



**MINUTES OF THE PROCEEDINGS OF THE  
ZONING BOARD OF APPEALS OF THE CITY OF WORCESTER  
May 2, 2022**

Worcester City Hall – Levi Lincoln Chamber,  
with remote participation options available via Webex online at:  
<https://cow.webex.com/meet/planningboardwebex> and  
call-in number 415-655-0001 (Access Code: 160 884 7670).

Zoning Board Members Present: Russell Karlstad, Chair  
Jordan Berg Powers, Vice Chair – *Participated Remotely*  
Anthony Dell'Aera – *Participated Remotely*  
Nathan Sabo – *Participated Remotely*  
Eric Torkornoo – *Participated Remotely*

Zoning Board Members Absent: George Cortes

Staff Participating: Stephen Rolle, Division of Planning & Regulatory Services  
Rose Russell, Division of Planning & Regulatory Services  
David Horne, Deputy Building Commissioner  
Christopher Spencer, Building Commissioner

**Call to Order –**

Chair Karlstad called the meeting to order at 5:33 PM.

**Requests for Continuances, Extensions, Postponements, and Withdrawals**

**Item 1: 77 Seymour Street (ZB-2022-003) Special Permit & Variance**  
Request to Postpone the Public Meeting to May 23, 2022  
Extend the Constructive Grant Deadline to June 14, 2022

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the Board voted 5-0 to postpone.**

**Item 2: 9 Dalton Street (ZB-2022-006) Special Permit**  
Request to Postpone the Public Meeting to May 23, 2022  
Extend the Constructive Grant Deadline to June 14, 2022

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the Board voted 5-0 to postpone.**

**Item 4: 21 Ascension Street (ZB-2022-022) Special Permit**  
Request to Postpone the Public Meeting to May 23, 2022  
Extend the Constructive Grant Deadline to June 14, 2022

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the Board voted 5-0 to postpone.**

**Item 5: 45 Pilgrim & 45A Pilgrim Avenue (ZB-2022-026) Special Permit & Variance**

Request to Postpone the Public Meeting to May 23, 2022  
Extend the Constructive Grant Deadline to June 14, 2022

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the Board voted 5-0 to postpone.**

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**Old Business:**

- 3. Country Club Acres (f/k/a Paradise Point) & 190 Mountain Street East (MBL 36-048-00002 & CO-NDO-02075) (ZB-2022-018)**
- Administrative Appeal:** Of a determination issued by the Deputy Building Commissioner finding there to be no zoning violations to enforce and declining to issue a cease and desist order to prohibit additional construction activity at the property.
- Petitioner: Country Club Acres Trust
- Present Use: A partially constructed Continuing Care Retirement Community (CCRC) condominium complex.
- Zone Designation: RS-7 (Residential, Single-Family) zoning district and is within the Water Resources Protection Overlay District (WR(GP-3) & WR(GP-2)).
- Petition Purpose: The applicant seeks to appeal the Deputy Building Commissioner's determination which asserted there has been no zoning violation to enforce and declined to issue a cease-and-desist order to prohibit additional construction activity at the property.

Thomas Moriarty, representing the Country Club Acres Trust called into the meeting. He described gave a brief description of the previous hearing. Mr. Moriarty stated the special permit that was granted and thereafter extended calls on the developer to submit all of the land that was subject to the project to condominium status. He further stated, the declarant has not submitted all the land, and until this issue is solved in land court, a cease and desist should be issued. Mr. Moriarty asked the ZBA to issue a cease and desist to put a hold on the developer.

David Horne, Deputy Building Commissioner said he doesn't have the authority to issue a cease and desist without a clear zoning violation. Mr. Horne stated at this time, he felt the city doesn't have authority and there is essentially nothing to shut down. Mr. Rolle reiterated that there is no clear zoning violation, and until the Land Court case is settled, there is no corrective action to be taken at this time.

**Board Discussion**

Mr. Karlstad said he doesn't feel like there's any clear violation, and thus no zoning enforcement action that can be taken legally at this point.

Mr. Berg Powers said he feels it's a clear violation and stated his opposition to Mr. Karlstad and the city's point of view.

Mr. Dell'Aera asked if Mr. Moriarty had asked in land court for a cease and desist. Mr. Moriarty stated that they wanted to exhaust all administrative options before going to land court. Mr. Dell'Aera asked if Mr. Moriarty had asked the developer to stop construction. Mr. Moriarty stated they filed a motion, and the declarant opposed the motion, but had not directly asked.

The attorney for the declarant, Ryan Forgione stated he had nothing to add and agrees with the city's law department.

**On a motion to close the public hearing by Mr. Berg Powers, seconded by Mr. Torkornoo, the Board voted 3-2 to keep the public hearing open. (Mr. Berg Powers; Mr. Dell'Aera; Mr. Sabo; no, Mr. Torkornoo; Mr. Karlstad; yes)**

Board Discussion

Mr. Rolle warned the Board that they will have to vote on this item, and if they continue to postpone it they may run into the end of the Constructive Grant Deadline. Mr. Karlstad suggested postponing the item to the next meeting to get more counsel from the law department.

Mr. Berg Powers stated he feels the city is holding a double standard here by not enforcing the Zoning Board ruling, while enforcing it against everyday citizens such as three-decker owners, but since this is a larger development, the city is giving them a pass. Mr. Berg Powers stated he needs more clarity from the City's legal perspective, and before the next meeting he wants a better answer from the Law Department. He also stated he is in favor of issuing an enforcement order.

Mr. Rolle stated the city's position is that there is no zoning violation to enforce and doesn't understand Chairman Berg Power's statements.

Mr. Karlstad agreed with Mr. Rolle that he wanted to hold larger developments to the same standard, and understands Mr. Berg Power's sentiment.

Mr. Spencer reiterated that Inspectional Services simply found no zoning violation to enforce, and what Mr. Moriarty is asking is out of their jurisdiction, especially while they is an on-going Land Court case.

*No public comments*

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the Board voted 5-0 to postpone.**

The meeting took a five minute recess.

New Business

- 6. 21-23 Crown Street (MBL 03-023-09+10) (ZB-2022-027)**
- Special Permit:** To allow a temporary shelter in an RG-5 Zone (Article IV, Section 2, Table 4.1, Residential Use #15)
- Special Permit:** To allow the extension, alteration, or change to a privileged non-conforming structure/use (Article XVI, Section 4)
- Variance:** For relief from the side-yard setback dimensional requirement for a residential structure in an RG-5 Zone (Article IV, Section 4, Table 4.2)
- Petitioner:** Abby Kelley Foster House, Inc.
- Present Use:** Presently on the premises is a non-conforming, two-story, two-family detached dwelling and a detached garage.

Zone

Designation: RG-5 (Residential, General) zoning district

Petition Purpose: The applicant seeks to renovate the existing structure to convert it to a temporary shelter, construct an addition, demolish the detached garage, re-configure the parking area and conduct associated site improvements.

Todd Rodman on behalf of the Abby Kelly House came before the board to present their application. He stated this property has been used as a shelter since 1976 and is the oldest shelter they own. He stated this application will bring the home into compliance with zoning standards. Mr. Rodman stated that there is no exterior changes proposed, but they intend to remove the interior partition.

#### Board Discussion

Mr. Karlstad asked how many beds are there currently and how many are proposed. Mr. Rodman stated they have currently nine beds and the shelter intends to install an additional eleven beds total in the shelter.

Mr. Rolle noted the staff comments, including removing site improvement from the site plan, and adding a headlight blocking fence or hedges to the rear of the parking area.

Mr. Rodman requested the waivers, and expressed that Abby's House would like to not add a fence for aesthetic purposes, but is open to landscaping options and will work with the planning staff.

*No public comment*

*Inspectional Services had no comment*

**On a motion by Mr. Berg powers, seconded by Mr. Torkornoo, 5-0 to close the public hearing.**

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, 5-0 to close the hearing with staff recommendations of approval and waivers.**

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**7. 60 Alvarado Avenue (MBL 17-003-00014) (ZB-2022-028)**

**Special Permit:** To modify dimensional standards for a Residential Conversion in an RL-7 zone (Article IV, Section 9)

Petitioner: Nhan T. Le

Present Use: Presently on the premises is a non-conforming single-family dwelling with related site improvements.

Zone RL-7 (Residential, Limited) zoning district

Designation:

Petition Purpose: The applicant seeks to convert the existing structure into a two-family detached dwelling and conduct associated site work.

Donald O'Neil spoke on behalf of the applicant before the board. He described the application to add an additional dwelling unit on the property, but the only exterior change is the construction of the deck off of the rear of the home. Mr. O'Neil stated no expansion is proposed and the proposed use is similar to a lot of neighboring homes.

Mr. Rolle gave a brief description of the project, and noted the city would ask for an interior planting buffer to be added to the driveway to prevent cars parking on the grass. Mr. Karlstad recommended a low fence or low planting.

Mr. O’Neil requested the waivers for the application.

Mr. Rolle noted a spelling mistake in 1A, changing the condition of approval to read “interior” rather than “indoor”.

Mr. Spencer stated that Inspectional Services would have to look into the percentage of front yard impervious surface, and noted the driveway is not in compliance with the buffer requirements to the property lines. Mr. Rolle noted that while it does not meet the buffer requirements, but it is a pre-existing driveway, and does comply with front yard paving requirements.

*No public comments*

**On a motion by Mr. Berg powers, seconded by Mr. Torkornoo, 5-0 to close the meeting.**

**On a motion by Mr. Berg powers, seconded by Mr. Torkornoo, 5-0 to approve the special permit, fixing the spelling mistake in Condition 1C, and accepting the waivers.**

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**8. 0, 9, & 19 Hemans Street, 7 Hemans Court, and 40R Milton Street  
(MBL 09-030-00005, -00009, -004-5, -007-2; & 09-031-00023) (ZB-2022-029)**

**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, A. 2)

**Petitioner:** Boghos Properties, LLC

**Present Use:** Presently on the premises at 7 Hemans Court, 0 & 9 Hemans Street, and 40R Milton Street are vacant lots and at 19 Hemans Street is a single-family dwelling (slated for demolition).

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

**Petition Purpose:** The applicant seeks to construct a ±7 story multi-family dwelling, with a total of ±210 residential units, ±381 parking spaces (surface and garage), and related site improvements.

Donald J. O’Neil, representing the applicant Boghos Properties, LLC came to speak before the board. Mr. O’Neil Described the previous proposal which had been denied, which had 1.5 parking spaces per resident. Mr. O’Neil described the new application which increased the parking to 1.8 space per dwelling unit. Mr. O’Neil also made a point that half of all the units are single bedrooms.

Mr. Rolle described the new proposal and that a special permit only allows for a reduction of 10% in parking, and the applicant is asking for 9.3% reduction. Mr. Rolle also described the statistics for amount of renters with cars and households. Mr. Rolle states their parking plan comes out to be 1.1 space per bedroom. He also recommended the Board condition that the applicant complete and maintain a TDM program. He noted the plan

has already been approved through the Planning Board site approval process, but will require an amendment to reconcile the new parking plan.

#### Board Discussion

Mr. Berg Powers stated that he is excited about the project and voiced his approval. Mr. Berg Powers stated that many triple-deckers in the city do not meet parking requirements, and this is something that comes with living in a city.

Mr. Sabo asked how many electrical vehicle charging stations there are. Mr. O'Neil responded that there are 42 available Electric Vehicles parking spots available totaling 11% of all parking.

Mr. Torkornoo asked if the EV chargers will be superchargers, who the apartments will be renting too, and if there will be a parking attendant.

Mr. Boghos stated they had not decided on EV chargers, but expect individual owners will bring their own chargers. He stated some specific spots will be generic, and others will be available for specific types of EV.

Mr. Boghos stated half of one bedrooms will have one spot, half of the two-bedrooms will have two spaces. He also stated there is no specific audience they are targeting, since there will be a wide net with 184 single units.

Mr. Torkornoo asked what they will do if a single unit apartment has more than one vehicle. Mr. Boghos responded saying that they will charge renters for extra parking spaces. He also stated that it is uncommon for a single bedroom unit renter to have three cars. He continued with the idea that renters with no cars will even out with the renters who have more than one.

Mr. Karlstad responded to Mr. Torkornoo's statements about target audience, and stated their target audience is simply renters. Mr. Karlstad stated he wished the building was smaller or more sympathetic to the neighborhood in size and architecture but acknowledges the need for housing. He also stated he wishes some units be designated affordable housing.

Mr. Dell'Aera inquired about the original petition to the ZBA and where in the process the application is and what approvals it's already gotten. Mr. Dell'Aera noted previous discussions are not relevant to the special permit process for parking that is before the board currently. Mr. Dell'Aera asked if the questions answered in the application for the special permit applied specifically to parking. Mr. Rolle stated that those questions are more general and must be answered for every special permit application, whether they are relevant or not. Mr. Dell'Aera summarized by asking the applicant if there is an alternative reason or benefit to why they want to reduce parking other than simply meeting anticipated needs.

Mr. O'Neil stated that the positives of this project is that the applicant isn't building parking that no one needs. No one benefits, the renters or the owner by having unused parking spaces. He stated the parking plan has been designed to fit the needs of the residents and this situation is exactly why a reduction in parking is allowed by special permit.

Mr. Boghos stated that yes, while they are building a smaller garage, due to the slope of the parcel, which ranges over 100ft from one end to the other, a reduction in parking will considerably aid construction time and costs, thus reducing impacts on the neighborhood.

#### Public Comment:

Ms. Gail LaGoy, an abutter asked to comment. She stated her opposition to the proposed visitor parking. She stated the amount of visitor parking is far too small for a building of that size. Ms. LaGoy stated from her own

experience renting properties that even a small number of units can have a large number of visitors. She expressed concern about visitor parking overflowing from the development into surrounding street. She also asked who monitors the TDM plan.

Mr. Rolle noted that the TDM plan will fall under either the Planning Division or Inspectional Services Department. Mr. Rolle also noted that the surface lot parking spaces may also be used as visitor parking if they are not needed by tenants.

Mr. O'Neil made a point that with a small apartment building, one resident may throw off the parking lot from the statistical average, but with larger apartment buildings, statistics fall closer to the average. Mr. O'Neil reiterated that for the residents with a lot of cars/visitors, there will be residents who have no cars and few visitors to even it out.

#### Public Comment

Ms. Gail LaGoy reiterated her concerns about guest parking and asked to shift the ratio of visitor parking or if surface spots for the lots could be expanded to prevent visitors to the development on surrounding roads.

Mr. Boghos said that there will be 5-6 management staff on the property at any time including leasing and parking attendants. He also confirmed that most people will park in the garage first and it is likely visitor parking will be expanded to more surface lots. Mr. Boghos stated that unfortunately it was not possible to expand the surface parking lot due to the slope of the property and the need for emergency vehicles access.

Mr. O'Neil requested the waivers

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the board voted 5-0 to close the public hearing.**  
**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the board voted 4-1 (Mr. Dell'Aera; opposed) to approve the special permit with waivers requested, with staff conditions.**

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#### Other Business:

##### **9. Communications**

a. Worcester Now | Citywide Plan – Spring Survey; from the City of Worcester

Mr. Rolle described the new survey for the City of Worcester long range plan that recently launched. He encouraged the Board and other city residents to take the survey and to stay tuned for upcoming news.

##### **10. Approval of Minutes – 2/28/2022; 3/21/2022; 4/11/2022**

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the minutes from Zoning Board of Appeals meetings on 2/28/2022; 3/21/2022; 4/11/2022 were approved 5-0.**

##### **11. Discussion of Board Policies and Procedures**

Mr. Karlstad raised the question about a recent Zoning Board decision that mandated a homeowner to remove a portion of front-yard impervious surface that exceeded the Zoning Ordinance dimensional limit. Mr. Karlstad asked how long the property and owner in question had to comply with the decision. Mr. Rolle and Mr. Spencer said they would provide a report on it to the Board.

**Adjournment**

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the Board voted unanimously to adjourn at 7:33PM.**