



Patricia O'Neil <poneil@natickma.org>

NTK Selectmen Meeting 5/14/18 - Objection to Natick Zoning Board Nomination Jason Makofsky May 2018 3 year term - updated

1 message

Young, David T. <david.t.young@medtronic.com>

Fri, May 11, 2018 at 4:02 PM

To: "selectmen@natickma.org" <selectmen@natickma.org>, "Bill Chenard," <chenard@natickma.org>

Cc: Larry Drolet <larryd@towerwall.com>, Michelle Drolet <michelled@towerwall.com>, "roy.lurie@gmail.com" <roy.lurie@gmail.com>, "mb.rettger@gmail.com" <mb.rettger@gmail.com>, "jenniferlea_young@yahoo.com" <jenniferlea_young@yahoo.com>

Hon. Richard P. Jennett, Jr
Hon. Susan G. Salamoff
Hon. Amy K. Mistrot
Hon. Michael J. Hickey, Jr
Hon. Jonathon Freedman

Natick Town Offices
[13 E. Central St.](#)
Natick, MA 01760

Natick Board of Selectmen ~

Per your direction, we met with Natick Building Inspector Michael Connelly the day after the town meeting on April 30, 2018. Selectman Michael Hickey had informed Mr Connelly that we would be stopping by and he had done some research on ZBA Committee member Jason Makofsky's defiance of "**Natick Zoning Board Decision on doc #47069 on book/page 63490/390 on 4/15/2014** to replace trees that he removed from the Devereaux property in the dark of night: "**CONCLUSION # 9** - *The petitioners shall make a good faith effort to work with the Department of Public Works to replace the three (3) trees that were removed with three (3) proposed 2" Cal Red Maples as shown on the Site Plan by Professional Land Surveyor, Robert A. Gemma, No. 37046, dated August 27, 2013, last revision date of January 6, 2014, referred to herein.*"

Mr Connelly agreed that this decision should have been enforced by his office – he made contact with Mr Makofsky. He will inform the board and us of the outcome of those discussions in writing. We also had a call with Art Goodhind, Natick LFNR Supervisor/Tree Warden, on the process of getting all the trees planted again at the end of Lowell Road noted in the **Natick Zoning Board Decision on doc #47069 on book/page 63490/390 on 4/15/2014**. He too will work with Mr Connelly and us on seeing all of this through to completion.

We will be attending the meeting on Monday night May 14, 2018. We have not seen an agenda as of yet but on 4/30/18 you were going to request that Mr. Makofsky attend the 5/14/18 meeting to review this matter and our other concerns for his reapplication to the Natick Zoning Board of Appeals. As requested in our original letter, we would like the following questions be asked of Mr Makofsky:

- Mr Makofsky defied Natick ZBA conclusions/mandates/decision from the **Natick Zoning Board Decision on doc #47069 on book/page 63490/390 on 4/15/2014** based on **CASE #2009-006 Map 18, lot 112 Book 41813, Page 156 – 12R Dartmouth Street Rear – Petitioner: Jason Makofsky and Kelly McQueeney**. When does he plan on complying? Will the ZBA fine Mr Makofsky? Has the ZBA fined anybody for defying zoning board conclusions? If yes where can those fines be located.
- Has Mr Makofsky ever brought up his **12R Dartmouth Street Natick** case and his personal zoning topic with other Natick Zoning Board members? Were/Are minutes taken at zoning meetings?
- Has Mr. Makofsky, while in Natick Zoning Board meetings, ever recuse himself from similar zoning frontage issues with his personal appeals for **12 R Dartmouth Street** that he lost with the Natick Planning Board, Natick Zoning Board of Appeals and the Massachusetts Land Court? If yes - has he in fact ever initiated that recusal - and if yes - for what detailed zoning applications?
- Is the Natick frontage issue law, as it exists, in any manner being repealed per direction of the Natick Zoning Board since Mr Makofsky took the position in 2015? If so what are the details of that request?
- Does Mr Makofsky have any current plans to develop a “driveway entrance” and gain access to Lowell Road? Is he planning to do anything in the future to gain this access?

We will send these questions above and below to Natick ZBA Chairman Scott Landgren and committee for their feedback:

Questions to the other Natick Zoning Board members since 2015:

-

- Mr Makofsky defied Natick ZBA conclusions/mandates/decision from the **(CASE #2009-006 Map 18, lot 112 Book 41813, Page 156 – 12R Dartmouth Street Rear – Petitioner: Jason Makofsky and Kelly McQueeney)**, that was delivered by the Natick Zoning Board on April of 2014. When does he plan on complying? Does the ZBA think he should be fined? Has Mr Makofsky and the ZBA fined anybody for defying zoning board conclusions?
- Has Mr Makofsky ever brought up his personal zoning case and topic with board members in or outside of meetings? Were/Are minutes taken at zoning meetings?
- Did Mr. Makofsky, while in Natick Zoning Board meetings, ever recuse himself from the Natick zoning frontage issue he pursued and lost with the Natick Zoning Board, Natick Zoning Board of Appeals and the Massachusetts Land Court? If yes - for what detailed zoning applications?
- Have any similar frontage issues (small frontage footage house seeking leniency to the 120' mandate) been brought up to the board? If Mr Makofsky was present - how did he vote?
- Is the Natick frontage issue law as it exists, in any manner, being repealed per direction of the Natick Zoning Board since Mr Makofsky took the position in 2015? If so what comments did Mr Makofsky offer the board? What are the details of this zoning repeal?

- Was Mr. Makofsky, while in Natick Zoning Board meetings, asked to recuse himself from the frontage issue he pursued and lost with the Natick Zoning Board, Natick

In closing, we once again go back to the first letter we wrote to the board back in 2011:

“So, it his background and this guileful history that compels each and every one of the undersigned from the Lowell Road and Vesta Road to be mindful of the “fox in the henhouse” cautionary tale and object in the strongest possible terms to Jason Makofsky *re*-joining the Natick Zoning Board or any other town position.”

Sincerely,

- **Nancy Devereaux** - [19 Lowell Road Natick MA 01760](#)
- **Michelle-Lawrence Drolet** - [14 Lowell Road Natick MA 01760](#)
- **David – Jennifer Young** - [3 Vesta Road Natick MA 01760](#)

***Please note that John Dennis - Kathy Kessel sold [18 Lowell Road](#) in November of 2012

From: Young, David T.
Sent: Monday, April 30, 2018 9:56 AM
To: 'selectmen@natickma.org' <selectmen@natickma.org>; 'Bill Chenard,' <chenard@natickma.org>
Cc: Larry Drolet <larryd@towerwall.com>; Michelle Drolet <michelled@towerwall.com>; 'roy.lurie@gmail.com' <roy.lurie@gmail.com>; 'mb.rettger@gmail.com' <mb.rettger@gmail.com>; jenniferlea_young@yahoo.com
Subject: PLEASE USE THIS VERSION: Objection to Natick Zoning Board Nomination Jason Makofsky May 2018 3 year term

April 30, 2018

Hon. Richard P. Jennett, Jr
Hon. Susan G. Salamoff
Hon. Amy K. Mistrot
Hon. Michael J. Hickey, Jr
Hon. Jonathon Freedman

Natick Town Offices
[13 E. Central St.](#)

Natick, MA 01760

Natick Board of Selectmen ~

My apologies – please use this attached letter for our discussion this evening on the re-application of Jason Makofsky to Natick Zoning Board.

We will bring an image folder to the meeting for your review as well (file was too large to email).

Thank you for this consideration.

David

David T. Young

[3 Vesta Road](#)

[Natick MA](#)

From: Young, David T.
Sent: Friday, April 27, 2018 4:22 PM
To: selectmen@natickma.org
Cc: 'Bill Chenard,' <chenard@natickma.org>; Larry Drolet <larryd@towerwall.com>; Michelle Drolet <michelled@towerwall.com>; 'roy.lurie@gmail.com' <roy.lurie@gmail.com>; 'mb.rettger@gmail.com' <mb.rettger@gmail.com>; jenniferlea_young@yahoo.com
Subject: FW: Objection to Natick Zoning Board Nomination Jason Makofsky May 2018 3 year term

April 27, 2018

Hon. Richard P. Jennett, Jr
Hon. Susan G. Salamoff
Hon. Amy K. Mistrot
Hon. Michael J. Hickey, Jr
Hon. Jonathon Freedman

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Natick Board of Selectmen ~

Please see the attached – this letter was sent to the Natick Board of Selectmen back in early 2011. Based on a recent discovery it is noteworthy that the opening paragraph used then can be used here again in 2018 with only one simple adjustment below in **bold font**. With that...

*“As very concerned residents of Lowell and Vesta Roads, we are compelled, as a group and individually, to connect you about a matter to be before you. We are aware our neighbor Jason Makofsky intends to **re-apply** for the opening on the Natick Zoning Board. This concerns us very much.”*

We realize that none of you were on the board at the time but think that the **Hon. Michael Hickey, Jr** will be able to give the current board some context to this topic. We attended a Natick Board meeting in early 2011 to object, in person, to Mr. Makofsky’s application to the Natick Zoning Board. This board at the time – **Carol Gloff, John Connolly, Charlie Hughes, Joshua Ostroff and Paul Josephs** – voted unanimously to **not** allow him (Makofsky) to be on the Zoning Board due to many conflict of interests with local and state zoning lawsuits that he was litigating at the time. We thought we had notified the correct parties and Mr. Makofsky would be red flagged throughout the town system for any future zoning positions. We were wrong.

We were just recently made aware that Mr. Makofsky had applied at the end of 2014 and was appointed to the Natick Zoning Board in 2015. We searched files recently and located Natick town meeting minutes that were posted to his application process. We missed the notification that was publicly posted indicating Mr. Makofsky’s intent to serve on the zoning board. However, we do feel that the town was presented with - again quoting our letter in 2011 - “...a well-documented and “curious” history with this individual that contains multiple chapters of an invasive project, unhappy neighbors and abutters and questionable dealings.” with Mr. Makofsky. As noted, the board unanimously agreed with us and his application was rejected. To paraphrase **Carol Gloff** after that decision: “Mr Makofsky – never in all my years of service to Natick have I seen 11 neighbors show up to protest a voluntary assignment in Natick.” And yet he was approved a few years later. Fast forward to [Natick Board of Selectmen meeting minutes on February 17, 2015](#):

- **Appointment of an Associate Member to the Zoning Board of Appeals** By paper ballot, Jason Makofsky received 4 votes and was appointed an associate member to the Zoning Board of Appeals. Chairman Ostroff, Mr. Hughes, Mr. Mabardy voted for Mr. Makofsky. Mr. Connolly voted for Ms. Soleil Charbonnier.

The Board of Selectmen had changed but **Hon. Joshua Ostroff, Charlie Hughes and John Connolly** were all part of both sessions concerning Mr Makofsky’s two applications for the Zoning Board. Former Town Administrator **Martha White** was as well. The 2nd meeting in 2015 Hon. John Ostroff and Charlie Hughes voted in favor for Mr. Makofsky. Hon. John Connolly voted for another candidate. Noted in a news article attached (link below) - all candidates were interviewed prior to voting: <http://www.wickedlocal.com/article/20140520/news/140529885>

Questions – how did Mr. Makofsky explain away his history with losing zoning litigation with the town of Natick and the state of Massachusetts? If asked - how did he explain how he would handle any frontage issue brought in front of him if elected? Was he asked if he would recuse himself on this topic consistently? Did any of the interviewers call out the numerous conflicts of interests that Mr Makofsky would face in this Zoning Board role?

We understand from the [Natick Annual report](#) that:

- **ZONING BOARD OF APPEALS** - *The Natick Zoning Board of Appeals (the "Board") operates pursuant to applicable provisions of Chapter 40A of the Massachusetts General Laws and the Town of Natick Charter and By-Laws. The Board consists of eight members (five regular members and three associate members) appointed by the Board of Selectmen, which seeks to maintain at least one attorney, one architect, and one civil engineer or builder. The positions are completely voluntary and are in no way compensated with Town or any other funds. Within the membership as prescribed under the Town By-Laws, the Board elects a Chair, Vice-Chair, and a Clerk*

Mr Makofsky describes himself as an environmental attorney with practice in contracts and real estate. On paper he would be a likely candidate. From the news article we can see that two other attorneys applied for the position:

- "...**David Jackowitz**, a general land use attorney..."
- "...**Benjamin Ferrucci**, who is a tax attorney..."

Mr Ferrucci (see background attached) claims no zoning experience - but **Mr Jackowitz**? Did these two candidates have any personal home zoning litigation with the town of Natick as did Mr. Makofsky? Are notes taken during these "interviews"? Are they available to the public? Did anybody consider that, in fact, that Mr Makofsky's assessments of zoning laws are obviously inadequate proven by not one but three losing verdicts at the highest levels in Natick Zoning Board, Natick Zoning Board of Appeals and the Massachusetts Land Court? As part of his approval to the Zoning Board in 2015 - was it noted that he would have to recuse himself from the obvious frontage zoning issue he pursued in litigation by the Natick selectmen? Mr. Makofsky is on record on a televised broadcast in early 2011 when he applied for the board – Hon Charlie Hughes asked him about how he would address open appeals that are pending. Mr. Makofsky said *he would take himself off from voting on personal issues*. We found nothing to this in the 2014 interview process where he was approved.

Questions are endless but Mr. Makofsky in the end was approved to be on the Zoning Board in 2015. We are not missing this opportunity to object - once again - to his re-application for the Natick Zoning Board here in 2018. We are requesting that we allowed to be present when Mr. Makofsky is interviewed again by the Natick Board of Selectmen for a term starting in 2018. We also are requesting that the following questions be asked to Mr. Makofsky:

- Did Mr. Makofsky, while in Natick Zoning Board meetings, ever recuse himself from the frontage issue he pursued and lost with the Natick Zoning Board, Natick Zoning Board of Appeals and the Massachusetts Land Court? If yes - has he in fact ever initiated that recusal - and if yes - for what detailed zoning applications?
- Have any similar frontage issues (small frontage footage house seeking leniency to the 120' mandate) been brought up to the board? If Mr Makofsky was present - how did he vote?
- Has he ever brought up his case and his personal zoning topic with other Natick Zoning Board members? Were/Are minutes taken at Natick Zoning Board meetings?
- Is the Natick frontage issue law, as it exists, in any manner being repealed per direction of the Natick Zoning Board since Mr Makofsky took the position in 2015? If so what are the details of that request?

- Is Mr Makofsky compliant with all the final conclusions/mandates/decision from the - **APP 9 CASE #2009-006 Map 18, lot 112 Book 41813, Page 156 – 12R Dartmouth Street Rear – Petitioner: Jason Makofsky and Kelly McQueeney** - that was delivered by the Natick Zoning Board in February of 2010.? (see attached)

Questions to the other Natick Zoning Board members since 2015:

- Has Mr Makofsky ever brought up his personal zoning case and topic with board members in or outside of meetings? Were/Are minutes taken at zoning meetings?
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Mr. Makofsky was rejected by the Natick Zoning Board (**CASE #2009-006 Map 18, lot 112 Book 41813, Page 156 – 12R Dartmouth Street Rear – Petitioner: Jason Makofsky and Kelly McQueeney**), Natick Zoning Board of Appeals and the Massachusetts Land Court, Nevertheless, Mr Makofsky still built his house with a garage in what is his backyard facing Lowell Street (see attached images). While he and his wife park their cars every night on Dartmouth Street, they have used Lowell Road "driveway" in the past with U-Haul's, boats, trailers, motorcycles and bicycles. Mr Makofsky was mandated by the Natick Zoning Board to replace trees and shrubs that he removed from the Devereaux property in the dark of night: *"CONCLUSION # 9 - As represented, the Petitioners are responsible for installing and maintaining three (3) replacement trees at the end of Lowell Road as represented on the Proposed Site Plan dated February 25, 2010, referred to herein."* As of April 2018 – over 8 years later – Mr. Makofsky still has NOT replaced them. A Natick Zoning Board conclusion page from this case is attached. We will send the Natick Board of Selectmen a separate letter on a request for your help in how this landscaping mandate can be processed for Nancy Devereaux.

Please know that this clearing of the foliage then and now was/is a clear attempt to show the town of Natick that this Lowell Road fantasy "driveway" always existed. We will be meeting with the Natick Building Inspector again to present these continual developments regarding the property at **12R Dartmouth Street** in Natick.

It is our opinion that Mr. Makofsky still has every intention of seeing the passage of his property frontage issue, in due time, to gain access to Lowell Street from his Dartmouth Street property – and the participation within the Natick Zoning Board, in which he was rightfully rejected unanimously on his first application, will only aid him in his personal quest.

To close, we once again return to the 2011 letter sent to the Natick Board of Selectmen – it is valid now as it was then:

“So, it his background and this guileful history that compels each and every one of the undersigned from the Lowell Road and Vesta Road to be mindful of the “fox in the henhouse” cautionary tale and object in the strongest possible terms to Jason Makofsky **re**-joining the Natick Zoning Board or any other town position.”

Sincerely,

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- **David – Jennifer Young** - [3 Vesta Road Natick MA 01760](#)

Please note that John Dennis - Kathy Kessel sold [18 Lowell Road](#) in November of 2012

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