

## Planning Board 2024-05-14

### Meeting minutes-Approved

Attendees: Dr. Paul Ziarnowski, Dr. Jim Liegl, David Stringfellow, Elizabeth Schutt, Jay Jackson, Gary Stisser, Arlene Weiss, Town Liaison Jennifer Lucachik, Attorney Sean Costello, Town Planning Consultant Sarah DesJardins

Absent: Jessica Yuhas, Town Liaison Jennifer Lucachik

#### 1. CALL MEETING TO ORDER

Meeting called to order by 7:30pm by Mr. Ziarnowski

#### 2. APPROVAL OF MINUTES

Motion made to approve the February (no March meeting) meeting minutes by Mr. Liegl  
2<sup>nd</sup> by Mr. Jackson

**APPROVED**

#### 3. OLD BUSINESS:

- a. Discussion among the Board Members about the Schunk duplex property

#### 4. NEW BUSINESS

- a. Kevin Monaco – Requesting Planning Board input on a proposal to construct a 12,000sqft building to be used for storage and rental at 7040 S. Abbott Rd.

Mr. Kevin Monaco present to speak to the Board.

MR. MONACO: I was looking to replicate the same thing that is at the property now to finish the project that was started last year.

MR. ZIARNOWSKI: What is the use going to be? RESPONSE: Rental.

MR. ZIARNOWSKI: Like what you are doing now? RESPONSE: Correct.

MR. ZIARNOWSKI: I got a letter I would like to read from the Code Enforcement Officer:

Planning Board, Thank you for your service at Town Hall.

This is regarding Mr. Monaco.

- He would like to recreate the 12,000 square foot structure built in 2022. **\*see below**
- This structure is illegal. Created by asking for an agricultural exemption (no size restrictions per Ag & Mkts Law), it is currently used by 6 tenants. It should be no larger than 3,000 square feet without obtaining a variance. **\*see below**
- Town of Boston C-1 zoning district code states personal service establishments are allowed. He has tenants that store automobiles, own businesses conducted elsewhere and repair automobiles. These are not allowed under 123-71.
- The neighbors are extremely unhappy with some of his tenants, who store their cars in his building and then race them up and down Abbott Road.
- The buildings violate many sections of Boston Code 123-71B. (attached).
- The proposed building will require a use variance (a very heavy lift).
- The proposed building will require an area variance, as does his last project. He avoided the Zoning Board by stating he was using the building in an agricultural fashion.
- The number of principal buildings (4) exceeds the code for a C-1 zoning district.
- He has brought in 50-some-odd loads of fill (900 cubic yards/ 1350 ton), requiring a fill permit from the Town Board. He may claim he has a fill permit or that he did not know that they expire but he

also reported to me that he had already used that fill permit for its intended purpose.

- There is a collapsed barn due to excessive snow in 2022.

Mr. Ziarnowski: **Regarding the size**, you will need to talk with Ms. DesJardins because a variance will be needed. **Regarding six tenants**. If you remember, Mr. Monaco and we jumped through a bunch of hoops to get him through the agricultural exemption, basically, for his business. It was explained to us that a couple of the units were going to be used by the nursery and then the rest of the units were going to be used by his adjacent people, the fencing people, the stone people and the like. As it is now, all six of them are rented out privately.

MR. MONACO: They are also people we told that were going to be in. Our stone guy is in there. MR.

ZIARNOWSKI: Storage guy in there? The guy who is storing the car in there, working on the car in there?

Illegal. Against the Code in C-1 and you can go through Murf and talk to Murf about those and Murf has the ability to close that whole thing down, but purpose does that serve. But right now, we are very skeptical of what comes out of your mouth and what you are actually going to do. We have been burned once and George Bush said, hey you can fool me once, but you aren't going to fool us again. I think that is where we are at right now is that you are not going to fool us again. It's kind of sad. Town of Boston C-1 zoning code states: Personal services establishments are allowed. You have tenants that store automobiles, own business conducted elsewhere and repair automobiles. These are not allowed. Take it up with Murf.

MR. MONACO: You can't get a hold of Murf. That's half the problem. MR. ZIARNOWSKI: He is right down the hall. MR. MONACO: He is today.

MR. ZIARNOWSKI: **(continued to read letter above)**

MR. ZIARNOWSKI: That old permit is done. MR. MONACO: That was the question I had. The fill permit we acquired (or required-hard to understand-recording 4:14) so he wanted us to bring in more stuff to cover.

MR. ZIARNOWSKI: No. Your blacktop covered your original project. MR. MONACO: No, Paul, that's not what he told me. If he wants to come in, he told me he wanted me to cover everything that was on the side, which we did and that's what we were finishing. Nobody told me that you get a permit and then it expires at the end of the year and then you got to get another permit to finish the thing. MR. ZIARNOWSKI: Where did the fill come from? MR. MONACO: We read it by him; it came right from the corner of Armor Duells and Chestnut Ridge Rd.

MR. ZIARNOWSKI: You are going to have to, again, settle it with the code enforcement. And there is **collapse barn** due to excessive snow from 2022 that is still on your property that you haven't taken down. Those are all of the violations that Murf sent on the message here. MR. MONACO: That's fine. MR. ZIARNOWSKI: What our deal is, we have to figure out, depending on what you are going to do. If you are going to up a retail strip mall in there, then you are going to have to jump through some hoop. MR. MONACO: I'm not. Am I allowed to put up a strip mall there? MR. ZIARNOWSKI: C-1. MR. MONACO: What constitutes as a strip mall? MR. ZIARNOWSKI: A barbershop, a pizza place, anything that is applicable in a C-1 zoning but not independent storage unless you jump through the hoops. Sarah? MS. DESJARDINS: I think the code reads, it's a little odd, but the way it reads is there are permitted uses in C-1 that you could do. Like Murf said today, the building where the Tim Horton's is, that's a building in a C-1, it's got a Tim Horton's in one and of course the other side is vacant but you could, by code, put five different uses in there as long as they are permitted in the C-1 zone. I think one of them or two of them in there now, are permitted uses. The other thing you can do is, put up a storage building but it would have to be only your items from your business that are stored there. MR. MONACO: OK.

MR. ZIARNOWSKI: How do we monitor that though? We were there before. We already saw that on the last building. MR. MONACO: Saw what, exactly. MR. ZIARNOWSKI: It was for cold storage and now it is all rented out. MR. MONACO: First of all, I said we were going to use one bay, which we did. MR. ZIARNOWSKI: For what, two months? MR. MONACO: No, it was about five months and there were some things on our end, personally, that I don't think are prudent right now.

MS. DESJARDINS: If you could just, um, you have to do one or the other. MR. MONACO: Alright.

MS. DESJARDINS: If you want to use that building for other people's storage, then you would need a use variance. MR. MONACO: ok. MS. DESJARDINS: If you want to just rent, what do you have five 2000 square foot.. MR. MONACO: Six. MS. DESJARDINS: Oh right, sorry six, if each of the uses to go in there are listed on the permitted uses in C-1, you're good. MR. MONACO: Ok. If I split that property off and there is nothing on

that property, what do I do then? MR. ZIARNOWSKI: That wouldn't make a difference would it Sarah?

MS. DESJARDINS: I don't think so. MR. MONACO: There is no principle building, it would be vacant property.

MR. ZIARNOWSKI: But it is still C-1. MR. MONACO: I don't remember having to have an area variance, whatever, for the size of the building. MS. DESJARDINS: No. MR. ZIARNOWSKI: No, you didn't because it got muddled in the waters of you using under the Ag District, Right to Farm. MR. MONACO: I did not know that when we did that it had to be in perpetuity, I didn't. MR. ZIARNOWSKI: Come on. MR. MONACO: I didn't, Paul, I didn't. It came up I don't know what, I can't change that. What I find difficult for me to swallow on that end is, we talked about a second building. I talked to him and said you want a master plan of the whole area on what we are going to do. He told me, nah, let's do the first one first and we will worry about the second one later. MR. ZIARNOWSKI: But...if, again, if you were going to use it for your agricultural purposes. MR. MONACO: That was never mentioned, if. MR. ZIARNOWSKI: No. We had no idea that you were going to rent out six bays to make money on it, Kevin. You're pulling the wool over our eyes. I like you. MR. MONACO: Listen, I am not pulling the wool over your eyes. We aren't hiding anything. We're not pulling the wool over anyone's eyes. We are busting out butt over there trying to make it look nice and a little bit more presentable. MR. ZIARNOWSKI: It looks beautiful. I can't fault you on beauty. MR. MONACO: I am doing the best that I can but it was also brought up in front of everybody, Sarah even mentioned it, why are we doing the building so close to the property? I think he wants to do another one. That's exactly what I am going to do. Nobody said boo, nobody said anything. MR. ZIARNOWSKI: It's usage. You pulled the wool over our eyes and going to be used for business and going to do a second building if we need to. The second building, if you need to, was for your agricultural purposes and that's how we understood it. Am I wrong guys, on the Board? Speak up.

MR. JACKSON: The only thing I could find was a letter I think is from a couple of years ago. More indoor storage space for supplies. MR. MONACO: I remember that. MR. JACKSON: This is mostly for their benefit. Equipment, fill pots, business related. Also, would like to rent some space to other contractors that we currently work with. That is really the only stuff that I could find related to what you were going to with it.

MR. ZIARNOWSKI: And if business warranted, a second building was going to go up. MR. MONACO: Well, I don't remember that. MR. ZIARNOWSKI: Business warranted; not renting out space in a C-1 for businesses that shouldn't be in a C-1. MR. MONACO: What that was done, and I ran it by him, everything got ok'd. What should I do on my end? I asked. I didn't do anything. MR. ZIARNOWSKI: You asked him if all those people who were doing car stuff and doing other stuff in there? MR. MONACO: Absolutely. One guy works in there on his own stuff(cars), there's a fabricator in there, there's a gym in there and there's a guy who literally he parks stuff in there so his kids can hang out. MR. ZIARNOWSKI: Can't do. Can't do it in C-1, Kevin. MR. MONACO: All right. MR. ZIARNOWSKI: Go ahead Sarah, finish up.

MS. DESJARDINS: No. There's nothing more. Do you have any users lined up yet? MR. MONACO: Another one? I get inquiries all the time. MS. DESJARDINS: Ok.

MR. ZIARNOWSKI: Are they for things applicable in C-1 code? MR. MONACO: I read, sometimes the code is a bit congeluted. I read some of this like, you can't store, we are getting topsoil in and you're telling me I am storing topsoil. Well, we sell topsoil at the garden center. I'm not storing topsoil. It isn't happening. We sell it. So I read the code and it doesn't make any sense. MR. ZIARNOWSKI: But it doesn't go in your storage building though. MR. MONACO: I had stuff in there; bags stuff. I have equipment that I had in there. We lost the barn. I didn't know, am I supposed to clean the barn up? I go around town, to be honest, there are barns all over town that are falling down. It seems like I am being held to a different standard. MR. ZIARNOWSKI: The only thing they can grab you, usually, and what the code enforcement usually grabs people, is when they come in for a second project. It's like, clean up your first project. Get everything in order on your first project. Pay the permits you have to pay on your first project. Whatever is outstanding. I'm not saying you have outstanding permits. MR. MONACO: The permit for the fill, I find it kind of ridiculous that you have to pay the same permit to finish the same job. That being said, I have already said, let me know what it is and nobody can tell me the cost. We kicked it up the latter, is what I was told and I am waiting. I pay all my bills. I even sent checks in here with the last inspector and they gave it back to me 10 years later. It was never cashed. MR. ZIARNOWSKI: Do you think that was right? MR. MONACO: That was crazy. What am I supposed to do? MR. ZIARNOWSKI: That was a process that was screwed up. MR. MONACO: What am I supposed to do? I do what's asked of me

everytime. I try to be respectful and cordial. And I have to be honest, with the neighbors, I've catch more flack now because we cut all those trees down in that county ditch that was required of me from them two neighbors across the street than I ever imagined. There's not a day that goes by, that they get a chance, scream how I have ruined their view, I did this, I did that and I didn't even want to do it. I was told I had to get on the county property because the county wouldn't do it for four years. I catch all the flack for following the rules.

MS. DESJARDINS: Kevin, do you get inquiries from people who might have a business that would fit in a C-1?

MR. MONACO: Well, a gentleman called, wanted space, because he does wood working. He does, like, cabinets, something on a lave. I had a tree guy call, they wanted some space inside. I had some guy who done something needed to park some heavy equipment, like skid steers or something. I don't really entertain it because we don't have anything to do it. Three out of the six people there now, we use on a regular basis in our business activities. One, if a tractor breaks, they will weld stuff for us the other guy does the hardscapes for us.

MR. ZIARNOWSKI: That's his full-time business, welding stuff for you? MR. MONACO: No. He welds stuff for other people too. MR. ZIARNOWSKI: There you go. You can't have a welding shop in a C-1, Kevin.

MR. MONACO: I read it differently. They way I thought it read was if someone comes to the business, then you are allowed to have it there, such as a barbershop, a gym, this, that, and the next thing. I didn't say it specifically say you couldn't have a business and have them weld. MR. ZIARNOWSKI: We have a barbershop.

MR. MONACO: I know that. MR. ZIARNOWSKI: We have a gym too. MR. MONACO: I am aware of that. You just told me that. MR. ZIARNOWSKI: Sarah, pull up C-1.

MS. DESJARDINS: I am bringing up RC because you can do in a C-1 what you can do in a RC so you kind of have to go backwards. So, in addition to retail, eating, food, stuff like that, you can also do doctor's, meeting rooms, medical – anything medical, administrative/professional – anything office, retail – of course retail.

MR. MONACAO: Selling what though? I mean, what if he sells screws out of that place. Does that constitute retail? Probably does, right? MS. DESJARDINS: Probably does. MR. ZIARNOWSKI: Screw shop, like Fastenall, yes. MR. MONACO: My old number was Fastenall's number except one digit off. We get faxes from them for screws all the time. MR. ZIARNOWSKI: It's cosmic consciousness. MR. MONACO: Maybe. I just want to do what's right so if you guys tell me, listen..Paul, we can agree to disagree. MR. ZIARNOWSKI: No. What do you have to say Sean (attorney Costello).

MR. COSTELLO: It all has been pretty much said at this point.

MS. DESJARDINS: If you still want to rent it out to other businesses, you can always try for a Use Variance.

MR. MONACO: I just want to do what you guys think is right.

MR. ZIARNOWSKI: You would need a zoning variance too. MS. DESJARDINS: It depends on what you say the use is going to be. If you came in here and said, I am going to use this for myself, then you still need variances because the building is too big but you're not going to say that. Those kind of go away. If you want some of those bays to be used by people who are just storing their own things, then you are going to need a use variance. MR. MONACO: Is there more, don't want to say opportunity, but does it give you more ability, kind a take on – how to put it – you have more options like C-2? MS. DESJARDINS: Absolutely. MR. MONACO: No one is looking to do a gas station or a Tim Horton's, literally, I want to do the exact same thing and finish that side of the property right next to Boston Valley Terra Cotta and just clean it up, so it is one set, looks the exact same, everything is done. I know I am bias but I think it looks good over there.

MR. ZIARNOWSKI: I think it looks beautiful and a number times, say it's a beautiful building and landscape job.

MR. MONACO: Whatever would be required of me, I would do. I don't know how else to proceed. I don't know. I am not an attorney, I don't know the legal. I just don't know how to do it.

MS. DESJARDINS: If you went to C-2, you would be able to add to the list of permitted uses, things like automotive repair. All the stuff that is already being done in there.

MR. JACKSON: The uses, you can see them online. The uses for the various types of zoning are pretty clear, pretty straight forward. C-2: automobile collision repair/painting, new or used vehicle sales and service, repair shop. I was specifically looking for welding and haven't stumbled across that one yet.

MS. DESJARDINS: Warehouses are allowed in a C-2

MR. STRINGFELLOW: Permitted uses #8, custom shops.

MR. COSTELLO: (recording: 17:45-hard to hear full response) Suggesting C-2 uses when this is C-1 property )

can't hear more.

MR. MONACO: What's the likelihood of or what's the process to entertain from C-1 to C-2?

MR. COSTELLO: You submit a petition to the Town Board for rezoning. I think it ends up getting kicked over to here for advisory decision.

MR. ZIARNOWSKI: We are already advising of our opinion. Mr. Stringfellow just came up and said that fabrication is allowed in C-2. MR. JACKSON: That covers one bay. Seemed to be a sticking point so that's what I was looking at it.

MR. ZIARNOWSKI: One of the things was, if you tell us one thing, and then do another thing, one of the things was every single bay that you rent you are going to have someone looking at you to say you can do it or you can't do it. MR. MONACO: Sure. MR. ZIARNOWSKI: But don't do it to say, I am going to rent them all out for storage for other people and then get surprised because you're going to get a big surprise. MR. MONACO: I am not looking to appease you and say one thing and do another thing. Every single person that's there, I ran it by what I was supposed to run it by and got the ok. I didn't just put somebody in there or say, ya, come in here and then turn a blind eye and let them find out about it. I was upfront about everything with him.

MR. ZIARNOWSKI: So you told him that this guy is going to work on his cars in there? You told him that a guy has another one where his kids hang out in there? You told him all that stuff? MR. MONACO: I told everybody what I had to tell them. MR. ZIARNOWSKI: Who is everybody? MR. MONACO: The people in the building department. MR. ZIARNOWSKI: Now it's he said, she said. MR. MONACO: They had to come down here and get a, what do you call it-not a permit? MS. DESJARDINS: A C of O(certificate of occupancy)?

MR. MONACO: Yes. I don't know.

MR. ZIARNOWSKI: C of O for each unit? MS. DESJARDINS: I think so. MR. ZIARNOWSKI: Decide what you are going to do. Make your application if you want to get a change. MR. MONACO: What is the likelihood that something like that even goes through? MR. ZIARNOWSKI: It is hard to get a zone change. MR. MONACO: Is it a complete waste of time over there? I mean, in your guys professional opinion? MR. ZIARNOWSKI: I don't think it is a complete waste of time. What's going to happen though on a zoning change in particular, you have to have a public hearing. MR. MONACO: That's fine. MR. JACKSON: Something that I have heard is a lot of resistance to is spot zoning. You rezone a small area so that someone can accomplish something. I have heard a lot of resistance to that. MR. MONACO: Understood. MR. JACKSON: I don't fully understand the logic behind it but it sounds like that's how this would be. MR. ZIARNOWSKI: The logic behind it is that people can't turn a buck on a property that they bought, and they decide that maybe they can fish for a better deal. It happens all the time. I bought it residential, commercial and I can't make any money on this commercial property so let's go residential. MR. JACKSON: Is there a difference between, ok, this is staying commercial, it's just how much more commercial work can I do. Is that a different case? MS. DESJARDINS: Yes. MR. JACKSON: So, you may not run into any of that kind of residence. MR. ZIARNOWSKI: But again, the higher up the chain, more unwanted things are eligible to be put in. MS. DESJARDINS: I would imagine that if the Town ever decided, correct me if am wrong, to rezone it to C-2, they probably have a list of uses that you cannot use.

MR. MONACO: To sign off not doing. I would be fine with that. And to touch on the neighbors about speeding down the road, I am not sure how I am supposed to police a county road and it happened one time. What am I supposed to do. There are two neighbors and all they do is complain about everything ever since I cut the trees down. And then I get the DEC called, at least six times, they come in and know they can't do anything because I am not doing anything wrong, but they have to follow-up. It's exhausting.

MR. JACKSON: Do the trees that you have planted in front, that was in replacement for the stuff you took out, right? MR. MONACO: It was the county. You saw it. There were 50ft trees, they never cleaned the ditch out. It was like a forest in the ditch. I don't know what else I am supposed to do. I did what I was asked of and they are not happy about it. Now I listen to it all the time. She comes out to take pictures of us when we are over there. It's over the top. MS. DESJARDINS: I am thinking that you should think about looking through the permitted uses in C-1 and if you don't think you can get in there those uses, you want to investigate rezoning, we can take a look at it and see what the chances would be. MR. MONACO: What's the protocol with putting an addition on the building? I asked about that and I haven't heard anything back. MS. DESJARDINS: On the existing building? MR. MONACO: Correct. MS. DESJARDINS: As long as you stay within the correct setbacks,

and you have lot coverage and all that. MR. MONACO: Is that an option? I asked? MS. DESJARDINS: Yes but you still have the problem of the use. MS. SCHUTT: Wouldn't there also still be an issue with the size since it is already being oversized? If it is not serving as an ag building, isn't that going to be a problem?

MS. DESJARDINS: I think the 3000 square foot, I might be wrong, but I am pretty sure the 3000 square foot only comes into play in the code if you are a storage building for your own stuff. It is not for all of C-1. I think the first building is probably ok size wise because it is far enough away from the lot line and all that stuff.

MR. MONACO: Does it matter on the square footage on the actual property that it's on that you can't cover?

MR. STISSER: It's a percentage, right? MR. MONACO: We have so much land over there.

MR. JACKSON: Sarah – Buildings constructed for the storage of tools and materials for use in a business not situated on the same lot, subject to the following conditions. That's where the 3000 comes in, what it applies to. The 3000 square foot applies to, well, if you had built that building strictly for your own stuff, can't be bigger than 3000 square feet. MR. MONACO: Gotcha. MR. JACKSON: Or 15% of the lot area.

MR. MONACO: Where does that leave us? What do we do, or what do I do? MS. DESJARDINS: I would say either propose the building to be used for six uses that are permitted uses or try for a variance, or we can investigate a rezone. MR. JACKSON: Right below the 3000 square feet piece, however, you have to remember that we are talking about the construction for storage of tools and materials. That is not the purpose of that building. That's why the 12 doesn't apply, so, the rest of these also would not apply, is that right?

MS. DESJARDINS: Because he is not storing.

MR. STRINGFELLOW: He is not storing; he is renting to others. MR. STISSER: He is renting out.

MR. JACKSON: That is not what #3 is talking about. What I have highlighted here, applies to storage of tools and materials. That's where those rules and limitations; that's what this applies to.

MS. DESJARDINS: It has to be for one business.

MR. JACKSON: What he is doing doesn't match that. You can't really use any of these rules here.

MR. STRINGFELLOW: What he is doing doesn't match what is there. MR. JACKSON: Yes, this code doesn't apply, I guess is what I am trying to say. This particular section.

MS. DESJARDINS: Further down is something like it has to be for one business only and that's not what he is doing. So those things don't apply. MR. JACKSON: That is under special permit, C-1.

MR. ZIARNOWSKI: So Sarah, you are saying he can build another building that size if he gets a use variance?

MR. STISSER: A use variance for the first building. Or for the second? MR. ZIARNOWSKI: The first building is, I think, water over the dam. Do you agree? MS. DESJARDINS: I think he would need a use variance if he wants to put people in those bays that are not permitted uses. MR. ZIARNOWSKI: Right but how about the size?

MS. DESJARDINS: I don't think it matters. MR. COSTELLO: I don't think he would be able to get a building permit because the property is not in zoning compliance. There would be no additional building, addition or anything else being out of zoning compliance, I think that is how it works. MR. STISSER: That's what it sounds like. MR. ZIARNOWSKI: So to get into zoning compliance, what does he do? MR. STISSER: Either has to get C-2 or kick the tenants out. MR. COSTELLO: Or the use variance. MR. MONACO: Is one better than the other to do? Or easier than the other? Or less cumbersome? MS. DESJARDINS: Use variance, you have to prove that you can't realize a reasonable rate of return on your property without the variance. I don't know, it would probably be pretty difficult for you to prove. MR. MONACO: I don't know. MR. JACKSON: The request for rezoning, it sounds like, it would open up and take some of the handcuffing off. MR. MONACO: More avenue – ok. MR. COSTELLO: This board can't provide you with legal advice. You might consult an attorney to help guide you on the best path. MR. MONACO: I get it.

MR. ZIARNOWSKI: The last thing is, ultimately, Murf has the final say on this. MR. MONACO: I know.

MR. ZIARNOWSKI: You have to come to terms with him and figure this stuff out. MR. MONACO: Ok. I get it, Paul, it is what it is. MR. ZIARNOWSKI: I guess the problem is that people do stuff and you are not willingly saying I am going to screw the town and I am going to do this stuff. That's not the point. But the point is, at some point in time, if this town became the wild wild west, and everybody did what want, we have a lot of problems with people that actually do that. In your face, they tore up stuff right in front of Murf, and say I can do what I want and you really can't do what you want. MR. MONACO: I understand and I am not looking to. Whatever would be required of me, I would be willing to do to finish what we started. MR. ZIARNOWSKI: Why

don't you talk to an attorney like Mr. Costello said and run it both by them and they would probably be able to. So now, if you went and you got nixed on one or the other, you would still have an option to submit to the other. MR. MONACO: Ok. MR. ZIARNOWSKI: In other words, I'll go for a use variance, if they say no way, that would be the easiest to start with, don't you think Sean (Costello)? MR. COSTELLO: I don't know if one is easier than the other I will say the criteria for the use variance that Sarah mentioned, proving that you couldn't get a return, would be really tough, taking it that you have tenants on the property. MR. MONACO: Ok. MR. ZIARNOWSKI: How does he apply for that? MR. COSTELLO: Rezoning? A petition to the Town Board and I don't know if the Town Clerk has forms. MR. MONACO: She wasn't sure when I stopped in. MR. COSTELLO: She may. Certainly there has been rezoning in the past; there are probably some forms. Not trying to generate work for my fellow members of the bar but they could probably supply the necessary documents. MR. ZIARNOWSKI: Another thing you could do, put up a poster in front of your place, publish it in the papers, they have a public hearing, people come in say yay/nay. If you get 35 people that say this is great, we're happy, and then you get 2 people that are complaining, obviously you're not going to listen. MR. MONACO: Does it just go to the residents of the town? Does it go to just residents of the Town of Boston? MR. COSTELLO: Because you are on the border of Orchard Park, I don't know if notice needs to be given under our code to the property owners but notice does need to be given to Orchard Park who may pass it along. MR. MONACO: So residents of another town have a say in a neighboring town? MR. ZIARNOWSKI: No. MR. COSTELLO: Orchard Park, which has an adjoining municipality, they don't have the right to veto or anything, they have to be informed and they may well press some objections. (recording: 32:02-Mr. Costello speaking a bit more about Orchard Park-hard to hear). MR. MONACO: Understood. Thanks for having me. I do appreciate it and we do love being down here. MR. ZIARNOWSKI: I think you are an asset to the town, Kev. I really do and I think you can ask anyone on this board about your building and your other building. MR. JACKSON: It looks great. MR. ZIARNOWSKI: And it's beautiful and you did a great job. The lighting is beautiful. MR. JACKSON: It matches the plans. That is what you said you were going to do. MR. MONACO: We try. MR. ZIARNOWSKI: But you got to get a fit within the code and the stuff Murf wrote up, I was just the delivery boy on this one. MR. MONACO: Ok. MR. ZIARNOWSKI: I guess the only thing we felt bad was that we did go to bat for you for the Farm and Ag thing and kind of burned us a little bit. And if you didn't know you were going to burn us, I take your word on that, but it burned us on that one. Thank you. MR. MONACO: Thank you.

MR. ZIARNOWSKI: Did his tenants change from the time that he originally got the C of O's? MR. COSTELLO: I remember he specifically discussed having a couple of businesses. MR. STISSER: I remember the concrete guy and the fence guy. MR. ZIARNOWSKI: Concrete guy and fence guy. MR. COSTELLO: I don't know that he had any tenants lined up (recording: 33:49 – hard to hear). MR. JACKSON: If I remember right, he did not. MR. ZIARNOWSKI: He was going to use one or two himself for his potting machines. MR. JACKSON: That's in writing. That piece, he actually said, in so many words. MR. ZIARNOWSKI: I think he saw how much money he could get on renting the other ones, that he just backed out of his two bays and whatever he had. MR. STISSER: To get more money.

MR. ZIARNOWSKI: I hate to get played. Murf gets played, we get played. With talking about that, let's do a couple of other things in town. Schunk. The deal is, the two duplexes across from Rucker Lumber. He was the guy, if you guys recall, during Covid on Zoom, he would not submit a plan because he said he didn't know if he was going to put duplexes on that property. It is R-3. I said that R-3 allows for duplexes. Finally I came out on the next Zoom meeting, I said look, you can put duplexes on that property, it's R-3. The minutes said, Ziarnowski said, he can put duplexes on that property. I did but I did it in the context of, he didn't know that he could build duplexes and he wanted the assurance that he could. Then he comes back and never had the property subdivided so, Murf caught it, you can't have two separate houses on one SBL. He decides to go ahead and skip the Planning Board all together and go Downtown and get some kind of a subdivision on the property. That's when I went nuts and say, what is this, we have two codes here? You want to get it done with the Town Board and the Town Planning Board, feel free, but if you want to do it yourself, what the heck,

go do it, which irritated the hell out me. He also owes Murf for lapse building permits. Now, this is where it gets really lousy and God bless Jason but I think but sometimes I think Jason should not be the crying shoulder for all these people who have problems and let the person having the problem deal with the departments he is supposed to: us, Murf, whatever. So this guy, Schunk, goes to Jason and says, hey, Murf is talking about all these permits that I have to pay back and the money involved. He walks out of Keding's building, sees Murf and said: Keding says your wrong and I don't need to pay for them. Murf went ballistic and wrote a scathing email saying: I'm done. I have no support in this Town Hall. Turns out then, that Keding says: I did not say that. So, Murf gets a hold of Schunk and corners him and says: Look it, one of you two guys is lying. Schunk then says: He didn't really say that. Then Murf had to eat crow and write an apology letter to Jason and the Town Board. Murf, yesterday, said your not getting the CO (certificate of occupancy) until you clean this up. I want the money for the permits and I want you to go to the Planning Board and get it subdivided. That's where it stands now. He put placards on the windows there and said this property is not to be occupied. Somebody took them off the next day so the placards are off the building. Schunk goes: Well, my realtor is going to take care of this stuff for me. It's just one thing after another on that. So that's the Schunk property and the two things. So they have to come in front of us to get it property subdivided and get two separate SBL#'s even if he has SBL#, Murf is going to make him come in front of us and get that done. Not skirting the issue.

MR. ZIARNOWSKI: **Second one**, some of you weren't on the board at the time, David (Stringfellow), do you remember a young couple that came in downstairs and said: I have 100 foot width property and I want to put horses on it?

MR. STRINGFELLOW: Yes.

MR. ZIARNOWSKI: It was just an advisory thing and we said, no, you can't do it. MR. STISSER: Because of the manure. MR. ZIARNOWSKI: It has to be 100 feet from the property line. They went ahead and somehow got a permit to build stables underneath and live upstairs. I can't image how their house smells. They have living quarters upstairs of their barn with horses down below. They are now running a riding stable, an advertised riding stable. BOARD CLERK: They built the arena? MR. ZIARNOWSKI: Yes, I think so. MR. STISSER: It's up by the winery? MR. ZIARNOWSKI: It's down further, on Lower East Hill. 7075 or something, Lower East Hill. Murf has been trying to like, he is besides himself, spending so much time on this deal. The guy applies to the State and says, hey, their denying me my right to farm. This is an agricultural community. Yes it is, but he does not have enough property width to legally have horses in the town. Murf says, he is thinking that the State is trying to side on his side. That's another deal. Murf can't shut him down, he can't do anything about it until the State has their say on how they want to rule for the agriculture area.

MR. ZIARNOWSKI: **Third one**, is the **winery**. That is just a mess. That's multiple violations up there. Their going on and on and on. Foxhill on Cole. It's just a number of things, some with the health department with septic systems and some with the liquor authority.

MR. COSTELLO: Recently, I asked from Murf just the town code violations because it is not for us to make it right with liquor authority or Ag and Markets. That is within their jurisdiction and purview. Mr. Gallagher will tell you that he is right with the law as it comes to Ag and Markets. (recording: 40:28)

MR. ZIARNOWSKI: Even though Ag and Markets came out and talked to him and talked to Murf and said he wasn't.

MR. COSTELLO: Ag and Markets has not provided any kind of written documentation, they haven't taken any legal action (recording: 40:38)

MR. ZIARNOWSKI: I also heard that they are not going to renew his restaurant license. MR. COSTELLO: Stating that intension today, when the permit doesn't expire until September, is also not really, exactly, iron clad, actionable stuff. He has a food service permit. Maybe he is breaking the permit but it is not up to us to enforce the permit. It is for the sanitarians and the county.

MR. ZIARNOWSKI: ~~Weber~~ down at ~~Dunkin-Donuts~~ Tim Horton's Donuts, where I did not know there was a group chat going on, and that's the same entity that sued us on the property next door. That guy had the nerve, Lauffer & Keagan, God Bless You, while he is sticking it to you, at the very end he says: God Bless, Have a good day. They are short on frontage, they want to develop behind the property, they are short on frontage and have the nerve to come back to Murf, after they just got done suing the town, and said: We have 186 feet, we need 200, isn't that close enough? I did not realize that Weber was attached to that email thread and I go: Murf, measure this one to the millimeter. I would have said that to his face. So Weber says: What's this measuring to the millimeter? Do you measure to the millimeter for everybody? I go look, I said the handshake deals, close enough/good enough, isn't working anymore because it is coming back to bite us. We are having all these issues come up about things that weren't done properly before, and now it's – he did this, why can't I do this. I said no. Then, about a week later, he goes: Is there even an instrument that can measure to a millimeter? Then, Jason goes, don't even get into it with the guy because he is looking for fodder, just looking to cause a problem. It was like, holy cow.

MR. STISSER: But he authorized Tim Horton's to stay operational after the first of April. They are still in there.

MR. JACKSON: That was interesting. I had the same curiosity. You were concerned, Sean (Costello), that he was going to set up something temporary. We went through hoops to try to get him where he didn't need to. He is still operating. This is May. The lease is up and all those pieces, I am curious to how he is able to keep that going.

MR. ZIARNOWSKI: I am thinking dollars talk. I mean, the guy is going to have nothing so at least he is getting something. MR. STISSER: That was what I was thinking. MR. ZIARNOWSKI: That project has been kind of a zoo also down there. They hit water at six feet, so they put drainage in. It didn't take care of it, they went down 12 feet, I think, and put new drain lines in. The other day I was driving by and they were putting pilings in – steel pilings – so I don't know. MR. STISSER and MR. JACKSON: That was for the tank. MR. JACKSON: I don't know that for sure, but the size of the tank fits the size of the pilings. MR. ZIARNOWSKI: Yes, I saw that. But I heard that Murf would not sign off on the foundation because it is floating on quicksand, kind of. They got an independent foundation guy saying it was ok. That's where they are on that one. That's all I got.

MR. COSTELLO: **Solar.**

The June Planning Board meeting, the solar project will likely be before the Planning Board.

MR. ZIARNOWSKI: Sarah (Ms. DesJardins) talked to Nusbaumer and they are not even close.

MR. COSTELLO: Ok, maybe they're not. What has been conveyed to me, third hand through our attorney that is representing the town respectfully so who had heard from the attorney for the solar developer, who heard from the developer, it sounded like they were trying to get everything together in order to make the Planning Board agenda for June. All they did was the information requested from the Town Board.

MR. STISSER: The one with all the setbacks, that one?

MR. JACKSON: There was an incomplete set of information that was referred to the Planning Board. Am I following that right? I sat and listened to the Town Board say: We are going to refer the solar project to the Planning Board. What are they referring to us?

MR. COSTELLO: You are going to review it because they need a special permit under the solar code, you are going to review it for compliance with the code and make a recommendation to the Town Board of issuance of the permit. MR. JACKSON: The description of the details behind the permit were not ready. MR. COSTELLO: The Town Board, after consulting with the attorney and engineer, requested additional information from the developer to flush out details of the project. The information requested relates to the Environmental review which the Town Board is lead. MR. JACKSON: Thank you.

MR. ZIARNOWSKI: Is that why Jason and you are going back and forth with them? MR. COSTELLO: Yes.

MR. ZIARNOWSKI: Because Jason keeps going, well I talked to so and so, and talked to so and so. I was thinking why. MR. COSTELLO: It's the Environmental review.

MR. JACKSON: Once that is complete, then it will come our way. MR. ZIARNOWSKI: There was a new motion made to the town, new or change to code or change to something, saying that solar is going to come to the Planning Board and the ZBA, if need be. Sorry, CAC. MR. COSTELLO: The plan at the moment is to, had been to wait until the complete application was ready before it comes back before the Planning Board. I believe the developer was hoping to have all the information together at the end of this month, early next month. MR. JACKSON: I am asking all these questions because it puzzled me because this board is going to have something referred. Ok, last month we didn't have a meeting and therefore, it should be on this one almost guaranteed. Where was the delay. Why aren't we seeing it. Sounds like the applicant is not ready yet. Doesn't have everything together to refer to us to begin with. MR. COSTELLO: It may be a couple of months before they come in front of the Planning Board. MR. ZIARNOWSKI: They still fighting the setbacks? MR. STISSER: That's all we are talking about, right. That's all we have to say. MR. ZIARNOWSKI: That's all. We say we don't like the plan, go legal on us because that's all they have left. MR. COSTELLO: There is more than just setbacks. There is screening, glare. MR. ZIARNOWSKI: We talked about screening last time. MR. COSTELLO: They are looking for your input on potential Environmental impact. That is the first step here. Prior to the Town Board making a SEQR determination, they probably, I believe the plan is, to ask the Planning Board and the CAC to weigh in on potential Environmental impacts. That could be as simple as listening to them talk a little bit and then saying we adopt the findings of the letter from the Town Engineer dated June 3<sup>rd</sup>, whatever that might be. That's likely how that goes. But any additional issues or concerns identified by the Planning Board can be brought up then, can be included. The goal here is to have professionals at the engineering firm and the outside counsel bring to your attention in the form of a memo or letter, likely environmental concerns or areas that may warrant further examination and then the Planning Board to flesh those out, if appropriate, or to just say: yep, we agree. Town Board should make a determination of significance or determination that there are no significant environmental impact. MR. ZIARNOWSKI: Is LaBella doing that? MR. COSTELLO: CPO. MR. ZIARNOWSKI: Ok, different group. MR. COSTELLO: LaBella had conflicts. They're both designated town engineers, both firms. MR. JACKSON: From very general terms, seems as though the county, and this is probably part of the SEQR process, and the state have both weighed in with their various observations. MR. COSTELLO: Yes. They framed them as observations, agricultural soils, principally, but the ultimate rubber hits the road on whether that's a significant environmental impact is for the Town Board. MR. JACKSON: Thank you.

MR. ZIARNOWSKI: One last thing, **Dollar General**. This has been a go-around. There is a gal named Stacey Kranner who is land acquisition manager for Mr. Broadway. Broadway is the guy that wanted to do the one at the Wurtz Funeral Parlor. She contacted Sarah (DesJardins) and I and said, well, what do you think? What do you think about next to the Post Office there? We said, show us a plan but I tell you what, if you can come in with the end plan that we did on Wurtz, it is going to be a lot easier talking. MR. JACKSON: I think I saw this exchange via email. MR. ZIARNOWSKI: A lot easier talking. From Ms. Kranner – Well, Mr. Broadway doesn't do pitch roofs anymore. I said, well, you know that you're going to be right in front of the subdivision entry way where all the houses have pitch roofs, see what you can do. She comes back and sends Sarah and I and I think Jason, a stick figure like this (image shared with Board members). I go, what is this? It's kind of like, yea, I know what a pitch roof, is this ok? I kind of lost it. I go look, we are not going to play diplomacy by email. I am one of seven on the board and we are not going to do this. Well, she sends another rendering. Now, we are getting better and it's a pitch roof with a gable in the front. I didn't answer her, said I am done and not going to go here. Said, file a formal application and we would be happy to see you. She sends another one and it's darn close to the Wurtz Funeral Parlor, I mean, it's real close except they didn't have stone going up three feet. It was an end entrance; it was the shutters. I didn't respond and I told Sarah I am not responding and if you want to respond to her, go ahead and respond. Then, Mr. Broadway wanted to have a private telephone conversation with Sarah and I. I said no way. We are not going there. I am not going to get hooked on anything that we say over the phone. MR. JACKSON: Tell him it's illegal. MR. ZIARNOWSKI: So anyway,

they are knocking and I think they are probably going to file a formal application but so far we got them within this much of what we ended with at Wurtz. MR. JACKSON: Well done. MR. ZIARNOWSKI: Not yet. What I suggested, so now she has these two renderings, and I said to Sarah, great, invite them, let's have a public meeting, not a public hearing but a public meeting and get all the people in here. MR. STISSER: Hickory Meadows and all those people? MR. ZIARNOWSKI: Yes and say look, it is probably going to go if they come in within the confines of the code, which they are, it's probably going to go. But we have a choice on how this thing is going to look. That's where we are at. Let them hash it out. Why should we pick it.

MR. JACKSON: I have noticed and that I can confirm what you have seen. If Dollar General doesn't build a box, it's because they are occupying something that was built by somebody else. Here is the existing façade, we can fit in there, great, we'll go in there. Everything is a box. Some of those boxes do have that little triangle in the front. MR. ZIARNOWSKI: That is what I said and you're putting make-up on a pig. Not sure she liked that. I said, come on, you call this dressing up? This is it? MR. STISSER: Look at all that garbage in the one that's already there. MR. ZIARNOWSKI: That's horrible. We got to do the same, if we deal with them, we have to do the same list. MR. STISSER: No carts outside. MR. ZIARNOWSKI: No flea market in the front. They signed off on that last time. Will see what happens.

MS. WEISS: I have a question on the Abbott Road thing. Of course, it was done before I was here. He said it was going agricultural and now it's not. Isn't there any repercussions. MR. ZIARNOWSKI: Yes, Murf could close him down. Then it's like, what do you do with the building. Could kick out his tenants and have him get tenants that comply with C-1. That's also a deal. I like the guy but I just don't like what he does and I think he has handed us a line. How can you be so stupid. I don't get it. He is either dumb like a fox or oblivious.

MR. STISSER: He did a good job with the building. It really looks good. I understand the aggravation.

MR. ZIARNOWSKI: Unless they just want to say, as I mentioned, people going to Jason. The horse guy or Schunk goes to Jason's office because he wants a shoulder to cry on. It creates conflict, I think in this whole building. Having someone cry to Jason and then what Jason says or doesn't say, he shouldn't be involved in it, in my mind. Second, Foxhill guy came down and met Murf downstairs as he was walking to Jason's office saying: I am going to see Jason. Murf said: Do you have an appointment? No, I don't need an appointment. I have to talk to Jason. Well, he never got passed the door but he and Murf almost got to blows. Again, people think if they don't like what they get, like divorced parents, I will work this parent and see what I can get from him. God love Jason for trying but I think, and Sarah and I are meeting with him tomorrow and tell him right to his face, your doing things that maybe upset the apple cart. Let the departments, if you hire people for a department, let the department take care of what needs to be taken care of on their end.

MR. COSTELLO: On the other side of that Paul, Murf is constantly copying or emailing Jason about things that are not in anyway Jason's knowledge. So Murf is looking for some form of guidance, direction or reassurance sometimes and by doing that, he is involving Jason. I get that Murf feels like an untethered balloon but at the same time that guidance is not with Jason nor is it with me to say this is the right way to proceed, most of the time. MR. JACKSON: Subject matter experts; that was the term Jason used when it came to discussing the CAC reviewing soil impact of the solar farm – Subject Matter Experts. The idea is, it sounds like what you are saying is, Jason needs to stick to his subject matter experts. Don't attempt to answer the question. I think I hear what you are saying. Murf keeps sending stuff to Jason, sounds like what Jason needs to do is to make sure Murf understands, this needs to go to the subject matter expert, not the Supervisor.

MR. COSTELLO: (recording 58:07) ...to some degree, remember, Murf is in a way Jason's subordinate. It's complicated. I don't think Jason wants to have to touch it, at all, any of these things. But if he is referenced in connection with conversations about a project, then somebody thinks he is making decisions on the project.

MR. ZIARNOWSKI: It is not a good atmosphere here right now. Things are going to change.

5. REPORTS (not discussed)

Planning Consultant/Ms. DesJardins –

Town Attorney/Sean Costello –

Town Board Liaison/Ms. Lucachik –

Board Clerk –

6. Motion made to adjourn

Motion made to adjourn the meeting at 8:30pm by Mr. Stringfellow

2<sup>nd</sup> by Mr. Stisser

**APPROVED**