submitted September 9, 2024.

Testimony:

Chair Rossi stated that the applicant indicated that she would not be pursuing the appeal.

Attorney Temple stated that the applicant had said that but did not officially withdraw the appeal so the Board will have to take a vote on it.

Mr. Mavrelis presented the history, details, and merits of the violation on the property from ISD and where it stands today.

Ms. Chicoine asked for clarification regarding the Fire Department Inspection.

Mr. Mavrelis stated that had no bearing.

Mr. Snyder asked for clarification on ownership.

Mr. Mavrelis stated that since the original owners are deceased there is a trust involved.

Public Comments:

There were no public comments.

Ms. Lipsitt made a motion to close the public hearing and was duly seconded by Ms. Sweet.

The motion passed unanimously 5-0.

Deliberation:

Chair Rossi stated that it seems the applicant and ISD have reached a resolution and there is clear evidence that there was a violation, and the applicant has realized that and the City does not intend to collect the fines.

Ms. Lipsitt asked if there was a way to take a no action necessary vote like on City Council.

Attorney Temple stated that unfortunately there was not for this Board.

Ms. Lipsitt stated that the Board does not feel that fines should be collected.

Ms. Lipsitt made a motion to deny the appeal and sustain the notice of violation from ISD and make a recommendation that fines not be levied as long as property remains in compliance with the ordinance and was duly seconded by Mr. Snyder.

The motion passed unanimously 5-0.

Agenda Item 5: Approval of meeting minutes dated September13, 2023; September 27, 2023; October 25, 2023; November 8, 2023; and November 29, 2023 meetings. Sitting Members: Michael Rossi (Chair), Brooke Lipsitt, Elizabeth Sweet, Stuart Snyder, and Denise Chicoine.

Mr. Snyder made a motion to approve the five sets of minutes and was duly seconded by Ms. Sweet.

The motion was passed unanimously 5-0.

The meeting was adjourned at 10:14 p.m.

ZBA DECISIONS can be found at www.newtonma.gov/ZBA