

TRANSCRIPT OF PUBLIC RECORD
ZONING BOARD OF APPEALS MEETING
NOVEMBER 19TH, 2008

This Regular Meeting of the Zoning Board of Appeals was held in the Great Hall of Searles Building, City Hall, and was called to order at 7:15 PM.

MEMBERS IN ATTENDANCE:

Mr. Matthew D'Agostino, Chairman
Ms. Laura Walta, Vice Chairman
Mr. Richard Lacroix, Clerk
Mr. Jesse Ramirez, Member
Ms. Patricia. Uliano, Member

MEMBERS ABSENT:

Mr. Peter Giordano, Alternate Member

OTHERS IN ATTENDANCE:

Ms. Gwen Martone, Public Recorder

ATTENDANCE:

Board Clerk, Richard Lacroix called the roll with five (5) members present at this meeting.

ROLL CALL:

Board Clerk, Richard Lacroix called the roll of Applicants.

MOTION: *Chairman Matthew D'Agostino moved, on the request of the applicant, that the petition for E J Paving be first on the agenda this evening.*
Richard Lacroix seconded this motion.

VOTE: *5-0-0 UNANIMOUSLY APPROVED*

NEW BUSINESS:

#2008-59A E J Paving C/O Thomas Evangelista, Trs. 101 Lindberg Avenue, Methuen, MA 01844

Special Permit required under Section V-D of the Comprehensive Zoning Ordinance of the City of Methuen to maintain a contractors yard which is not open for sales to the public in a Limited Industrial (IL) District at # 101 Lindberg Avenue, Methuen, MA 01844.

#2008-59B E J Paving C/O Thomas Evangelista, Trs. 101 Lindberg Avenue, Methuen, MA 01844

Variance requested under Sections VI-D and VIII-B, Paragraph 5(a) of the Comprehensive Zoning Ordinance of the City of Methuen to construct a warehouse that will be too close to the front lot line, have zero frontage, parking too close to the building and lot lines and without the required landscaped strip adjacent to the right of way in a Limited Industrial (IL) District at **# 101 Lindberg Avenue, Methuen, MA 01844.**

Attorney Steven A. Baddour, 59 Jackson Street, Lawrence, MA 01841 appeared before the Board on this petition. According to Atty. Baddour this property is unique as it is adjacent to a significant piece of property, which is the Mass Highway layout for I-93. He further indicated that his client had an agreement with Mass Highway and that many of their vehicles are parked on that adjacent property. However, as a result of significance and negotiations and the time frame with dealing with Federal and Mass Highway, they have come up with a new plan that will move all of that equipment to behind the facility. He further indicated that they will be razing the existing structure and trailer and will be constructing a new facility there to help beautify Lindberg Avenue.

He stated that he was aware that there were several concerns with possible access to the property from Edgewood Avenue. He indicated that the City had opened that up during flooding and that they had no opposition to it being closed, as they have no plans to use it for access. He further indicated that they have spoken with the neighbors before the hearing and that their concerns were really focused on the hours of operation. He stated that they have agreed that the normal hours of operation would be starting time of 6:00 AM. Additionally he stated that his clients will be speaking with all their clients to reinforce the importance of driving slowly on Lindberg Avenue and stopping at all stop signs. They would also like to invite any neighbor who witnesses any infraction to please call them so that the problem may be addressed. Their trucks are numbered so it is easy to identify who needs to be reprimanded.

Chairman D'Agostino questioned the hours of operation to which Atty. Baddour responded that they would be 6:00 AM – 6:00 PM., six days a week. Additionally he indicated that the only exception from this schedule would be during snowplowing season as they are contracted by both State and Federal agencies for snow removal. The petitioner came to the podium and responded to Chairman D'Agostino's query relative to number of trucks involved in snow removal. Mr. Evangelista stated that they had 2 sanders, 2 loaders and 2 dump trucks that are contracted for this purpose. These vehicles would obviously be an exception during a storm. Chairman D'Agostino also questioned the "For Rent" sign on the building and whether it referred to the building and/or equipment. Atty. Baddour indicated that it would be for office space and not equipment. Chairman D'Agostino also questioned if the outdoor gasoline storage tank would remain. At this time Chris Demoulas from MHF Design Consultants, Inc. came to the podium. Mr. Demoulas indicated that existing fuel storage tank would be relocated to the location shown on the plan. He further indicated that in the future, should there be any land swapping with Mass Highway to square of the parcel, there is the ability to relocate the tank closer to the building. Mr. D'Agostino also questioned if there would be any bins for outdoor storage of materials. Mr. Evangelista indicated that they only have a bin for sand for the winter and that there would be no salt stored on the property.

Chairman D'Agostino opened the meeting to Public Participation with no one speaking in favor of this petition. Speaking in opposition of this application were the following individuals:

Kathleen Flynn, 48 Mystic Street, Methuen, MA 01844

Ms. Flynn indicated that she is really not opposed to this petition but that she is really concerned with commercial vehicles exiting Lindberg Avenue onto Mystic Street. She said she cannot stress the importance of these vehicles, as well as City workers and Police Cruisers, stopping at the stop sign at the end of Lindberg Avenue. Additionally they need to slow down coming back because they are passing a condominium complex as well as a park with a lot of pedestrian traffic.

Doris Mohs, 205 Edgewood Avenue, Methuen, MA 01844

Ms. Mohs indicated that the neighbors have had concerns in this area and that she is concerned with the construction of this building. She would like to know if the construction of this facility is going to add to the traffic on Lindberg Avenue. She wants to know what will be different for EJ Paving with construction of the new Building. She also wants to know what neighbors the petitioner spoke to and indicated that she was not a direct abutter, but an abutter to the abutter and alleges that she was not notified. A quick check of the certified abutters list indicated

that she did not fall within the parameters and was not on this list. She also stated that she heard mention of "beautify the area". She indicated that it is her belief that they don't have to "beautify" this area but that they have to clean it up, eliminate the traffic and the noise, and that any more lighting on the street will make it look just like Vegas. She said that the bright lights from Lindberg Avenue are annoying to her and that she was up at 3:00 AM one day and that blue lights were flashing in her living room from another company. She also questions the number of trucks and claims that she has heard neighbors complain that EJ Paving has trucks that seem to be going in and out of Lindberg Avenue almost 24 hrs. a day. Chairman D'Agostino asked her to stay focused on what she has seen and heard and not on third party information. She indicated that they hear noise 24 hrs. a day and that she is not sure what business it is coming from. She believes that Lindberg Avenue is becoming over commercialized and that no one seems to appreciate the fact that it abuts a residential neighborhood. She also alleges that the petitioner had opened up a paper road when they had some flooding. She said that she heard they would close the opening and she wants to know how they are going to do that because currently they only have 3 big rocks attempting to block access. She also wants the trees that were removed to be put back because now they have a clear view of Lindberg from Edgewood Avenue.

Having no further discussion, Public Participation was closed and Atty. Baddour returned to the podium. In response to Ms. Mohs inquiries he indicated that he spoke with the 2 abutters in the rear of the room. He further indicated that there would be no additional trucks or traffic off E J Paving at that site. He believes that this proposal will actually help reduce the noise in the neighborhood because all of the trucks are out front and easily seen. The trucks will now all be moved to behind or within the building significantly reducing the noise level as well as cleaning up the site. He further stated that their trucks return between 3:00 PM and 6:00 PM and that none of their trucks are around the clock. Chairman D'Agostino questioned signage to which Atty. Baddour responded that there is none planned.

Jesse Ramirez questioned if their equipment would be rented for snow removal. Atty. Baddour explained that it is not for rent, but that they had several contracts for snow removal and that would be the only exception to the hours of operation. Discussion ensued relative to the condition of the road and the noise generated as a result.

Patricia Uliano questioned if the opening Ms. Mohs referred to was the same one they mentioned when the dumpster company was before this Board. Chairman D'Agostino indicated that it was and that he is not sure that the City wants to close up this road. Access during the flood was given for a reason and he does not want to hang this responsibility on the petitioner if the City does not want it closed. Atty. Baddour indicated that they were prepared to do whatever is requested as long as the City allows it.

Jesse Ramirez questioned the number of offices that would be available for rent and what kind of traffic would be generated by this. Atty. Baddour indicated that there would be a minimal of 2 additional offices.

MOTION: *Chairman Matthew D'Agostino moved that the hours of operation for the paving operation would be 6:00AM to 6:00 P, Monday through Saturday.
Richard Lacroix seconded this motion.*

VOTE: *5-0-0 UNANIMOUSLY APPROVED*

SPECIAL PERMIT ROLL CALL:

*Mr. Richard Lacroix – yes, per plan
Mr. Jesse Ramirez – yes, per plan
Ms. Patricia Uliano – yes, per plan
Ms. Laura Walta – yes, per plan
Mr. Matthew D'Agostino – yes, per plan*

VOTE: 5-0-0 UNANIMOUSLY APPROVED

VARIANCE ROLL CALL:

Mr. Richard Lacroix – yes, per plan with condition
Mr. Jesse Ramirez – yes, per plan with condition
Ms. Patricia Uliano – yes, per plan with condition
Ms. Laura Walta – yes, per plan with condition
Mr. Matthew D'Agostino – yes, per plan with condition

VOTE: 5-0-0 UNANIMOUSLY APPROVED

#2008-56 Edward F. Cruz, 262 Lowell Street, Methuen, MA 01844

Special Permit required under Section IX-B of the Comprehensive Zoning Ordinance of the City of Methuen to amend a favorable decision to extend a non-conforming use by adding a second story over the approved addition in a Residential D (RD) District at # 262 Lowell Street, Methuen, MA 01844.

Attorney Arthur Broadhurst, 45 Osgood Street, Methuen, MA 01844 appeared before the Board on behalf of the petitioner. He indicated that they were previously before the Board several months ago and received permission for a small addition to the existing dwelling. He further stated that once the foundation was built he determined that he had no space left for the office. His contractor suggested he seek approval for the second floor now before the approved addition was constructed. Hence he is seeking to put a second floor on the same footprint that was previously approved. Atty. Broadhurst indicated that this addition would only be 3 ft. higher than the existing garage. Additionally, he stated that this site sits down low so there will be no impact from the additional height. He also stated that Mr. Cruz has made significant improvements to the site and has not received any complaints by any neighbors. This is the last piece before he can finally pave the lot eliminating any concerns about dust in the summer months. The additional space would be utilized as a conference room and will be used when discussing finance arrangements for clients. The space will be purely for the business and will not involve any rental of space.

Chairman D'Agostino opened the meeting to Public Participation with no one speaking in favor or in opposition to this petition. Having no further discussion, Public Participation was closed and Atty. Broadhurst returned to the podium.

ROLL CALL:

Mr. Richard Lacroix – yes, per plan
Mr. Jesse Ramirez – yes, per plan
Ms. Patricia Uliano – yes, per plan
Ms. Laura Walta – yes, per plan
Mr. Matthew D'Agostino – yes, per plan

VOTE: 5-0-0 UNANIMOUSLY APPROVED

#2008-57 Naji Realty, LLC, 15 Erie Road, Methuen, MA 01844

Variance requested under Section VI-D of the Comprehensive Zoning Ordinance of the City of Methuen to construct an addition that will be too close to the front lot line in a Neighborhood Business (BN) District at # 165 & 169 Merrimack Street, Methuen, MA 01844.

Mr. Jean Abourjeili, the owner of the properties, appeared before the Board on this petition. According to Mr. Abourjeili he purchased and renovated 169 Merrimack Street in 2002 after it had been vacant for 15 years and he has just purchased the adjoining business at 165 Merrimack Street. According to the petitioner, the patron's of 165 Merrimack used to park in the rear of that building on Euclid Avenue. Since he has purchased this adjoining business he has combined both parking lots and now has 35 to 40 spaces on the site, eliminating the need for parking in the rear. He described the structure on 165 has having the appearance of a box and is hoping to improve this site by joining the 2 buildings creating a small strip mall at the location. Additionally, he indicated that by joining the buildings access to Euclid Avenue would no longer exist and there would be no need for patrons of 165 Merrimack Street to park on that street.

Chairman D'Agostino questioned if the buildings would be refaced once they are joined. The petitioner indicated that he has renovated the front of 169 Merrimack Street but that he has stopped everything for now pending approval of this variance. Upon approval he would renovate the entire structure making sure it had a uniform appearance.

Chairman D'Agostino opened the meeting to Public Participation with no one speaking in favor of this petition. Speaking in opposition of this application were the following individuals:

Youssef Issa, 15 Euclid Avenue, Methuen, MA 01844

Mr. Issa indicated that he lives behind this site on Euclid Avenue, which is a residential neighborhood. He stated that the back of the petitioner's business is the face of their home. He stated "... basically he is improving the front of the building and he is trashing the neighborhood, and all trash on Euclid Avenue and this is a residential neighborhood, not business neighborhood". Additionally he stated that 165 Merrimack Street is a bar and that drinking people come in and out and park in their neighborhood and then trash their neighborhood. He further stated that this is how it has always been and that they have many complaints to the police. However he indicated that that was an existing business and the police would give tickets to those illegally parked. He describes the proposed addition as being 3 times the size of the existing building and he believes that the bar will now be almost 4,000 sq. ft. as opposed to it's current 800 sq. ft. He believes that this is a great impact to the neighborhood and that there is not enough parking in the front of the building and all cars park on the street in the rear. He further indicated that there is no buffer zone to protect their homes from this business. He agrees that the petitioner has the right to improve his business but so far only Merrimack Street has benefited from his improvements because the dumpsters and trash are located on Euclid Avenue. Once again he stated that there are no buffers in place and suggests the Board should make that a condition if this request is approved. He is concerned that joining the buildings would make this one very large business. He also stated that there are 55-gallon drums of waste cooking oil stored behind the building on Euclid Avenue and fears that one large business at this location would increase the unsightliness. He believes the best thing would be to eliminate all access from Euclid Avenue and to relocate the trash to Merrimack Street keeping the residential neighborhood separate from the business neighborhood.

Tony Azevedo, 7 Euclid Avenue, Methuen, MA 01844

Mr. Azevedo indicated that he was concerned with the amount of traffic that is going to through the neighborhood. He further indicated that there are 2 access points from Merrimack Street to Euclid Avenue between the 2 buildings. He understands that the addition would be between the 2 buildings but there is still access on the other side of the building. He further stated that even though the parking lot has been modified and updated to accommodate more vehicles, that there is still a substantial number of patrons and delivery people who park on Euclid Avenue. He believes that hours of the bar should be established. Chairman D'Agostino indicated that this Board does not regulate those hours and that they were operating within the law, although he does understand that the early morning hours is a nuisance.

Mr. Reitano indicated that he is a direct abutter and believes that there are several issues that must be addressed in addition to the parking situation. He stated that he is a fire fighter and that his dumpster and the addition is blocking access to the building from that standpoint. Additionally he stated that if the addition would be making the bar larger, there are new sprinkler laws in effect that would be applicable. Chairman D'Agostino stated that all new construction would fall under those new guidelines. He also stated that he has a fence separating his lot from the petitioners and that if a second story was added he would no longer have a buffer. He also questions what the second floor would be used for. He further indicated that he would not be opposed to a one-story addition with a nice looking strip mall on the site.

Having no further discussion, Public Participation was closed and the petitioner returned to the podium. Chairman D'Agostino questioned the proposed uses for the renovated structure. The petitioner indicated that he would like to put a couple of offices on the second floor. Chairman D'Agostino questioned if he had a floor plan for the second floor. The petitioner stated that if there were going to be issues with a second floor he would eliminate it right now. He also stated that his building was like a dump, overgrown and vacant for at least 12 years and he does not know why the neighborhood never complained until now, after he had made improvements. As far as the dumpster, he said it is closed and clean and is kept locked. He also indicated that his neighbor has his barrels and his trash up against the fence in the same location as his dumpster, but he would never think of complaining about that. He knows there is a problem with the waste oil but he is working with the Health Inspector and they are going to erect a fence to screen this from the public. As far as parking he indicated that there are spaces behind the building and that the cars can park safely off the street. He also indicated that he had no problem with not using the rear parking spaces. Additionally he indicated that he does not own the pizza shop, that is a tenant and that they close no later than 9:00 or 10:00 PM. He also indicated that this was his brother in-law and that he would talk to him to address any concerns the Board would like to see corrected.

Chairman D'Agostino indicated that normally they like to see specifically what the finished product is going to look like when approving this type of project. He further explained that it is difficult to envision the final project with only a footprint to review. Where this is a business in close proximity to a residential neighborhood it is important to the Board for them to know what the finished product would look like. He instructs the petitioner that he needs to have someone draw a rendering of the building and that, prior to this, decide if he was going to include the 2nd floor addition in the final product. Secondly he informed the petition that the Board needs to know exactly what kind of businesses would be located in the building, if the existing businesses would be increased in size, hours of operation that they may be looking to change. Lastly he suggests that he meets with the neighbors to address their concerns and find amicable solutions. Board member Jesse Ramirez echoed Chairman D'Agostino's sentiments.

At this time Chairman D'Agostino informed the petitioner that he had to decide if he wanted to proceed with this evening or rethink his plans. He explained that he had the option of withdrawing or ask for a postponement and try to meet with the neighbors to address their issues. After some discussion Mr. Abourjeili indicated that he is trying his best to make his neighbors happy and wishes that they would give him some credit for what he has accomplished since he purchased 165 Merrimack Street a month ago. At this time Chairman D'Agostino indicated that he would recommend the petitioner ask for a continuance.

MOTION: *Chairman Matthew D'Agostino moved that this be continued so the petitioner can obtain a new plan*

Patricia Uliano seconded this motion.

VOTE: *5-0-0 UNANIMOUSLY APPROVED*

Methuen Hospitality, LLC, 440 Bedford Street, Lexington, MA 02420

#2008-58 *Co Applicant: Budget Rent A Car, Inc., 6 Sylvan Way, Parsippany, NJ 07454*

Special Permit required under Section V-D of the Comprehensive Zoning Ordinance of the City of Methuen to maintain an automobile rental agency in a Highway Business (BH) District at # 159 Pelham Street, Methuen, MA 01844.

Ashok Patel from Methuen Hospitality appeared before the Board on this Petition. According to Mr. Patel this business has been operating on the premises for approximately 5 years prior to him purchasing the business. Chairman D'Agostino questioned how many vehicles would be located at the site. Mr. Patel indicated that 8 spaces would be designated in the front of the building and 15 spaces at the rear. This would be the maximum number of vehicles on the site, but the numbers are usually less.

Chairman D'Agostino opened the meeting to Public Participation with no one speaking in favor or in opposition to this petition. Having no further discussion, Public Participation was closed and the Petitioner returned to the podium. At this time Mr. Patel informed the Board that Budget had a truck division and that they would also have trucks on site that would be parked in the rear spaces.

ROLL CALL:

Mr. Richard Lacroix – yes, per plan

Mr. Jesse Ramirez – yes, per plan

Ms. Patricia Uliano – yes, per plan

Ms. Laura Walta – yes, per plan

Mr. Matthew D'Agostino – yes, per plan

VOTE: 5-0-0 UNANIMOUSLY APPROVED

#2008-60 *Arthur & Geraldine Mann, 43 North Lowell Street, Methuen, MA 01844*

Variance requested under Section VI-D of the Comprehensive Zoning Ordinance of the City of Methuen to move an existing lot line on Parcel A leaving Lot A without the required side set back on the existing dwelling in a Residential B (RB) District at # 41 & 43 North Lowell Street, Methuen, MA 01844.

Attorney Henry Hyder, 2 Gaythorne Road, Methuen, MA 01844, appeared before the Board on behalf of the petitioners. According to Atty. Hyder the petitioners are the owners of 43 North Lowell Street and parcel A shown on the plan. He indicated that access to # 41 is through a rather odd right-of-way through the back yard of #41 North Lowell Street. He indicated that his clients are proposing to eliminate the right-of-way and adjust the lot line that will add some area to # 43. As a result, #41 will now have direct access from Observatory Road and eventually they will petition the City to change this to an Observatory Road address.

Chairman D'Agostino opened the meeting to Public Participation with no one speaking in favor or in opposition to this petition. Having no further discussion, Public Participation was closed and Atty. Hyder returned to the podium.

ROLL CALL:

Mr. Richard Lacroix – yes, per plan

Mr. Jesse Ramirez – yes, per plan

Ms. Patricia Uliano – yes, per plan

Ms. Laura Walta – yes, per plan

Mr. Matthew D'Agostino – yes, per plan

VOTE: 5-0-0 UNANIMOUSLY APPROVED

ADJOURNMENT:

MOTION: *Matthew D'Agostino moved to approve a 8:15 PM adjournment.*

Patricia Uliano seconded this motion.

VOTE: 5-0-0 UNANIMOUSLY APPROVED

Respectfully submitted,

Gwen Martone, Public Recorder
Methuen, MA 01844