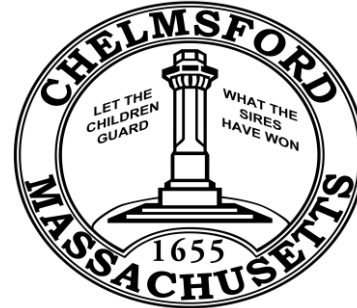


Chelmsford
Board of Appeals
Town Offices
50 Billerica Road
Chelmsford, MA 01824
Phone: 978-250-5231



Meeting Minutes
Thursday, June 4, 2020

Hearings for Special Permits & Variances Begin at 6:00 P.M.

Members Present: Brian Ready, Mark Carota, Ida Gates, Steve Mendez, Erin Drew, Nancy Morency
Members Absent: Charlie Wojtas, Jamie Brown
Others Present: Paul Haverty, Town Counsel, Shaun Shanahan, Building Commissioner, Colleen Stansfield, Department Assistant

Pursuant to **Governor Baker's March 12, 2020**, Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the **Governor's March 15, 2020** Order imposing strict limitation on the number of people that may gather in one place.

This meeting is being televised by Chelmsford Telemedia and being conducted remotely.

Request to extend permit granted on May 18, 2017

26 Highland Ave. James Elmore, is seeking a special permit under 195-8 E (2) to construct a new 28'x50' three story addition to convert an existing single family home into a two family home to a non-conforming structure (lot area / lot frontage / front setbacks – corner lot) which will now increase / create non-conformities on max building coverage, max floor area ratio requirements, exceed 20 % sf increase allowance and front setback.

<http://www.townofchelmsford.us/DocumentCenter/View/11172/26-Highland-extension-request>

James Elmore appeared before the Board and described why he hasn't executed the permit which included the Covid-19 Pandemic and that he was not able to schedule builders due to the Governor's order of March 12, and 15, 2020. He stated he was hoping to start in the next few months but can not promise in these uncertain times. Atty. Haverty stated that the legislature has enacted legislation that will allow permits to be extended until 45 days after the State of Emergency is lifted. Carota made a motion to extend the permit to May 18, 2022, seconded by Morency, unanimous 5-0

New Public Hearing:

Lori Masso, 8 Crabapple Lane, M/P 70-294-7, in RB – single family residential district, for a variance under 195-9, conformity, to construct a new 30'x44' car garage that will not meet the side setback and any other relief that may be deemed necessary.

<https://www.townofchelmsford.us/DocumentCenter/View/11089/8-Crabapple-SP-6-4-2020>

Dave Taylor appeared before the Board and described the project which includes a shed being razed in the rear of the home and constructing a new garage as far to the rear of the property as possible. He explained that the grade of the land is lower in the rear. He explained he owns a couple of classic cars that he stores in New Hampshire and that is what he plans to keep in the garage. He stated that there will not be pavement, just hard pack stone. The Board asked if he could move the garage to the 20ft side setback which would just be a special permit. Mr. Taylor agreed to the 20ft side setback. Carota made a motion to close the public hearing, seconded by Morency, unanimous. Carota made a motion to approve a special permit for the structure to be at the 20 ft side setback and for a new plan to be submitted to the building commissioner showing the change, seconded by Morency, unanimous, 5-0

Erin Drew recused herself on this hearing

Continued Hearing:

6-11 Walters Street, Doug Landry, Landry Brothers Construction, LLC, for Administrative Appeal of the decision of the Building Commissioner of the Town of Chelmsford , for enforcing the Chelmsford Zoning Bylaw for violation of section 195-5 and/or MGL c. 40A for the purported use of the subject property for a transport terminal in the limited industrial zoning district.

<https://www.townofchelmsford.us/DocumentCenter/View/10591/6-11-Walter-admin-appeal-->

<https://www.townofchelmsford.us/DocumentCenter/View/10592/6-11-Walter-admin-appeal--12-09-19-Stamped->

NEW Documents:

<https://www.townofchelmsford.us/DocumentCenter/View/10750/appeal-Visniewski-Affidavit---Signed>

<https://www.townofchelmsford.us/DocumentCenter/View/10749/appeal-Memo-to-Zoning-Board-2620>

<https://www.townofchelmsford.us/DocumentCenter/View/10748/appeal-Affidavit-of-John-Dinatale---Signed>

<https://www.townofchelmsford.us/DocumentCenter/View/10747/appeal-Affidavit-of-Doug-Landry---Signed>

<https://www.townofchelmsford.us/DocumentCenter/View/10746/appeal-Affidavit-Bruce-Cumming---Signed>

<https://www.townofchelmsford.us/DocumentCenter/View/11217/Shahen-Letter---Duffy-Property>

The Chair opened the hearing

Mr. Carota stated that he took a ride down to the site earlier that day and saw 15-20 trailers on site. There was also a truck cab sitting idling as if he was waiting for his assignment. He also stated that Atty. Feldman had said that sometimes the trailers have freight in them and sometimes they are empty and also noted the frequency of the visits. Mr. Carota then stated that all this seems to be lining up with the definition of a transport terminal and an extension of the business across the street. Shaun Shanahan, Building Commissioner, stated that the fact that there was freight in the trailers and that they were not always empty fit the definition trucking terminal, or freight terminal. Mr. Reidy stated that he was in agreement. Jane Hughes, 29 North Main Street, Westford, and direct abutter at 100 Chelmsford Road, Billerica, stated that Walters Street is not an accepted street in Billerica and that there is a prescriptive access easement to the land locked property know as 6-11 Walters Street. She stated that she maintains the road and has done various improvements including drainage and resurfacing. She went on to state

that back in the fall of 2018 when this started, UPS had approached the new church on Brick Kiln Road in Billerica for a lease to store the trailers. When they spoke to the Building Commissioner, he said that the kind of trucking terminal activity UPS sought to exercise was not allowed. UPS then approached the Landry Property and they moved forward without notice to the town of Chelmsford or the abutting property owners. She stated, 'that is why we are here.' She went on to state that some people work on the premise that it's easier to ask forgiveness rather than permission. The Chelmsford Building Commissioner issued the cease and desist order because the activity was not allowed. The congestion caused by UPS is uncanny and the Landry property is situated as such that it causes constant trespass and damage to her property. Bruce Cumming, 5 Walters St., stated that he is an early riser and at 3am he is up and hears the truck activity. Brenda Gould, 9 Flagg Road, Westford, and has a business at 100 Chelmsford Road, Habitat for Humanity, stated that the road is very narrow and 2 cars cannot pass each other. She has about 800 customers a month and turning in is a dangerous situation. She doesn't open until 10am due to the traffic dangers. She also stated that the road is in a very poor condition and it is a dangerous situation for her employees and customers. Atty. Feldman added that he believes two cars can pass on Walters Street. He argued that the site's grandfathered outdoor storage should be allowed. Mr. Mendez made a motion to close the public hearing, seconded by Mr. Carota. Unanimous 5-0. Mr. Mendez asked if he could ask the Building Commissioner a question with the public hearing closed. Mr. Reidy apologized for closing the public hearing without Mr. Shanahan's input. Mr. Mendez made a motion to reopen the public hearing, seconded by Mr. Carota, unanimous. 5-0. Mr. Mendez asked what the definition was for a trucking terminal in the Chelmsford Bylaws. Transport Terminal - Terminal facilities for handling freight, with or without maintenance facilities. Mr. Shanahan stated that the key for him was the fact that these trucks have merchandise in them. Mr. Mendez made a motion to close the public hearing, seconded by Mr. Carota, unanimous 5-0. The Board started discussion with Mr. Reidy stating that there is an enormous amount of work going on there now and there wasn't when it was just loam as he remembers it. Ms. Morency agreed that there is a huge difference from what was there with just the loam and landscape materials and what is there now. She went on to add that although there was trucking, the landscape business was far less busy. Mr. Carota, made a motion to uphold the Building Commissioner's determination, seconded by Ms. Morency, unanimous 5-0.

Meeting Minutes: 1-9-2020 – Morency made a motion to approve the meeting minutes of January 9, 2020, seconded by Mendez, unanimous, 5-0

<http://www.townofchelmsford.us/DocumentCenter/View/11097/1-9-2020>

2-6-2020 – NOT APPROVED – next meeting

<http://www.townofchelmsford.us/DocumentCenter/View/11095/2-6-2020>

3-5-2020 - Morency made a motion to approve the meeting minutes of March 5, 2020, seconded by Mendez, unanimous, 5-0

<http://www.townofchelmsford.us/DocumentCenter/View/11096/3-5-2020>

Mendez made a motion to adjourn, seconded by Gates, unanimous