



# HALIFAX ZONING BOARD OF APPEALS

## Meeting Minutes

### Monday, January 9, 2017

The Halifax Zoning Board of Appeals held a public hearing on Monday, January 9, 2017 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Robert Gaynor, Kozhaya Nessleralla, Peter Parcellin, Gerald Joy, Robert Durgin and Daniel Borsari were in attendance.

Chairperson Gaynor called the meeting to order at 7:00 pm and reprised the audience that this public hearing/meeting is being audio taped. He also explained the procedure and the protocol at the public hearings.

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The Board reviewed the mail and other matter/issues:

#### Procedural Matters

#### **Meeting Minutes:**

Motion to approve meeting minutes of Oct 17 2016

Motion: K. Nessleralla

Second: R. Durgin

AIF

Motion to approve meeting minutes Oct 24 2016

Motion: G. Joy

Second: K. Nessleralla

AIF

Motion to approve meeting minutes Nov 14, 2016

Motion: P.Parcellin

Second: K.Nessleralla

Abstained: G. Joy

AIF

Motion to approve meeting minutes Dec 12, 2016

Motion: G. Joy

Second: R. Durgin

AIF

Members signed signatures for Accountant and state ethics conflict of interest law.

(2) 5 year in-law renewals for Pratt's and Whitney's. Board requested notices to go out to residents to appear before board for approval of renewal.

#### **7:15 p.m. Notice of Public Hearing**

Petition # 859, 105 Wood St Continuance of hearing for special in-law apartment.

Present: John Walsh & Renelle Walsh

Chairman Bert Gaynor read public hearing notice into the minutes.

John: Decided not to build in-law and removed range and replaced window in bedroom. Building permit issued for window. Pictures presented showing removal of range and window installation.

Gaynor: Building inspector requested in his letter to zoning board for further reinforcement and space will be used as a single family dwelling.

Ms. Walsh: Talked to Rob, he came and inspected the window and removal of range and approved.

Gaynor read letter signed by John and Renelle Walsh to withdraw without prejudice. Also agreed to statement that the house will remain a single family dwelling.

Motion to accept letter of withdrawal of petition 859 by Peter Parcellin, Second by K. Nessralla AIF  
Passes 5-0-0

**Petition #860 Continuance of 590 Monponsett Street, Appeal of Zoning Enforcement Decision to Cease and Desist**

Present: Robert Krause Attorney representing C-Mac Rlty. Bob McCourt, Fire Chief Viveiros

Chairman read notice of hearing appeal into record, dated October 20, 2016.

Gaynor: Mr. Krause how are you?

Krause: Good evening Mr. Chairman good evening members Happy New Year

Gaynor: Before we get started I thought we would have this up to date (referring to taxes) prior to the hearing?

Krause: I will give you a check for 259.78

Gaynor: Thank you.

Gaynor: Letter from the Halifax Fire Department on December 6, 2016 to Dan Macauley

Dear Mr. Macauley as you are aware on October 9 2016 we responded to your property on 590 Monposset St for an odor of gasoline. Upon investigation it was found the approximate 5-10 gallons of gasoline, 10 bags of pesticide and various of pieces of gasoline powered equipment were found stored in the basement. At that time Captain Matthew Cunningham advised you that per Mass general law Chapter 148 Section 23 those items would need to be removed immediately and could not be stored in a property used for habitation. Additionally, it was reported to the commercial space located on the first floor had been recently renovated and was being used as an apartment. According to the building inspector's records, the property is only zoned for one apartment but there are three occupied apartments. On November 10 2016 the building inspector and I met with Mr. McCourt and Mr. Jenkins at the property and concluded an inspection. I conducted an inspection. I discussed with Mr. McCourt and Mr. Jenkins that because of the building use, there are multiple issues with the fire alarm, sprinkler systems, exit signs and building egress that will need to be addressed. It's my understanding since the inspection, an application has been filed with the zoning board to have the additional apartments accepted. Unfortunately zoning decisions can take months and it is imperative that action be taken for necessary improvements for the safety of the residents. I am requesting that you submit a plan of corrections to the Halifax fire department no later than December 19 2016 should you need an additional information, please contact me. Sincerely Chief of the Fire Department.

Gaynor: How we doing with that? Where are we?

Krause: There's an updated letter, I don't want to steal the chief's thunder, let me give you an action list of what we've done. We had to give a 30 day notice to the tenant. He's already agreed and I'll put this in the file, that Kevin Devine has agreed to get out by the end of the month. We had to give him a 30 day notice, tenant at will in Massachusetts law requires it, 186 Section 12. I have an affidavit of the gentleman Mr. Hurley who lives upstairs about how long he's been in the apartment and there has been five other tenants in the apartments on the second floor adjacent to him. You should know that after the hearing...

Gaynor: Wait five other tenants is that in the two apartments?

Krause: I'm only talking about the second floor. That's right. Mr. Devine, I mean Mr. Hurley had been there since 2000. You can see that. So he's in one of those apartments. There has been an apartment there since

before we even bought it. And they've had 5 different tenants on the second floor in a residential apartment. That was there before we bought it.

Gaynor: How many people are there now as we speak? On the second floor.

Krause: Just two. So the issue is the first floor.

Gaynor: So Mr. Hurley is in one apartment and Mr. Wicker on the second floor.

Krause: And on the first floor there was a change as you well know and that's what precipitated all these actions, the order from Rob and the involvement of the chief. The chief, and by the way Mr. McCourt is with me from the company. The chief had spoken to Mr. Macauley, spoken to Mr. McCourt, I spoke to Mr. McCourt and the chief today, we've been speaking with Rob the Building Inspector. I think, and I've communicated with the chief, through emails, that essentially, and again, I don't want to put words in your mouth,

Chief: That's the second letter that I wrote to Mr. Macauley, I don't know if you want to read it out loud.

Gaynor: Why don't I, for the record. (Letter attached)

Krause: Again, and Mr. Chairman and to your board, with the chief here, there were a series of communications between my client and the chief where, by there was a discussion, and this is to Mr. Macauley, the chief and Rob and a number of other people were copied, "Chief per our telephone conversation..."

Gaynor: What's the date on that?

Krause: This is a series of emails, Mr. Chairman, the last one, the chief to me is December 28, 2016 from me December 27, 2016 to the chief, from the chief to me, December 28, 2016 (8:36am). From me to the chief, is December 27, 2016 (2:34pm) and from Dan, Mr. Macauley to the chief, is December 22, 2016 (2:26pm.) So I'll just quickly read this to you in it's context. Chief (from Macauley to the chief) "Per our telephone conversations we've decided to wait for the ruling before proceeding with your recommendation. Also the first floor tenant will be out by 1/31/17 Thanks, Dan." I write to the chief, cause I'm copied in all these emails, I said chief, can you please confirm this understanding in writing given the ZBA is of course looking to complete your task. Merry Christmas Happy New year blah blah blah. The chief writes back on Wed. December 28, 2016 (8am) Mr. Krause, I did speak to Mr. Macauley today about the alarm system at 590. Given the circumstances I agree it makes sense to wait until after the ZBA meeting on January 9, 2017 before proceeding with the system upgrade, as the Zoning Board ruling may have a direct impact, or direct effect on the system requirements. As for the first floor tenant I will refer to the order of the Zoning Board at the last meeting. And I'll submit this into the record, the series of emails.

Gaynor: Chief, is the place safe?

Chief: I believe it is safe, it's not to code, but I think there's adequate devices (that are in there right now for the safety tenants.)

Gaynor: Rob what do you think?

Rob: Like the chief said, it's not to code. The chief has done the best he can with what's there to provide life safety with alarms for the people who are there now.

Gaynor: The second floor and the first floor tenants or just the second floor?

Rob: the second floor also, it's missing certain things that would be required under the state code today for a mix use which would be full stations, exit signs, the egress submissions would regress, it doesn't meet the code as to fire separation and stuff like that. I think we need to address the zoning issue in tandem with the building code because they may coincide with each other.

Chief: I think we say the building is safe but it doesn't meet code it's not 100% safe, but given the circumstances there's certain devices in there that would protect the occupants.

Rob: I think its temporary, temporary life safety, it's not meant to, we try to do the best we can and come up with a solution.

Gaynor: Ok well what's your position as far as the mixed use goes over there?

Rob: Well, I mean, number one, that's going to be your board decision to decide whether...

Gaynor: Well yes you've been there to inspect it, what are your findings?

Rob: As far as the mix use?

Gaynor: As far as the mixed use and compliance with zoning.

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Rob: I'm not sure, I think you read the letter, saying it was in a residential area, I'm not sure that this a residential.

Terri: I think it's both.

Rob: So it would be a business zone, so if it's a business zone area, again, there's other issues, if you decide you would allow it, the mixed use, it's obviously not going to meet the size of the lot, and stuff like that. I mean, but that's your call. It's been there for a number of years. Was it a legal use for a number of years? No, not in my contention it hasn't.

Gaynor: Right. What was the year Rob?

Rob: 1991 I think the special permit was granted for an owner occupied one apartment. So number two never came through, no permits, so we can't argue the fact that it's been lawfully in existence or lawfully begun. So my contention is, if there's going to be a zoning determination, should also say building should be brought up to today's codes and fire codes to today's standards. But the zoning determination is yours.

Gaynor: Ok. But there's no reason why it couldn't be brought up to code, once the board has decided

Rob: it can be brought up to code, it's a matter of how much money its going to take if..

Krause: We've already agreed to do that Mr. Chairman, in conversations with Rob, what we're looking for is..

Gaynor: Isn't it from the mast meeting, and correct me if I'm wrong, we can go through the minutes, there were a lot of things we agreed to the last meeting that still haven't been met and here we are in January.

Krause: Mr. Chairman with respect, my clients have communicated with building inspector and chief and then there is the series of communication saying the direction will depend on the zoning board so we got caught in the middle.

Gaynor: Wasn't the tenant on the first floor supposed to be out in days? Or weeks?

Krause: We couldn't, I told you last time, and you can look at your minutes, it's subject to, we have to give a 30 day notice. The guy has agreed to get out by the 31<sup>st</sup>. It's based upon the payment period, the 30 day notice is based on the payment period under chapter 186. That's how it works. Guy pays the first of the month gotta give him 30 days that's how it works. Because otherwise your evicting the guy with less than 30 days on the pay period. It just doesn't work. The guy is getting out on the 31<sup>st</sup> we're doing the best we can getting the guy out and he has agreed so we don't have to go to court, we don't have to do the summary process, we don't have to do any of that stuff.

Gaynor: So you're just using the residence as an address for children and whatnot, he was there and he wasn't there, and sometimes there..

Krause: To make it a legal we have to give him a 30 day based on the pay period, 186, 12 or 14

Rob: I agree with what Mr. Krause is saying, but they brought it upon themselves.

Krause: No question. Look we're not arguing, we're not arguing that.

Rob: So, without getting into more legal action, the tenants going to the housing board, what you're saying is you have to go through the eviction process you have to do it the legal way.

Parecellin. Unless I'm confused, didn't you say that because you knew him he could be out in a matter of days.

Krause: No it's the very same guy what we said to you is, and I even think Mr. McCourt and Mr. Jenkins because I've never spoken to him, he is an acquaintance or works part time for the company or something, but he used the property associated with his kids. He said he needed 30 days and we wanted to make sure we can give him the proper notice to quit so we don't get into this situation where he says well I'm not going to move now. So he voluntarily agreed to vacate the premises. Which is a binding commitment on his part. We did the best we could on that.

Gaynor: The concern was that he was going to be there, remember we had discussed, the concern was, is it safe enough for him to be there while he was..

Rob: Well again define safe.

Gaynor: Does it meet the code

Rob: Does it meet today's code? No. Is it better, have they done some stuff to better it? Yes. It's not going to be at this point while people are there to the standards that it should be.

Joy: Do they have until the end January to move?

Krause: Based upon the notice to quit and the summary process what you got to live to. No judge would give it to us. But we also, as we talked to Rob, because Rob said there has been change to the code when you have

multi families, fire separation, those kind of things, we're prepared to do that. We're prepared to do everything to bring it up to code within a certain period of time based on property inspection by your people.

Gaynor: Well what's a certain period of time that's good for you?

Rob: Well they would have to go through the permit process, they would have to have some designs they would have to have an architect come in and bring plans in and do it the legal way. We'd have to look at the plans we'd have to go to the fire chief...

Gaynor: What are we talking? 30 60 90 days?

Rob: Well once the permit is submitted we would have 30 days to go through the permit assuming there is no issues with it.

Parcellin: Shouldn't he have that today?

Krause: Well no there was a lot of discussion with the chief and the determination, we are in a catch 22 because if we were going in the direction of two and two we know what to do. Because we're not going two and three which is there. So we're going with the two and two, two residential and two commercial, with your permission hopefully. Based upon that we would submit plans.

Parcellin: If I remember correctly, maybe I'm wrong, you told us that you were going to come in on the 9<sup>th</sup> with substantial changes, not entirely sure what the substantial changes are. You said that the tenant downstairs, you guys knew him and he was just staying there for a few days, we can get him out of there. I am positive that you know about the 30 day notice that needs to be given. I know about it and I'm not an attorney so you could have mentioned that.

Krause: I did say the 30 day, I did.

Parcellin: OK

Krause: But I was here last time and I did talk about the 30 day notice I'm certain.

Parcellin: Well you also said you were going to come and withdraw this, you were going to bring us a new application, so I guess you're asking for another 30 days? The only opportunity we have is today.

Krause: the intervening matter is beyond our control on circumstances is that my client Mr. McCourt spoke to the Town, spoke to the chief we got another letter the 26<sup>th</sup>.. And then there were conversations between Mr. Macauley and the chief which is reflected in the emails, which nobody is denying, saying depending on which way the board is thinking, because last time we talked about I needed to bring a zoning application for the two apartments and the two commercial. We did talk about that, that a zoning application would be required, but we get caught up in this locked iron and catch 22 of what kind of permit application do we submit? Because if we are going to submit an application then it falls on deaf ears that you wouldn't accept it under any circumstances, there's no point in it. There's absolutely no point in bringing that application up.

Parcellin: But nobody ever brings an application when they come and ask us what we would vote for. They bring what they bring when they ask for it and then we vote on it.

Krause: Gentlemen really I'm not arguing with you but I am in this catch 22. What we are suggesting to you is that if you give us a determination, the only thing in front of you tonight, correct.

Parcellin: Again, same thing as last.

Krause: I'm not arguing with you. What I am saying is that based upon conversations between my client and the chief.

Chief: I'm going to stop you right there cause I only said wait til after tonight. After tonight I would anticipate, like you said earlier today, that that would start as early as Friday, upgrades, right isn't that the conversation we had.

Krause: Chief I'm not putting words in your mouth, it's all in the email so please don't take me wrong. The idea was that we move this hearing to today the 30 days. We committed to getting the guy out. We got a notice from the guy that he's going out. We committed to coming up with a plan. Our plan is to get permits for two apartments, two residential apartments on the second floor and two commercial on the first floor, subject to bringing the building up to complete code per Rob. That's our plan.

Rob: But it will also be subject to the Zoning Board for any variances

Krause: right we wouldn't do that

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McCourt: With all do respect, if I remember, I think you asked us to come in with a proposal of direction of what we want to do. And I think tonight we're looking to do two and two so we can move from this point forward. If with your hopeful approval, toward an end. Right now we're kinda caught in a swirl.

Joy or Durgin: I think you should have an application for what you want to do for the two businesses. You need an application for that but you don't.

Gaynor: So we are no where different then where we were 30 days ago.

McCann: I think you asked us to come back with the direction we wanted. Honestly, with all due respect I didn't know we were supposed to have a permit here tonight, I thought we were supposed to give you what direction we were going to go.

Kraus: We couldn't have possibly had architectural plans done by tonight. There's not a chance we could've had architectural plans done by tonight and the specs out

Durgin: If you brought it forward and we said no, where are we?

Rob: But that's what any applicant has to do.

Krause: We're at your mercy clearly.

McCann: We are at your mercy.

Krause: So what we're asking for is, our direction, and we're not asking for a decision because there's nothing in front of you. You can make a decision on Rob's or whatever you want but we're prepared to move expeditiously to get an architectural plan. We got to show that, and that has to have the specs and everything else that's called to by the code, fire wall and something like that. And we got to get the stamped architect because that's what you're going to want. And we're prepared to do it. Before you tonight is if you're going to uphold the building inspector. Obviously we want to work towards, um I think we've been working with the community and you know we got a bad situation. I don't want to put words in the chief's mouth, I don't want to put words in Rob's mouth, that's why I confirm things with an email. So we don't play the game of he said or no I didn't say that, and there's nothing uncourted in those emails, that basically said find out what the board is going to do. Then we can figure out which way I'm going to be required to do.

Rob: Just so we understand where we are going, because obviously time is a concern, have to understand if you're applying for zoning you need waivers, variances or whatever this could a couple of months, three months whatever, the process could be continued, you know how it goes with the application before we even get into the building end of it as far as the plans and what not. Can it be done and be expedited? Sure but you know the process goes.

Krause: Well typically we would send you a letter, saying here is what we are proposing at the property. What does it require under the zoning by laws.

Rob: If it doesn't fall in the zoning, the you would get denial letters.

Gaynor: Right but you've already issued a denial letter. You've already issued a cease and desist, which is what you're appealing. Is a cease and desist.

Krause: yes Mr. Chairman but it wasn't based on, with all due respect, it wasn't based on our application to use the property, it was based on some inspection that Rob made saying Ok under code section blah blah blah, the next step would be to, based upon your letter because we didn't have enough time, ergot the appeal, here's our request for a variance, here's our request for a special permit, that's what usually Rob tells us. That's what we would be looking for your determination as to what we would do.

Rob: Did it meet the criteria

Krause: Ya would it be a variance or a special permit?

Rob: I don't know O don't have the lot lay out or the distance of front the side and the rear, you know you might have to get an engineer involved and get a site plan. I can't speculate.

Krause: Rob I'm just asking

Rob: I know and that's why I'm answering.

Gaynor: There is included in the file an application hearing for a variance/special permit dated November 7<sup>th</sup> CC Mac realty LLC 140 Wood Rd Suite 410 Braintree. An appeal with the letter of notice, nature of the petition an appeal with the letter notice inspection/zoning enforcement officer dated October 20<sup>th</sup> 2016 Section 167 7A D2 or D12. So this was dated November 17<sup>th</sup> 2016. That gives us 60 days. My question is, and I don't know the members of the board have any other questions, my question to you would be basically I think, I think our

decision tonight would be to either uphold the immediate cease and desist by the building inspector, or uphold the decision of the building inspector with the 30 day 60 day compliance agreement.

Rob: Well either they can't what they are using it for, or they bring it into compliance. Now to bring it into compliance it has to go through zoning obviously. Initially the three apartments turned it into a multi family, mixed use and multi-family. They haven't gone down to two and if they get a denial letter from me now they have to deal with zoning and what we're going to allow. Once its disallowed, or if we allow, its under stipulation forthcoming. In compliance with the building code and fire code. So we have to take the steps and go through them if that's the way we're going. Like I said we have two choices, deny him say you're not allowed to do it, or bring it into compliance with variances and whatever else. I'm not going to say now because I haven't looked at anything. That's the whole idea of the permit.

Parcellin: So if we deny it, deny it out right. They'd still have to do that if that's what they want to do. Actually submit an actual application. What will be your role?

Rob: They would submit an application on their intentions, I would deny it based on it's on a nonconforming lot.

Parcellin: So if they continue to have a mixed use building there, or a multi-family there

Rob: They're not going to have a multi-family there number one because it isn't up to standards. if we're talking about mix use it's still going to be difficult it's not going to be as difficult as a multi-family

Gaynor: So the board has from 1991, we allowed the mix use with one apartment owner occupied that has expired. It would be up to the board to decide whether or not to renew that mixed use permit that has expired, with continuances and changes that it would now be a two apartment upstairs, two commercial down stairs.

Rob: I don't think we can renew it.

Gaynor: Reinstate

Terri: We can't even do that.

Rob: It would have to stand on it's own.

Terri: They have to reapply completely as new owners

Gaynor: Would accept the 30 day 60 day or at least an application for the process by the next meeting.

Parcellin: I don't see any reason why we would extend this. If we extend this then they're going to do this for how long. If we deny it he's going to come in tomorrow with an application. If we uphold the building inspector's decision. I can't see why, what the difference would be.

Nassralla: I agree

Rob: Maybe the board wants to consult or council on this because if you do deny it, you're basically telling them they have to get their tenants out.

Gaynor: All of them

Rob: So I don't know but you may want to talk to council on it.

Durgin: But they were notified in October its been almost three months.

Rob: I'm not telling you which way to go I;m just saying of you do deny it the ramification comes with getting the tenants out. Now we gotta go to court and, so you just may want to see where it's going to go on that.

Parcellin: If they came in with an application that's something we can work with them on.

Rob: I just want to make sure we're going the right way

Parcellin: That's on them

Joy: So they have to have an application in by the first of February.

Parcellin: Or by January 9<sup>th</sup>

Bosari: What they are going to use it for and apply for

Gaynor: Exactly, one's on the first floor, we still have two on the t second floor, which is exactly what we spoke about last meeting was putting two people out. Again there is nothing in front of the board right now for us to even review or to consider.

Parcellin: If there was an application, the reason that person would need to be evicted would be based on the building inspector making it happen. If there is an application we can work with them in the process of the application if that was the case.

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Kraus: How soon would you want it just for arguments sake, if you were going to take the direction of an application given the time of you, when would you want it. Would you give us 30 days so we could get it in then do whatever you want

Gaynor: Mr. Kraus two members here already said no they don't want to give it to you.

Kraus: Well I heard one member say no

Parcellin: I'm shocked it hasn't been started, I don't know what you're waiting for.

Kraus: You can read the email yourself

Parcellin: I did see the email, you were kind of waiting to see what you should do. They said well I'm not sure. If you wanted to show good faith it would've been a great move to start the process on your own. Because I think it was pretty clear we were looking for some sort of progress over the last month.

McCourt: What about 14 days? Would that work?

Nessralla: that's not up to us that's up to you guys. The property is going to produce you income. The faster you work on that property, the faster you..you don't understand if we uphold the building inspector's decision you're going to move them out faster, yes?

Krause: yes. Kazhaya as Mr. McCourt said, and everyone's working off minutes I mean we can look at the minutes whatever it is, come with a plan. That's where we are tonight, the two and two that's our plan, that's what we're going to apply for. And we told Rob if we're going to apply for that obviously we're going to go up to code.

Rob: Well now we're back in the same situation. I'm going to write a denial letter because it's a nonconforming lot and then it's another month

Gaynor: Then we're in March because we do that in February for that one then the hearing if you appeal the denial then we go to March

Krause: We're not going to appeal the denial letter. The denial letter is a mechanism to determine the relief we need from you. It's not like we're going to appeal his denial letter. I'm talking about the relief from the zoning in regards to the two and two. We apply to use it in a different way Rob says you can't without the following so and so based upon what you've given me. And then we come to you for a variance, special permit, whatever it is. Because Rob is the person who officially interprets the zoning by laws for the town. In order to tell us to do X, Y and Z

Gaynor: Reads into minutes Petition 270A from December 9<sup>th</sup> 1991

Rob: Technically we don't have a mix use by law. We have mix uses all over town

Gaynor: Is it the recommendation, I don't know how the board feels, checking with the town council, see if in fact the building inspector, if we can in fact get a special permit, reconsider a special permit to vary the lot size from 40,000 to 36,000 and again to vary the mix uses, to allow two apartments on the second floor only in a commercial zone. With compliance to building and fire code requirements as well a requirement for site plan to the building inspector. It could be continued upon a 14 day period, that an application would be submitted.

McCourt: We have plans that have been somewhat updated.

Gaynor: The decision of the board is to uphold the cease and desist by building inspector. If and when the plans are submitted by the applicant by January 23<sup>rd</sup> for the February hearing. In the meantime lthe board will consult with town council in regard the existing appeal of the 1991 decision on Pet # 270A

Parcellin: Read into the minutes said they had to have zoning plans by January 9<sup>th</sup>. So if we uphold this decision the pressure is on them to get the application in. Then we can work with them from this point on. \

Dan: If I understand correctly, if we uphold this decision, and they keep renting it, they'd be in violation for \$300/day per violation right?

Gaynor: Up to a maximum \$300 a day

Dan: If we uphold it, the tenants, are they leased tenants?

Krause: They guy was a tenant at will other one is in a lease

Dan: Ya so they would have to uphold that contract. They would have to pay for another apartment. So we're really not throwing people out. That's how that works. It's a contract between them and the tenant.

Terri: (Reads decision back to board)

Terri: Just so the understand application needs to be in by January 23 by 11AM

Gaynor: Have We got a motion petition #860

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Nessralla: Motion to uphold petition 860 to uphold the building inspectors decision and with the conditions we put down that

Gaynor: That the denial, that the immediate cease and desist will occur unless an application is received by the board by January 23<sup>rd</sup> 11AM for the February meeting. Before we vote on it you have to agree on those conditions we set that you would have the plans done and an application by the 23<sup>rd</sup>.

Krause: We don't have any choice do we Mr. Chairman

Gaynor: No

Krause: We've heard what you said, my client's heard what you said, we're acting to according to what we heard. We know what the consequences are.

Gaynor: Well I have a motion on the board do I have a second?

Joy: I'll second it

Gaynor: There's a motion on the board and a second,

Nessralla: Yes

Parcellin: Yes

Durgin: yes

Joy: yes

Gaynor: And I vote yes. 5 to 0 -0. Motion to adjourn.

Parcellin: Second

(ALL) All in favor

Gaynor: 5-0-0

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Respectfully submitted

Robert Gaynor  
Zoning Board of Appeals, Chairman

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