

Planning and Zoning Board Special Session
August 1, 2018 2:00PM

The Planning and Zoning Board of Charlestown met in special session to discuss the property renovations at 300 Market Street. In attendance were Rogers Clements, Patricia Clements, Ken Confalone. Also in attendance were Wib Pumpaly, Town Administrator and Richard Mahan, owner of the property and Mr. Prosper Boudart and Mr. Jack Kronner as a spectators.

Mr. Clements called the meeting to order. The issue under discussion is that the AC units on the side of the building may be encroaching on the setback limits of the town. They are even with the sidewalk.

Mr. Mahan thanked the committee for convening. Mr. Clements asked if Mr. Mahan had a survey. He said yes based on the Price and Price survey the sidewalk is on his property. As the designation is C1 the building can be right up to the property line and he is well within that. He has also talked to the SHA about the topic of an easement, but has not heard back from them as of yet.

Mrs. Clements asked that the zoning be changed to C1 from R3 on the application for clarification.

Mr. Mahan was asked if he could hang the units on the back? No, it would hang over the railing and he was afraid that cars would hit the units. The wooden rail is less than 2 feet from the property line.

Mr. Confalone does not recall the sidewalk project doing a survey and asserting imminent domain.

If Mr. Mahan were to install window units they would potentially hang out farther and be much noisier than the units he has installed.

Mr. Clements asked for a survey. Mr. Mahan stated that he feels that he should not have to pay for a survey. Mr. Gay asked if a survey was done what would be the outcome. Then either the homeowner or the town would be encroaching on the other's property. If the sidewalk would belong to the homeowner then this would be a non issue. If it belongs to the town, then easements would be needed.

Mr. Clements thinks that the units are ugly. Mr. Mahan agrees and this is not his first choice of placement but because of lines and the recirculation of the inside air, the current placement makes them the most efficient. Placing them on the back would be too far from the inside units and on the roof would take reinforcement of the roof and cranes.

Mr. Gay asked if there is any precedent in any other place? No.

Mr. Mahan stated that the county has no issues with the mini-split units.

Do we need an easement for use of the sidewalk by the town. Mr. Mahan indicated that he is not going to block the sidewalk. Mr. Pumpaly stated that we would need to get the state involved.

Mr. Gay asked yes or no do we need a survey? Mr. Pumpaly said that there are still enough monuments around the town to get accurate read.

Mr. Confalone stated that as far as a precedent there is an incidence of two landowners who both own the same driveway. As long as the owners are OK with that it is not a problem. The same would apply here as long as the state and the homeowner are in agreement as to the use, both could claim it.

Mr. Gay stated that if we were to call a "truce" could this create a grandfather situation for future owners. Mr. Mahan is happy to call a truce. Mrs. Clements asked if this could create a precedence? Mr.

Clements' only contingency is that the HDC also sign off on this. Mr. Gay would also like to see this codified with the property. Mrs. Clements asked for assurance that the town would not be held liable should someone run into them

Mr. Gay made a motion that we agree and codify what was discussed here today agreeing that the units are on the property of 300 Market Street and that Mr. Mahan will have an umbrella policy covering liability issues and not hold the town liable should any damages occur to the units, conditional upon Historic District Commission agreement. Mr. Confalone seconded. Approved 4-0.

Motion to adjourn by Mr. Clements, seconded by Mr. Confalone. Approved 4-0.

Approved 8-9-2018