

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

November 9, 2015

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

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

Zoning Board Members Absent: Lawrence Abramoff, Chair

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

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Vice-Chair Vadim Michajlow called the meeting to order at 5:33 PM.

NEW BUSINESS

1. 5 Bedford Avenue (ZB-2015-052)

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

Petitioner: Andrea & Andrew Doucette

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

Zone Designation: RG-5 (Residence, General)

Petition Purpose: The petitioner seeks to construct a single-family detached dwelling and off-street parking along with associated site-work

Public Hearing Deadline: 12/06/15; **Constructive Grant Deadline:** 1/10/16

Andrea Doucette stated that she was seeking a variance for 2.5 ft. of relief from the frontage requirement of 50 ft. On January 25, 2010, the Zoning Board of Appeals approved a Variance from the frontage requirement at this location.

Ms. Tatasciore stated that the petitioner seeks to construct a new single-family detached dwelling with a 1-car attached garage. The second parking space is proposed in the driveway, outside of the

front-yard setback. The property's entire frontage is bordered by a stone wall and currently does not have a driveway, but the applicant is proposing a new curb cut for the proposed driveway.

Ms. Doucette stated that there will be two tandem parking spaces in the driveway plus the garage space.

Ms. Tatasciore stated that 89% of the properties in the immediate vicinity of the subject property are non-compliant with regards to frontage.

Ms. Doucette stated that the old shed that straddles the property line with 180 Pilgrim Avenue is dilapidated and will be razed. The proposed square footage for the single family structure will be 1,750 SF with three-bedrooms and 2.5 baths. Ms. Doucette explained the layout of the house and explained why adding an additional window, as recommended in the memo, would not work with the interior flow of the house. The back will have a set of stair, with no deck, as a second egress from the house.

Ms. Tatasciore stated that the applicant has submitted renderings and elevations of the proposed residential structure but its proposed layout will need to be flipped to correlate with the plot plan footprint.

Mr. Rolle stated that the renderings are provided to give the Board the sense of what the structure will look like. If they are comfortable then they do not need to ask for revisions but he did ask for clarification as to where the driveway will be located. Ms. Doucette stated that it will be on the right side of the house.

Mr. Rolle asked Mr. Kelly if revised plans were needed since there were only annotations requested on the revised plans. Mr. Kelly stated that they don't really need it now since they will be requiring as-built plans that would serve as their record.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted to close the hearing. Mr. Haddon was identified as the alternate.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon, the Board voted 5-0 to approve the findings of fact as modified by staff and to approve the variance requested with the conditions in the memo and to approve the waiver of the application requirement to label abutters and abutters thereto within 300 ft. on the plan or label said abutters on a revised plan.

List of Exhibits:

Exhibit A: Variance Application; received October 2, 2015; prepared by Andrea & Andrew Doucette.

Exhibit B: Plan; dated November 12, 2009 & January 15, 2010; prepared by PAJ Engineering.

2. 37 Mason Street & 9 Winfield Street (ZB-2015-053)

- Variance: For relief from the minimum side-yard setback dimensional requirement (Article IV, Section 4, Table 4.2 & associated notes to Table 4.2)
- Variance: For relief from the maximum Floor Area Ratio dimensional requirement (Article IV, Section 4, Table 4.2 & associated notes to Table 4.2)
- Special Permit: To modify parking, loading requirements, dimensional requirements, layout, or the number of required parking spaces (Article IV, Section 7)
- Petitioner: Javier Valencia
- Present Use: Presently located on the premises at 37 Mason Street is an existing commercial structure, used as an automotive repair facility, located in an area zoned, and located at 9 Winfield Street is a paved lot, used as an off-street parking area.
- Zone Designation: MG-1.0 (Manufacturing, General) & BG-3.0 (Business, General), respectively
- Petition Purpose: The petitioner seeks to construct a ~2,080 SF addition to the front of the existing structure, located at 37 Mason Street, along with associated accessory off-street parking, associated grading, and site-work.

Public Hearing Deadline: 12/07/15; Constructive Grant Deadline (Variance only): 1/11/16

Attorney Jonathan Finkelstein stated that on September 21, 2015, the ZBA approved a Special Permit to allow an extension, alteration or change of a pre-existing non-conforming structure in a MG-1.0 zoning district. At that time, the building commissioner and planning staff identified additional relief needed because this parcel is in the MG-1.0 zone but it immediately abuts a residential zone. While there is no side-yard setback dimensional requirement in the MG-1.0 zoning district, Article IV, Section 4, Note 9 to Table 4.2 of the Zoning Ordinance requires that where a manufacturing district shares a side lot line with a Residence district, the side yard requirement of the Residence district shall apply. In this case, while this property is zoned MG-1.0, it abuts an RG-5 zoning district which requires a side-yard setback of 8 feet. Article IV, Section 4, Note 12 to Table 4.2 of the Zoning Ordinance requires a Floor To Area Ratio (FAR) not to exceed 50% within the 50 foot buffer when a MG zone abuts a Residential zone. Attorney Finkelstein provided a calculation which states that 50% of the combined square footage of the existing building and the proposed addition, located within the 50 foot buffer, is 3,525 SF which exceeds the allowable 3,300 SF. Thus, a variance for 225 SF from this provision is being requested. Article IV, Section 7, allows the applicant to petition the ZBA to modify the landscaping requirements for parking spaces. The Ordinance requires that parking spaces be set back a minimum of 5 feet from the property lines and be appropriately landscaped. The applicant is seeking to modify this requirement by providing ~1-2 feet of setback, instead of the required 5 feet, from the side lot line where parking spaces abuts a residential use. Additionally, the applicant is seeking full relief of this requirement along the front lot line, where landscaping currently does not exist.

Mr. Rolle reviewed the recommended condition in the memo.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted to close the hearing. Mr. Dillon was identified as the alternate.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and to approve

Variance: For relief of 1.6 feet from the minimum side-yard setback dimensional requirement (Article IV, Section 4, Table 4.2 & associated notes to Table 4.2)

Variance: For relief of 225 SF from the maximum Floor Area Ratio dimensional requirement (Article IV, Section 4, Table 4.2 & associated notes to Table 4.2)

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

Subject to the conditions in the memo and to approve the waiver of the application requirement to label abutters and abutters thereto within 300 ft. on the plan or label said abutters on a revised plan.

List of Exhibits:

Exhibit A: Variance & Special Permit Application; dated October 6 2015 & October 28, 2015; prepared by Javier Valencia.

Exhibit B: Special Permit Plan; dated October 21, 2015; prepared by HS&T Group, Inc.

Exhibit C: Rendering, Elevation & Floor Plan; undated; preparer unknown.

Exhibit D: E-mail from Attorney Jonathan Finkelstein; dated October 21, 2015.

Exhibit E: ZBA Special Permit Decision; approved September 21, 2015.

3. 462 Grafton Street (ZB-2015-054)

Special Permit: To allow for motor vehicle service, repair, garage, and display in a BL-1.0 Zone (Article IV, Section 2, Table 4.1, Business Use #16)

Petitioner: K Motors Center, LLC

Present Use: Presently located on the premises is an existing ~13,000 SF commercial structure, formerly used as a wholesale flower distributor.

Zone Designation: BL-1.0 (Business, Limited) zone and within the Commercial Corridors Overlay District (CCOD-E).

Petition Purpose: The petitioner seeks to change the use, to allow for motor vehicle service, repair, garage, and display, and associated off-street parking along with associated site-work

Public Hearing Deadline: 12/07/15

Attorney Todd Rodman introduced Mr. Kamel and Mr. Juki, the owners of the property, stated that because this property is located in the Commercial Corridors Overlay District, a special permit is also required by the Planning Board. On September 30, 2015, the Planning Board granted a Special Permit to allow motor vehicle service, repair, garage and display within the CCOD. He stated that they have met with the neighbors and have agreed to a number of operating conditions to address the concerns expressed.

Attorney Rodman stated that Mr. Kamel plans to run a small repair shop with 2 bays on the first floor of the building. The abutters on Acton Street were concerned with traffic occurring on the back of the building and preferred that all the work occur on the Grafton Street side. Therefore, they agreed to the conditions in the memo to appease the neighbors. He requested a waiver of the application requirement to label all abutters and abutters thereto within 300 ft. on the plan.

Mr. Haddon asked for clarification on the location of the loading space. Attorney Rodman stated that the loading space is inside the building.

Jo Hart, Worcester resident, stated that she was upset that the Planning Board was approving exceptions to the Commercial Corridors Overlay District (CCOD).

Mr. Rolle stated that when CCOD was established there was a recommendation to allow this type of use in the cases when there was old equipment or motor vehicle service was a historic use of the property.

Mr. Michajlow stated that his only concern was traffic since it was a very congested intersection but he didn't know if the Zoning Board could do anything about that.

Upon a motion by Mr. Valeri and seconded by Mr. Haddon, the Board voted to close the hearing. Mr. Haddon was identified as the alternate.

Upon a motion by Mr. Wanat and seconded by Mr. Valeri, the Board voted 5-0 to approve the findings of fact as modified by staff and to approve the special permit requested with the conditions of approval in the memo and approve the waiver requested.

List of Exhibits:

- Exhibit A: Special Permit Application; received October 6, 2015; prepared by Kamel Kamel.
- Exhibit B: 462 Grafton Street Plan; dated September 28, 2015 and revised through to October 1, 2015; prepared by Graves Engineering, Inc.
- Exhibit C: Planning Board Special Permit Findings of Fact & Decision; approved September 30, 2015.
- Exhibit D: MACRIS Listing Sheet for Subject Property.

4. 126 Southwest Cutoff (ZB-2015-055)

- Special Permit: To modify parking, loading requirements, dimensional requirements, layout, or the number of required parking spaces (Article IV, Section 7)
- Petitioner: Trusswan, Inc.,
- Present Use: Presently located on the premises is an existing commercial structure, used as an automobile sales facility
- Zone Designation: BL-1.0 (Business, Limited) zone

Petition Purpose: The petitioner seeks to modify the requirements of the Ordinance with regard to landscaping requirements for parking.

Public Hearing Deadline: 12/07/15

Attorney Jonathan Finkelstein introduced Mr. Russell, principal of Trusswan, Inc., stated that on June 15, 2015, the ZBA approved a Special Permit to operate motor vehicle sales/repair with conditions. The applicant seeks relief from strict compliance with the requirements of the Ordinance for landscaping (i.e. planting trees and shrubbery) in 5' landscape buffer required along Southwest Cutoff. The applicant's tenant has concerns that the required plantings may impede sightlines to the site and impact visibility of the proposed signage. At the rear of the property there is a proposed 10' landscape buffer that is already well vegetated (over 50 trees) even though it doesn't meet the exact number of trees and shrubs required by the ordinance. Along the front, they are proposing only grass and shrubbery to identify and mark the entrances because they do not believe that other landscaping will survive on Route 20 due to the plowing of snow. Also, large trees will impede visibility and will obscure the site.

Attorney Finkelstein stated that planning staff estimated that 26 trees would be needed in that front landscape buffer but they looked at where to place them and proposed that they could plant approximately 15 trees in a southern portion of the site.

Mr. Rolle stated that staff is in agreement that the existing 10' landscaped buffer in the rear is sufficient. Staff does not agree that the front should be completely devoid of trees. It is a parcel with over 800' of frontage and staff believes that trees can be planted off to the periphery of that frontage without obscuring the sightlines. Therefore, staff recommends that, at minimum, the front landscape buffer remain pervious, and that trees be provided in the front landscape buffer area at locations that are 125 feet or greater from the driveways on site. Further, to partially off-set the reduction in trees required in the front landscape buffer, staff recommends that ten (10) additional trees be planted elsewhere on site. There are other properties along Route 20 that have trees that survive.

Attorney Finkelstein stated that he does not think it is appropriate for the front of the property and might be a deterrent to the tenant.

Mr. Russell stated that they are willing to plant the trees elsewhere on site. He stated that he was concerned because they are on a bit of a hill so any plantings in front of the site will make it very dangerous to get out of the site if you don't have full visibility to your left and your right. He doesn't want anyone to get hurt.

Mr. Loew asked if they would consider some islands in the parking area for some tree plantings. Mr. Russell stated that those would present a problem during the winter time when plowing. He is happy to plant the 26 trees, it is just the location and the spacing of those trees that he is asking for relief. The Board reviewed several options.

Attorney Finkelstein asked to continue the item and in the interim they will meet with staff to determine a better option.

Mr. Wanat asked if the applicant would consider closing the eastern most curb cut to eliminate some of the safety concerns.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to continue the item to December 14, 2015.

List of Exhibits:

- Exhibit A: ZBA – Special Permit Application; received 10/10/2015; prepared by Trusswan, Inc.
- Exhibit B: Special Permit Plan – 126 Southwest Cutoff; dated 10/5/ 2015, prepared by H.S&T. Group, Inc.
- Exhibit C: ZBA Special Permit Decision; approved 6/15/2015.
- Exhibit D: Planning Board Parking Plan Decision; approved 9/9/2015.
- Exhibit E: Worcester Fire Department Comments; undated.
- Exhibit F: Supplemental Findings of Fact; received 10/6/2015; prepared by Jonathan Finkelstein.

APPROVAL OF THE MINUTES

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted 5-0 to approve the minutes for July 6, 2015.

OTHER BUSINESS

- 5. **Board Elections of Officers** – The Board shall, by a majority vote, elect both a chairperson and a vice chairperson. Alternates may not participate in this annual election (ZBA Rules & Regulations, Section 3 - as amended 6-29-2009)
Postponed to December 14, 2015.

- 6. **Communications**
 - a. Memorandum and Order on Defendant’s Motion for Summary Judgment – 3 Homer Street – no comment

- 7. **Signing of Decisions from prior meetings** – decisions were signed.

ADJOURNMENT

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted 6-0 to adjourn the meeting at 6:48 p.m.