



TOWN OF WATERTOWN
Zoning Board of Appeals
Administration Building
149 Main Street
WATERTOWN, MASSACHUSETTS 02472

Melissa M. SantucciRozzi, Chairperson
David Ferris, Clerk
Christopher H. Heep, Member
John G. Gannon, Member
Kelly Donato, Member
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MINUTES

On Wednesday evening, November 29, 2017 at 7:00 p.m. in the Richard E. Mastrangelo Council Chamber on the second floor of the Administration Building, the Zoning Board of Appeals held a public hearing. In attendance: Melissa SantucciRozzi, *Chair*; David Ferris, *Clerk*; John G. Gannon, Member; Kelly Donato, Member; Neeraj Chander, *Alternate Member*; Jason Cohen, *Alternate*. *Absent*: Christopher Heep, Member; Louise Civetti, Clerk to the Board. Also Present: Mike Mena, *Zoning Enforcement Officer*; Andrea Adams, *Senior Planner*.

Chair SantucciRozzi opened the meeting at 7:10 p.m.; reviewed the agenda, noting she will be taking items out-of-order with Pleasant Street first; introduced the board and staff noting Alternate Member Chander will be voting. She swore in the audience then asked for a motion on the minutes. Member Ferris noted a couple of changes he requested through Louise Civetti.

Member Ferris motioned to approve the minutes of September 27, 2017. Member Gannon seconded. Voted 5-0, approved.

Chair SantucciRozzi requested the 'Other Business' item for 625 Pleasant Street come forward to speak first.

Charles Houton, Attorney for Melkonian Group a/k/a/ Watertown Ford, stated they were in front of the board a year ago and they have finally purchased the property. They may be able to complete the work before their December 14th deadline but they are requesting a 6 month extension just in case.

No comments or questions were presented by the board or public.

Member Ferris motioned to approve the six-month extension for 625 Pleasant Street. Member Donato seconded. Voted 5-0.

Chair SantucciRozzi announced the first case at 9 Hersom. Member Ferris read the legal notice:

"Special Permit Finding & Special Permit: David & Kristine McMillan, \$4.06(a), \$5.03.6, \$5.04(r) to build an additional bedroom on top of an existing one story portion of unit 9, maintaining the existing nonconforming setback and increasing the FAR above .5 to .51 – located in the T (Two Family) Zoning District ZBA-2017-14"

David McMillan introduced himself and his wife and noted they are requesting a special permit finding to increase the number of bedrooms so they can adopt more children. He presented his plot plan and noted the bedroom to be added to the east side of unit 9 above the existing single story and have changes to

the second floor to add hallways to the access the new bedroom. They have support from the neighbors in writing and from the condo owner of unit 11.

No one spoke from the public.

Member Donato asked about the concern of loss of trees that were noted by the neighbors. Mr. McMillan said there were concerns from the neighbors when a developer purchased the property and added the second unit back in 2013. They do not propose losing any vegetation with this project.

Member Ferris asked about the line that is drawn by hand from the architect on the plans. The original plan did not show that the second floor is extending over the first floor and he wants to be certain that this is changed to reflect the correct dimensions for the builder. He clarified that the vinyl will match. He asked about the second floor being closer to the property line than the existing first floor with a 20" overhang. The rest of the house is closer to the property line.

Mr. McMillan said the bedroom size is necessary to fit a queen size bed.

Member Gannon asked the petitioner to address the concerns from the neighbors. Mr. McMillan said the retaining wall was built in 2013 and the condo association is responsible for maintaining it. He does not anticipate the wall requiring additional work in the near future.

Member Cohen asked if unit 2 is in agreement with their proposal as they are attaching to the wall of unit 2. Mr. McMillan said they are attaching at the bottom but he doesn't believe it would attach at the roof. Member Cohen said they are attaching to a portion of the building that is not theirs and it is all worked out with the other condo owners' satisfaction. Mr. McMillan said the other condo owner has veto power over the contractor they use and as he is the facilities manager at Brandeis University, he trusts his judgement. He added that his signature is on the application and there is no other documentation of his support.

Chair SantucciRozzi said she hasn't any comments and read the Planning Board recommendation to approve the request on November 8, 2017. There are four letters written in support from properties at 8-10 Chapman St; 565-567 Main St; 569-571 Main St; and 575 Main Street. There is another comment that was written but not signed by anyone. Mr. Mena said that a neighbor came in to the office to express concerns and Louise Civetti recommended that they write their concerns to the board. Chair said another letter from 17 Hersom wrote a letter stating that they will lose their last bit of view towards the river. Mr. McMillan said they have spoken to them about this concern and are disappointed that they wrote the letter. Mrs. McMillan said this particular neighbor had a lot of their vegetation, shrubs and landscaping taken out without their knowledge when unit 11 was built and now they have only 2' of those tree lines left. They have kept their roofline as low as possible to provide a little horizon for them when they could have matched the existing roofline.

Chair SantucciRozzi reviewed the 'boilerplate' conditions. Member Ferris did not request another condition but wanted their architect to complete the drawing for construction.

Chair SantucciRozzi reiterated that this is a request for a di minimus increase in FAR from the allowable to accommodate an additional bedroom.

Member Gannon commented that they reached out to their neighbors and commended them on that effort.

Member Ferris motioned to approve the request for Special Permit Finding. Member Gannon seconded. Voted 5-0, with members Ferris, Gannon, SantucciRozzi, Donato and Chander voting in the affirmative.

Chair SantucciRozzi announce the next case is a withdrawal for 143 Walnut Street with a letter sent in by Attorney Manougian requesting the petition be withdrawn. Chair asked for a motion to withdraw without

prejudice. Member Gannon motioned; Member Donato seconded. Voted 5-0, with members Gannon, Donato, SantucciRozzi, Ferris and Chander voting in the affirmative.

Chair announced that the agenda will be taken out of order and requested 32 Church Street come forward. She commented that the petition has lapsed.

Attorney Steve Winnick stated that the approval for Special Permit has not lapsed.

Chair stated that the WZO says the Special Permits are only good for one year. However, the Massachusetts General Laws state that they are good for two years up to 2016 and then recently amended to three years. She would like the board to consider this in a different way – based on the MGL. The applicant is not getting any special attention; not giving them any additional privileges; not changing the project in any way, she'd like the board to go that route.

Member Gannon stated that if the zoning/land use statute doesn't mention projects that have already been approved then it is a prospective project 90 days beyond the effective date of the 2016 change. He further explained that if the statute change created a new time of effectiveness from two years to three years, is she seeking to have this permit extended to three years.

Chair stated that staff is working on updating the WZO to reflect the change but she is asking this board to allow this applicant the statutory timeframes that are called out in the general laws for three years. Member Gannon said the change allowed permits to run over three years. Attorney Winnick said this was approved in October 2016 so the law was in effect when this was approved. Member Gannon said he is not comfortable adopting something that the Town Council has not approved. Attorney Winnick said that the MCLE Zoning Manual, which applies to these issues, said even under statute 40A, if you are deemed to have good cause, you are not lapsed. They are not asking for three years, they are asking for one additional year. They have had litigation and they did not close on the project until April 2017 because of a continuing delay that pushed the closing out. They have had a one year period locally but technically, they are not lapsed. They are asking for two years overall, not the three years in the statute.

Member Gannon asked Staff if the WZO allows the Zoning Board to determine good cause or failure to exercise the permit within the one year. Mr. Mena said this was a discussion that he had with Mr. Magoon and the WZO does state that construction or use must begin within one year of granting with the expectation that an extension be granted prior to the expiration. Applying the state statute option is left to this board. He noted that this board has had projects that expired and this board did not allow them to use the state statute of two years and they went through the entire process again (Highland Avenue). Attorney Winnick said that case was substantially after the expiration of time. This project was notified after the one year expired and they immediately filed for relief. Chair commented that the time-line is up to the petitioner to watch. Attorney Winnick said if there is good cause, then as a matter of law, the permit is deemed not to have lapsed. He added that if there is a theory to which the board will grant an extension of at least a year, they ask the board to do that. Chair agreed that this board has granted extensions in the past and as Mr. Mena explained, you request the extension before it lapses. They have never gotten into good cause and she is more comfortable following the general laws. They have not been tasked with looking at this particular view for good cause on a case that has lapsed although Attorney Winnick is making a case that it has not lapsed. She would be comfortable with a finding through 40A. She does not have a problem with the project moving forward. She asked Staff for the status of the ordinance change. Mr. Mena said the ordinance change has not been drafted yet.

Attorney Winnick said there isn't any request for changes to the project. This is the same project that was approved. There were extenuating circumstances that prevented his client from moving forward and litigation is almost always good cause – this was plagued with litigation before the closing. The board has the power to grant relief.

Member Gannon recalls reading a case regarding the Town of Watertown with a similar issue that took place in the 1960's or so, which involved a property on Mt. Auburn Street where the board had denied good cause. He suggested the board get an opinion by their attorney.

The owner of the project stepped forward (without identification) stating that they have been good citizens in listening to what the town wanted this project to look like and considering the redevelopment of the downtown section of Watertown. He thinks they have a good project and if the approval is delayed it puts this project in jeopardy. They lost their contractor due to the litigation. They want to get this built. Any further delays will impact them financially and economically – especially if there is a general law that states three years. They do not need three years. He is asking to have this project move forward from someone who has been pulling money out of his pockets.

Member Gannon explained that this board approved the project. This is a process now for the Zoning Board. What they do for this one vote impacts what they do in the future. They want to make certain they do this right. Chair said the director is comfortable with this board taking this action. She is comfortable doing that.

Member Gannon asked if there is a document that states staffs position. Chair said she spoke to the director today as typically projects come in before they lapse and she asked why the WZO states one year – Mr. Magoon acknowledged that the WZO needs to be updated.

Member Ferris said that this is a request for extension although the time period has passed. He asked if there is history of this happening in the past with this board. Mr. Mena said this has not happened in the past. Member Ferris said he likes the project and would like for it to move forward but he does not want this board to put their decisions in the future in jeopardy. He asked what would happen if they approved this and someone comes to the board next month with the same request – is the board obligated to provide the extension. Mr. Mena said the board would want the consistency. The Chair states that state law was at two years when approved and now the state is at three years and this board would then conclude that whatever was granted after that date would be at three years. The director is looking at moving the WZO to match the state statute. Member Ferris is comfortable moving forward.

Member Gannon asked if they make an exception for a great project. He said that choosing the state statute for three years without the council's approval is not comfortable with him. However, if the board says they are adopting an extension for good cause, there is precedent for that.

Attorney Winnick said that tough cases can make bad law. The existing statute before the change was two years and the local ordinance is one year. The principal of law allows for extensions for good cause shown within the two year period. On exceptional facts of good cause shown, there is some relief to be granted where warranted. He added that that the prior case mentioned had a substantial delay and not as compelling. They did not have title to the property until April and they were not able to move forward due to not being able to get contractors. This is not setting a precedent.

Member Gannon spoke of the case from the 1950's or 60's where a two year lapse had taken place due to extenuating circumstances. He would feel comfortable going in that direction. Chair reiterated that he is comfortable applying the reason for good cause for not starting within the one year. Member Gannon has seen case law where the petition lapsed and the Watertown case previously had personal issues and those did not establish good cause.

Chair asked for a motion; she does not wish to continue this; she'd like to see this project move forward. It is unfortunate that their attorney missed the deadline and the extensions she has worked on prior have been within the one year. She doesn't have the support of this board to grant the extension on the state statute.

Member Chander moved to allow the extension. Member Gannon asked on what manner is this motion. He is opening the motion for clarification. Member Chander stated that the motion is on the premise that there is good cause and to let the project proceed. Chair reiterated that there is a motion made that the applicant has demonstrated good cause for the delay and to grant the extension. Member Gannon seconded. Members Chander, Gannon, SantucciRozzi, Ferris and Donato voted in the affirmative. Member Heep absent; Alternate Member Cohen not voting.

Member SantucciRozzi reiterated the extension is for one year from the date of the lapse.

Chair SantucciRozzi announced the case for 42-44 Morton Street and requested the Zoning Enforcement Officer provide some background.

Mike Mena, ZEO, explained that the Appeal against the determination of the Zoning Enforcement Officer is regarding an order issued on October 20th (for short-term rental). Another enforcement regarding a short-term rental at another location was issued and the recipient complained about other short-term rentals in the area – this address is one of those complaints. When 42-44 Morton Street received the complaint, they appealed the determination. He stated there will be another case coming before this board for a special permit where staff determined this particular property is in violation. Other towns have been struggling to determine how to regulate short-term rentals and Staff has determined that since there is not a WZO section for short term rentals, the Table of Use Regulations category could be hotel/motel use or Accessory Use, secondary to the primary use where the owner-occupier could rent up to two rooms by special permit. He explained that with the owner occupying the premises, there would be no concern for loud noises or illegal parking. The Morton Street home is a two-family that is not owner occupied and is not in compliance. He feels the owner believes that since it is still a residential building, it can be leased out for any length of time. Our ordinance does not codify that.

Chair SantucciRozzi asked if it is a requirement that the short-term rental be owner-occupied. Mr. Mena stated that it is under the accessory use.

Member Gannon asked if that is in front of the Town Council for review. Chair responded that it is interpreted from the WZO as the closest related use category which is now going to be applied to short-term rentals, which requires a special permit.

Member Ferris asked if the owner-occupancy applied to the structure or the dwelling unit as this is a two-family and the owner could live on the first floor and rent out the other. Mr. Mena said that this is still being worked out as this is new. Chair stated that the ordinance reads: 'owner-occupied dwelling unit'. A two-family is two units unless they remove a kitchen.

Member Ferris read the legal notice:

"42-44 Morton Street, David Fagan, 41 Dudley Street, Medford, MA 02155, herein requests the Zoning Board of Appeals consider an Appeal of the Determination of the Zoning Enforcement Officer for short-term rental use of a two-family home. 'T', Two-Family Zoning District. ZBA-2017-16"

David Fagan explained that he purchased the home in 2000 and lived in one of the units until 2013. He moved to Medford in 2013 and rented out the second unit. He has a stake in the neighborhood and checks in with the neighbors occasionally to be certain there aren't any issues with the Airbnb. He went through a professional Airbnb management company and asked about the local rules. The Airbnb said the local rules are not being enforcement anywhere. There have not been any prohibitions on the use of Airbnb. He said his unit(s) are highly rated by Airbnb; well managed and inspected. He rents for a night or a month and it is all done on-line with a professional cleaning company coming in after each guest. The owners can vet the guests and have received requests from owner's having work done on their homes; people visiting patients in the hospital; they decline any party people or noise after 8pm. They are allowed to seek a minimum stay and will question or profile someone wanting to stay one night on a Saturday as they tend to be party people. He will sometimes meet the people to rule out the party people and often does not as there is a combination lock on the doors. They have had one incident where police were called as they were party people. His management company also offers a company called HomeStay but he has only seen guests from Airbnb. There is no written agreement, it is all done on-line and payment is through PayPal. PayPal goes through Airbnb and Airbnb disperses the money to the hosts. There are usually email messages through the Management company and the guests. They are not allowed to give the address or phone number of the house until the booking is done (and paid). He wondered why he was here and he was not aware of how until Mr. Mena spoke. He said he is the first to come before the board and there are about 40-50 Airbnb's in Watertown. He would welcome a process that the town has put into place. There are not any rules in Watertown (that he is aware of).

Member Gannon said that the right Watertown Zoning Ordinance doesn't address the short-term rental.

Mr. Fagan said that when he stayed at an Airbnb in New Orleans, he received a document from the town that provided a number to call if there were any rules not being followed. He would not like to run his short-term rental 'under the radar'. He wants rules that will be followed for him and his guests. He said our ordinance says something different for an owner-occupied business vs. not owner occupied and he wants to continue to run his business not being an owner occupied business. He takes responsibility for the neighborhood. He doesn't know how many in Watertown are not owner occupied and he doesn't mind that he is the first to be brought in front of the board; he just doesn't want to be the only one. He wishes to be treated fairly with local government not favoring one business over the other.

Chair SantucciRozzi said a lot of different communities are going through these struggles. It poses some questions where you need a special permit to rent rooms in the unit you're living in but it doesn't cover the separate unit, even if you lived upstairs and rented downstairs. She explained to the board that Mr. Fagan is the extreme where he has two units in a two-family home that are both short-term rental. If it is not stated in the WZO then it is not allowed. Does this fall into another category; definition; "residing" in the unit, etc.? She feels that it is different when someone rents an entire unit or house vs. a room. If people don't know what is going on, there sometimes is a negative reaction. She wants to look into the short-term rentals more. The Town Council may want to discuss this as a policy issue as something to promote in Watertown, how to regulate, charge a fee, safety issues, etc. This is a popular topic and some communities are not enforcing it right now.

Mr. Fagan agrees.

Chair SantucciRozzi asked Mr. Fagan if he received a cease and desist order and if he actually ceased. Mr. Fagan said they are no longer on-line and are no longer taking reservations but has a verbal agreement with Mr. Mena to complete the reservations already made.

Member Cohen asked about the other orders addressed from Staff. Mr. Mena said the enforcement of these sites does not list the street addresses and it is difficult. As the complaints come in, they are then enforced to cease and desist. There were not any complaints regarding this (Morton St) address. One property that did receive a complaint sent a list of addresses that were also running similar businesses and this was one of those businesses. Another property on Russell is coming before the board for a special permit. The other three properties have not responded to their being out of compliance. Therefore, it is not that they are not enforcing, they are enforcing as the complaints are received. Cambridge adopted a short-term rental ordinance and their council is requiring the owner live in or adjacent to the unit being rented short term; they are registered with the town and inspected every five years. Somerville requires owner occupied with two types and are licensed not an ordinance. He also commented on Salem with a Health License and other communities with other requirements for registering. Watertown has not adopted any regulations, as yet.

Chair SantucciRozzi said the ordinance states renting two rooms that are owner occupied requires a special permit. Mr. Fagan said he and many others are out of sync with the rules.

Member Gannon expressed concern regarding housing availability. Mr. Fagan agrees that housing issues are always a concern. A quota may be appropriate. Owner occupied could have the owner living upstairs and renting the lower unit and that would eliminate the housing stock. The biggest argument, as he has heard is the housing impact. He doesn't see how the owner occupancy will impact that.

Member Cohen stated that everything discussed here will impact the 40-50 short-term rentals in Watertown. There could be 10 more next month, should Mr. Mena enforce all. There are three things that they could do: ignore it; file an appeal; or apply for a special permit. This is outside of the board's jurisdiction. Do they decide whether or not the appeal is valid or not. It is up to the town council to decide how to handle the short-term rentals.

Member Chander agrees that we need to know more. Mr. Fagan is one of many but he is here now. He

asks if Mr. Fagan will have to cease his operation (while others continue) or wait until the town council makes a determination on how to handle all short-term rentals. Mr. Mena said the order has determined that the property is not in compliance with the ordinance. It is not owner-occupied and not listed in the table of uses. It could be defined as a hotel, which would then not be allowed. He asks the board if they feel the property is in violation of the ordinance. He feels if the board holds his determination, Mr. Fagan will have to cease. They would not be in favor of having the use continue until a determination by the Town Council is made.

Chair SantucciRozzi asked for the definition of a two-family dwelling. Mr. Mena read the definition from the ordinance. Chair SantucciRozzi explained to Mr. Fagan that if he were not in violation of that definition, he would not be here. She agrees with Mr. Mena that Mr. Fagan is not operating his two-family dwelling in accordance with the definition in the ordinance. She believes they do have a larger issue community-wide but this needs to have a determination tonight. She commends him for being the first, being respectful, bringing in the materials that he has and for coming in. She also commented that he is in a great town and he may be able to continue once the town has detailed the use requirements.

Member Ferris asked what the duration of time of stay is and noted the descriptions he read on the Airbnb website mostly listed bedrooms with one single-family offered. Mr. Fagan explained that the length of stay could be a couple of nights or a month, depending on the need and there is a way to see the full units on the Airbnb website.

Member Ferris expressed some concern with safety if the home is not owner-occupied since there may be the need to assist visitors in an unfamiliar situation with life safety; as well as issues with trash removal, etc. Mr. Fagan said there is a management company that takes care of cleaning and placing the trash bins curbside. Member Ferris suggested getting rid of the door on the third floor and put a window or add a railing.

Member Donato said enforcement will be difficult since the addresses are not available to the town. This is a more intense use. She works as a housing practitioner in the City of Somerville and brought the short-term rental guidelines with her. She states that we are in the middle of a housing crisis with rising housing costs and low availability of units and this does remove units from the market. It isn't our place to get into this more but this does need to be discussed further.

Mr. Fagan said the rules are the rules but it is unfair that someone had his address turned in just after he did the conversion with lots of money spent furnishing the units. To convert back is a significant hardship. He has stopped taking reservations. This is his only rental property. He will have to convert back to long term but it is a severe hardship.

Chair encouraged Mr. Fagan to share the information he has on other properties as the town does not want to be unfair.

Member Gannon suggests going forward with the matter before them. The larger issue of short-term rentals includes the possibility of \$90,000 per year of extra income which does not sound like a residential use, it sounds like a business. This is changing the character in a neighborhood, the economic displacement, etc.

Member Ferris thanks the homeowner for coming forward. He finds it surprising that there are 45 homes available in Watertown as opposed to rooms. He suggests it would be good if they could be treated the same or at least letting the condition extend until the town can create some jurisdiction.

Chair SantucciRozzi said this case tonight, decided to appeal the enforcement. There may be others that chose to ignore the enforcement. Mr. Fagan asked the ZBA to help him out with this appeal. We either agree with Mr. Mena and shut Mr. Fagan down or not agree with Mr. Mena. Mr. Mena has given him direction to cease. The board cannot give Mr. Fagan permission to violate the zoning by-law.

Mr. Fagan said that the owners would come to the town if there were some direction provided by the

town; however, there isn't.

Member Chander stated that if the property owners had questions, it is their responsibility to do their own due diligence. Mr. Fagan said the management company said it was okay in Watertown. He has owners in surrounding towns without issues. Mr. Mena has not received any questions on short-term rentals and added that he empathizes with the appellant and there are lots of ordinances that are enforced when there is a complaint. He offered that as he becomes aware of these, they will enforce them. He will request the Assistant Town Manager to bring this before the Council. These are a not allowed use currently.

Ms. Adams added that some of the discussion on the words that are to be crafted would be the different scenarios to consider – like the owner occupied units could rent up to two lodgers and zoning could say that it was legal or not, if they proposed the change.

Mr. Fagan stated that even if he were to have a long term lease on the upper unit and short term rental on the lower unit, it wouldn't help him. Chair SantucciRozzi said it wouldn't help him tonight; however, there may be different guidelines in the future. Enforcement of these units is complaint driven right now. She said they need to create awareness and welcome the operators of the short-term rentals to engage in the conversations to help develop the guidelines for safety, etc. Perhaps there will be a limit on the number of allowed units. There are a lot of other situations to consider; hotel tax; etc. Member Gannon stated that his hypothetical \$90,000 short-term income doesn't sound like a residential unit – it sounds like a business.

Chair SantucciRozzi said the reality is that he does not fit into the description of a two-family dwelling although the board appreciates the petitioner coming forward and his honesty.

Member Cohen said if he were voting, he would not agree with the appeal as the zoning code doesn't allow for his situation. He would like to encourage the board to present to the town council to have them begin the process.

Chair SantucciRozzi expressed that the board would like to have Staff, Ms. Adams, begin the process – perhaps put something in the water bill that states some bullet points on short-term rentals. It is becoming so popular. Ms. Adams said they have to deal with it as the first request on this interpretation is coming before the board next month. Mr. Mena added that they will bring this back to the Director for discussion and let the board know the outcome at the December meeting regarding the town manager and the town council.

Member Donato motioned to uphold the Zoning Enforcement Officer's determination. Member Gannon seconded. Voted 5-0 with Members Donato, Gannon, SantucciRozzi, Ferris and Chander voting in the affirmative. Member Heep absent; Alternate Member Cohen not voting.

Chair announced the last case – 72 Winsor Street, one year review.

Diane Kiernan said she appeared before the board in April 2016 and the board requested an annual review. She hadn't started using the office until September and called for the follow-up after a year. She said most of the opposition to her opening her office was regarding parking and traffic and there have not been any complaints. She prepared a packet for the board with the records of her activity, as requested. She said ending her practice at 9pm has proven to be a disadvantage to her clients and her practice. She is considering asking for an amendment for that purpose. She wants the board to extend the hours for 30 minutes to an hour.

Chair SantucciRozzi explained that the board cannot make that amendment tonight. She will have to go through the process of amending the permit. Ms. Kiernan said the last meeting was very decisive and she does not want to go through that again.

Chair SantucciRozzi said there hasn't been any complaints filed with the zoning office and asked if she has received complaints. Ms. Kiernan said she has had a couple of minor incidents. Chair explained again that the process for extending the requested hours on a special permit must go through the proper procedure.

Ms. Kiernan sent photos of the physical work that was done on her property, including the lighted walkway and the interior door.

Member Cohen asked who was responsible for the follow-up on the conditions of the permit. Chair SantucciRozzi said it is up to the petitioner to be in compliance with all of the conditions.

Chair said she had waited a year from when she actually started operating. If the town had received a lot of complaints, she would have been before the board a long time ago. If the board wanted to continue to monitor this, they could add further conditions if she were to amend the permit by coming back to the board.

Member Gannon motioned to adopt the staff recommendation for the one year review. As the board finds the permit to be in compliance and determines that no further reviews are necessary. Member Donato seconded. Members Gannon, Donato, SantucciRozzi, Ferris, and Chander voted affirmatively. Member Heep absent; alternate member Cohen not voting.

Member Donato motioned to adjourn. Member Ferris seconded. Voted 5-0.