

**MINUTES OF THE PROCEEDINGS OF THE
ZONING BOARD OF APPEALS OF THE CITY OF WORCESTER
September 14, 2020**

Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor’s March 23, 2020 Order, as amended, imposing strict limitation on the number of people that may gather in one place, this meeting was conducted through remote participation. The meeting was livestreamed from the City of Worcester website and via the local cable access channel and is available for streaming online. Public participation was facilitated through a call-in number, 415-655-0001 (Access Code: 1608847670#), which was publicized on the posted meeting agenda and during the video broadcast.

Zoning Board Members Joseph Wanat, Chair
Participating: Andrew Freilich, Vice Chair (joined briefly prior to Item #2)
Jordan Berg Powers
George Cortes
Russell Karlstad, Alternate Member
Robert Haddon, Alternate Member

Zoning Board Members Not
Participating:

Staff Participating: Stephen Rolle, Division of Planning & Regulatory Services
Amanda Molina Dumas, Division of Planning & Regulatory Services
John Kelly, Inspectional Services Division

Call to Order – 6:00 PM

Requests for Continuances, Extensions, Postponements & Withdrawals

Item #3: **1193 (aka 1239) & 1243 (aka 1241) Millbury Street (ZB-2020-036)**
Special Permit: To allow open lot storage of more than one (1) unregistered automobile in excess of seven (7) days (Article IV, Section 2, Table 4.1, General Use #13)
Special Permit: To allow open lot storage and/or salvage recycling operations (Article IV, Section 2, Table 4.1, Manufacturing Use #8)
Petitioner: Boakye Osei Bonsu
Present Use: Presently on the premises at 1243 (aka 1241) Millbury Street are two buildings – a +/-1,319 SF commercial building, formerly used as convenience store, and a +/- 3,480 SF commercial building, formerly used for retail food sales – each with associated surface parking and at 1193 (aka 1239) Millbury Street is a surface parking lot used for open lot storage of vehicles.
Zone Designation: MG-1.0 (Manufacturing, General) zoning district and the Blackstone River Parkway Sign Overlay District (BSOD)
Petition Purpose: To allow open lot storage of vehicles on both lots, to convert the existing +/- 3,480 SF commercial building into a garage to be used for dismantling of vehicles, with the existing +/- 1,319 SF building to remain, and conduct associated site work
Public Hearing Deadline: 9/11/2020 Constructive Grant Deadline: TBD

Request to Postpone the Public Hearing to October 5, 2020
Extend the Constructive Grant Deadline to October 20, 2020

Upon a motion by George Cortes, seconded by Jordan Berg Powers, the Board voted 5-0 to grant the postponement.

Item #7: 32 Tirrell Street (MBL 07-014-00009) (ZB-2020-047)
Special Permit: To modify parking, loading requirements, dimensional requirements, layout, and/or the number of required spaces and/or landscaping requirements (Article IV, Section 7)
Variance: For relief from the minimum lot area dimensional requirement for a multi-family low-rise use in an RG-5 Zone (Article IV, Section 4, Table 4.2)
Variance: For relief from the minimum parking requirements for a residential use (Article IV, Section 7, Table 4.4)
Petitioner: 32 Tirrell Street, LLC
Present Use: Presently on the premises is an existing single-family detached dwelling and a detached garage and shed, with associated site improvements.
Zone Designation: RG-5 (Residence, General) zoning district
Petition Purpose: To demolish the existing dwelling and site improvements in order to construct a multi-family low-rise dwelling (with a total of 6 units), to construct associated parking, and conduct related site work
Public Hearing Deadline: 11/6/2020 Constructive Grant Deadline: 12/11/2020

Request to Postpone the Public Hearing to October 19, 2020
Extend the Constructive Grant Deadline to November 10, 2020

Upon a motion by George Cortes, seconded by Jordan Berg Powers, the Board voted 5-0 to grant the postponement.

Approval of Minutes – 5/11/2020; 6/15/2020; 6/22/2020; 7/13/2020

Ms. Molina Dumas stated that approval of minutes should be held until the October 19, 2020 meeting.

Old Business – Public Hearings

Item #1: 73A (aka Lot A-1) & 73B (aka Lot A-2) Progressive Street (MBL 34-012-00013) (ZB-2020-031)
Lot A-1 Progressive Street (Proposed):
Variance: For relief from the minimum lot area dimensional requirement for a single-family semi-detached dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)
Lot A-2 Progressive Street (Proposed):
Variance: For relief from the minimum lot area dimensional requirement for a single-family semi-detached dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)
Petitioner: Dennis Dean
Present Use: Presently on the premises at 73A Progressive Street (aka proposed Lot A-1 & A-2) is a single-family detached dwelling, with associated site improvements.
Zone Designation: RL-7 (Residence, Limited) zoning district
Petition Purpose: To demolish the existing dwelling and site improvements, divide the existing lot into two, construct a single-family semi-detached (aka duplex) dwelling (with a total of 2 dwelling units), and conduct related site work.
Public Hearing Deadline: 8/3/2020 Constructive Grant Deadline: 11/1/2020

Hearing Opened with: JBP, GC, RH, RK, JW

Mr. Wanat gave an overview of the application and relief requested.

Donald O'Neil, attorney on behalf of the applicant with an office at 688 Pleasant Street, described why the hearing had been continued from the last meeting, which was to determine whether trees in the front yard could be saved; stated that site plan has been revised to move garages and driveways of proposed duplexes farther apart, which allows for oak tree to be saved; confirmed that applicant intends to sell the units to be owner-occupied; stated that prior tenant was evicted from existing single-family home; stated that presence of mold on existing structure necessitated demolition; reiterated lot area relief being requested from the Board; described off-street parking provided; described infiltration units proposed per Planning recommendation; stated that two additional trees are proposed for the lot.

Ms. Molina Dumas gave further background on the application and why it was continued from the last meeting; described other structures along the street in regards to their conformity with the zoning ordinance.

Mr. Wanat stated that he was satisfied with proposed infiltration units and had no questions for the applicant.

No other Board discussion.

Public Comment

Jeanne Davis of 62 Progressive Street reiterated her concern for the size of the structure and the trees; stated that people currently residing in the single-family structure have said that owner does not intend to tear it down; stated that she is concerned about the building remaining vacant and that current condition of the property, with rats and other nuisances, is affecting the neighborhood; stated that she would like these concerns addressed.

Mr. Wanat stated that applicant has confirmed that building would be razed.

Ms. David reiterated that she feels the proposed building is too big and does not think a duplex should be squeezed in; also noted that a utility pole may be an issue.

Mr. O'Neil stated that he was unaware of "squatters" but that it further confirms that building should be demolished; reiterated that duplexes are allowed by-right in RL-7 and that they would be consistent with neighborhood; reminded Board that they are sufficient with regard to frontage and setback; stated he was unaware of utility pole.

Mr. Wanat asked applicant to confirm that utility pole would not be impacted; Mr. O'Neil stated that it is not in-line with driveway and there should be no impact.

Mr. Wanat suggested that Ms. Davis call authorities should squatters not vacate.

Ms. Davis stated that she is a believer in green space and believes that it is better to maintain existing homes.

George Spencer, co-owner of 62 Progressive Street, stated that he believes pole is misrepresented on the plan; stated that there is rock ledge on the property that is not accounted for and wanted to confirm that there would not be blasting.

Mr. Wanat stated that ledge and blasting had been addressed at last meeting and that no blasting is proposed.

Mr. O'Neil stated that he was not aware of any plans for blasting, and if there were blasting, it would require surveys and Fire Dept approval and supervision.

Board Discussion

Mr. Cortes asked who the existing fence belongs to and would they be torn down and/or replaced.

Ms. Davis stated that fence has been removed.

Mr. O'Neil stated that applicant would not object to fencing being conditioned by the Board.

Mr. Cortes stated his support for a fence and suggested the applicant meet with the neighbors to discuss.

Mr. O'Neil reiterated that they would be open to a condition.

Mr. Haddon stated that a fence should not be conditioned if the abutters do not want a fence.

Mr. Wanat suggested that it be up to applicant to work with abutter.

Mr. Cortes stated that the utility pole could be a safety issue due to its proximity to the driveway.

Mr. Wanat stated that the pole is not on the applicant property and is within the ROW.

Mr. Haddon stated that cars would be driving very slowly.

Mr. Rolle recommended that Board not condition anything with regards to the pole.

Mr. Rolle suggested that due to rodent issues an exterminator should come prior to demolition.

Mr. Kelly stated that rodent extermination is not typically conditioned by the City prior to demolition.

Mr. O'Neil stated that he would speak to his client about the rodent issue.

Mr. Rolle suggested that they condition building be secured until demolition and that an exterminator be procured prior to demolition.

Mr. Wanat agreed to that condition along with condition that applicant speak with abutter regarding fencing.

Mr. Haddon noted that the Board is also conditioning that should blasting occur, a survey is done first.

Upon a motion by Mr. Haddon, seconded by Mr. Berg Powers, the Board voted 5-0 to close the hearing.

Mr. O'Neil confirmed that he was requesting waivers as included in staff memo.

Upon a motion by Mr. Haddon, seconded by Mr. Berg Powers, the Board voted 5-0 to accept the petitioner's request for 73A and 73B Progressive Street for a variance on Lot A-1 for relief of 500 SF from the 4,000 SF minimum lot area dimensional requirement for a single-family semi-detached dwelling in an RL-7 Zone and for a variance on Lot A-2 for relief of 500 SF from the 4,000 SF minimum lot area dimensional requirement for a single-family semi-detached dwelling in an RL-7 Zone, subject to conditioned outlined in staff memo with three friendly amendments:

If any blasting of ledge is proposed, an existing condition or pre-blast survey shall be conducted by the applicant of the abutters' properties.

The applicant shall coordinate with direct abutters to the North (left) and South (right) to determine if any fencing and/or shrubbery on the subject property is preferred by the abutters, along the respective property lines, to provide screening

Property must be secured immediately and shall be exterminated before demolition

and grant requested waivers.

New Business – Public Hearings

Mr. Rolle thanked Mr. Freilich for his years of service on the Board.

Mr. Wanat additionally thanked Mr. Freilich for his years of service.

John Kelly additionally thanked Mr. Freilich.

Item #2: 60 Wall Street (MBL 04-011-09+10) (ZB-2020-014)

Special Permit: To modify parking, loading requirements, dimensional requirements, layout, and/or the number of required spaces and/or landscaping requirements (Article IV, Section 7)

Variance: For relief from the minimum lot area dimensional requirement for a single-family attached dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Wall Street Rentals Realty Trust

Present Use: Presently on the premises is a vacant lot.

Zone Designation: RG-5 (Residence, General) zoning district

Petition Purpose: To construct a single-family attached dwelling (with a total of 4 dwelling units), and to conduct associated site work

Public Hearing Deadline: 9/14/2020

Constructive Grant Deadline: TBD

Hearing Opened with: JW, JBP, GC, RK, RH

Mr. Wanat gave an overview of the application.

Zac Couture with H.S.T. Group described the relief requested; stated that applicant is seeking Special Permit to modify parking to allow four curb cuts along Montreal Street and to expand 61% impervious in the front yard; stated that the applicant objects to condition of approval requiring that site be fully compliant with MA Stormwater Standards as this should be considered a smaller project not subject to them; stated that making project compliant with standards would render it unfeasible; stated that they are could propose dry-wells and that possible infiltration system locations are limited.

Ms. Molina Dumas gave additional details on the application, explained reason for relief for curb cuts; additionally explained reason for percent impervious increase; asked applicant to comment on reasoning for retaining wall; asked applicant to describe egress from the decks.

Mr. Couture stated that an approval to improve Montreal Street will be sought but until then the grade cannot be modified and therefore the retaining walls are needed; in regards to tree planting, stated that it is not possible to do both a drywell and a tree in the front of the house.

Mr. Rolle asked Mr. Couture to confirm that drywells would be proposed for the front; Mr. Couture confirmed and explained the reasoning for their location.

Mr. Rolle stated that details in regard to infiltration locations can be worked out for the Planning Board submission; in regards to stormwater issue, the Planning Board will also receive a checklist; stated that deviations from front-yard paving ordinance were expected and the variance is appropriate in this case.

Mr. Wanat stated that catch-basins on the roadway can be improved through roadway improvement; Mr. Couture confirmed that this is part of the plan.

Board Discussion

Mr. Cortes commended the applicant on the project.

Mr. Wanat asked whether utility lines at end of Montreal would be impacted; Mr. Couture stated that one line would have to be moved and it will occur under the guidance of National Grid.

Mr. Berg Powers stated his concern about grading of site leading to water running into existing dwellings and his hope that Planning Board takes that issue seriously in their site plan review.

Mr. Couture responded that grading plan shows that applicant will be mitigating this issue.

No public comment.

Mr. Wanat asked Mr. Couture to confirm waivers being requested, Mr. Couture confirmed applicant is requesting waivers described in staff memo.

Mr. Couture asked for change in wording to condition of approval #2 in the staff memo.

Mr. Wanat suggested they removed the word “fully” and add “to the maximum extent practical”; Mr. Couture agreed.

Mr. Rolle stated that City is comfortable with the change.

Upon a motion by Mr. Berg Powers and seconded by Mr. Cortes, the Board voted 5-0 to close hearing.

Upon a motion by Mr. Haddon and seconded by Mr. Cortes, the Board voted 5-0 to grant a withdrawal of the request for a variance.

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to grant a Special Permit to modify parking, loading requirements, dimensional requirements, layout, and/or the number of required spaces and/or landscaping requirements, subject to staff recommended conditions of approval, amending condition 2 to remove the word “fully” and adding to the end of the sentence “to the maximum extent practical”, and to grant requested waivers.

Item #4: **353 Chandler Street (MBL 11-036-00001) (ZB-2020-039)**

Special Permit: To allow the extension, alteration or change of a privileged pre-existing, nonconforming structure and/or use (Article XVI, Section 4)

Variance: For relief from the minimum frontage dimensional requirement for a three-family detached dwelling in a BL-1.0 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Spiro Kelly

Present Use: Presently on the premises is a privileged, non-conforming two-family detached dwelling and a detached garage, with associated site improvements.

Zone Designation: BL-1.0 (Business, Limited) zoning district

Petition Purpose: To construct an addition in order to convert the existing two-family detached dwelling into a three-family detached dwelling, and to conduct associated site work

Public Hearing Deadline: 10/31/2020

Constructive Grant Deadline: 12/5/2020

Hearing Opened with: JW, JBP, GC, RK, RH

Mr. Wanat gave an overview of the application.

Spiro Kelly, applicant, described the reasoning for the requested relief—building a third apartment on the top floor of the existing structure; there will be adequate parking; they will submit additional plans showing the egress of the parking.

Ms. Molina Dumas gave additional background on the proposed renovation and why relief is needed; described condition of approvals and reasoning for suggested elimination of one parking space; asked applicant if lighting is proposed.

Mr. Kelly responded that there is sensor-lighting in the backyard and on the garage; noted that there is also security camera; stated that revised drawing would be submitted.

Mr. Rolle stated that per Fire Dept comments, a sprinkler system will need to be installed.

Mr. Kelly confirmed he intends to install sprinklers.

No public comment.

Mr. Kelly confirmed he is requesting waivers as outlined in staff memo.

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to close hearing.

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to grant a Special Permit to allow the extension, alteration or change of a privileged pre-existing, nonconforming structure and/or use and a Variance for relief of 23 FT from the 120 FT minimum frontage dimensional requirement for a three-family detached dwelling in a BL-1.0 Zone, subject to staff recommended conditions of approval, and to grant requested waivers.

Item #5: 224 Brooks Street (MBL 23-003-002-4) (ZB-2020-044)

Special Permit: To allow single-family attached dwellings in an RL-7 Zone (Article IV, Section 2, Table 4.1 Residential Use #12)

Petitioner: Robert Clark

Present Use: Presently on the premises is a vacant lot.

Zone Designation: RL-7 (Residence, Limited) zoning district

Petition Purpose: To construct two structures to be used as single-family attached (townhouse style) dwellings (with a total of 6 units), and to conduct associated site work

Public Hearing Deadline: 10/31/2020

Constructive Grant Deadline: TBD

Hearing Opened with: JW, JBP, GC, RK, RH

Mr. Wanat gave an overview of the application.

John Grenier, J.M. Grenier Associates, on behalf of applicant, described the existing lot and proposed development; stated that all zoning dimensional requirements are met; described parking layout; described stormwater capture; described proposed plantings, described meeting with the Conservation Commission.

Mr. Rolle discussed staff comments and suggested conditions of approval, including condition that one tree be planted per lot and that the development comply with MA Stormwater Standards.

Mr. Wanat had no comments.

Mr. Berg Powers asked about access to the site; Mr. Rolle clarified that all access would come from the southern end of Brooks Street.

Mr. Cortes asked about trash collection; Mr. Grenier in response asked if other homes on the street had trash collection; Mr. Rolle clarified that they would be treated as single-family homes for trash collection.

Mr. Karlstad suggested that City should connect Brooks Street given developments in the area.

Mr. Wanat suggested that a traffic study should be done.

No public comment.

Upon a motion by Mr. Berg Powers and seconded by Mr. Cortes, the Board voted 5-0 to close the hearing..

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to grant the Special Permit to allow single-family attached dwellings in an RL-7 Zone subject to staff recommended conditions of approval and to grant requested waivers.

Item #6: 18 (aka Lot 25A & Lot 27) Adelle Circuit (MBL 29-024-0025B) (ZB-2020-046)

Lot 27 Adelle Circuit (Proposed)

Variance: For relief from the minimum frontage dimensional requirement for a single-family detached dwelling in an RS-7 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Silverman & Shepard, LLC

Present Use: Presently on the premises at 18 Adelle Circuit (aka Lot 25A) is a privileged, non-conforming, single-family detached dwelling, and on proposed Lot 27 is a vacant lot.

Zone Designation: RS-7 (Residence, Single Family) zoning district

Petition Purpose: To divide the existing lot into two, with the existing dwelling at 18 Adelle Circuit to remain (on Lot 25A), and to construct a new single-family detached dwelling on proposed Lot 27, and conduct related site work

Public Hearing Deadline: 10/31/2020

Constructive Grant Deadline: 12/5/2020

Hearing Opened with: JW, JBP, GC, RK, RH

Mr. Wanat gave an overview of the application.

Donald O'Neil on behalf of the applicant gave background on the property and described the reason for the requested relief; stated that they are amendable to staff recommended conditions of approval; requested recommended waivers.

Ms. Molina Dumas described staff recommendations for conditions of approval; Mr. O'Neil reiterated that they were amendable to them.

Mr. Wanat asked applicant to clarify that there would not be any grading; Mr. Rolle stated that plan over-represents steepness of the terrain.

Mr. Cortes asked about shed shown to be bivouacked by the proposed lot line; Mr. O'Neil stated that it is to be removed.

Public Comment

Eric Spencer, owner of 14 Adelle Circuit, stated that neighborhood is unhappy with development clear cutting; stated that property is now unsafe; stated that slope of property is steeper than Board realized; stated his concern about drainage; stated the impact of the loss of shade from tree cutting.

Mr. Wanat described tree plantings that are a condition of approval; Mr. Spencer stated his desire for a hedge.

Mr. Spencer stated that he would like to speak to property owner and would like to know the reasoning for the hours of work.

Charbel Najem, property owner of 18 Adelle Circuit, stated that he did introduce himself to neighborhood across the street, the neighbor to the left, and the neighbor to the back of the property; stated the reason for the existing foundation; explained the reason for the hours of work; explained why a hedge would be ineffective;

Mr. Wanat suggested that some kind of screening would be appropriate; Mr. Najem stated he would be amendable to constructing screening.

Mr. Rolle made a suggestion of possible tree species plantings.

Mr. Wanat and Mr. Rolle discussed a condition of approval.

Mr. Spencer reiterated that he would like Mr. Najem to reach out to him.

Mr. O'Neil confirmed waivers being requested.

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to close the hearing.

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to grant a Variance on Lot 27 for relief of 5 FT from the 65 FT minimum frontage dimensional requirement for a single-family detach dwelling in an RS-7, subject to staff recommended conditions of approval, with two additional conditions:

A hedge and/or screening trees shall be installed along the easterly property line of Lot 27.

The existing shed on the proposed property line to separate Lot 25A and Lot 27 will be demolished. and to grant requested waivers.

Item #8: 50 Benefit Street (MBL 06-032-00022) (ZB-2020-048)
Special Permit: To modify dimensional standards for a Residential Conversion (Article IV, Section 9)
Variance: For relief from the minimum parking requirements for a residential use (Article IV, Section 7, Table 4.4)
Petitioner: Juan Carlos Rodriguez
Present Use: Presently on the premises is a privileged, non-conforming three-family detached dwelling, with associated site improvements.
Zone Designation: MG-2.0 (Manufacturing, General) zoning district
Petition Purpose: To convert the existing three-family detached dwelling into a multi-family dwelling (with a total of 4 units), and to conduct associated site work
Public Hearing Deadline: 10/21/2020 Constructive Grant Deadline: 11/25/2020
Hearing Opened with: JW, JBP, GC, RK, RH

Mr. Wanat gave an overview of the application.

Juan Carlos Rodriguez, applicant, described the proposed renovation.

Ms. Molina Dumas gave additional background on the property and relief requested; stated that a sprinkler system would be required, per Fire Dept comment.

Mr. Wanat stated that he was unaware of any parking issues in the neighborhood

Mr. Cortes asked a question regarding access and egress; Ms. Molina Dumas and Mr. Rodriguez clarified.

No public comment.

Mr. Rodriguez formally requested staff-recommended waiver.

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to close the hearing.

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to grant a Special Permit to modify dimensional standards for a Residential Conversion and a Variance for relief from the minimum parking requirements for a residential use, subject to staff-recommended conditions of approval, and to grant requested waivers.

Other Business

8. Communications - None

9. Discussion of Board Policies and Procedures- None

Adjournment

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to adjourn the meeting at 9:01 PM.