

**COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT**

MIDDLESEX, SS.

MISCELLANEOUS CASE
NO. 20 MISC 000073 (HPS)

Galina Filippova, as Trustee of the)
PROSPECT STREET REALTY TRUST,)
Plaintiff,)
)
v.)
)
FRAMINGHAM ZONING BOARD OF)
APPEALS, and STEPHEN MELTZER,)
EDWARD COSGROVE, SUSAN)
CRAIGHEAD, JOHN MCKENNA,)
JOSEPH NORTON, HEATHER)
O'DONNELL, and LAP YAN, as they are)
the Members of the FRAMINGHAM)
ZONING BOARD OF APPEALS,)
Defendants,)
)
and)
)
Fredric W. Schelong, Trustee of the)
FREDRIC W. SCHELONG 1997)
REVOCABLE TRUST,)
Defendant-Intervenor.)
)

**JOINT STATEMENT OF AGREED FACTS IN SUPPORT OF MOTIONS FOR
SUMMARY JUDGMENT**

The plaintiff, Galina Filippova, as Trustee of the Prospect Street Realty Trust; the defendants Steven Meltzer, Edward Cosgrove, Susan Craighead, John McKenna, Joseph Norton, Heather O'Donnell, and Lap Yan, as they are the Members of the Framingham Zoning Board of Appeals; and defendant-intervenor Fredric W. Schelong, Trustee of the Fredric W. Schelong 1997 Revocable Trust; respectfully submit the following Joint Statement of Agreed Facts.

The Parties

1. The plaintiff, Galina Filippova, as Trustee of the Prospect Street Realty Trust ("Filippova"), owns the property located at 273 Prospect Street, Framingham, Massachusetts (the "Filippova Property").
2. The defendants named herein are the Framingham Zoning Board of Appeals and Steven Meltzer, Edward Cosgrove, Susan Craighead, John McKenna, Joseph Norton, Heather O'Donnell, and Lap Yan, in their capacity as Members of the Framingham Zoning Board of Appeals (collectively, the "Board").
3. The Defendant-Intervenor, Fredric W. Schelong, Trustee of the Fredric W. Schelong 1997 Revocable Trust, owns the property located at 259 Prospect Street, Framingham, Massachusetts (the "Schelong property") and is one of three properties that abut the Filippova property. Each of the three abutters were the appellants before the Framingham Zoning Board of Appeals. Of the three appellants, only Intervener Schelong is a party to this case.

The Property

4. Filippova owns the Property by deed dated July 10, 2018, and recorded with the Middlesex South Registry of Deeds ("Registry") at Book 71365, Page 93. Joint Appendix ("App.") Exh. 1.
5. Galina Filippova and Mikhail Filippov have resided at the Property since 2010, when they purchased the Property by deed dated March 15, 2010, and recorded with the Registry at Book 54550, Page 393. App. Exh. 2. Each holds a beneficial interest in the Filippova property.
6. The Property is situated in the Town's Single Residence (R-3) zoning district. App. Exhs. 3-4.

7. The rear, Eastern, lot line of the Property abuts the Schelong Property. Intervener Schelong purchased the Schelong property along with his late Wife in 1963 by deed recorded at Middlesex South Deeds in Book 10268, Page 199.

The Building Permit

8. On August 23, 2019, Mikhail Filippov applied for building permits to construct an 80 foot self supporting heavy-duty wireless tower (Permit #191912) and a “Shed Only” permit to install a 16 x 20’ shed in the rear yard of the Filippova Property (Permit #191908). Only the Building Permit for the 80-foot tower is at issue in this case. App Exh 5.

9. The building permit application sought a permit to excavate, lay rebars, pour a concrete foundation and install a stock 80 foot heavy-duty self-supporting tower and antenna to be located in the rear yard of the Property, 45 feet from the Schelong property line, and 37 feet from the next closest side lot line (bordering property which is not owned by Schelong at 261 Prospect Street and approximately 90 feet from the third abutter’s property line at 309 Prospect Street). The proposed location of the tower is depicted on a plan submitted with the building permit application. App. Exh. 6.

10. A building permit to construct the proposed amateur radio tower was issued by the Building Commissioner to Mikhail Filippov on October 10, 2019 (the “Permit”). App. Exh. 5. Subsequent to the issuance of the Permit, it was transferred to Galina Filippova, as Trustee of the Trust.

11. Mikhail Filippov possesses a Federal Communications Commission (“FCC”) AmateurRadio License with a callsign of KD1MF. App. Exh. 7.

The Permit Appeal

12. On or about October 21, 2019, the owners of the three residential properties directly abutting the Plaintiff's property filed a petition with the City of Framingham's Zoning Board of Appeals challenging the issuance of the permit to construct and install the 80 foot steel tower and antenna pursuant to G.L. c.40A, §§ 7, 8 and the Framingham Zoning By-law .
13. The Board held a public hearing on November 13, 2019, which was continued to December 11, 2019, and again to January 8, 2020.
14. At the conclusion of the January 8, 2020, session of the public hearing, the Board voted 3-0 to overturn the Permit.
15. The Board's Decision was filed with the City Clerk's Office on January 22, 2020. App. Exh. 8.
16. This case was entered in this Court on February 10, 2020.

Respectfully submitted,

Galina Filippova, Trustee of the
Prospect Street Realty Trust

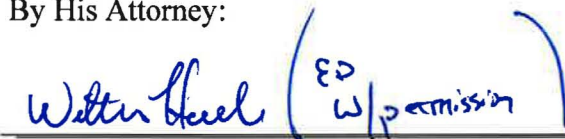
By Her Attorneys,



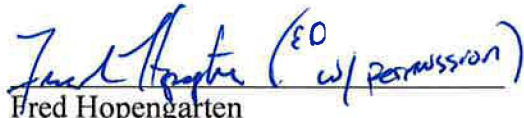
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FREDRIC W. SCHELONG, Trustee of the
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Intervenor,
By His Attorney:

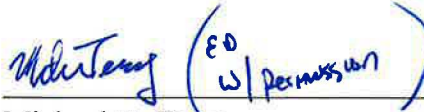


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Dated: July 24, 2020

CERTIFICATE OF SERVICE

I, Ethan Dively, attorney for the plaintiff, hereby certify that on this 24th day of July 2020, I caused a copy of the foregoing Joint Statement of Agreed Facts in Support of Motions for Summary Judgment to be served by email, upon the following counsel of record:

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