

**MINUTES OF THE PROCEEDINGS OF THE
ZONING BOARD OF APPEALS OF THE CITY OF WORCESTER**

December 19, 2016

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

Zoning Board Members Present: Vadim Michajlow, Vice-Chair
Joseph Wanat
Timothy Loew
George Valeri
Robert Haddon, Alternate Member
Thomas Dillon, Alternate Member

Zoning Board Members Absent: Lawrence Abramoff, Chair

Staff Present: Stephen Rolle, Division of Planning and Regulatory Services
Michael Antonellis, Division of Planning and Regulatory Services
Domenica Tatasciore, Division of Planning and Regulatory Services
John Kelly, Department of Inspectional Services
David Horne, Department of Inspectional Services

Call to Order – 5:35 pm

Approval of the Minutes – The board voted 5-0 to approve the following minutes - October 17, 2016 & November 7, 2016

Requests for Continuances, Extensions of Time, Postponements, Withdrawals

1. 88 Birch Street (ZB-2016-054)

Special Permit: To allow a Lodging House use in a RG-5 Zone (Article IV, Section 2, Table 4.1, Residential Use #8)

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

Variance: For relief from the parking requirements for lodging house use (Article IV, Section 7)

Petitioner: Gold Star Builders, Inc.

Present Use: Presently on the premises is a multi-family structure along with off-street parking.

Zone Designation: RG-5 (Residence, General) zoning district and partially within a BG-2.0 (Business, General) zoning district

Petition Purpose: The petitioner seeks to construct an addition to the existing structure, to convert the use into a lodging house (with a total of 31 bedrooms), and an off-street parking area, along with related site improvements.

Public Hearing Deadline: 12/23/16

Constructive Grant Deadline – Variance: ~~4/27/17~~, 1/30/17

Upon a motion by Mr. Valeri and seconded by Mr. Wanat the board voted 5-0 to postpone the hearing to January 23, 2013 and extend the Constructive Grant Deadline to February 14, 2017.

List of Exhibits:

- Exhibit A: Special Permit Application; received October 19, 2016; prepared by Attorney Donald O’Neil.
- Exhibit B: Proposed Building Plan; dated February 25, 2016; prepared by B&R Survey, Inc.
- Exhibit C: Elevations & Floorplans; dated June 3, 2016; prepared by Acropolis Design Consultants.
- Exhibit D: Declaration of Easement & accompanying Easement Plan; May 2016.
- Exhibit F: Worcester Fire Department Comments; dated November 22, 2016.

2. 299 & 305 Shrewsbury Street (ZB-2016-060)

Special Permit: To modify the dimensional requirements of a permanent, accessory, projecting sign with digital display in a MG-2.0 zoning district (Article IV, Section 6)

Petitioner: 299-305 Shrewsbury Street, Inc., d/b/a Funky Murphy’s

Present Use: Presently located on the property are two commercial structures and associated off-street parking and related site improvements.

Zone Designation: MG-2.0 (Manufacturing, General) zoning district and located within the Union Station View Corridor Sign Overlay District (USOD), and the Commercial Corridors Overlay District, Shrewsbury Street Subarea (CCOD-S)

Petition Purpose: The applicant seeks to install a permanent, accessory, projecting sign with digital display.

Public Hearing Deadline: 1/12/17

Upon a motion by Mr. Valeri and seconded by Mr. Wanat the board voted 5-0 to postpone the hearing to January 23, 2013 and extend the Constructive Grant Deadline to February 14, 2017.

List of Exhibits

- Exhibit A: Special Permit Application for Signs; received September 20, 2016 and supplemental findings of fact received on November 8, 2016; prepared by Des McKane.
- Exhibit B: Signage Design Plan; dated June 5, 2015; prepared by ViewPoint Sign and Awning.

Unfinished Business

3. 10 (aka Lot 4) & 12 (aka Lot 5) Paradox Drive (ZB-2016-055)

12 (aka Lot 5) Paradox Drive (Existing)

Variance: For relief of 5 feet from the frontage dimensional requirement for a single-family dwelling in a RS-10 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief of 4 feet from the side-yard setback dimensional requirement for a single-family dwelling in a RS-10 Zone (Article IV, Section 4, Table 4.2)

10 (aka Lot 4) Paradox Drive

Variance: For relief of 15 feet from the frontage dimensional requirement for a single-family dwelling in a RS-10 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Charbel H. and Christine L. Najem

Present Use: Presently on the premises at 12 Paradox Drive (aka Lot 5) is an existing non-conforming single-family detached dwelling with associated site improvements and located on Lot 4 (aka 10 Paradox Drive) consists of an undeveloped lot.

Zone Designation: RS-10 (Residence, Single-Family) zoning district

Petition Purpose: The petitioner seeks to construct a single-family detached dwelling on the undeveloped lot, along with associated site improvements, with no changes proposed to the existing structure located at 12 (aka Lot 5) Paradox Drive.

Public Hearing Deadline: 1/30/17

Constructive Grant Deadline – Variance: ~~4/27/17~~, 1/30/17

Attorney Donald O’Neil presented the petition and stated that a perimeter drain, dry well, gutters will be tied to a dry well, that the parking has been configured for both the existing and proposed structures and lots, that the building has been shifted a foot further from 8 Paradox Drive in order to accommodate abutter concerns, and that the shed’s removal all have been shown on the updated plan provided as per previous meeting comments.

Mr. Antonellis stated there are suggested conditions if the board chooses to approve.

Mr. Haddon asked about the proposed rendering. Attorney O’Neil asked that the condition be upheld that plans be in substantial accordance.

Mr. Michajlow opened the hearing to public comment.

Ms. Zang, 3 Paradox Drive, stated that she has concerns regarding water specifically shedding toward her property. Attorney O’Neil stated that a perimeter drain will be installed and the property at 3 Paradox would likely not be affected.

Jesse Abdelnour stated that only one third of the lot is usable. The character of the neighborhood includes green space and large yards. Mr. Abdelnour also stated concerns about safety and stormwater. Attorney O’Neil stated that no additional trees will have to be removed for the construction.

Gary Rosen, city councilor, stated concerns regarding overcrowding and derogating from character of the neighborhood. Mr. Rosen also stated concerns over stormwater.

Dheya Kaaed stated concerns over safety.

Alternate member Mr. Haddon was seated to vote.

Upon a motion by Mr. Valeri, and seconded by Mr. Haddon, the board voted 5-0 to close the hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Valeri the board voted 5-0 to approve the findings of fact, with conditions as noted in the staff memo, with acceptance of waiver requested to label abutters and abutters to abutters within 300 feet of the property.

List of Exhibits

Exhibit A: Variance Application; prepared by Donald J. O’Neil, representative; received October 19, 2016.

Exhibit B: Proposed Plot Plan for 12 Paradox Drive; dated October 17, 2016; prepared by B & R Survey, Inc.

Exhibit C: Photos submitted by abutter

Exhibit D: City Tax map submitted by abutter

New Business

4. 2- 4 Clarkson Street (ZB-2016-050)

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 front-yard setback dimensional requirement for a multi-family dwelling in a RG-5 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the exterior side-yard setback dimensional requirement for a multi-family dwelling in a RG-5 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the frontage dimensional requirement for a multi-family dwelling in a RG-5 Zone (Article IV, Section 4, Table 4.2)

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

Variance: For relief from the parking requirements for a multi-family dwelling (Article IV, Section 7, Table 4.4)

Petitioner: Kensington Management, LLC

Present Use: Presently located on the premises is an existing non-conforming multi-family low-rise structure with 4 dwelling units, along with associated site improvements.

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

Petition Purpose: The applicant seeks to construct an additional multi-family low-rise structure with 6 dwelling units, for a total of 10 dwelling units on the property, and an accessory off-street parking area, along with associated site work.

Public Hearing Deadline: 12/22/16

Constructive Grant Deadline – Variance: 1/26/17

Engineer Yar Zhar (YZ) Mohtet, presented the application and stated the dimensions of the lot and that there is an existing multi-family structure. Also, there is currently no parking for the existing use. The proposed structure conforms to side yard setbacks. A total of 10 parking spaces will be provided on site for the use. The use will be for multi-family residential seeking to provide housing to qualify for low income housing programs. He submitted Exhibits D (bus route information) and E (pictures).

Ms. Tatasciore stated that there is an existing structure containing 4 units. The proposal is for an additional separate building including 6 units for a total of 10 residential units on the property. The need for relief is due to increased frontage, area, parking requirements. The applicant will require Planning Board approval. Ms. Tatasciore asked the applicant to comment on existing units and proposed exterior changes to existing structure since no rendering was provided. She also asked him to comment on the location of the proposed dumpster, and possible alternative locations.

Applicant Nathan Gavel stated that much effort has gone into updating and securing the property as well as the use. He stated that the dumpster can be located and also that many of the residents use public transit and do not have cars.

Mr. Michajlow stated that a rendering would be desirable. Mr. Valeri asked for a rendering and further information.

Mr. Haddon asks if fewer units have been considered.

Mr. Wanat also expressed concern over parking. Mr. Rolle stated that the CCOD provides lesser parking requirement which is at about the level proposed for this petition.

Mr. Kelly asked if a history of the lot is available, with respect to pre-existing nonconforming status.

Upon a motion by Mr. Valeri, and seconded by Mr. Wanat, the board voted 5-0 to continue the hearing to January 23, 2017.

List of Exhibits:

Exhibit A: Variance & Special Permit Application; received October 18, 2016; prepared by Josh Gaval.

Exhibit B: Site Plan; dated October 18, 2016; prepared by HS&T Group, Inc.

Exhibit C: Letter to DPRS; undated; from Josh Gaval of Kensington Management, LLC.

5. 157 Brookline Street (ZB-2016-056)

Special Permit: To allow the extension, alteration, or change to a privileged non-conforming structure/use (Article XVI, Section 4)

Petitioner: Daniel Ford

Present Use: Presently on the premises is an existing non-conforming single-family detached dwelling with associated site improvements.

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

Petition Purpose: The applicant seeks retroactive approval to expand the existing non-conforming structure by constructing a deck, along with associated site work.

Public Hearing Deadline: 1/06/17

Applicant Daniel Ford presented the petition and stated that a deck was erected which created an issue with side yard setbacks and thus a Special Permit is requested to provide relief. He submitted pictures for Exhibit C. Mr. Ford stated permit records have been misplaced.

Mr. Kelly stated that the plot plan does not show current conditions as noted in the field. Mr. Kelly suggested a continuance to provide time to get an updated as-built and possibly modify relief.

Mr. Rolle stated that the front porch appears to possibly encroach into the right of way. Mr. Wanat inquired about the certification of the plot plan.

Upon a motion by Mr. Valeri, and seconded by Mr. Wanat, the board voted 5-0 to continue the hearing to January 23, 2017.

List of Exhibits

Exhibit A: Special Permit Application; prepared by Daniel Ford; received November 2, 2016.

Exhibit B: Certified Plot Plan; dated October 5, 2016; prepared by H.S. & T. Group, Inc.

6. 11 Sever Street (ZB-2016-057)

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 parking requirements for a multi-family dwelling (Article IV, Section 7, Table 4.4)

Petitioner: The Community Builders, Inc.

Present Use: Presently on the premises is an existing non-conforming multi-family high-rise structure along with associated off-street parking and site improvements.

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

Petition Purpose: The petitioner seeks to convert an existing common area and office within the structure into two additional dwelling units, along with re-configuration of the parking areas and associated site improvements.

Public Hearing Deadline: 1/12/17

Constructive Grant Deadline – Variance: 2/16/17

John Frasier stated that the applicant is adding 2 additional units and require a variance for parking as the parking is currently nonconforming.

Ms. Tatasciore stated that existing is a 10-storey, multi-family high-rise building. The project will increase from 96 to 98 units. The requirements for parking triggered the need for variance, where 196 would be required.

Phil Cordero, Allen and Major Associates, responded to question about photometrics and onsite illumination. Currently there is sufficient lighting for circulation and 2 more light fixtures in the rear will be added with the proposal although no photometric has been provided.

Mr. Frasier stated that the fence on the property will be replaced in kind.

Mr. Michajlow asked how long the building has remained in its state. Mr. Frasier stated that the building has existed since the 1970's with very little changes.

Mr. Cordero requested a waiver from the requirement to label abutters within 300 feet.

Alternate member Mr. Dillon was seated to vote.

Upon a motion by Mr. Valeri, and seconded by Mr. Wanat, the board voted 5-0 to close the hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Valeri the board voted 5-0 to approve the petition and findings of fact with recommended conditions of approval in the staff memo as well as waive the requirement to label abutters and abutters to abutters within 300 feet of the property.

List of Exhibits:

Exhibit A: Variance & Special Permit Application; received November 8, 2016 and revised December 14, 2016; prepared by John Fraser of The Community Builders, Inc.

Exhibit B: Parking and Zoning Plan; dated November 4, 2016 and revised December 7, 2016; prepared by Allen & Major Associates, Inc.

7. 175 (aka Lot 37 & 38) & 177 (aka Lot 39) Ludlow Street (ZB-2016-058)

177 (aka Lot 39) Ludlow Street

Variance: For relief from the lot-area dimensional requirement for a two-family dwelling in a RS-7 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Lawrence P. & Karen Gentile

Present Use: Presently on the property at 175 (aka Lot 37 & 38) Ludlow Street is a single-family detached dwelling, along with associated site improvements and located on 177 (aka Lot 39) Ludlow Street is an undeveloped lot.

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

Petition Purpose: The applicant seeks to construct a single-family detached dwelling on the undeveloped lot at 177 (aka Lot 39) Ludlow Street, along with associated site improvements, with no changes proposed to the existing structure located at 175 (aka Lot 37 & 38) Ludlow Street.

Public Hearing Deadline: 1/12/17

Constructive Grant Deadline – Variance: 2/16/17

Attorney Donald O'Neil presented the petition and gave a detailed history of the parcel. He stated that there are no changes proposed to the existing structure. The area of Stafford Street is not residential in character. The proposed home would face Ludlow Street. Stafford Street would be an exterior side yard. No definitive plan is available based on possible changes depending on the intentions of whoever purchases the lot.

Attorney O'Neil stated that the driveway can be placed greater than 50 feet from the nearest intersection, but leave it open the have the ability to change design while meeting that standard.

Attorney O'Neil stated that the suggested conditions are acceptable.

Mr. Rolle stated that the condition regarding the driveway is phrased such that allows change of design.

Mr. Antonellis asked that if a two-car garage is not chosen as a part of the design, then the applicant needs to demonstrate compliance with parking within the lot.

Mr. Loew asked for the parking configuration to be discussed relative to an entrance along Ludlow.

Upon a motion by Mr. Valeri, and seconded by Mr. Wanat, the board voted 5-0 to close the public hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Valeri the board voted 5-0 to approve the findings of fact and requested Variance with conditions of approval as noted on the staff review memo, and also to approve the requested waiver of the requirement to label abutters and abutters to abutters within 300 feet of the property.

List of Exhibits

Exhibit A: Variance Application; prepared by Donald J. O'Neil, representative; received November 29, 2016.

Exhibit B: Renderings and Floor Plans; undated; preparer unknown.

Exhibit C: Plan for Variance; dated October 10, 2016; prepared by H.S. & T. Group, Inc.

8. 28 Trent Road (ZB-2016-059)

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

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

Petitioner: Hesagrab Properties, LLC

Present Use: Presently on the premises is an undeveloped lot.

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

Petition Purpose: The petitioner seeks to construct a single-family detached dwelling along with associated site improvements.

Public Hearing Deadline: 1/12/17

Constructive Grant Deadline – Variance: 2/16/17

Attorney Donald O'Neil stated the request relief and provided an overview of the proposed site plan and rendering. The dimensions of the structure would be compliant with all setback requirements although the lot is deficient in area and frontage. Attorney O'Neil stated that there are a number of other lots within the area that are of a similar size which have structures on them, and this is consistent with the original subdivision plan. The property was obtained through tax title. There is a provision to deal with undersized lots for RG-5 zones but not RS-7.

Mr. Antonellis stated recommended conditions of approval if the board decides to approve.

Mr. Rolle noted a property nearby with similar dimensions.

Mr. Wanat asked for clarification of building dimensions. Attorney O’Neil directed the board to the updated plans.

Mr. Antonellis stated the board received correspondence from abutter Thomas Generelli.

Mr. Valeri commented that the proposal seems like a tight fit for the property.

Mr. Dillon asked about snow storage.

Mr. Michajlow opened the hearing to public comment.

Dan Jakaitis, 21 Ancona Road, stated that he feels the property is too small to house a structure. A home would change the density of the neighborhood and he stated his objection.

Joseph Carlson, 38 and 42 Benedict, stated that the property was purchased 90 days prior to the hearing and stated his opposition to the proposal.

Amanda O’Rourke, 42 Ancona Road, stated her opposition to the proposal.

Candice Carlson, 42 Benedict Road, city councilor, stated her opposition to the proposal.

Jon Sposato, 25 Trent Road, stated his opposition to the proposal.

Upon a motion by Mr. Valeri, and seconded by Mr. Wanat, the board voted 5-0 to close the public hearing.

Upon a motion by Mr. Wanat, and seconded by Mr. Valeri, the board voted 5-0 to deny the requested relief.

List of Exhibits

Exhibit A: Variance Application; prepared by Donald J. O’Neil; received November 8, 2016.

Exhibit B: Plan for Variance; dated October 17, 2016; prepared by B & R Survey, Inc.

9. 37 (aka 39) Perry Avenue & 52 Seymour Street (ZB-2016-061)

Special Permit: To allow the extension, alteration, or change to a privileged non-conforming structure/use (Article XVI, Section 4)

Variance: For relief of 14 parking spaces requirements for a multi-family dwelling (Article IV, Section 7, Table 4.4)

Variance: For relief of 1,479 SF from the lot area dimensional requirement for a multi-family dwelling in a RG-5 Zone (Article IV, Section 4, Table 4.2)

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

Petitioner: Perry Seymour Realty, LLC

Present Use: Presently on the premises is a non-conforming multi-family structure (with 4 dwelling units and a ground level storefront) known as 39 Perry Avenue and a non-conforming three-family dwelling known as 52 Seymour Street along with associated parking and site improvements

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

Petition Purpose: The applicant seeks to convert the existing ground level storefront space within the structure known at 39 Perry Avenue into two additional dwelling units (for a total of 6 units in this structure), along with associated site work and with no changes proposed to the structure, at 52 Seymour Street.

Public Hearing Deadline: 1/12/17

Constructive Grant Deadline – Variance: 2/16/17

Mr. Rolle stated that more relief was advertised out of an abundance of caution.

Petitioner Eli Spahiu presented his application and stated that the use could not be converted back to a business due to zoning restrictions so the proposal in to add units and convert to residential space. Mr. Spahiu gave an overview of the plan and proposed renderings. He stated that 2 windows are to be replaced within the glass panels of the first floor.

Mr. Rolle gave an overview of the relief required which included a variance for lot frontage and parking.

Mr. Michajlow asked for clarification on the construction and the parking. Mr. Spahiu stated that there is no parking available and that the construction would be mostly interior.

Mr. Wanat asked for clarification on number of doors. Mr. Spahiu stated that doors are already in place and the only real change is the glass panel turning into windows and residing of the first floor.

Mr. Michajlow opened the hearing to public comment. No one was present to be heard.

Alternate member, Mr. Haddon, was seated to vote.

Upon a motion by Mr. Valeri, and seconded by Mr. Haddon, the board voted 5-0 to close the public hearing.

Upon a motion by Mr. Wanat, and seconded by Mr. Valeri, the board voted 5-0 to approve the findings of fact and to approve the requested relief subject to conditions of approval noted in the staff review memo and approve the request for a waiver to label abutters within 300 feet of the property.

List of Exhibits:

- Exhibit A: Variance & Special Permit Application; received November 8, 2016; prepared by Ili Spahiu.
- Exhibit B: Plot Plan; dated October 17, 2016; prepared by HS&T Group, Inc.
- Exhibit C: Comments from Fire Department; received November 15, 2016.

Other Business

10. Communications

11. Signing of Decisions from prior meetings

Adjournment The board adjourned at 8:15pm