

CITY OF WALTHAM
ZONING BOARD OF APPEALS

January 6, 2026

The Zoning Board of Appeals held a public hearing at 7:00 P.M. on Tuesday, January 6, 2026 in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA.

In attendance were Mark Hickernell, Acting Chair, and members Matt Deveau, Glenna Gelineau, Sarah Hankins and Stephen Taranto.

Mr. Hickernell: Two cases tonight, first one since Mr. Sergi is not present and it's already been started with him on it, we will be looking to continue and I think we have discussed January 27th as a date in which the board is available.

Would the Petitioner or the Petitioner's represent come forward.

Attorney Philip B. McCourt, Jr., 272 Bacon Street, Waltham: That would be very acceptable. We appreciate that.

Mr. Hickernell: May I have that motion?

On motion of Mr. Taranto, seconded by Mr. Deveau, the board voted to continue Case No.2025-25 DIV 455 TPR, LLC, 455 Totten Pond Road, Chapter 40B, to January 27, 2026.

Mr. Hickernell: So we will see you on the 27th of January on that case.

Mr. Hickernell: The next case is a new case, Case No. 2025-40, 110 Clematis Avenue, Unit 2.

Would the clerk please read the petition.

The clerk read the petition in Case #: 2025-40. Petitioner/ Owner: Tico, Inc. Nature Of Appeal/Petition: Special Permit. Subject Matter: Petitioners seek to convert from the use of a gymnastics/ health and exercise facility use to a basketball/hoop center use. Location And Zoning District: 110-2 Clematis Avenue; Industrial Zoning District. Provisions Of Zoning Ordinance Involved: §3.7223 – (Rights of Nonconforming Structures, Uses, Buildings and Land) and (Change to a similar use of not less restricted character by special permit). Specific Relief Sought: Seeking a Special Permit to convert from a gymnastics / health and exercise facility to a basketball/ hoop center use.

Mr. Hickernell: May we hear from the Petitioner or the Petitioner's representative, please?

Attorney Philip B. McCourt, 272 Bacon Street, Waltham, the Petitioner's representative came forward and submitted a copy of his brief to each member of the board.

Mr. McCourt then read his brief into the record.

Mr. Hickernell: Thank you. Any questions from the board?

Ms. Hankins: Is there a change in the expected number of people to use it? It wasn't really clear to me what it kind of looks like now, I'm seeing it just kind of changing the layout interiorly. But are you expecting a higher volume in people?

Mr. McCourt: Actually probably less people because you have to sign up and it's more like a school and practice type thing. So, you wouldn't have people coming in where the other one you might have more generalized gymnastic type use. There's plenty of parking down there in the area and you're locked within the uh - - -

Ms. Hankins: I wasn't really thinking more of the parking but I was thinking like just in the past the people on Clematis Ave. complained about the volume, not really the parking. I know the parking area is fine. And just also if it's a similar use, are you going to have similar hours of operation?

Mr. McCourt: I don't actually know but I'm assuming it's definitely not a twenty-four hour operation. It's something probably more in the afternoon to maybe eight at night except for Saturdays where kids could come because I would assume it's an afternoon school use.

Ms. Hankins: Thank you.

Mr. Hickernell: Seeing nothing else from the board is there anybody in the audience who is in favor of this proposal?

Seeing none. Is there anybody seeking information? Seeing none, is there anybody against this proposal?

Maureen Flemming, 53 Circuit Lane, Waltham: I am a direct abutter to the back door of that building about fifteen feet from my property line and I have a number of issues

with that property in that they have not been taking care of the back end of the building.

Let me start with number one. Actually let me start with a little research that I have done.

I did some research on a number of similar facilities probably within at least a fifty mile radius of Boston and I went to one of those facilities and I looked at where those buildings were located. Not one single one of those type of facilities abutted a residential area, none of them - Franklin, Woburn, Lowell, a couple in Cambridge, Boston, Allston, Brighton, Medford. So that's number one. So if you approve it then you are setting a precedence because that just doesn't exist.

Number two: The previous space, there have been a number of HVAC issues over there and the previous space was a gymnastic center and they continuously left the back door open so I listen to screaming girls in my back yard and I'm talking about fifteen feet from the chain link fence and left the back door open. So I would have to go around up to Clematis Ave going in and ask them to please close the door because I have a very sick husband and he sits out in the back and it just stresses him out. So there are still HVAC issues over there. I see people on the roof at least a couple of times a week. They were over there yesterday trying to fix the HVAC. The rear door has no emergency stairs, it's just like probably about, I don't know I would say this much of a drop from (displaying it with her hand) the emergency exit to the ground. I have images if you would like to see.

Ms. Hankins: Did you report that to the building inspector or anybody in the city?

Ms. Flemming: Well, I - - -

Ms. Hankins: We're sort of limited in our like purview, that's all.

Ms. Flemming: Well I guess now that I've got the direction then I probably will. Also, since I've moved there since 2011 they have put shipping containers down at the end which block emergency access to the back which, of course again, I guess a building violation.

One of the other things and I mean emergency vehicles say for utilities have had to breach my property to get to the transformer that provides electrical service to that building and only that building not my street. So I have a number of issues with the noise and the inconvenience of having to drive around to Clematis Ave and I just don't think even with the door closed, I can hear noise. With it open, I can't even be back there. It's just too loud. I can imagine listening to a basketball. I work from home, when the window is open, I have to close my window. So that's why I am opposed.

Mr. McCourt: Can I ask you a question? There are no windows in the back, right? Just the door?

Ms. Flemming: Just the emergency exit, yes.

Mr. McCourt. And they were working on the HVAC today?

Ms. Flemming: They have been working on that HVAC for years. The guys are always up on top of the building. I'm out to my back yard and they are up on the building, and sitting in my living room I see the guys up on top of the building. It's an HVAC issue.

Mr. Hickernell: Is there anybody else who wishes to be heard?

Hearing none. Would the Petitioner want to reply?

Mr. McCourt: Obviously I don't know anything about the roof. I find it odd that they would be up there a lot. This building is owned by the Antico family, I think they try to take care of it pretty well. We certainly can agree that we would keep the back door locked except for emergency purposes. We wouldn't mind if that was a condition. We have no need to do that. This is a warehouse type building that's been there now for thirty years, forty years and I can't imagine you could hear anything out through the walls of the building but I can't control that but we can definitely control and make sure that part of the lease is that they don't leave the back door open and that it is for emergency purposes only.

I don't know what the access is. I believe Circuit Lane is up, right? You're not equal.

Ms. Flemming: We are on level with - - - yes.

Mr. McCourt: And shipping containers, I'll check on that. I didn't realize that. They are just stacked out?

Ms. Flemming: I think there are at least two of them that block the access from, I'd say that's the north side.

Mr. McCourt: Going around the rear of the building. You can's drive around the rear of the building, right?

Ms. Flemming: If you had an emergency I think that you would need to access the rear of the building.

Mr. McCourt: Well, I can't answer that but I'll make sure that those are removed. I don't understand.

Mr. Hickernell: Really we are here just talking about whether the use is actually more detrimental. You know the traffic and access fall into to a different department than ours. But I take your invitation to add that condition about making sure that the emergency exit is kept closed.

Mr. McCourt: We will certainly do that as a condition.

Ms. Hankins: I think, because here is the thing, like, whatever they're in now with gyms and like the noise that comes from that is a different story basketballs are doop, doop, doop. I've never played basketball and maybe I'd have PTSD from that so if there's a door open to a facility and there's a residential house nearby they are going to hear that basketball if there's a lot of basketballs going, so I would be strongly in favor of adding a condition that requires that the door that faces any residential which sounds like is the back area be closed at all times.

Mr. McCourt: And we would agree with that.

Mr. Hickernell: Are there any other questions from the board?

Hearing none. **Mr. McCourt,** have the Proposed Decision and Proposed Findings of Fact been on file.

Mr. McCourt: They have. They have been with Pam for a couple of weeks.

Mr. Hickernell: Other than this proposed additional condition everything is as filed.

Mr. McCourt: No changes.

Mr. Hickernell: May I have a motion to waive the reading of the Proposed Findings of Fact and Proposed Decision as filed.

On motion of Mr. Deveaux, seconded by Mr. Taranto the board voted to waive the reading of the Proposed Findings of Fact and the Proposed Decision.

Mr. Hickernell: Is there a motion on the Proposed Findings of Fact?

On motion of Mr. Deveaux, seconded by Mr. Taranto, the board voted that the Proposed Findings of Fact be adopted by the board as the board's Findings of Fact.

Roll call: Mr. Taranto, yes; Ms. Gelineau, yes Mr. Deveaux, yes; Ms. Hankins, yes, Mr. Hickernell, yes.

Mr. Hickernell: Is there a motion on the Proposed Decision as amended with the addition that the emergency exit in the rear of the locus be kept closed except on cases of emergency.

On motion of Mr. Deveaux, seconded by Mr. Taranto, the board voted that the Proposed Decision, as amended, be adopted by the board as the board's decision.

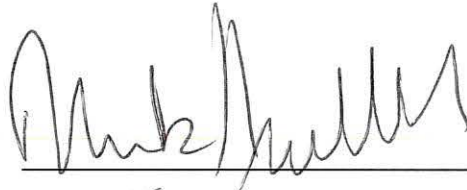
Roll call: Mr. Taranto, yes; Ms. Gelineau, yes Mr. Deveaux, yes; Ms. Hankins, yes, Mr. Hickernell, yes.

Mr. Hickernell: The Proposed Decision is the Decision of the board and the petition is granted with that amendment.

Mr. McCourt: Thank you very much. I appreciate it.

Mr. Hickernell: One more motion is in order.

On motion of Mr. Deveau, seconded by Mr. Taranto the board voted to adjourn at 7:19 P.M.


13 JAN 2021