

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

**August 18, 2014**

**WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER**

**Zoning Board Members Present:** Lawrence Abramoff, Chair  
Vadim Michajlow, Vice-Chair  
George Valeri  
Timothy Loew  
Robert Haddon

**Zoning Board Members Absent:** Joseph Wanat

**Staff Present:** Stephen Rolle, Division of Planning and Regulatory Services  
Domenica Tatasciore, Division of Planning and Regulatory Services  
Michelle Smith, Division of Planning and Regulatory Services  
John Kelly, Inspectional Services  
David Horne, Inspectional Services

**REGULAR MEETING (5:30 PM)**

**CALL TO ORDER**

Lawrence Abramoff called the meeting to order at 5:30 PM.

**REQUESTS FOR WITHDRAWALS, CONTINUANCES, AND TIME EXTENSIONS**

**1. 50 Winneconnett Road (ZB-2014-032)**

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

Petitioners: Real Estate Alternatives, Inc.

Present Use: A vacant lot

Zone Designation: RL-7 (Residence, Limited) and partially within the Mixed Use (MU) Overlay District

Petition Purpose: To construct a single-family attached dwelling with 5 dwelling units and 10 associated off-street parking spaces, along with related site work and grading

Public Hearing Deadline: 8/28/14

Mr. Abramoff stated that a postponement request to September 22, 2014 was received by staff. It also requested a constructive grant deadline extension to October 21, 2014.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to approve the postponement request and constructive grant extension.

**2. 113 (aka 61 N. Ashland Street) and 117 (aka 119 and 121) Highland Street (ZB-2014-038)**

*113 Highland Street (aka 61 N. Ashland Street):*

- Special Permit: Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Structure (Article XVI, Section 4)
- Variance: For relief of 10 ft. from the 10 ft. side-yard setback requirement in a BL-1.0 Zoning District (Business, Limited) (Article IV, Section 4, Table 4.2)
- Variance: For relief of 0.99:1 of the maximum floor-to-area-ratio requirement in a BL-1.0 Zoning District (Business, Limited) (Article IV, Section 4, Table 4.2)

*117 (aka 119 and 121) Highland Street:*

- Special Permit: Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Structure (Article XVI, Section 4)
- Variance: For relief of 10 ft. from the 10 ft. front-yard setback requirement in a BL-1.0 Zoning District (Business, Limited) (Article IV, Section 4, Table 4.2)
- Variance: For relief of 10 ft. from the 10 ft. side-yard setback requirement in a BL-1.0 Zoning District (Business, Limited) (Article IV, Section 4, Table 4.2)
- Variance: For relief of 0.34:1 of the maximum floor-to-area-ratio requirement in a BL-1.0 Zoning District (Business, Limited) (Article IV, Section 4, Table 4.2)
- Petitioners: Highland/North Ashland Realty Trust and Irene S. John
- Present Use: 113 Highland Street (aka 61 N. Ashland Street): An existing ~4,358 SF commercial mixed use structure used as a restaurant and two residential dwellings;  
117 (aka 119 and 121) Highland Street: An existing ~17,115 SF commercial mixed use building (used as a restaurant, a liquor store; and six dwelling units)
- Zone Designation: BL-1.0 Zoning District (Business, Limited)
- Petition Purpose: To construct a 431 SF commercial addition to the first floor to expand the existing restaurant (The Boynton), to the east. Said expansion is intended to be flush with the exterior portion of the westernmost wall of the existing structure located on 113 Highland Street, thus eliminating the existing alleyway between the two structures

Public Hearing Deadline: 9/19/14; Constructive Grant Deadline: 10/24/14

Mr. Abramoff stated that a postponement request to September 22, 2014 was received by staff. It also requested a constructive grant deadline extension to October 24, 2014.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 5-0 to approve the postponement request and constructive grant extension.

**List of Exhibits**

- Exhibit A: Variance & Special Permit Application; prepared by Joe Boynton, attorney for Irene S. John and Highland/North Ashland Realty Trust.
- Exhibit B: Plan of Land in Worcester, MA – Highland Street; prepared by Robert D. O’Neil, Jr., PLS.; dated June 24, 2014.
- Exhibit C: Proposed Renovations to The Boynton Restaurant & Spirits – architectural & floor plans; prepared by Dimensions 2 & 3 Architecture/Design; dated May 19, 2014.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 113 & 117 Highland Street – Special Permit and Variance Application; dated August 11, 2014.

**3. 100 Chatham Street (ZB-2014-027)**

- Special Permit: To allow a residential conversion from a single-family detached dwelling to a two-family detached dwelling in a RG-5 Zoning District (Residential, General) (Article IV, Section 9)
  - Special Permit: For relief of 1 parking space from the parking requirements for use as a two-family dwelling (Article IV, Section 7 A. 2.)
  - Variance: For relief of 3 parking spaces from of parking requirements for use as a two-family dwelling (Article IV, Section 7, Table 4.4)
  - Petitioner: Harry Avery
  - Present Use: A single-family detached dwelling
  - Zone Designation: RG-5 (Residential, General) and within the Crown Hill Local Historic District
  - Petition Purpose: To convert the existing single-family detached dwelling into a two-family detached dwelling along with associated site improvements
- Constructive Grant Deadline: 8/15/14, 9/23/14

Mr. Abramoff stated that the five board members that heard the previous testimony are not present and if the applicant decides to move forward it would have to be a unanimous vote by the four members present that have heard all previous testimony for it to pass.

Mr. Avery stated that he would like to continue the item to September 22, 2014 and a constructive grant deadline extension to October 22, 2014.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the postponement request and constructive grant extension.

## **List of Exhibits**

- Exhibit A: Variance and Special Permit Application for 100 Chatham Street; received May 7, 2014; prepared by Harry Avery.
- Exhibit B: Special Permit Plan; prepared by HS&T Group, Inc.; dated April 28, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 100 Chatham Street – Special Permit and Variance Application; dated June 13, 2014, revised August 8, 2014.
- Exhibit D: Cease and Desist issued by Department of Inspectional Services, Buildings/Zoning Division, prepared by Joseph M. Atchue, Building Inspector; dated May 21, 2014.
- Exhibit E: Certificate of Appropriateness and Building Demolition Delay Waiver Application for 100 Chatham Street; prepared by Harry Avery; dated June 9, 2014; received June 12, 2014.
- Exhibit F: Historical Commission Decisions - Certificate of Appropriateness and Building Demolition Delay Waiver; recorded with the City Clerk June 11, 2014.
- Exhibit G: Request for Continuance (6/16 to 7/28); dated and received June 16, 2014.
- Exhibit H: Renderings; prepared by the applicant; undated; received June 25, 2014.
- Exhibit I: Request for Continuance (7/28 to 8/18) and Extension of Constructive Grant Deadline (8/18 to 8/25); dated and received July 11, 2014.
- Exhibit J: Floor Plans and Renderings; prepared by J.R. Associates; dated August 4, 2014; received August 5, 2014.

## **NEW BUSINESS:**

### **4. 1 Winter Street (ZB-2014-029)**

- Variance: For relief of 31 ft. from the 80 ft. frontage dimensional requirement in a BG-4.0 (Business, General) zoning district (Article IV, Section 4, Table 4.2)
- Variance: For relief of 2,456 SF from the 5,000 SF minimum area dimensional requirement for residential uses in a BG-4.0 (Business, General) zoning district (Article IV, Section 4, Table 4.2)
- Petitioner: Dominic Van Ngo
- Present Use: A three-story mixed-use building with ~2,500 SF of retail space on the first floor and a commercial warehouse use on the second and third floors
- Zone Designation: BG-4.0 (Business, General) and within the Mixed Use Development District, Downtown/Blackstone Canal Sign Overlay District, and Blackstone Canal Parking Overlay Districts
- Petition Purpose: To construct two residential dwelling units
- Public Hearing Deadline: 8/22/14; Constructive Grant Deadline: 9/26/14

Hussein Haghanizadeh, HS&T Group, stated that they seek to convert and use the second and third floors of the property, previously used as a commercial warehouse, into two residential dwelling units. The first floor is currently a market. No exterior work is proposed.

Ms. Smith stated that the applicant submitted a revised application and plans today and staff has not had a chance to thoroughly review them. Therefore she recommends if approved, staff recommends the following suggested Conditions of Approval:

- 1) That the structure be constructed in substantial accordance with the final revised plot plan dated 1/16/14;
- 2) That six (6) copies of a revised answer to application questions 13 & 14 (description of existing premises & proposal) be provided to DPRS prior to issuance of a building permit showing an amended answer that clearly explains the proposed size and location of the dwelling units to be constructed;
- 3) That six (6) copies of revised plans be submitted to DPRS prior to the issuance of a building permit showing the following:
  - a. For clarification, show 64 Green Street parcel without structure and second floor shown and label the property owner as is shown on other abutting properties on the plan; and
  - b. Annotate that the proposed residential conversion is to be located on the second and third floor of the structure, located at 1 Winter Street, for the creation of 2 dwelling units and the size thereof.

Mr. Haghanizadeh stated that he was amenable to the conditions of approval.

Mr. Abramoff asked if the work a cease and desist was issued. Mr. Haghanizadeh stated that there was a cease and desist issued but that is when his company got involved and prepared all the paperwork for the variance needed.

Ms. Smith stated that the applicant should request a waiver of the application requirement to show and label all abutters and abutters thereto within 300 ft. on the plan or provide revised plans showing said abutters on the plan.

Mr. Haghanizadeh stated that he is requesting that waiver.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve with the conditions of approval listed in the memo.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the waiver.

#### **List of Exhibits:**

Exhibit A: 1 Winter Street Application; received June 18, 2014; prepared by Dominic Van Ngo.

- Exhibit B: 1 Winter Street Plan; dated January 16, 2014; prepared by HS&T Group.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 1 Winter Street; dated August 7, 2014.
- Exhibit D: Cease and Desist Order Issued by Inspectional Services re: 1 Winter Street; dated June 3, 2013.
- Exhibit E: Fire Comments; re: 1 Winter Street, dated July 7, 2014.
- Exhibit F: Request for postponement; dated July 25, 2014; received 7/25/14.
- Exhibit G: 1 Winter Street Revised Plan; prepared by HS&T Group; received 8/18/14.

**5. 922 Grafton Street (ZB-2014-033)**

- Special Permit: To modify parking layout with respect to required 5 ft. landscaping buffer and screening (Article IV, Section 7, Table 4.4, Note 5)
- Petitioner: Winter Village, LLC
- Present Use: A ~2,964 SF commercial structure used for retail sales
- Zone Designation: BL-1.0 (Business, Limited)
- Petition Purpose: To re-configure the existing parking layout and associated landscaping, removing landscape buffers along the northerly and southerly lot lines
- Public Hearing Deadline: 9/6/14

Hussein Haghanizadeh, HS&T Group, requested a postponement to September 22, 2014 and an extension of the constructive grant deadline to October 21, 2014.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to approve the postponement and the extension requested.

**List of Exhibits:**

- Exhibit A: 922 Grafton Street – Special Permit Application; received 7/3/2014; prepared by Winter Village, LLC.
- Exhibit B: 922 Grafton Street – Special Permit Plan; dated 7/14/2005, revised 6/30/2014; prepared by HS&T Group.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 922 Grafton Street – Special Permit; dated 8/7/2014.

**6. 128 Providence Street (ZB-2014-030)**

- Special Permit: To allow a Personal Wireless Service Facility in a BO-2.0 Zoning District (Business, Office) (Article IV, Section 2, Table 4.1, General Use #15)

Petitioner: Bell Atlantic Mobile of Mass. Corp Ltd. d/b/a/ Verizon Wireless  
Present Use: The ~90,000 SF, four-story, Worcester Senior Center  
Zone Designation: BO-2.0 Zoning District (Business, Office)  
Petition Purpose: To install a roof-mounted Personal Wireless Service Facility including twenty-four directional panel antenna arrays, GPS antennas, and remote radio heads in two locations nearest the north- and south-western corners of the upper roof within 2 roof-top penthouses and installing an accessory equipment shelter including a radio cabinet, HVAC unit, and generator on the lower roof within a roof-top penthouse, along with other associated equipment such as coax cables, access ladders, etc.

Public Hearing Deadline: 8/24/14

Carl Gehring, on behalf of Verizon Wireless, introduced Carey Dever from Verizon Wireless Real Estate Department, Dr. Haes - Certified Health Physicist (RF Emissions), Keith Vellante - Radio Frequency (RF) Engineer, and Joe Giordano – Architect/Engineer.

Mr. Abramoff explained for the purposes of the new Zoning Board member, George Valeri, that under FCC regulations the only thing that the Zoning Board can consider is if there is sufficient coverage in the area.

Mr. Gehring reviewed the application and the supporting documentation submitted with the Board. He stated that the City of Worcester issued an RFP (Request for Proposal) to install a wireless on the roof of the proposed building and Verizon Wireless won the bid. He showed the Board the coverage maps and stated that this site is proposed in conjunction with 21 Heywood Street, which was already approved in order to solve a coverage gap they had once the towers on the old St. Vincent's hospital were decommissioned. They had to split the location because the towers that were decommissioned were placed on a tall building on top of a hill.

Mr. Abramoff stated that one of the standard conditions of approval for these types of projects are post installation radio frequency (RF) report.

Mr. Gehring stated that they will have a HVAC unit and an emergency generator and Mr. Sheadel, acoustical engineer, provided a statement that these will comply with the noise ordinance and will be at or below the ambient noise level. Mr. Gehring showed the Board photo simulations of what the installation will look like. He stated that the installations will be enclosed and will blend in with the building.

Ms. Smith stated that the conditions of approval are the standard conditions for this type of project. She also stated that the memo includes a table which lists the requested waivers and missing application requirements along with staff comments. There are some application requirements which the applicant has not met nor requested a waiver from. She also stated that on page 6 of the memo there was an error; it mentioned the Smart Energy Solutions Pilot Program and this project has nothing to do with that particular pilot program and the Board should disregard that.

Mr. Gehring stated that he requests a waiver for all of the application requirements marked in gray in the memo.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the petition with the conditions of approval in the memo and the waivers as mentioned in Table 1 of the memo.

**List of Exhibits:**

- Exhibit A: Personal Wireless Service Facility – Special Permit Application for 128 Providence Street; prepared by Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless; received June 20, 2014.
- Exhibit B: RF Affidavit, Coverage Plots and Surrounding Site Details; prepared by Keith Vellante, C Squared Systems, LLC; dated June 17, 2014; received June 20, 2014.  
RF Emissions Compliance Report; prepared by Donald L. Haes, Jr., Ph.D., CHP; dated January 25, 2014; received June 20, 2014.  
Environmental Sound Assessment; prepared by Modeling Specialties; dated June 17, 2014; received June 20, 2014.  
Photo-simulations; prepared by GG Advanced Engineering Group, P.C.; dated May 22, 2014; received June 20, 2014.  
Site Plan & Elevations; prepared by GG Advanced Engineering Group, P.C.; dated June 2, 2014; received June 20, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 128 Providence Street; dated August 8, 2014.
- Exhibit D: Full-sized plan set.
- Exhibit E: Hearing Attendees dated and submitted August 18, 2014.

**7. 79 Kendig Street (ZB-2014-034)**

- Special Permit: Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Structure (Article XVI, Section 4)
- Petitioners: Habitat for Humanity Metro West/Greater Worcester
- Present Use: A ~3,016 SF structure previously used as a Civic Association Center along with associated off-street parking
- Zone Designation: RL-7 (Residence, Limited)
- Petition Purpose: To convert the structure to a single-family detached structure with two associated off-street parking spaces and associated site improvements

Public Hearing Deadline: 9/14/14

Tim Firment, Executive Director for Habitat for Humanity, stated that this is a conversion of the existing civic center. The property was built in the 1930s and donated to the organization. It is a pre-existing non-conforming use and structure. It does not meet frontage or front or side yard



setbacks. They are making minimal changes to the building. They are removing steps on the exterior, access to the basement and installing a handicap ramp. They want to be able to have a wounded veteran live in the dwelling. Mr. Firment stated that they are proposing a single-family dwelling, which conforms to the existing neighborhood. They added two parking spaces onsite with an unload area next to the ramp. The home is a four bedroom home to provide the option for a live-in caretaker.

Mr. Firment stated that the project will be funded with City Block Grant money. This will be the first LEED certified and Net Zero property in the City, meaning it will be retrofit with energy saving measures (i.e. solar panel, etc.). They would like to begin construction this fall.

Ms. Tatasciore stated that staff did a survey of the nearby properties and found that a number of them are non-compliant with regards to front and side yard setbacks. In response to Ms. Tatasciore's questions, Mr. Firment stated that only two parking spaces will be provided; there was a mistake on the application, which listed 4 spaces. He also stated that only one handicapped ramp is proposed and that there is no structure proposed in the back of the property.

Ms. Tatasciore stated that staff respectfully recommends approval subject to the following conditions:

1. The plan or rendering be revised with respect to the structure in the building's rear; and
2. The structure be constructed in substantial accordance with the final approved plan.

Anthony Seretakis, 100 College Street, stated that they are concerned about overcrowding because they are proposing a four bedroom house with three bathrooms for a person with moderate means and there is no guarantee that a wounded veteran would be living there. He stated that he opposed the project because he feared the number of bedrooms lends itself to someone renting out rooms and overcrowding the neighborhood.

Ann Spitaels, 29 Boyden Street, asked where the four bedrooms would be placed.

Mr. Firment stated that the houses they build are built to accommodate families of all sizes. There will be two bedrooms upstairs and two bedrooms downstairs.

Mr. Abramoff asked Mr. Firment to explain their selection process for choosing a family.

Mr. Firment stated that they have a family selection committee, made up of volunteers and board members, who hold several information sessions where they solicit families to apply. They choose based on the family's need and their ability to pay. They back into the selling price by calculating that 30% of the family's income is set aside for mortgage payments, insurance, and taxes. They finance the mortgage with 0% for 20-25 years based on the family's needs. Habitat talks to the families, their current landlords, employers, and neighbors as part of the selection process. The families also commit to a certain number of hours of sweat equity into the property.

Mr. Michajlow asked what the by-right developments are for this property. Mr. Kelly stated that single-family and two-family dwellings are allowed by right in this zoning district and multi-family dwelling are allowed by special permit.

Mr. Firment stated that the civic association requested Habitat convert this to a single-family home and they are keeping to that but they had the option of building a duplex or triple-decker.

Mr. Seretakis stated that they are also concerned that this structure doesn't meet so many of the dimensional requirements.

Mr. Abramoff asked if Habitat has a process in place to help if someone can't afford the house.

Mr. Firment stated that they have family partners that stay in touch with the families and can help during a crisis. They are able to extend the mortgage and work with the families throughout the entire process.

Francis Fitzpatrick, 36 Boyden Street, stated that she concurred with her neighbor Mr. Seretakis and is not pleased to have this property converted to a four bedroom house. They would not oppose the project if the house was smaller.

Ian MacFarlane, 30 Boyden Street, stated that he opposed this project as well.

Mr. Michajlow stated that he sympathized with the neighbors but pointed out that the by-right alternative could increase the number of bedrooms and people in that location.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Haddon, the Board voted 5-0 to approve the Special Permit requested subject to the conditions on the memo (except for #1).

### **List of Exhibits**

Exhibit A: Special Permit Application; prepared by Habitat for Humanity MetroWest/Greater Worcester; received July 11, 2014.

Exhibit B: Conceptual Site Plan; prepared by Waterman Design Associates, Inc.; dated May 21, 2014; received July 11, 2014.

Exhibit C: Rendering; prepared by unknown; undated.

Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 79 Kendig Street – Special Permit Application; dated August 8, 2014, revised August 15, 2014.

Exhibit E: E-mail between Tim Firment and Staff; re: 79 Kendig Street; multiple dates.

Exhibit F: Conceptual Site Plan; prepared by Waterman Design Associates, Inc.; dated May 21, 2014; revised August 14, 2014; received August 14, 2014.

### **8. 0 (aka 30) Tory Fort Lane (ZB-2014-035)**

Variance: For relief of 9 ft. from the 15 ft. maximum height dimensional requirement for an accessory structure in a RS-7 (Residence, Single-Family) zoning district (Article IV, Section 4, Table 4.2)

Petitioner: Massachusetts Electric Company d/b/a National Grid

Present Use: The existing Cook's Pond substation

Zone Designation: RS-7 (Residence, Single-Family) and partially within the 100 year flood plain

Petition Purpose: To replace the existing exterior chain-link fence along the northerly and southerly sides of the existing substation with a wall to both attenuate noise and provide screening to abutters

Public Hearing Deadline: 9/14/14; Constructive Grant Deadline: 10/19/14

Attorney Mark Riley, in-house council for National Grid, introduced Kevin Shaughnessy - Community and Customer Relations Manager, Dave Kostas – Principal Engineer at National Grid, Stanley Urbanowski – Lead Electrical Engineer, and Jeff Szymanski – Acoustical Engineer. Mr. Riley stated that the applicant seeks to erect two sound walls on the exterior of the existing substation, replacing the northerly and southerly chain-link fences with a timber style wall to both attenuate noise and screen the substation. Said wall is proposed to be 20 ft. in height along the south side and 24 ft. tall to the north side, running the length of the existing substation (136 ft. along the southerly side and 162 ft. along the northerly side).

Mr. Riley stated that a sound study was performed and it revealed that the substation produced noise 10 decibels higher than the ambient noise, which is not compliant with the City’s noise ordinance. Originally they planned to add smaller sound walls closer to the transformers but in discussion with abutters it evolved into the current proposal because they want screening as well. He stated that they are amenable to the conditions of approval suggested but preferred that the placements of the landscaping be left up to them since they were still in conversations with neighbors.

Ms. Smith stated that the applicant proposed three scenarios as part of this petition.

Scenario 1: The applicant seeks to erect two sound walls on the exterior of the existing substation, replacing the northerly and southerly chain-link fences with a timber style wall (see Exhibit C) to both attenuate noise and screen the substation. Said wall is proposed to be 20 ft. in height along the south side and 24 ft. tall to the north side, running the length of the existing substation (136 ft. along the southerly side and 162 ft. along the northerly side).

- The wall height proposed in Scenario 1 is *not* the *minimum* height required for *mere noise* attenuation; Scenario 1 reflects the minimum wall height to serve 2 purposes: 1) address screening as desired from abutters; and 2) provide noise attenuation.
- The proposed wall location appears to be ~85 ft. from the adjacent abutters to the south of the site and ~45 ft. from the adjacent abutters to the north of the site.

**Table 1:** Relief Requested per Scenario 1

	Maximum Height Allowed By-right	Proposed	Requested relief (% relief)
Accessory Structure	15 ft.	South: 20 ft. North: 24 ft.	South: 5 ft. (33%) North: 9 ft. (60%)
Primary Structure	35 ft.	n/a	n/a

Scenario 2: A proposal for a wall of the *minimum* required height for mere noise attenuation. This proposal requires *less relief* than Scenario 1 but provides no screening. This proposal consists of two sound walls that require relief: 1) a 16 ft. tall wall (36 ft. long) to the north side of the site, exterior of the northernmost transformer (1 ft. or 7% of relief required); and 2) a 20 ft. tall wall (43 ft. long) to the south side of the site, exterior to the southernmost transformer (5 ft. or 33% of relief required). Also proposed are two small walls exterior to the existing HVAC units – these walls do not require relief.

Scenario 3: The applicant could re-design and/or replace equipment with quieter units to minimize noise production and be compliant (or more compliant) with the requirements of the Ordinance regarding noise. Then the applicant could construct sound walls closer to the equipment (HVAC and transformer units) causing any remaining non-compliance with the Ordinance, with regards to noise (10 dB over ambient noise levels), at a lower height, thus requiring less relief.

Ms. Smith stated that staff favored the replacement of the equipment but the applicant mentioned in their memorandum that they were opposed to that scenario given the cost and that it wouldn't fully solve the noise attenuation issues. Ms. Smith stated that if approved, staff respectfully recommends the following suggested conditions of approval:

That the applicant provides 8 copies of revised plans, to scale, showing the below conditions of approval prior to the issuance of a building permit:

***General:***

1. That the applicant consider replacing the HVAC and Transformer equipment that is currently causing the non-compliance with the Ordinance with quieter models and submit a revised noise study prior to proceeding with the request for a variance, OR demonstrate financial hardship resulting in inability to provide new, quieter, equipment;
2. That the structure be constructed in substantial accordance with the final approved plan;
3. Provide the date of creation and revision of both plans and renderings be indicated on the plans submitted to DPRS;
4. Provide the distance from the proposed walls to the closest residential structures to the north and south of the property on the plan;

***Landscaping:***

5. Provide screening with densely planted arborvitae or shade trees where the proposed fencing abuts the residential properties located at 34 Tory Fort Lane, 50 & 53 Tiverton Parkway, and 78 Rich Street to the extent practicable (given the clearance/access restrictions to the substation);
6. That additional arborvitae or variety of evergreen trees be planted along the southwesterly side of the existing chain-link fence for screening from the public right-of way and abutting properties;
7. That any trees planted are of a non-Asian Longhorned Beetle susceptible species;
8. That the applicant remove the existing 6 or 7 scotch pine trees located nearest the front lot line, which appear to be diseased and some dead, as these are a fire hazard;
9. That the applicant plant a minimum of 5 new minimum 3" caliper trees, in place of the ones removed;
10. That the applicant provide a landscaping plan along with a landscaping table reflecting existing and proposed plantings;

***Removal of Existing Nonconformities:***

11. Provide a noise study certifying that the as-built conditions on-site comply with the noise provisions of the Ordinance prior to the issuance of a certificate of occupancy.

Mr. Valeri asked how thick the wall would be and how much wind it would be able to withstand Mr. Kosta stated that the wall will be approximately 12” thick; steel columns that hold up sandwiched panels between them (similar to the ones seen on the highway). Code requires it is built to withstand 90 mph winds.

Merrilee Daniels, 37 Sorento Street, stated that she was a direct abutter and that she was in favor of National Grid attenuating the noise. Her home will still sit higher than the proposed wall because of the grade so she wondered if there will be any sound absorbers.

Tim Sullivan, 34 Tory Fort Lane, stated that he was a direct abutter and was in favor of the wall because it has been very noisy since they installed the new transformers. He believed this might help increase his property value again since you will no longer be looking at the substation directly. Mr. Sullivan stated that National Grid had planted a few trees about 5 years ago but they were planted on his property and now they refuse to care for them and state that they are his trees because they are on his property. That is why he is opposed to more vegetation being planted because he doesn't want to have to care for them.

Jeff Szymanski, acoustical engineer, stated that the noise studies done show non-compliance with the noise ordinance on the north and south side. The closest abutters are multi-family homes so the walls are as high as proposed in order to shield the upper levels of neighboring properties from noise. He stated that the transformers they have are the quietest around for their size so replacing them with quieter equipment would not solve the problem. The noise is an issue because of the transformer's proximity to the boundaries.

Mr. Abramoff stated that he was surprised more abutters were not present to convey their concerns about the proposed wall.

Ms. Smith stated that the applicant has been working with the neighbors and that could be why some of the abutters weren't present.

Mr. Abramoff asked if they could solve the noise issues by enclosing the transformers instead of building these walls.

Stanley Urbanowski, Lead Electrical Engineer for National Grid, stated that the transformers at the substation are low-noise units and are the best on the market. Enclosing the transformers would present many maintenance issues, mainly because of the heat load. Huge air conditioners would be needed, which would probably be noisier than the transformers themselves.

Mr. Riley stated that the original scenario was to build two sound walls; one to the north side of the site, exterior of the northernmost transformer, and a 20 ft. tall wall to the south side of the site, exterior to the southernmost transformer. But in discussion with the neighbors, they wanted visual screening as well so in order to provide noise attenuation farther from the transformers the walls have to be constructed larger.

Mr. Kosta stated that several years ago National Grid installed a drainage system around the perimeter of the substation to solve drainage problems. They cannot install screening between Mr. Sullivan's property and the substation because the swale and the underground drainage pipe is taking up the territory right at the property line. That is why they offered to put vegetation on Mr. Sullivan's property because they do not have the space for it.

Ms. Daniels stated that National Grid never discussed this with her.

Mr. Szymanski stated that the wall won't prevent sound from going over the wall. The wall is made up of steel columns holding up wood panels with acoustical material built inside the wall. It will make the substation noise complaint but will make a small difference as to the amount of noise going over the wall. Ms. Daniels is to the east of the site so they were already compliant with noise along that boundary.

Ms. Smith stated that the plans show that the chain-link fence is set back 11 feet and asked if it could be moved to make space for a landscape buffer.

Mr. Abramoff asked if there was a way to move the walls in more and make them smaller plus add more landscaping.

Mr. Urbanowski stated that they are not able to get a maintenance truck in and abide by the space restrictions on the transformers if they move the walls in. Plus they can't plant large trees for screening on the property line because they don't have the width needed and tall trees could be a danger to the substation.

Mr. Michajlow stated that he believes the benefits outweigh the burden and he is in favor of the wall. The rest of the Board concurred.

Mr. Rolle stated that the applicant met with staff months ago for an Interdepartmental Review Team meeting and they ran through all the scenarios because they were concerned with the height of the wall. Unfortunately, they could not come up with another scenario that provided both the screening and the noise attenuation. He proposed that the Board discuss ways the applicant can soften the wall with landscaping.

Mr. Kosta stated that there is no way they can do screening on the south side unless it's on the abutter's property. They can't put any ivy or any plant on the wall itself because it will hold moisture and over time deteriorate the wall. Plus it's a safety concern if someone tries to climb it.

Mr. Abramoff asked Mr. Sullivan if he would be amenable to landscaping being planted on his property by the applicant but he would have to maintain it. Mr. Sullivan was not amenable.

Ms. Smith stated that there are tall grasses that can be planted as well.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and the variance requested subject to the conditions in the memo (pg. 2) excluding condition #1 and #5, and that the landscaping will be subject to the ability to plant without interfering with underground structure.

Ms. Smith stated that the applicant has requested a waiver from the requirement to show abutters and abutters thereto within 300 ft. or label said abutters on revised plans.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the waiver.

#### **List of Exhibits:**

Exhibit A: 0 aka 30 Tory Fort Lane Application; received 7/11/2014; prepared by Massachusetts Electric Company d/b/a National Grid.

- Exhibit B: 0 aka 30 Tory Fort Lane Plan; undated; prepared by National Grid and Black & Veatch.
- Exhibit C: Renderings; Received 8/5/2014; prepared by National Grid.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 0 aka 30 Tory Fort Lane Application - Variance; dated 8/7/2014.

**9. 9 Billow Street (ZB-2014-036)**

- Variance: For relief of 30 ft. from the 65 ft. frontage dimensional requirement in a RS-7 (Residence, Single Family) Zoning District (Article IV, Section 4, Table 4.2)
- Petitioners: Steve and Gail Del Rosso
- Present Use: A vacant lot
- Zone Designation: RS-7 (Residence, Single Family)
- Petition Purpose: To construct a ~1,204 SF footprint single-family detached dwelling with a two-car drive under garage

Public Hearing Deadline: 9/17/14; Constructive Grant Deadline: 10/22/14

Gail Del Rosso, 12 Billow Street, stated that they are requesting the variance to build a single-family home. She stated her daughter was the one that wanted to build there. She has lived in the City all her life and wants her children to live here as well.

Ms. Tatasciore stated that the analysis of the neighborhood showed that 50% of the properties in the neighborhood are similarly non-conforming with regards to frontage. She asked if any mature trees will be removed for construction.

Ms. Del Rosso stated that no trees will be removed and they will plant Asian long-horned beetle resistant trees when the house is built. She is amenable to the conditions.

Patty Nelson, 7 Billow Street, stated that they live in a great street with great neighbors and supports the petition.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and approve the frontage variance requested subject to the conditions in the memo.

**List of Exhibits**

- Exhibit A: Variance Application; prepared by Steven and Gail Del Ross; received July 14, 2014.
- Exhibit B: Proposed Site Plan; prepared by James B. Kalloch, P.L.S & P.E.; dated July 4, 2014; received July 14, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 9 Billow Street – Variance Application; dated August 8, 2014.

- Exhibit D: Registry of Deeds Book 893, Page 125; Plan of Land for 7 Billow Street (Lots 167A and 166A); prepared by Guerriere & Halnon, Inc.; dated April 17, 2012; recorded May 7, 2012.
- Exhibit E: Worcester District Registry Book 3637, Page 498; Deed for lots 166 and part of 165 Billow Street; dated November 15, 1954; recorded November 18, 1954.
- Exhibit F: Worcester District Registry Book 00060, Page 33; Plan of Land (Anchor St, Billow St, Lake Ave, Sunderland Rd, Cadman St and Dorcas St); dated 1929; recorded January 23, 1930.

**RECESS**

Chair Abramoff called a five minute recess.

The meeting was called back to order at 7:38 p.m.

**10. 8 (aka 18) Grafton Street (ZB-2014-037)**

Special Permit: To allow a Lodging House in a BG-6.0 (Business, General) Zoning District (Article IV, Section 2, Table 4.1)

Petitioner: Vision Development, Inc

Present Use: A mostly vacant 8-story ~160,000 SF commercial building

Zone Designation: BG-6.0 (Business, General) and within the USOD (Union Station View Corridor Sign Overlay District), MU (Mixed Use Development Overlay District), DSOD (Downtown/Blackstone Canal Sign Overlay District), and BCPOD (Blackstone Canal Parking Overlay District)

Petition Purpose: To convert the structure into an 84 unit multi-family high-rise with a mix of one, two, and four bedroom dwelling units Public Hearing Deadline: 9/18/14

Public Hearing Deadline: 9/18/14

Dan Benoit, representing the petitioner, stated that this is an existing 8 story building that the applicant wants to convert into student housing; 84 units and 250 occupants. They will be utilizing state and historical renovation tax credits. This project needs a lodging house license because they have 53 4-bedroom units.

Mr. Kelly stated that because of the distribution of the 4 bedroom apartments amongst all the floors, the entire building needs to be under the use of a lodging house.

Mr. Rolle stated that the building already meets all the regulations to run the property as a lodging house.

Mr. Abramoff stated that they will also have to meet all the license commission requirements when applying for the license, such as live-in manager.

Mr. Benoit stated that they are hoping to have this designated as student housing only, where you would need to be enrolled in a four year program or a graduate program.

Ms. Tatasciore stated that the decision can reflect that this is a purpose built project for full-time undergraduate and graduate matriculated students.



Mr. Abramoff asked for additional details regarding lease terms and parking. Mr. Benoit stated that the lease will be for 12 months. He stated that this location is close to the bus line and the MBTA and some might choose not to have a car because of that. Regardless, the applicant has been meeting with MassDOT regarding parking in the lots underneath I-290. They also met with City Administration regarding spaces for lease in the Union Station parking garage.

Mr. Rolle stated that this project will have to get approval from Zoning Board, Planning Board, Historical Commission, and License Commission.

Mr. Benoit stated that there will be a leasing/management office onsite for the facility.

Rick Schaffer, president of Vision Development, stated that above the leasing office, there will be an apartment for the live-in manager. They will also have a resident assistant per floor, similar to a dormitory. Each apartment comes furnished and each bedroom is a separate lease, guaranteed by the parents. All services will be handled by the management company (i.e. trash collection) and they will provide amenities for the tenants; gym, lounge area, etc.

Mr. Loew stated that he thinks this is a good project. He asked if the applicant has built a relationship with educational institutions in the area.

Mr. Schaffer stated that they hope to start construction in October and be ready for leasing for Fall 2015. They have not approached the schools yet and will not do so until all approvals have been obtained.

Mr. Loew asked what will happen with the retail space on the main floor. Mr. Schaffer stated that there will not be retail space.

Mr. Kelly asked that there is a certain amount of units that need to be handicapped accessible per floor. He asked if they will provide handicapped parking in the City garage.

Mr. Schaffer stated that there is some space close to the proposed leasing office that could serve as the handicapped spaces but they have not finalized that yet.

Mr. Abramoff asked how to define purpose-built student housing.

Mr. Schaffer stated that it is housing built specifically for full-time undergraduate or graduate students.

Mr. Rolle stated that he would advise against getting too specific.

Jo Hart, Worcester resident, stated that she had hoped they would make this a trolley/public transportation museum since they used to make trolleys at that location.

John Giangregorio, 78 Circuit Ave North and President of the Canal District Alliance and Chair of the Canal District Business Association, stated that they fully support the \$20 million project. He believes it is good for the City and for the district to have 250 tenants in that area of the City.

Ms. Tatasciore stated that the Chamber for Commerce submitted a letter of support as well.

Seth Derderian, 15 Dubiel Drive, stated that he owns commercial real estate on Green Street. He stated that he welcomes 250 students in the neighborhood and supporting the neighboring businesses. He stated he believed it was the perfect location for student housing.

Mr. Michajlow stated that the City has been trying to revitalize this area and this will help towards that goal.

Scott Ricker, Access Advocate for Individuals with Disabilities, asked about the cost of the project and how much of the project would be subject to Accessibility Board requirements.

Mr. Kelly stated that the project needs to go through all the approvals and then submit the application for a building permit. The project cost would be noted then and the requirements will be determined then. He believes that it will trigger full compliance because it's a complete renovation of the structure.

Mr. Ricker asked how many accessible units will be created and if they will be distributed through all 8 floors and if there was an existing elevator.

Mr. Abramoff stated that the only thing before them was the appropriateness of allowing a lodging house at that location but it would be subject to them meeting or exceeding all building code requirements. There is an existing elevator and it will be updated.

Mr. Ricker asked if the developer plans to seek any variance from the Architectural Access Board from the Accessibility requirements.

Mr. Kelly stated that was also determined during the building permit phase.

Heather Nejaimey, 934 Grafton St, stated that she is a commercial tenant at the Osgood Bradley building. She stated that she has not been given a timeframe as to when they need to move their business elsewhere.

Mr. Abramoff stated that she should seek help from the Business Development office of the City for help relocating. He stated that she should ask her landlord as to the timeframe.

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. Michajlow and seconded by Mr. Haddon, the Board voted 5-0 to approve the findings of fact as modified by staff and the special permit to allow the use as a lodging house for purpose-built student housing.

### **List of Exhibits**

- Exhibit A: 18 Grafton Street Special Permit Application; received July 15, 2014; prepared by David R. Benoit, Agent for Vision Development, Inc.
- Exhibit B: Student Housing – Osgood Bradley Bldg. Plan; dated July 3, 2014; prepared by Steven M. Lloyd Architect.
- Exhibit C: Purpose-Built Student Housing Fact Sheet; submitted July 24, 2014
- Exhibit D: Osgood Bradley Building, Grafton Street – Introduction, Building Rendering, Proposed Units (Floor Plans/Furnishings) Supplemental Package; submitted July 24, 2014
- Exhibit E: MACRIS listing for Osgood-Bradley Building.
- Exhibit F: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 8 (aka 18) Grafton Street – Special Permit; dated August 7, 2014.

## **APPROVAL OF MINUTES**

Upon a motion by Mr. Abramoff and seconded by Mr. Loew, the Board voted 4-0 to approve the minutes for April 7, 2014, May 5, 2014, and July 7, 2014.

Mr. Abramoff accepted the minutes for July 28, 2014.

## **OTHER BUSINESS:**

### **11. Discussion of Rules and Regulations regarding application submission requirements and plan size**

Ms. Smith stated that staff asked that this be postponed to October 20, 2014.

### **12. Communications**

- a. Notice of appeal re: 301 Burncoat Street Administrative Appeal – No Comment.
- b. SmartGrid correspondence

Mr. Abramoff asked if the Board still needs to receive these considering they are not tied to a petition before the Board. Mr. Rolle stated that he will look into it.

### **13. Signing of Decisions from prior meetings - None**

## **ADJOURNMENT**

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to adjourn at 8:15 p.m.