

54 Elm LLC

3/13/2017

464 Common Street

Suite #322, Belmont, MA 02478

Houman Baiany,

LLC Manager

Cell: 617-504-8512 Email: BaianyRE@yahoo.com

Fred Torossian,

General Contractor/ Project Manager

Cell: 617-678-9988 Email: fredtoros@yahoo.com

RE: Extension of Approval for 54-56 Elm Street, Somerville, MA 02143,

Approved Case Number # ZBA 2014-83

Dear Members of the Zoning Board of Appeals

On February 4th 2015 then Board members approved our special permit to demolish a single story store front and a garage on the back of the property and construct a new retail space with a carport on the back and a single story residential unit above.

We soon started work on obtaining demolition and Building permits, as the manager of the LLC, I got in touch with Building, Electrical, Plumbing, DPW, Water, and Fire departments of the City and started to compile a list of items that needed to be done.

By June of 2015, it was clear to me that I needed to hire a general contractor to pursue the needed documentation and paper work needed to complete the application process. After interviewing multiple construction companies and waiting for their preliminary bids, I did hire JK construction at the end of August 2015 to act as the General contractor for this project.

Due to building boom that has been going on in City of Somerville and most of the Commonwealth, all the sub-contractors were very slow to get back to the GC and in turn took about 4

months to gather bids from various trades. By end of December 2015, the JK Construction had a final bids. Then he started to engage various sub-contractors with their respective City Inspectors.

Then each sub-contractor needed time to put together, drawings, electrical loads, engineering and many more detailed needed information that was requested by the Inspectors. Some of those took over 5 months to provide, and all the collective information were handed to the General Contractor in order to manage the project.

Part of these plans and calculations and information that was needed to proceed had a hefty price tag that we had to pay for until the project could begin. We accumulated many additional billing hours by architects, engineers, surveyors and sub-contractors.

Finally by May 2016, we were told that we had enough to submit for permit applications and within few days of that the Contractor had to leave for his home country of Vietnam to take care of an ill family member. As the owner/LLC manager, I was traveling weekly to visit my Mother in Long Island NY, since she was diagnosed with terminal cancer on May of 2015. My weekly travels to NY until Dec 25 2016 when she passed, was also causing distractions for me and my best efforts to manage a new search for a new General Contractor.

I final turned to a very experienced and qualified friend "Fred Torossian" whom was busy with a large 20 unit building in Boston. Once I asked for his help, he was close enough to the end of his Boston project that he offered to become the GC for %4 Elm project on July, 1st 2016.

Once we finalized a contract and got Fred up to speed with the architect and permitting process and few information that I was able to obtain from the original GC which he had disclosed to me, Fred got started with looking for, interviewing, collecting Bids and communicating with City Inspectors all over again. Soon after he started to make progress, he took ill himself and had few serious medical issues that lead to his Doctors ordering him not to work for few months.

He suffered heart attack on August 20th 2016, then had to have an eye operation due to Glaucoma on Aug, 22nd, 2016. He has included his Doctors letters with this application. Fred took much less time to rest than he was instructed by his Doctors and re-engaged with our permits and other related work. Unfortunately City had a massive construction project on and along Elm, Cedar and Mossland street that used our corner of Mossland and Elm as staging for all the heavy machinery, gravel, etc. This construction lasted well in to December as you may recall. (Photos are included in the application)

We tried to get all the utility companies to fulfill their part of the application process, such as Somerville water department, Eversource Gas, Eversource Electrical, Comcast, Verizon and RCN after Dig Safe had already marked the property for all utilities. Some took relatively short time and Eversource electrical took over 5 Months since our second application on October 2016 to complete the disconnecting of the service and provide us with the letter of proof required by the City to allow demolition.

Meanwhile Fred and I were fully engaged with Building Inspectors, Electrical Inspectors, DPW, Parking/Traffic, engineering and fire department to complete any and all required paperwork from respective departments. We finally were given the demo permit on March 3rd, 2017, Fred asked for his building permit and he was told that treasury department had a hold on the permit. Once he contacted me, I drove to the Treasury and asked what is the hold on our property, they showed me a \$150 snow ticket given on Feb, 20th 2017 for not fully shoveling the sidewalk during the snow storm. (Ticket, paid receipt and Certificate of good standing included in application)

Once that was cleared, then for the first time, ISD told Fred that Planning/Zoning has a hold on the building permit and for the first time we both learned that our special permit was cancelled on February 4th 2017 which I never got any form of notice from anyone telling me it is soon to be cancelled or has cancelled.

We immediately met with Mr. Hans Jensen and explained our position with this cancellation, Neither Fred nor I, knew that our special permit was or would be cancelled while we were in the process and fully pursuing all the necessary work needed to obtain both demolition and building permits. We engaged almost daily or few times per week with various inspectors and officials in ISD, traffic and fire department and not once anyone mentioned our special permit is soon to be canceled or ask about the status of our special permit while it was submitted few times and its details of what was or wasn't allowed were discussed with Fred multiple times.

Lastly, we had many challenges with obtaining financing for this project, since the approval of the special permit, we applied for construction loan to 3 local banks and 2 out of 3 agreed to consider giving us a loan for the amount of \$200,000.

Based on lowest bids and offers we have to date, the cost will be in \$400,000 and the commitments were only for half of what we needed. It was the fact that we had an existing mortgage and the new lenders who had to take the second position on this note were only willing to do \$200,00 in order to minimize their risk.

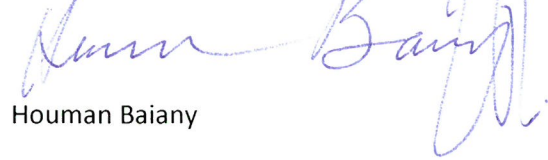
It wasn't until the July 2016 that existing mortgage holder agreed to give us a line of credit for this project, and we had to secure this line with an additional personal property that was unencumbered. That was the first opportunity that we had to know for sure we could finance this project and it came in at the time that Fred Torossian joined the team.

We thank the Board for taking the time and hearing our case, please keep in mind that despite many business, personal, family and health setbacks we soldiered on and did our best to accomplish our objective which was to obtain all necessary permits as soon as we could and start and finish the project as fast as we could. I have personally spent over \$50,000 so far and Fred has been spending over few hundred hours on this project and no one would go through all of this just to miss a deadline by couple of weeks.

Please consider our plea to grant an extension to our existing special permit due to hardship and allow us to fulfill our project. As a property owner and a business person in the City of Somerville since

1986, I have created jobs and opportunities in the City that has been very good to me in return, under the extraordinary circumstance that we described above regarding health, financial and personal hardship that myself and Fred Torossian have suffered would hopefully be considered fairly and justly by the Members of the Board.

Sincerely,



Houman Baiany

Please the timeline below to further demonstrate how everything mentioned in the above letter has impacted this project.

1. Feb, 4, 2015 decision to approve our special permit
2. Feb, 20th , 2015 Owner engaged the City for permitting
3. May, 2015 Owner's Family illness began
4. Jun, 2015 Owner engaged 5 different project managers/ General Contractors
5. Aug, 2015 Owner hired JK Construction as general Contractor
6. Dec, 2015 JK Construction collected all bids from sub-contractors
7. May, 2016 majority of Sub-Contractors had contacted their respective City Inspectors
8. May, 2016 JK Construction owner left country with all bids, contracts and paperwork from his various sub-contractors
9. Jul 1st , 2016 Fred Torossian was hired to manage the project
10. Aug 20th , 2016 Fred Torossian suffered heart attack
11. Aug 22nd , 2016 Fred Torossian had eye operation
12. Sep 28th , 2016 Fred Re-Engaged with project
13. Oct 2016, requesting utilities to fulfill their obligations
14. Nov & Dec & Jan & Feb 2016 and 2017 pursuing utility companies
15. Summer, Fall and up to December 2016 City's street project and road closings
16. Dec, 25th 2016, Owner's Mother passing
17. January 2017, Fred and owner pursuing all utilities, city Inspectors, Traffic department, Demolition company planning, fire department and DPW
18. Feb 2017, Fred making daily visits to ISD & Traffic departments
19. Mar 2nd 2017, Fred was made aware of the Treasury hold
20. Mar 2nd 2017, Owner paid the snow ticket from Feb 20th 2017
21. Mar 3rd 2017, Fred was granted Demolition permit
22. Mar 3rd 2017, Fred was made aware of the hold by Planning/Zoning Department
23. Mar 3rd 2017, Attorney Di Giralamo contacted Planing/Zoning on our behalf
24. Mar 9th 2017, Mr. Jensen recommended that we file for the hearing with ZBA Board.









Fred Torossian

1/24/2017 Documentation

MRN: 1054813

Department: **Bur Cardiology**

CSN: 175878180

Description: **Male DOB: 3/7/1954**Provider: **Maurizio Diaco, MD****Progress Notes**

**Lahey Hospital & Medical Center
Department of Cardiovascular Medicine
41 Mall Road
Burlington, MA 01805**

Date: 1/24/2017**Patient:** Fred Torossian**DOB:** 3/7/1954

To Whom It May Concern

Mr. Fred Torossian is a 62 years old male that is being followed by me for his history of coronary artery disease and prior MI in August 19,2016. Patient is employed as a contractor and on August 2019 2016 was working at construction site and carrying heavy construction material up to 5 flights of stairs when he developed a left-sided chest Pain. At time he also noted diaphoresis and fatigue. In spite of that he continued to work and on August 20, 2016 his symptoms worsen and in particular chest pain intensified. Patient was brought to Mount Auburn Hospital and confirmed to have an acute myocardial infarction and transferred to Lahey for further care. Patient eventually underwent an angioplasty and stent for treatment of his acute infarct.

It is more likely than not that the heavy physical work performed at a construction site on August in 19, 2016 triggered a plaque rupture and the acute myocardial infarction that patient experienced.

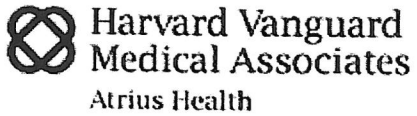
Sincerely,

Maurizio Diaco, MD, FACC

Electronically signed by Maurizio Diaco, MD at 1/24/2017 4:52 PM

Chart Review Routing History

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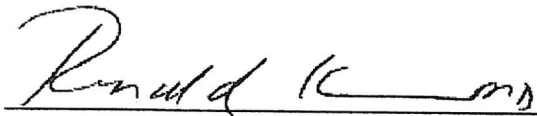
February 14, 2017

Fred Torossian
5 Morningside Ln
Lincoln MA 01773

TO WHOM IT MAY CONCERN:

Fred Torossian has coronary artery disease and he is limited from doing heavy physical work because of his condition.

Sincerely,



Ronald Kwon, MD
Internal Medicine