

**MINUTES OF THE PROCEEDINGS OF THE  
ZONING BOARD OF APPEALS OF THE CITY OF WORCESTER  
August 3, 2020**

Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor’s March 23, 2020 Order, as amended, imposing strict limitation on the number of people that may gather in one place, this meeting was conducted through remote participation. The meeting was livestreamed from the City of Worcester website and via the local cable access channel and is available for streaming online. Public participation was facilitated through a call-in number, 415-655-0001 (Access Code: 1608847670#), which was publicized on the posted meeting agenda and during the video broadcast.

Zoning Board Members Joseph Wanat, Chair  
Participating: Jordan Berg Powers  
George Cortes  
Russell Karlstad, Alternate Member  
Robert Haddon, Alternate Member

Zoning Board Members Not Participating: Andrew Freilich, Vice Chair

Staff Participating: Stephen Rolle, Division of Planning & Regulatory Services  
Amanda Molina Dumas, Division of Planning & Regulatory Services  
John Kelly, Department of Inspectional Services  
David Horne, Department of Inspectional Services

**Call to Order – 6:00 PM**

**Approval of Minutes – 7/1/2019; 8/12/2019; 9/9/2019; 10/7/2019; 10/28/2019**

Upon a motion by Mr. Berg Powers and seconded by Mr. Cortes, the Board voted 5-0 to approve the minutes.

**Postponements**

Item #1: **60 Wall Street (MBL 04-011-09+10) (ZB-2020-014)**

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

**Petitioner:** Wall Street Rentals Realty Trust

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

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

**Petition Purpose:** To construct a single-family attached dwelling (with a total of 4 dwelling units, and to conduct associated site work.

Hearing Opened: TBD

Constructive Grant Deadline: TBD

Upon a motion by Mr. Berg Powers and seconded by Mr. Cortes, the Board voted 5-0 to postpone the hearing to the August 24, 2020 meeting and to extend the Constructive Grant Deadline to September 15, 2020.

**New Business – Public Hearings**

Item #2: **40 (aka 42) Harlow Street (MBL 09-033-0001B) (ZB-2020-015)**

**Special Permit:** To allow a Non-Accessory Freestanding Billboard Sign in a MG-2.0 Zone (Article IV, Section 6)

**Petitioner:** Murray Marketing, Inc.

**Present Use:** Presently on the premises is a garage, a surface parking lot (used for bus storage),

and a billboard with static faces.

Zone Designation: MG-2.0 (Manufacturing, General) zoning district  
Petition Purpose: To relocate the existing billboard to another location on the site and to convert the billboard faces to digital display, and to conduct associated site work  
Hearing Opened: 8/3/2020 Constructive Grant Deadline: 8/25/2020  
Hearing Opened with: JW, JBP, GC, RK, RH

Attorney Jonathan Finkelstein and Joe Murray for Murray Marketing, Inc. called in for the application.

Mr. Murray went through scope of the project and reviewed slides for the project.

Mr. Finkelstein stated that they are requesting waivers suggested by staff and are in agreement with Conditions of Approval suggested by staff.

Ms. Molina Dumas reviewed the proposal, to relocate the sign to the south by approximately 75ft and convert to digital; minimum distance between digital signs is 300ft and they have nearly 1000ft.

Mr. Wanat asked if DPW or MA Dept of Transportation (MADOT) have to weigh in on project. Mr. Rolle stated that DPW had no comments, and that MA DOT has their own process. Mr. Murray stated that MA Advertising Board does their own review, so the Zoning Board of Appeals isn't only step for approval for the billboard.

Mr. Cortes asked for clarification on whether the billboard would be closer to I-290 after relocation. Mr. Rolle clarified. Mr. Cortes expressed concern about intensity of brightness of billboard and likelihood to distract drivers. Mr. Wanat stated that MassDOT review process would ensure safety. Ms. Molina Dumas confirmed that proposed sign fits zoning ordinance regulations.

Mr. Wanat asked for clarification on one of the conditions of approval and whether it covered both municipal and state requirements on signs. Mr. Rolle clarified.

**No public comment.**

Mr. Wanat asked applicant to confirm that he will be requesting waivers; Mr. Murray requested waivers.

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

**Upon a motion by Mr. Berg Powers and seconded by Mr. Cortes, the Board voted 5-0 to approve the Special Permit to allow the relocation and conversion from static to digital of a non-accessory freestanding billboard sign in MG-2.0; approved with waivers requested by the applicant; approved with conditions of approval from staff memo which includes submission of final revised site plan-set & architectural plans; and that the plan be built in substantial accordance with the plans submitted.**

Item #3: **137 Millbury Street (MBL 05-020-00013) (ZB-2020-017)**  
**Special Permit:** To Reconstruct, Modify or Relocate a Non-Accessory Freestanding Billboard Sign in a BG-3.0 Zone and the Downtown/Blackstone Canal Sign Overlay District Zone (Article IV, Section 6)  
**Variance:** For relief from the minimum setback dimensional requirement for a Digital Display Sign to a residential dwelling (Article IV, Section 6)  
Petitioner: Murray Marketing, Inc.  
Present Use: Presently on the premises is a surface parking lot and billboard with static display faces.

Zone Designation: BG-3.0 (Business, General) zoning district, the Commercial Corridors Overlay District (CCOD-C), and the Downtown/Blackstone Canal Sign Overlay District (DSOD)  
Petition Purpose: To convert the north side of the existing billboard face to a digital display, with the

south face of the billboard to remain static, and conduct associated site work.

Hearing Opened: 8/3/2020 Constructive Grant Deadline: 8/25/2020

Hearing Opened with: JW, JBP, GC, RK, RH

Attorney Jonathan Finkelstein and Joe Murray for Murray Marketing, Inc. called in for the application.

Mr. Murray went through scope of the project and reviewed slides for the project, including expected impact of brightness on abutters and automobile safety.

Mr. Finkelstein stated that they are requesting waivers suggested by staff and are in agreement with Conditions of Approval suggested by staff.

Ms. Molina Dumas reviewed the proposal.

Mr. Cortes asked about structural tethers and lightning protection; Mr. Murray and Mr. Rolle answered; Mr. Kelly clarified that safety is ensured through building permitting.

**Public Comment.**

No public comment.

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

**Upon a motion by Commissioner Berg Powers and seconded by Mr. Cortes the Board voted 5-0 to approve the Special Permit to allow the modification (conversion of one billboard face from static to digital) of anon-accessory freestanding billboard sign in BG-3.0 & DSOD overlay and the Variance for min. setback for a digital display to a residential dwelling; approved with waivers requested by staff; approved with Conditions of Approval from staff memo which includes submission of final revised site plan-set & architectural plans; to be operated in accordance with current zoning requirements; and that the project be built in substantial accordance with plans submitted.**

Item #4: **1 (aka Lot 2) Newton Avenue (a portion of MBL 11-013-00004) (ZB-2020-029)**  
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: Guri Dura and Marjeta Skenderi

Present Use: Presently on the premises is a former carriage house, recently renovated into a single-family detached dwelling

Zone Designation: RL-7 (Residence, Limited) zoning district

Petition Purpose: The applicant seeks approval for the approved driveway and parking layout which exceed imperviousness limitations, and to conduct to associated site work.

Hearing Opened: 8/3/2020 Constructive Grant Deadline: 11/1/2020

Hearing Opened with: JW, JBP, GC, RK, RH

Attorney Donald O’Neil called in for the applicants, Guri Dura and Marjeta Skenderi.

Mr. O’Neil stated that this item had previously been before the Board but they are looking to make an amendment to original proposal and reviewed the scope of the project.

Mr. O’Neil stated that the amendment is necessary because a change to the ordinance has been adopted since approval regulating the amount of impervious surface that can be in the front-yard setback; because the carriage house lot is no longer held in common ownership with the adjacent two-family dwelling, that lot now violates the front-yard setback imperviousness requirement.

Mr. O’Neil stated that they are requesting the waivers requested by staff and are in agreement with the Conditions of Approval suggested by staff, which include plan labeling and the planting of ALB and EAB-resistant trees along the paved portion of the driveway.

Ms. Molina Dumas gave an overview of the past approval of the property when it was one lot, and how it is impacted by new regulations relative to paving now that it is two lots.

Mr. Rolle explained the purpose of the new regulation.

Mr. Wanat had no comment.

Mr. Haddon asked for clarification on the curb cut width; Mr. O'Neil provided clarified that it will be 25ft.

**Public Comment**

There was no public comment.

Remaining Board members had no comment.

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

**Upon a motion by Mr. Berg Powers and seconded by Mr. Cortes the Board voted 4-1 (Mr. Karlstad voting against) to approve the Special Permit to modify parking requirements to allow greater than 50% imperviousness in the front-yard setback; approved with waivers requested by the application; approved with the Conditions of Approval from staff memo which includes submission of final revised site plan-set; parking limited to those areas depicted on approved plan, existing curb-cut to remain unchanged and all other areas to remain permeable; driveway easement shall be recorded and copy provided to DPRS; and that the project be built in substantial accordance with the plans submitted.**

Item #5: **73A (aka Lot A-1) & 73B (aka Lot A-2) Progressive Street (MBL 34-012-00013) (ZB-2020-031)**

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

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

Petitioner: Dennis Dean

Present Use: Presently on the premises at 73A Progressive Street (aka proposed Lot A-1 & A-2) is a single-family detached dwelling, with associated site improvements.

Zone Designation: RL-7 (Residence, Limited) zoning district

Petition Purpose: To demolish the existing dwelling and site improvements, divide the existing lot into two, construct a single-family semi-detached (aka duplex) dwelling (with a total of 2 dwelling units), and conduct related site work.

Hearing Opened: 8/3/2020 Constructive Grant Deadline: 11/1/2020

Hearing Opened with: JW, JBP, GC, RK, RH

Attorney Donald O'Neil called in for the applicant Dennis Dean.

Mr. O'Neil reviewed the scope of the project which involved demolishing existing building on site and then constructing a semi-detached (duplex-style) dwelling on site; discussed the proposed widths of the two driveways (17ft); confirmed waivers that are being requested.

Ms. Molina Dumas reviewed the proposal use and layout (including the garage level) relative to what would be allowed under the Zoning Ordinance.

Mr. Wanat clarified that conditions of approval 1b and 1c would no longer be applicable; Ms. Molina Dumas confirmed that they can strike condition 1c and follow-up architectural drawing are requirement for condition 1b.

Mr. Wanat stated that he was okay with existing width of the driveway.

Mr. Cortes asked if there were trees in front of the property; Mr. O'Neil confirmed that there were, but that they would be removed and new trees would be planted on each lot.

Mr. Karlstad expressed skepticism over the findings of fact in which the applicant stated that it would be an Economic Hardship not to demolish and rebuild, as no financial figures have been provided showing that; Mr. Karlstad also asked how long applicant has owned the property.

Mr. O'Neil responded that the applicant has owned the property since March 2011 and that it had been rented for a number of years and they had a tenant that did extensive damage, but that he doesn't have any facts and figures proving hardship; stated that poor condition of property is evident from viewing.

Mr. Karlstad stated that he feels the Board should look more into claims of financial hardship as a practice of the Board.

Mr. Cortes asked if the plans was to make the property a rental property. Mr. O'Neil stated he believes but the applicant is investing a lot of money to rehabilitate the property so would in best interest to keep up the property.

Mr. Cortes would like to see a clause that the owner would be responsible for maintenance if this property is going to be rented; Mr. Rolle clarified that the Board needs to be careful not to affect a future owner with any stipulation they impose.

### **Public Comment**

Brie Davis, 52 Progressive Street, Worcester, expressed concern about the developers' history working on the street, about the size of the project relative to the lot size, about ledge on the property, and about the lack of parking for the proposal; Ms. Davis also commented that the history of paving this street compared to surrounding streets has made it a thoroughfare for traffic, making it dangerous for children, and complicated plowing; Ms. Davis also expressed concern that trees being removed will not be replaced.

Mr. Wanat responded that he is okay with amount of parking provided.

Mr. O'Neil stated that they have not surveyed for ledge on the property, but if ledge is encountered during construction they will have to deal with it.

Ms. Davis asked about how much of the lot would be taken up by proposed dwelling; Mr. O'Neil responded with figures on proposed percent impervious and reiterated requested relief; Mr. Wanat stated that it would be an increase in percent impervious.

Ms. Davis expressed her displeasure with the development and about trucks being parked on the streets.

Commissioner Kelly stated that tractor trailer trucks being parked on the street is a police issue and advised Ms. Davis to call the police about it.

Ms. Molina Dumas stated that each lot would have approximately 27% lot coverage; Ms. Molina Dumas addressed some of Ms. Davis' concerns with regards to parking.

Mr. Cortes asked applicant what the plan is in regards to snow removal; Mr. O'Neil responded it would be the same as with any single-family house.

Mr. Haddon expressed skepticism over the demonstration of hardship given that the applicant themselves created it as owners of the abutting parcel.

Mr. O'Neil described how dimensions of the lot are not dissimilar from other lots that similarly support single-family semi-detached (duplex style) dwellings.

Mr. Karlstad expressed criticism of the lack of care shown by the architectural renderings of the house and lack of consideration for specifics of the site and the two trees out front.

Mr. Wanat expressed agreement that development is out of character for the neighborhood and would like to see the trees remain.

Mr. Berg Powers described that there are existing duplexes and that this is not out-of-character for the neighborhood; expressed that he understands traffic concerns but they are not the ZBA's purview; stated that he does not see a compelling reason not to vote for this.

Mr. Haddon asked if existing two-family dwellings in the neighborhood are conforming; Mr. Rolle stated that they would have to look into this.

Mr. O'Neil stated that he would like to continue the item so could discuss options with staff and look into the Board's concerns with the project.

**Upon a motion by Mr. Berg Powers and seconded by Mr. Cortes the Board voted 5-0 to continue the Variance applications to the September 14, 2020 Zoning Board of Appeals hearing and to extend the Constructive Grant Deadline to October 20, 2020.**

Item #6: **40 Pullman Street (MBL 23-01A-0001E) (ZB-2020-035)**

**Special Permit:** To allow the extension, alteration or change of a privileged pre-existing, nonconforming structure and/or use (Article XVI, Section 4)

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

**Variance:** For relief from the maximum floor area ratio requirement to allow 1.071 FAR in the MG-0.5 Zone (Article IV, Section 4, Table 4.2)

Petitioner: O'Brien Commercial Properties

Present Use: Presently on the premises is a multi-story, +/- 86,009 SF commercial building, recently used as offices and general storage, with associated parking and loading areas.

Zone Designation: MG-0.5 (Manufacturing, General) zoning district

Petition Purpose: To renovate the existing building into a self-storage facility, install new outdoor storage units (+/-4,900 SF), re-configure parking and loading and conduct associated site work.

Hearing Opened: 8/3/2020 Constructive Grant Deadline: 11/1/2020

Hearing Opened with: JW, JBP, GC, RK

Mr. Haddon recused himself.

Swen Heisted called in for the applicant O'Brien Commercial Properties and reviewed the scope of the project— a renovation of an existing 100-year-old building recently used as warehouse space and distribution center for trucking; applicant is proposing to convert to a self-storage facility using existing structure and construct some additional drive-up structures.

Mr. Heisted reviewed the relief being requested from the Board.

Mr. Heisted stated that they are requesting the waivers suggested by staff and are in agreement with the conditions of approval suggested by staff.

Mr. Heisted went through a selection of staff comments regarding suggested changes; he reviewed the way that the new proposed layout will resolve an existing traffic issue caused by truck loading; stated that applicant is willing to eliminate proposed free-standing storage units in the driveway if the Board feels strongly.

Ms. Molina Dumas gave an overview of the existing non-conformities and the specifics of the relief being requested; Ms. Molina Dumas noted that staff recommended moving parking banks to align with parking aisles and staff recommended eliminating parking that is directly adjacent to fencing.

Mr. Rolle noted that parking adjacent to gate could be shifted instead of eliminated.

Mr. Heisted stated that they would be willing to accommodate the recommended changes to parking.

Mr. Wanat had no comment.

Mr. Cortes asked whether there will accessible storage rooms; Mr. Heisted stated that there are walk-in or roll-in storage units, and main building would be handicap accessible. Mr. Cortes asked whether a certain portion of the driveway would be paved; Mr. Heisted stated that after landscaping beds are installed and entrances delineated, the entire lot would be paved.

Mr. Rolle clarified that there is a condition of approval regarding aisle widths, and suggests a modification to the staff-recommended condition of approval 1a:

Maintain a 22' minimum aisle width between the southerly bank of seven parking spaces and the proposed landscape buffer edge adjacent to the structure, and a 20' aisle width between the outdoor containers and the same landscaping areas.

Mr. Rolle articulated additional conditions of approval:

Parking areas adjacent to the containers be shifted inward to better align with the middle parking aisle

Additionally either those same parking areas shall be shifted to the west, or the eastern most parking spaces shall be eliminated, to avoid potential conflict with the moving gate.

**Public Comment**

No Public comment

Upon a motion by Mr. Berg Powers and seconded by Mr. Cortes the Board voted 4-0 to close the Public Hearing.

**Upon a motion by Mr. Karlstad and seconded by Mr. Cortes the Board voted 4-0 to approve the Special Permit to allow alteration of privileged, pre-existing, non-conforming structure and/or use, Special Permit to modify parking layout, and the Variance for FAR; approved with waivers requested by the applicant; approved with the Conditions of Approval from staff memo and as amended during hearing which include: submission of final revised parking plan and architectural plans; that prior to the Certificate of Occupancy that the applicant provide acceptable gate access to WFD; all parking spaces shall be striped and accessible spaces placarded; snow storage shall not be located in parking spaces or landscaped buffers and excess snow shall be removed; the dimensional Variance for FAR applies to self-storage use as proposed and not to a change or expansion of uses; and that the project be built in substantial accordance with the plans submitted.**

Item #7: **11 Canterbury Street (MBL 07-027-00010) (ZB-2020-037)**  
**Special Permit:** To allow the extension, alteration or change of a privileged pre-existing, nonconforming structure and/or use (Article XVI, Section 4)  
**Variance:** For relief of 10ft (66%) from the minimum rear-yard setback dimensional requirement in a MG-2.0 Zone (Article IV, Section 4, Table 4.2)  
**Petitioner:** Jake Properties, LLC  
**Present Use:** Presently on the premises are two buildings - a +/- 3,881 SF commercial building, used as a daycare, and a +/- 8,451 SF warehouse building - with associated surface parking and outdoor storage.  
**Zone Designation:** MG-2.0 (Manufacturing, General) zoning district  
**Petition Purpose:** To demolish the existing warehouse building, with the commercial (daycare) building to remain, construct a new +/- 20,741 SF warehouse building and reconfigure the surface parking areas on-site along with associated site work  
**Hearing Opened:** 8/3/2020 Constructive Grant Deadline: 11/1/2020  
**Hearing Opened with:** JW, JBP, GC, RK, RH

Lar Greene, Princeton MA, called in for the applicant, Jake Properties, LLC and gave an overview of the scope of the project, a redevelopment of property into a warehouse building; Mr. Greene discussed the surrounding uses and proposed shared parking and effort to buffer between warehouse and existing daycare use.

Mr. Rolle reviewed what was proposed for the site which includes demolishing the existing warehouse and building a new one (requiring rear-yard setback relief) but the commercial daycare building (and its present use) will remain; Mr. Rolle clarified that there is a 5-foot landscape buffer to remain and staff would like to see a tree planted in that space; added that any chain link fencing should be black vinyl coated.

Mr. Wanat had no comment.

Mr. Cortes asked the applicant to review the parking for the site; Mr. Greene confirmed that there would be shared parking both on-site and across the street. Mr. Cortes asked about safety regarding warehouse trucks and the children at the daycare; Mr. Greene and Mr. Rolle both reiterated location of the fence.

Mr. Berg Powers stated that he felt the proposed arrangement would be an improvement to safety, given that a shared day-care-and-warehouse arrangement has been existing there incident-free.

Mr. Wanat agreed with Mr. Berg Powers, reiterated that there is no way for someone to wander from the daycare to the truck maneuverability area.

Mr. Haddon asked applicant to confirm that this would continue to be used by Cogswell Sprinklers, and asked how many tractor trailer truck deliveries they receive; Mr. Greene confirmed it would be infrequent activity.

### **Public Comment**

No public comment.

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

**Upon a motion by Mr. Berg Powers and seconded by Mr. Cortes the Board voted 5-0 to approve the Special Permit for privileged pre-existing non-conforming use for existing day care structure and the Variance for rear-yard setback for proposed; approved with waivers requested by the applicant; approved with Conditions of Approval from staff memo and as amended during hearing which includes, submission of final revised parking plan and architectural plans; prior to Certificate of Occupancy that applicant provide acceptable gate access to WFD; that all parking spaces shall be striped and accessible spaces placarded; snow storage shall not be located in parking spaces or landscaped buffers and excess snow shall be removed; and that the project be built in substantial accordance with the plans submitted.**

### **Other Business**

#### **8. Communications - None**

#### **9. Discussion of Board Policies and Procedures**

Mr. Wanat proposed changing the word from “describe” to “demonstrate” on the question of hardship on the application form.

Mr. Rolle stated that staff can receive Board suggestions for changes and compile them.

Mr. Wanat stated that when making suggestions they should consider what falls under the Board’s purview.

Mr. Haddon suggested that a history of ownership of the site be included in the application, so that it can be determined whether hardship is self-inflicted; Mr. Wanat agreed and asked to also include history of abutting parcels as well; Mr. Rolle suggesting asking applicant for that information.

### **Adjournment**

**Upon a motion by Mr. Cortes and seconded by Mr. Berg Powers the Board voted 5-0 to adjourn the meeting at 9:15 PM.**