

CITY OF FRAMINGHAM

ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

CITY OF FRAMINGHAM
CITY CLERK'S OFFICE

2018 AUG 28 A 8:54

BOARD OF APPEALS CASE NO. 18-22

PETITION OF JAWED WAHID

DATE OF DECISION: AUGUST 14, 2018

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on an appeal filed by JAWED WAHID (hereinafter the Appellants), for property located at 125 PROSPECT STREET. The Petition requests to Overturn the Building Commissioner's decision that the Appellant is operating an unauthorized Cultural and Education Center and Center for Performing Arts (hereinafter the Petition).

2. Appellant & Property Owner

Jawed Wahid
125 Prospect Street
Framingham, MA 01701

3. Location

Property is located at 125 Prospect Street and identified by Assessors' Parcel ID 091-65-8172-000 (hereinafter the Site).

4. Board Action

After due consideration of the Petition, the record of proceedings, and based upon the findings set forth below, on August 14, 2018 the Board voted to DENY the requested appeal and UPHOLD the decision of the Building Commissioner by a unanimous vote of three members sitting on the application. The record of the vote is stated as follows:

PHILIP R. OTTAVIANI, JR.	YES
SUSAN S. CRAIGHEAD	YES
STEPHEN MELTZER	YES

5. Proceedings

The Petition was received by the Board on July 23, 2018 pursuant to M.G.L. Chapter 40A, §8, and the Framingham Zoning Bylaw. The Appellants presented the Petition to the Board at a duly noticed public hearing of the Board on August 14, 2018 at 7:15 PM in the Ablondi Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Susan S. Craighead, Stephen Meltzer, and alternates Rick McKenna, Edward "Ted" Cosgrove, and Joseph Norton were present throughout the proceedings. The minutes of the public hearing and submissions on which this Decision is based, which together with this Decision constitute the record of the proceedings, may be referred to in the Office of the Zoning Board of Appeals at the Memorial Building.

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At the August 14, 2018 meeting, the Applicant was present with his Attorney Mr. Eli Leino. Mr. Leino explained that approximately six times a year, the Applicant hosts gatherings in his garage on behalf of Learnquest, Inc., a nonprofit organization promoting traditional Baithak style music. The events consist of allowing musicians to play while offering them performance space at his property. Building Commissioner Michael Tusino was present and stated that after multiple complaints the property was investigated and eventually cited three times. He stated that besides use violations, the property is likely not compliant with respect to code requirements that accommodate the quantity of people assembling in this space. He proceeded to voice concerns regarding parking and neighborhood disruption. He stated that one of the Facebook advertisements references additional unauthorized parking available at the nearby Walgreens. He also stated that an investigation showed Learnquest was asking for payment for the events; the Appellant claimed that he did not receive any payment personally.

Ms. Craighead questioned how many people attend the events and the size of the space. Mr. Wahid responded, three concerts are hosted in the spring and three in the fall; 40-50 people usually attend; and the space is 26'-by-33', roughly 800 square feet. Mr. Lawrence Paulhus (161 Prospect St.) voiced concern regarding the amount of people attending these events and the traffic caused.

Mr. Meltzer, Mr. McKenna, and Ms. Craighead agreed that the use was inappropriate for the location. Mr. Meltzer made a motion to support the Building Commissioner's determination and reject the appeal. Ms. Craighead seconded the motion.

6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

- 6.1. Citation letter to cease and desist from Code Enforcement Officer Suellen Seta, dated June 25, 2018.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the City Clerk on July 23, 2018.
- 6.3. Filing fee in the amount of \$300.00.
- 6.4. Memorandum from Attorney Eli Leino, dated July 23, 2018.
- 6.5. Treasurer and Collector comments, dated July 31, 2018.
- 6.6. Packet of social media advertisements and web listings submitted by the Building Department August 14, 2018.
- 6.7. Google Maps plan depicting site location and street view, dated July 23, 2018.
- 6.8. Map prepared by the City's Geographic Information Systems (GIS) software, MapGeo, entitled "Jawed Wahid – 125 Prospect Street" and dated July 23, 2018.

Exhibits 6.7 and 6.8 shall be hereinafter referred to as the "Plans".

7. Findings and Conclusions

Based upon its review of the Petition, exhibits, and the public hearing thereon, the Board makes the following findings and conclusions:

- 7.1 The property is located within the Single Family Residence (R-3) zoning district.
- 7.2 On July 23, 2018, the Appellants filed a petition with the City Clerk for the purpose of overturning the June 25, 2018 citation of the Code Enforcement Officer that the operation at the property was illegal.
- 7.3 Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on July 30 and August 6, 2018 and mailed to all parties-in-interest, as defined by M.G.L. c. 40A, §11.
- 7.4 Discussion centered on the number of attendees at gatherings, the frequency of gatherings, the methods of advertising on social media, the involvement of a non-for-profit corporation receiving revenue in connection with the events, and the impact on parking, circulation, and noise. While the Zoning Bylaw does not explicitly define the boundary between casual gatherings at a private residence, and a cultural or educational center, it is clear that the extent and organization of these gatherings exceed what most people would consider a casual private gathering. Fifty people parking on the front lawn and unauthorized at Walgreens; the involvement of and payments made to Learnquest; and the regularity and advertising of the events are evidence that such events belong at a properly permitted event space, not at a private residence.
- 7.5 After the Board concluded its deliberations, Mr. Meltzer made a motion to uphold the Building Commissioner's decision that the use was disruptive, illegal, and shall cease and desist. The decision of the Building Commissioner is therefore UPHELD.

8. Appeals

Appeals, if any, shall be made pursuant to M.G.L. c. 40A, §17 and shall be filed within twenty (20) days after the date of filing this Decision with the City Clerk.

ZONING BOARD OF APPEALS

By: 
Philip R. Ottaviani Jr., Chairman

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