

**LOWELL BOARD OF ZONING APPEALS MEETING  
SEPTEMBER 11, 2014**

Chairman David Shilling called the meeting to order at 6:30 PM. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were David Shilling, James Konradi, and Sean Brady. Absent were Chad Evenhouse and Rick Kelly. Also present were Town Attorney Jack Kramer, Planning Consultant Jim Mandon and 3 citizens.

**APPROVAL OF MINUTES**

Mr. Konradi made a motion to approve the August 14, 2014 regular meeting minutes, seconded by Mr. Brady and carried by voice vote.

**PUBLIC HEARING**

**BZA #14-12– Pedro & Irma Pedroza, 119 Mill Street, Request for Special Use Variance -**  
Petitioner is seeking a variance for a single family dwelling, located behind one story  
business. Property is zoned Town Center this is a special use in this district as set forth in  
Ordinance #155.039 (3) (a) 1.

Mr. Shilling stated the petition as listed. Mr. Shilling asked if Mr. Pedroza would like to address the Board. Mr. Pedro A. Pedroza, approached the podium, he stated that his father is Mr. Pedro Pedroza and he owns 119 Mill St., they purchased the parcel fifteen years ago. Mr. Pedro A. Pedroza stated that the property was sold to them with the apartment functional and as a source of income. Mr. Pedro A. Pedroza stated that they based their mortgage for the parcel on the rental of the apartment. Mr. Pedro A. Pedroza stated that they had made some improvements to the apartment and for the last fifteen years the utility bills have been paid as the middle apartment, 119 Mill St. Mr. Pedro A. Pedroza stated that they would like to keep the apartment and if any improvements need to be made they are willing to do what it takes. Mr. Pedro A. Pedroza stated that his dad has put a lot of money into the building already and he is willing to work with the Town. Mr. Pedro A. Pedroza stated that the back tenant had been asked to move as the Town had requested.

Mr. Shilling asked if the board or staff had any questions. Mr. Mandon stated that the staff had no questions. Mr. Shilling asked if Mr. Mandon had any comments. Mr. Mandon stated that the staff recommendation is to deny the variance request. Mr. Mandon stated that the ordinance does not anticipate turning a commercial building or portion of a commercial building into residential rentals. Mr. Mandon stated that what it does anticipate is permitting residences that already exist to continue as residences or even if multi-family buildings were to be erected or converted but not the combination of both. Mr. Mandon stated that it would be a conflicting land use with the buildings that surround it. Mr. Mandon stated that the building was originally used for storage many years ago and part of it was converted into a residential unit without the proper approval from the Town. Mr. Mandon stated that we are recommending that this request be denied

primarily because of the conflicting land use that it would maintain. Mr. Mandon stated the Town Center zoning anticipates residential units on the second floor like the standard downtown area would. But does not anticipate part of a commercial building being converted into residential living space. Mr. Mandon stated therefore we recommend that you deny the request.

Mr. Shilling asked if we were able to confirm that the building has been used this way for quite some time. Mr. Mandon stated we are not sure, since there was no formal approval that we could find, we do not know how long it has been used for this purpose or how much of the building has been used for this purpose.

Mr. Pedro A. Pedroza stated that his father has been renting it as residential for twelve years. Mr. Pedro A. Pedroza stated that they did not do anything against the Town ordinances, that when they purchased this property the apartment was already in the building. Mr. Pedro A. Pedroza stated that the Nipsco bill and the water bill are separate for the commercial unit and residential unit of the building.

Mr. Shilling stated there is also a commercial use in that building. Mr. Pedro A. Pedroza stated that it is a tailoring business in the front, the middle section is the apartment and the back is the storage area. Mr. Shilling asked if this building was physically connected to K&S Sewing. Mr. Shilling stated it is a L-shape building. Mr. Mandon stated yes, it was believed that the area in the back with the garage door was used for business storage. Mr. Shilling asked where do the residents park. Mr. Pedro A. Pedroza stated they park on the side of the building. Mr. Pedro A. Pedroza stated that he got rid of the tenant that was using the commercial storage in the back and only his father had some personal belongings stored there currently.

Mr. Shilling asked the Board if they would like to discuss the petition. Mr. Konradi stated that he believed that the landowner has shown an interest in working with the Town and had owned the building for twelve years. Mr. Konradi stated that Mr. Pedroza bought the building with the premise that it was rental property.

Mr. Konradi made a motion to approve the request for the variance. Mr. Kramer stated for clarification, what you would be moving for is to make a favorable recommendation to the Council. Mr. Kramer stated that with use variances the Town Council has the final say. Mr. Kramer stated that this Board on use variances either makes a favorable recommendation, unfavorable or no recommendation at all.

Mr. Brady asked the petitioner how long the current residential renters have been there. Mr. Pedro A. Pedroza stated that it is currently vacant but they have a potential renter interested in the apartment. Mr. Pedro A. Pedroza stated that the previous tenants had left around three months ago.

Mr. Konradi made a motion to send a favorable recommendation to the Town Council, seconded by Mr. Brady and carried by a roll call vote. Voting was three ayes.

**Motion passed Favorable Recommendation to Town Council.**

**Findings of Fact**

Mr. Konradi motioned to approve the Findings of Fact for BZA #14-10, Family Express Corporation, 140 N. Mill St. Variance from Developmental Standards - Mr. Brady seconded and carried by a voice vote. **Findings of Fact approved.**

Mr. Brady made a motion to approve the Findings of Fact for BZA #14-11, Bryon Heuer DBA: Hoosier Metals - south side of building located at 301 W. Commercial. Variance of Use - Seconded by Mr. Brady and carried by a voice vote. **Findings of Fact approved. Forwarding Unfavorable Recommendation to Town Council.**

**ADJOURNMENT**

With no further comments or questions Mr. Brady made a motion to adjourn the meeting at 6:45pm, seconded by Mr. Konradi and carried by voice vote.

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David Shilling, Chairman

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James Konradi, Secretary