

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

September 19, 2016

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

Zoning Board Members Present: Lawrence Abramoff, Chair
Timothy Loew
George Valeri
Joseph Wanat
Robert Haddon, Alternate Member
Thomas Dillon, Alternate Member

Zoning Board Members Absent: Vadim Michajlow, Vice-Chair

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

Call to Order – 5:30 pm

Approval of Minutes: Upon a motion by Mr. Valeri and seconded by Mr. Wanat the board voted 5-0 to approve the minutes from August 1, 2016.

Requests for Continuances, Extensions of Time, Postponements, Withdrawals

1. 41 Piedmont Street (ZB-2016-040)

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

Variance: For relief from the exterior side-yard setback dimensional requirement in an RG-5 zoning district (Article IV, Section 4, Table 4.2, Note 7)

Variance: For relief from the parking requirement for a multi-family dwelling (Article IV, Section 4, Table 4.4)

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

Petitioner: Vader Realty, LLC

Present Use: Presently on the property is a commercial structure and associated site improvements.

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

Petition Purpose: The applicant seeks to convert the existing non-conforming structure into a multi-family dwelling and to provide off-street parking and associated site improvements.

Public Hearing Deadline: 10/13/16

Constructive Grant Deadline – Variance: 11/17/16

Upon a motion by Mr. Valeri and seconded by Mr. Wanat the board voted 5-0 to postpone the hearing to October 17, 2016 and extend the public hearing deadline to November 30, 2016.

List of Exhibits:

Exhibit A: Special Permit & Variance Application; received August 9, 2016; prepared by Vader Realty LLC.

Exhibit B: Site Plan; dated July 14, 2016; prepared by HS&T Group, Inc.

Exhibit C: Proposed First & Second Floor Plan; dated July 22, 2016; prepared by Aesthetic Images.

Exhibit D: Terms of the Conveyance of Property at 41 Piedmont Street from the City of Worcester to Vader Realty, LLC; executed May 31, 2016.

Unfinished Business

2. 70 (aka 80) Gold Star Boulevard & 32 (aka 36) Millbrook Street (ZB-2016-037)

Amend. Special Permit: To allow for food-service drive-through in a MG-2.0 (Manufacturing, General) zone (Article IV, Section 2, Table 4.1, Business Use #6)

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

Petitioner: Chick-fil-A, Inc.

Present Use: Presently on the property is a ~6,000 SF retail building with ancillary parking and automotive sales.

Zone Designation: MG-2.0 (Manufacturing, General)

Petition Purpose: The petitioner now seeks to amend the approval in order to re-configure utilities and add a cash-station along with associated site improvements.

Public Hearing Deadline: 9/22/16

Attorney Robert Longden, presented the petition and detailed the changes to the plan which necessitated an amendment to the previously approved Special Permits. The changes included a cash station along the drive-thru a walkway, relocation of a grease pit and transformers as well. A mini transformer is to be located near the location of the proposed transformer and the amendments also include a switch gear to be added to the plan near Glennie Street – the exact location of the switch gear is not set due to National Grid. Attorney Longden ask that the exact location of the switch gear not prevent the approval and if possible to leave as a condition of approval that the switch gear location to be determined later.

Attorney Longden went over staff comments in detail. Regarding Fire Department's comments, they were withdrawn and they asked that the board not maintain fire comments in conditions of approval. Attorney Longden expressed agreement with all recommendation with the exception of Fire Department comments. Attorney Longden reference waivers submitted to the board.

Mr. Abramoff asked if grease tanks were below ground. Attorney Longden stated they are.

Mr. Abramoff asked about the switch gear specifications. Engineer, Anthony Donato, stated it will be 10x11 feet above ground.

Mr. Abramoff asked if the relocation will interfere with parking or traffic. Attorney Longden stated that it will not.

Mr. Valeri asked if the connection to the transformer was underground. Mr. Donato stated that yes it is.

Alternate Robert Haddon was seated to vote.

Mr. Abramoff opened the hearing to the public. No one was present.

Upon a motion by Mr. Valeri, and seconded by Mr. Loew, 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 petition with conditions of approval as noted in the staff review memo striking #3 and with the additional condition that the exact location of the switchgear be subject to agreement between petitioner, National Grid and the City of Worcester; also to approve requested waiver from labelling abutters within 300 feet on the plan.

List of Exhibits:

- Exhibit A: Special Permit Amendment Application; received July 19, 2016; prepared by Attorney Joshua Lee Smith.
- Exhibit B: Site Plan; dated June 23, 2016; prepared by Bohler Engineering.
- Exhibit C: ZBA Special Permit Decision; signed April 11, 2016 (included with application materials).
- Exhibit D: E-mail from Joshua Lee Smith; dated August 18, 2018.
- Exhibit E: Fire Department Comments; received August 2, 2016.

New Business

3. 8 Blackstone River Road (ZB-2016-038)

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: Maan Tayeh

Present Use: Presently on the property is a commercial structure, currently used as restaurant, along with associated off-street parking.

Zone Designation: BL-1.0 (Business, Limited) zoning district & Commercial Corridors Overlay District (CCOD-E)

Petition Purpose: The petitioner seeks to continue the food-service use of the property with the addition of the sale of alcohol, and to re-configure the parking layout.

Public Hearing Deadline: 10/09/16

Applicant Mann Tayeh presented his application and stated that the intent is to increase business. Prior uses of the premises included donut shop and pizza shop. Many of his customers have asked about the inclusion of alcohol. Mr. Tayeh stated that he intends to comply with any conditions to allow the liquor license.

Mr. Abramoff asked what the hours of business are. Mr. Tayeh stated the hours are 6pm-12am, and weekends 6pm-2am. There is no intention to change hours. Mr. Tayeh stated he would like an all alcohol license.

Alternate Thomas Dillon was seated to vote.

Mr. Abramoff opened the hearing to the public. No one was present.

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

Mr. Antonellis asked for clarification on use of the outdoor patio. Mr. Tayeh stated he will not use the patio for dining purposes. Mr. Antonellis stated that a limit of 20 seats would be required if the patio were to be used as to not increased required parking.

Mr. Antonellis suggested the applicant request a waiver from providing to-scale engineered plan and that old conditions from previous approvals have been carried over to ensure compliance with prior approvals.

Upon a motion by Mr. Valeri and seconded by Mr. Dillon, 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 subject to conditions of approval as noted in the staff review memo as well as the noted waivers to provide an engineered plan and from labelling abutters within 300 feet.

List of Exhibits:

Exhibit A: Special Permit Application; received August 29, 2016; prepared by Maan Tayeh.

Exhibit B: Plan of Land; dated March 8, 1998, prepared by J&D Civil Engineers with hand-drawn edits received up to September 14, 2016.

Exhibit C: Special Permit – Findings of Fact and Decision; ZB-2013-061; signed February 24, 2014.

4. 640 Park Avenue (ZB-2016-039)

Special Permit: To allow a food-service drive-through in a BG-2.0 Zone (Article IV, Section 2, Table 4.1, Business Use #6)

Special Permit: To allow an automobile re-fueling station in a BG-2.0 Zone (Article IV, Section 2, Table 4.1, Business Use #17).

Special Permit: To allow accessory storage of flammable liquids/gasses/explosives in a BG-2.0 Zone (Article IV, Section 2, Table 4.1, Manufacturing Use #1)

Petitioner: Branded Realty Group II, LLC

Present Use: Presently located on the premises is an existing ~16,636 SF commercial structure, used as a food-service establishment, and associated parking.

Zone Designation: BG-2.0 (Business, General) zoning district

Petition Purpose: The applicant seeks to demolish the existing structure and construct two new commercial buildings - a ~6,600 SF structure for use as a gas station and convenience store with a drive-through food-service component and a ~2,100 SF structure for retail/office use, and associated off-street surface parking lot (total of ~55 spaces), along with related grading and site work.

Public Hearing Deadline: 10/09/16

Engineer James Tetreault and Robert Branca of Branded Realty Group presented the petition.

Mr. Tetreault stated that the property contains an existing restaurant use. The parcel is short of 2 acres with parking to the rear. The proposal is for a 6,600 SF gas station with canopy and a smaller retail building located in the rear. Mr. Tetreault then detailed the proposed parking, stating that it is slightly in excess of what the requirement is.

Mr. Branca stated that the intention is to relocate an existing Dunkin Donuts, located down the street, to this site. Mr. Branca does not expect increased customers at new location. Mr. Branca stated that all conditions are acceptable with the exception of the one detailing delivery times since donuts will be delivered 7 days a week and the dumpster will be emptied every day however, the time restrictions are acceptable.

Mr. Abramoff suggested that deliveries only be between 9 am and 5 pm with the exception of donut deliveries.

Ms. Tatasciore stated asked if the engineer could address circulation. Also, that drive-through hours be clarified with concern over speaker noise heard by nearby residents.

Mr. Valeri asked what the gas brand will be. Mr. Branca stated that it will likely be Gulf, but it has not been finalized.

Mr. Loew asked the applicant discuss lighting. Mr. Tetreault stated it will be LED directed downward limiting any spillover. A Photometric Plan will be provided.

Alternate Robert Haddon was seated to vote on this petition.

Mr. Abramoff opened the hearing to the public. No one present to be heard.

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 petition subject to conditions of approval as noted with amendment to #4 that regular deliveries be limited from 9am to 5pm on weekend with the exception of donut deliveries and dumpster deliveries be allowed every day between 9am to 5pm in the staff review memo as well as approval of the noted waivers.

List of Exhibits:

Exhibit A: Special Permit Application; received August 8, 2016; prepared by the applicant.

Exhibit B: Site Plan of Land; dated July 27, 2016 and revised on August 8, 2016; prepared by Thompson-Liston Associates, Inc.

5. 15 Park Villa Avenue (ZB-2016-041)

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

Petitioner: Ricky L. Sampson

Present Use: Presently on the premises is single-family dwelling and associated site improvements.

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

Petition Purpose: The petitioner seeks to demolish the existing structure and construct a single-family detached dwelling and associated off-street parking and site improvements.

Public Hearing Deadline: 10/14/16

Constructive Grant Deadline – Variance: 11/18/16

Applicant Ricky Sampson presented his petition and stated that the existing structure has collapsed in the back and the intention is to demolish completely, rebuild and sell.

Mr. Antonellis stated that the intention is the replace with another single family detached dwelling. Additionally, many of the homes nearby also do not conform to the front yard setback requirements. The petitioner will utilize the front yard alignment provision.

Mr. Antonellis also asked for clarification on the address. Mr. Sampson stated the address will be 15A Park Villa Avenue and not number 15.

Mr. Abramoff stated relief is ‘de minimis’.

Alternate Thomas Dillon was seated to vote on this petition.

Mr. Abramoff opened the hearing to the public.

Brenda McCarthy-Trayah, 15 Park Villa Ave, present to be heard. Ms. Trayah expressed concerns over parking. Mr. Abramoff stated that the project will comply with required parking.

Upon a motion by Mr. Valeri and seconded by Mr. Dillon, 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 subject to conditions of approval as noted in the staff review memo and that the plan be constructed in substantial accordance with the rendering provided as well as approval of the noted waiver from labelling abutters within 300 feet on the plan.

List of Exhibits:

Exhibit A: Variance Application; received 8/10/16; prepared by Ricky Sampson.

Exhibit B: Variance Plan; dated 8/3/16; prepared by Robert D. O’Neil, Jr.

Exhibit C: Renderings; dated 12/24/09; prepared by Residential Design Inc.

Exhibit D: Fire Department Comments; dated 8/11/16.

Other Business

6. Communications

7. Signing of Decisions from prior meetings

Adjournment

The board adjourned at 6:31pm