

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

April 29, 2019

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBERS

Zoning Board Members Present: Andrew Freilich, Vice-Chair
George Cortes
Jordan Berg Powers (late arrival)
Robert Haddon, Alternate Member
Russell Karlstad, Alternate Member

Absent: Joseph Wanat, Chair

Staff Present: Stephen R. Rolle, Division of Planning & Regulatory Services
Michelle M. Smith, Division of Planning & Regulatory Services
John Kelly, Department of Inspectional Services

Approval of the Minutes

January 14, 2019; February 25, 2019; March 18, 2019; April 8, 2019 – Held to May 20, 2019.

Requests for Continuances, Extensions, Postponements, and Withdrawals

1. 53 Housatonic Street (MBL 36-002-00149) (ZB-2019-009)

Special Permit or Variance: To exceed the maximum size (footprint or SF) limitation for a detached garage (Article IV, Section 8)
Variance: For relief from the maximum height dimensional requirement for an accessory structure in a residential district (Article IV, Section 8)
Petitioner: Mark Boisseau
Present Use: A single-family dwelling with a detached garage
Zone Designation: RS-7 (Residence, Single-Family) zoning district and within the Water Resource Protection Overlay District (WR(GP-3))
Petition Purpose: To demolish the existing garage and construct a 6-car detached garage.
Public Hearing Deadline: 4/29/19; Constructive Grant Deadline – Variance: 5/21/19

Upon a motion by Mr. Karlstad and seconded by Mr. Haddon, the Board voted 4-0 to postpone the Special Permit and Variance applications to the May 20, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to June 11, 2019.

2. 49 Arlington Street (MBL 05-037-00031) (ZB-2019-016)

Variance: For relief from the minimum lot area dimensional requirement in an RG-5 zone (Article IV, Section 4, Table 4.2)
Variance: For relief from the minimum frontage dimensional requirement in an RG-5 zone (Article IV, Section 4, Table 4.2)
Petitioner: Fortin Investments, LLC
Present Use: A vacant lot
Zone Designation: RG-5 (Residence, General)
Petition Purpose: To construct a three-family dwelling and associated parking.
Public Hearing Deadline: 5/9/19
Constructive Grant Deadline: 6/13/19

Upon a motion by Mr. Karlstad and seconded by Mr. Haddon, the Board voted 4-0 to postpone the Variance applications to the May 20, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to June 11, 2019.

3. 39 (aka 35, 43 & 45) Millbury Street (MBL 05-016-07+08) (ZB-2019-018)

Special Permit: To modify the dimensional requirements associated with a permanent accessory wall mounted sign (Article IV, Section 6)

Petitioner: Signarama Worcester

Present Use: A commercial building with a variety of signage

Zone Designation: BG-3.0 (Business, General) zoning district and within the Commercial Corridor Overlay District (CCOD-C) and Downtown/Blackstone Canal Sign Overlay District (DSOD)

Petition Purpose: To replace two existing non-conforming wall mounted signs.

Public Hearing Deadline: 5/30/19; Constructive Grant Deadline: TBD

Upon a motion by Mr. Cortes and seconded by Mr. Haddon the Board voted 4-0 to allow for Leave to Withdraw Without Prejudice for the Special Permit.

4. 3 Newton Avenue (MBL 11-013-00004) (ZB-2019-021)

3 (aka Lot 1) Newton Avenue (Existing):

Variance: For relief from the minimum frontage dimensional requirement (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum lot area dimensional requirement (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum side-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)

Lot 2 Newton Avenue (Proposed):

Variance: For relief from the minimum frontage dimensional requirement (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum lot area dimensional requirement (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum side-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum rear-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)

Petitioner: Guri Dura and Marjeta Skenderi

Present Use: Presently on the premises at 3 Newton Avenue (aka Lot 1) is an existing two-family dwelling and on proposed Lot 2 Newton Avenue is a detached garage

Zone Designation: RL-7 (Residence, Limited)

Petition Purpose: To convert the existing garage on Lot 2 into a single-family dwelling and to conduct related site work.

Public Hearing Deadline: 5/30/19; Constructive Grant Deadline: 7/4/19

Upon a motion by Mr. Haddon and seconded by Mr. Karlstad the Board voted 4-0 to postpone the Variance applications to the May 20, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant deadline to June 11, 2019.

The Board took a recess to await the arrival of Mr. Berg Powers.

New Business

5. 33 Dominion Road (MBL 46-006-00180) (ZB-2019-017)

Special Permit:	To allow a multi-family low-rise structure in an RL-7 zone (Article IV, Section 2, Table 4.1, Residential Use #11)
Petitioner:	Silver Tree Realty, LLC
Present Use:	A vacant lot
Zone Designation:	RL-7 (Residence, Limited)
Petition Purpose:	To construct a multi-family low-rise dwelling with 7 dwelling units and associated parking.
Public Hearing Deadline:	5/9/19; Constructive Grant Deadline: TBD

Attorney Donald O'Neil and engineer Andy Baum appeared upon behalf of the applicant, Silver Tree Realty, LLC. The applicant seeks to construct a multi-family low-rise dwelling of a total of 7 dwelling units.

Mr. O'Neil provided an overview of the plan and noted that the proposal had gone before the Planning Board.

Sandy DiRoberto stated her opposition to the proposal, expressing concern that it will lower the value of other homes in the area.

Diane McCarthy stated that she has noticed an increase in trash as more homes have been built in the area. Ms. McCarthy expressed her concern that the proposal will obstruct her view of the lake and lower the value of other homes in the area.

Joe DiRoberto stated that the area largely consist of single-family duplexes, and that the proposal will change the character of the neighborhood. Mr. DiRoberto noted a petition from residents opposing the project.

Antonio Corapi expressed concern about size of proposal.

Mike Miller asked questions relative to the location of the retaining wall.

Andrew Baum from Summit Engineering reviewed on the plans where the one retaining wall would be located.

Mr. Cortes asked Mr. Baum to review the erosion controls for the slope behind the retaining wall.

Mr. O'Neil stated that, regarding density, the application meets all dimensional requirements.

Mr. Karlstad stated that there are discrepancies in the plan, and he believes that the scope of the project is too large.

The Board and staff discussed the maximum number of units allowed in the zoning district.

Mr. Dowell, the proposed purchaser of the site, reviewed the property management for the site.

Mr. Freilich asked if Mr. Dowell had met with the neighbors prior to the meeting. Mr. Dowell stated no.

Mr. Cortes stated that he is in favor of housing in Worcester, but would prefer to see something more in character with the neighborhood.

Mr. Freilich reminded the abutters that there are by right alternatives for this site, and suggested that the applicant meet with neighbors to reach a resolution. Mr. O'Neil concurred.

Mr. Berg Powers stated that he would like the applicant to meet with the neighbors.

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to continue the Special Permit application to the June 10, 2019 Zoning Board of Appeals meeting.

List of Exhibits

Exhibit A: Special Permit Application; received March 5, 2019; prepared by Silver Tree Realty, LLC.

Exhibit B: Plan of Land; dated January 22, 2019; prepared by Summit Engineering & Survey, Inc.

Exhibit C: Building Floor Plan and Elevations; dated January 29, 2019; prepared by Michael Potasky.

Exhibit D: Petition from Residents Opposing the Proposal; received April 29, 2019.

6. 418 Park Avenue (MBL 14-007-00022) (ZB-2019-019)

Special Permit: To allow a food service drive-thru in a BG-3.0 zone (Article IV, Section 2, Table 4.1, Business Use #6)

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)

Petitioner: D.E. Foods, LLC

Present Use: A food-service establishment with a drive-thru and associated site improvements

Zone Designation: BG-3.0 (Business, General) zoning district

Petition Purpose: To construct an addition to the existing structure, renovate the establishment, and conduct associated site improvements.

Public Hearing Deadline: 5/30/19; Constructive Grant Deadline: TBD

Attorney Jonathan Finkelstein and a representative from D.E. Foods, LLC appeared upon behalf of the application. The applicant seeks to construct an addition to the existing structure and renovate the establishment.

Mr. Finkelstein review the plans for the site, noting that the applicant is updating the site which has been present at the location since the 1960s.

The applicant and staff discussed the handicapped accessibility and emergency exits for the site.

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

Upon a motion by Mr. Haddon and seconded by Mr. Cortes, the Board voted 5-0 to approve the Special Permits with conditions outlined in the staff memo, as well as the Findings of Facts as proposed by the applicant and modified by staff, and the following waivers:

1. Label abutters and abutters thereto within 300 feet;
2. Label the percentage of the lot covered by the principal and accessory buildings; &
3. Provide distances to adjacent buildings.

List of Exhibits

Exhibit A: Special Permit Application Materials; received March 26, 2019; prepared by Attorney Jonathan Finkelstein.

Exhibit A: Floor Plan; prepared by Mark D. McCluggage.

Exhibit A: Site Improvement Plans; dated March 22, 2019; prepared by MHF Design Consultants, Inc.

7. 645 Chandler Street (MBL 30-001-05+14) (ZB-2019-020)

Special Permit: To allow food service (including the consumption/sale of alcoholic beverages) and/or providing dancing or entertainment in a BL-1.0 zone (Article IV, Section 2, Table 4.1, Business Use #8)

Petitioner: J & J Cazares Corporation

Present Use: A non-conforming commercial structure, used as a food-service establishment and office space, with associated site improvements.

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

Petition Purpose: To operate a food service establishment with alcohol and outdoor dining.

Public Hearing Deadline: 5/30/19; Constructive Grant Deadline: TBD

Attorney Jonathan Finkelstein along with representatives of J&J Cazares Corporation appeared upon behalf of the application. The applicant seeks to operate a food service establishment with alcohol and outdoor dining.

Mr. Finkelstein provided an overview of the proposal for the site.

Beth Proko, owner of the property, spoke in support of the application.

Mr. Finkelstein reviewed the location of the proposed outdoor seating.

Morris Bergman, abutter to the property, spoke in favor of the application.

Steven Glass, owner of Tatnuck Plaza, asked to review the parking, noting his concern that customers of the proposed restaurant might utilize his parking lot.

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

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to approve the Special Permit with conditions outlined in the memo, the Findings of Fact as proposed by the applicant, and the waiver from the application requirement to provide a plan.

List of Exhibits

Exhibit A: Special Permit Application; received March 26, 2019; prepared by Attorney Jonathan Finkelstein.

Other Business

8. Communications

9. Discussion of Board Policies and Procedures

10. Signing of Decisions from Prior Meetings

Adjournment

Upon a motion by Mr. Cortes and seconded by Mr. Berg Powers, the Board voted 5-0 to adjourn the meeting at 7:21 PM.