



**MINUTES OF THE PROCEEDINGS OF THE  
ZONING BOARD OF APPEALS OF THE CITY OF WORCESTER  
May 23, 2022**

Worcester City Hall – Levi Lincoln Chamber,  
with remote participation options available via Webex online at:  
<https://cow.webex.com/meet/planningboardwebex> and  
call-in number 415-655-0001 (Access Code: 160 884 7670).

Zoning Board Members Present: Russell Karlstad, Chair  
Jordan Berg Powers, Vice Chair – *Participated Remotely*  
George Cortes  
Anthony Dell'Aera – *Participated Remotely*  
Eric Torkornoo- *Participated Remotely*  
Nathan Sabo – *Participated Remotely*  
Shannon Campaniello

Zoning Board Members Absent:

Staff Participating: Stephen Rolle, Division of Planning & Regulatory Services  
Rose Russell, Division of Planning & Regulatory Services  
David Horne, Deputy Building Commissioner  
Alexandra Kalkounis, Law Department

**Call to Order** –

Chair Karlstad called the meeting to order at 5:33 PM.

**Requests for Continuances, Extensions, Postponements, and Withdrawals**

**Item 1: 77 Seymour Street (ZB-2022-003) Special Permit & Variance**  
Request to Continue the Public Meeting to June 13, 2022  
Extend the Constructive Grant Deadline to July 12, 2022

**On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to postpone.**

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**Old Business:**

**2. 9 Dalton Street (MBL 34-019-00002) (ZB-2022-006)**  
**Special Permit:** To allow single-family attached dwellings in an RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #12)  
**Petitioner:** DiVerdi Builders, Inc.  
**Present Use:** Presently on the premises is an existing mobile home and associated site improvements

Zone Designation: RL-7 (Residential, Limited) and BL-1.0 (Business, Limited) zoning districts  
Petition Purpose: The applicant seeks to construct a single-family attached (townhouse style) dwelling with a total of 4 units with associated site improvements.

Carl Hultgren from Quinn Engineering spoke on behalf of the applicant. He described the revised architectural plans, from four to three units along with the new orientation of the proposal.

Mr. Rolle described the major differences between the previous proposal and the new plans. Mr. Karlstad thanked Mr. Hultgren for taking the Zoning Board and public comments into consideration and improving the design.

*No Board Discussion*

Public Comment

Darlene Gleason, and abutter asked to comment. Ms. Gleason asked how the applicant is going to handle snow removal; Mr. Hultgren answered. Ms. Gleason also voiced concerns about how it doesn't fit in with of all single-family homes, and worried about overflow parking. Mr. Hultgren explained each unit has a total of four parking spaces. Mr. Karlstad stated he doesn't feel that parking is an issue, and it isn't the Zoning Board's purview to decide if it fits in with the neighborhood character. Ms. Gleason described the traffic issues that exist on Dalton Street and the surrounding neighborhood, and the close proximity to schools with no sidewalks. Mr. Karlstad advised she reach out to the police department or a DPW with her traffic concerns.

**On a motion by Mr. Berg Powers, seconded by Mr. Dell'Aera, 5-0 to close the public hearing.**

**On a motion by Mr. Berg Powers, seconded by Mr. Dell'Aera; 5-0 to approve the special permit.**

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Old Business:

**3. Country Club Acres (f/k/a Paradise Point) & 190 Mountain Street East  
(MBL 36-048-00002 & CO-NDO-02075) (ZB-2022-018)**

**Administrative Appeal:** Of a determination issued by the Deputy Building Commissioner finding there to be no zoning violations to enforce and declining to issue a cease and desist order to prohibit additional construction activity at the property.

Petitioner: Country Club Acres Trust

Present Use: A partially constructed Continuing Care Retirement Community (CCRC) condominium complex.

Zone Designation: RS-7 (Residential, Single-Family) zoning district and is within the Water Resources Protection Overlay District (WR(GP-3) & WR(GP-2)).

Petition Purpose: The applicant seeks to appeal the Deputy Building Commissioner's determination which asserted there has been no zoning violation to enforce and declined to issue a cease-and-desist order to prohibit additional construction activity at the property.

Mr. Karlstad described the previous Board discussion on the application and read the memo from the Law Department into the record. Meghan Hall called into the meeting on behalf of the Country Club Acres Trust. Ms. Hall stated they had no new information to add and reiterate prior arguments.

Vernie Grady called in asked to give his public comment on the discussion around 9 Dalton Street. Mr. Rolle advised him to call the Planning Office in the morning as the public hearing has been closed and they can't discuss it further.

Board Discussion

Mr. Berg Powers gave his understanding of the appeal with the added legal guidance. He asked the Law Department how long the developer can not be in compliance with the special permit. Mr. Berg Powers expressed concerns for the consequences are for Zoning Board not upholding its permits. Mr. Rolle responded by saying his interpretation of the appeal is that the city is not being asked whether a violation occurred, only to issue a cease and desist until the Land Court case has decided whether or not the conditions of the special permit were violated. Mr. Rolle also noted that this construction has been underway for many years, and in a project such as this, the land would not be turned over to the Condominium Association until the construction is completed, which it has not been completed at this time.

Alexandra Kalkounis, from the Law department reiterated Mr. Rolle's statement.

Mr. Berg Powers stated he feels that the Zoning Board should be taking preventative action in this case before they have to take action in case the developer doesn't comply with the special permit after construction is completed. Mr. Sabo reiterated Mr. Berg Power's comments.

Mr. Karlstad stated that the Zoning Board can only speak to Zoning and they need to trust the Legal Department's guidance in this case. Mr. Cortes stated his concerns about interfering in an on-going court case.

*No public comments*

**On a motion by Mr. Berg Powers, seconded by Mr. Sabo, the Board voted 5-0 to close the public hearing.**

**On a motion by Mr. Berg Powers, seconded by Mr. Sabo, the Board voted 3-2; Mr. Berg Powers, Mr. Sabo, and Mr. Dell'Aera in favor; Mr. Karlstad and Mr. Torkornoo opposed; to deny the appeal.**

New Business

**4. 5 & 7-9 Richards Street (MBL 07-009-00005; -00006; -00024) (ZB-2021-043)**

5 Richards Street

**Variance:** For relief from the minimum setback dimensional requirement for an accessory structure in a residential zone (Article IV, Section 8, B.10.)

7-9 Richards Street

**Variance:** For relief from the minimum setback dimensional requirement for an accessory structure in a residential zone (Article IV, Section 8, B.10.)

**Variance:** For relief from the minimum setback dimensional requirement for an accessory structure in a residential zone (Article IV, Section 8, B.10.)

**Variance:** ~~For relief from the minimum front yard setback dimensional requirement for multi-family detached dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)~~

Petitioner: Gold Star Builders, Inc.

Present Use: Presently on the premises of 5, 7-9 Richards Street is a multi-family structure with accessory retaining walls and parking under construction.

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

Petition Purpose: The applicant seeks partially retroactive approval to construct a +/-9 unit low-rise multifamily dwelling with +/- 18 parking spaces (surface and garage), associated retaining walls, and to conduct associated site work.

Donald J. O'Neil spoke on behalf of the applicant, Gold Star Builders, Inc. He described the relief requested by the applicant, and requested a leave to withdraw the variance for 7 Richards Street for the front-yard setback.

Mr. Karlstad asked for clarification on the location of the retaining wall; Mr. O'Neil described the location.

Mr. O'Neil described the previous approvals and applications to different boards/commissions for development of this property, and the leave to withdraw for the variance for relief from the front yard setback.

Mr. Karlstad asked if the lots will be separated; Mr. O'Neil responded that 5 Richards Street will most likely be developed later on.

Mr. O'Neil addressed staff comments about moving the handicap ramp and stated the applicant is amenable to moving the handicap ramp as requested.

Mr. Rolle recapped previous approvals this project has been approved for, and the next steps the applicant will have to take if approved. He also noted for the Board that construction for this project is currently on-going.

*No public comment*

*Inspectional Services had no comment*

**On a motion by Mr. Berg powers, seconded by Mr. Cortes, 5-0 to close the public hearing.**

**On a motion by Mr. Berg Powers, seconded by Mr. Cortes, 5-0 to approve the Leave to Withdraw without prejudice and the requested relief.**

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<b>5.</b>	<b>26 June Street (MBL 11-030-00010) (ZB-2022-005)</b>
<b>Special Permit:</b>	To allow a three-family detached dwelling in an RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #16)
<b>Special Permit:</b>	To allow the extension, alteration, or change to a privileged non-conforming structure/use (Article XVI, Section 4)
<b>Variance:</b>	For relief from the minimum frontage dimensional requirement for a three-family detached dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)
Petitioner:	Karen J. Rougas
Present Use:	Presently on the premises is a non-conforming, two-family detached dwelling and a detached three-car garage.
Zone Designation:	RL-7 (Residence, Limited) zoning district
Petition Purpose:	The applicant seeks to renovate the existing structure to add an additional dwelling unit by reconfiguring the existing structure and conduct associated site improvements.

Donald J. O'Neil spoke on behalf of the applicant, Karen J. Rougas. Mr. O'Neil described the proposal and described the petition to add a third unit to the existing two-family dwelling.

Mr. Rolle further described the application, and noted the similarities between the requested relief and a residential conversion. He stated no exterior changes to the dwelling is proposed, but it does include the addition of two parking spaces. Mr. Rolle relayed DPW comments that the applicant would be required to install sprinklers.

Board Discussion

Mr. Karlstad asked the applicant to provide a fence or landscaping buffer in front of the new parking spaces to prevent headlight glare from going into the abutting property’s backyard. Mr. Karlstad further specified at least a 24’ fence should be installed in front of the parking spaces Mr. Karlstad also asked the applicant to provide a ballad/low landscaping in the front yard to prevent residents from parking in the front yard.

Mr. O’Neil asked if the applicant would able to work with the DPW on sprinkler systems because there is no physical expansion. Mr. Cortes stated that the sprinkler system is handled through the Fire Department not through the Zoning Board of Appeals.

Mr. Horne stated that the change from a two-family to three-family will require installation of a sprinkler system, and the applicant must comply with the Zoning Code.

*No public comments*

**On a motion by Mr. Berg powers, seconded by Mr. Cortes, 5-0 to close the meeting.**

**On a motion by Mr. Berg powers, seconded by Mr. Cortes, 5-0 to approve the relief with the added condition of three, eight foot panels of fencing adjacent to the proposed parking spaces, and a low landscape planting in the front yard.**

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<b>6.</b>	<b>21 Ascension Street (MBL 19-013-00003) (ZB-2022-022)</b>
<b>Special Permit:</b>	To allow placing, filling, dumping, and/or excavation of earth (Article IV, Section 5)
Petitioner:	Fabio and Iraima Passos
Present Use:	Presently on the premises is a non-conforming three-family dwelling and related site improvements.
Zone Designation:	RL-7 (Residence, General) zoning district
Petition Purpose:	The applicant seeks to retroactively permit work conducted to place fill and to conduct remedial excavation of most of the placed fill in order to regrade the property and stabilize slopes.

Joe Moreira spoke on behalf the applicant for 21 Ascension Street. He described the ongoing Housing Court enforcement order and subsequent retroactive permit application to correct the fill placed. Mr. Moreira said the applicant had spoken to the abutters who had been directly affected by the fill. He stated one abutter is amenable to the fill being permanent, while the other abutter is unhappy with the fill remaining. Mr. Moreira stated that both abutters are amenable to the applicant entering their property to complete remedial work.

Mr. Rolle summarized the application and recommended the Board continue this item to give the applicant more time to connect with abutters and finalize grading plans. He stated the special permit, if granted would only apply to the applicant’s property. He further recommended the Board request a proposed plan that shows 1’ contours with any stabilization methods used, and erosion control plan for during construction.

*No public comments*

**On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the board voted 5-0 to continue the public hearing to July 11, 2022.**

- 7. 123 Hope Avenue (MBL 17-003-00014)(ZB-2022-025)**
- Special Permit:** To allow the extension, alteration, or change to a privileged non-conforming structure/use (Article XVI, Section 4)
- Variance:** ~~For relief from the side yard setback dimensional requirement for a two family detached dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)~~
- Petitioner:** Kevin and Annmarie Germain
- Present Use:** Presently on the premises is a non-conforming single-family detached dwelling with associated site improvements.
- Zone Designation:** RS-7 (Residence, Single-Family) zoning district
- Petition Purpose:** The applicant seeks retroactive approval to enclose an existing porch and add a deck.

Kevin Germain, the applicant for 123 Hope Avenue described his petition to the Board. Mr. Germain stated he had hired contractors who did not acquire the correct permits. He then received an enforcement order and is now in front of the Zoning Board to request retroactive relief.

Board Discussion

Mr. Karlstad asked if there was any more work proposed to be done. Mr. Germain stated that he had no further plans for construction.

Shannon Campaniello stated she supported the relief given the abutter letter sent to the Board in support of Mr. Germain’s deck construction.

Mr. Rolle described the protections given to single-family homes that allows a special permit to cover relief from side yard setback since its encroaching no further than the original house. He suggested the applicant request a Leave to Withdraw for the variance. Mr. Germain requested the Leave to Withdraw and waivers respectively.

*No public comments*

**On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the board voted 5-0 to close the public hearing.**

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the board voted 5-0 to approve the special permit, and accept the Leave to Withdraw without prejudice.**

- 8. 45 Pilgrim & 45A Pilgrim Avenue (MBL 18-024-03+05) (ZB-2022-026)**
- Lot 1 (aka 45 Pilgrim Avenue)*
- Variance:** For relief from the lot area dimensional requirement for a single-family dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)
- Variance:** ~~For relief from the frontage dimensional requirement for a single family dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)~~
- Variance:** For relief from the side-yard setback dimensional requirement for a single-family dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)
- 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, A. 2)~~
- Lot 2 (aka 45A Pilgrim Avenue)*
- Variance:** For relief from the lot area dimensional requirement for a single-family dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)

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

**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, A. 2)

**Petitioner:** Gina DeAngelis Romeo

**Present Use:** Presently on the premises is a non-conforming two-family detached dwelling and a detached garage, with associated site improvements.

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

**Petition Purpose:** The applicant seeks to divide the lot into two parcels with one single-family dwelling on each lot.

Donald J. O’Neil spoke before the board on behalf of the applicant. Mr. O’Neil described the uniqueness of the application and how it doesn’t fit into the typical categories set forth in the Zoning Ordinance. He described the petition to create a single-family semi-detached home since the homes function independently, and have separate utilities, driveways, entryways etc. He stated no exterior changes are proposed, no changes to the parking configuration.

Mr. Karlstad asked for clarification on where the lot line runs; Mr. O’Neil described the odd lot line which is designed to require minimal relief from the Board.

Mr. Rolle described the petition to separate the homes to allow for individual ownership. He also suggested the applicant apply for a building permit to ensure the separation between the houses meets code for the fire department.

Board Discussion

Mr. Berg Powers asked for clarification on the term party wall; Mr. O’Neil explained. Mr. Rolle further explained that this is a very atypical example of a party wall. Mr. Cortes asked how large the party wall will be expanded too. Mr. O’Neil stated they aren’t expanding but will comply with the building commissioner’s findings if any further construction is needed to meet the building code for fire prevention.

Ms. Campaniello asked for clarification on the lot line and whether the easement noted on the prior plan was still part of the proposal. Mr. O’Neil explained that the easement it was no longer included.

Mr. Horne asked the applicant to ensure they come to Inspectional Services to ensure proper fire prevention after they gain Zoning Board approval.

The applicant, Gina Romeo called in and explained to the Board the separation between the two homes.

Mr. O’Neil requested a Leave to Withdraw for the frontage and parking variance for Lot 1 (45 Pilgrim).

*No public comments*

**On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the board voted 5-0 to close the public hearing.**

**On a motion by Mr. Berg Powers, seconded by Mr. Cortes., the board voted 5-0) to approve the Leave to Withdraw request without prejudice, and requested relief.**

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**9. 50 South Flagg Street (MBL 24-002-19+20) (ZB-2022-034)**

**Variance:** For relief from the maximum height dimensional requirement for an accessory structure in a residential zone (Article IV, Section 8, B.10.)

**Petitioner:** Harry Richardson and Jessica LaFrance

**Present Use:** Presently on the premises of 50 South Flagg Street is a single-family detached dwelling with an attached garage and a treehouse.

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

Petition Purpose: The applicant seeks retroactive approval for construction of the accessory structure (treehouse).

The applicant, Harry Richardson described his petition before the Board. He stated he was unaware the treehouse would violate the accessory structure height requirements set forth in the Zoning Ordinance. He described the enforcement order he received and his following application for relief from the Ordinance.

Mr. Richardson stated the structure had been assessed by the previous Building Inspector and found to be of sound construction. David Horne stated no building permits would be necessary and he wouldn't speak to whether the structure was sound or safe.

**On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the board voted 5-0 to close the public hearing.**

**On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the board voted 5-0 to approve the relief.**

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**Other Business:**

**9. Communications**

- a. Subsidized Housing Inventory Biennial Update; from the Department of Housing & Community Development
- b. Status of Open Meeting Law Complaint

**10. Approval of Minutes – 5/2/2022**

**On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the minutes from Zoning Board of Appeals meetings on 5/2/2022 were approved 5-0.**

**11. Discussion of Board Policies and Procedures**

*No discussion*

**Adjournment**

**On a motion by Mr. Berg Powers, seconded by Mr. Torkornoo, the Board voted unanimously to adjourn at 7:33PM.**