

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

**October 20, 2014**

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

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

**Zoning Board Members Absent:** None

**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.

**UNFINISHED BUSINESS**

**1. 586 Grafton Street (ZB-2014-041)**

**Special Permit:** To allow a professional office use in a RG-5 (Residence, General) Zoning District (Article IV, Section 2, Table 4.1, Business Use #19)

**Petitioners:** Ernest Acquaaah-Harrison

**Present Use:** A two-family detached dwelling

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

**Petition Purpose:** To convert the first floor or ~1,200 SF into a real estate office along with associated paving and site work to allow for the creation of an additional five accessory parking spaces in the rear (southerly) of the structure

Attorney John Lucier, representing the petitioner, stated that they met with the neighbors at the property and described the project and a number of concerns were brought up. The applicant seeks to convert the front portion (1,200 SF) of an existing two-family dwelling into a real estate office

and maintain the rear unit as a residence. The neighborhood is within the RG-5 (Residence, General) district and consists of a mix of single-family detached, two-, three- and multi- family dwellings. Properties in the vicinity of 586 Grafton Street have residential use and the majority of these are single-family. Grafton Street is a state highway (Route 122) and classified as a principal arterial, with commercial districts located to the west and to the east.

Mr. Lucier stated that in case of small snow storms, the snow will be placed in the designated snow areas and in larger snow events, it will be trucked off-site. He mentioned that some abutters were concerned with this project affecting their property value. Mr. Lucier stated that he believed it will increase property values by nature of the use because it allows additional uses.

In response to the questions for the applicant: Mr. Lucier stated that the fencing will be consistent with what is currently there. The landscape plan to shield the parking lot from the neighbors is also detailed on the plans.

Ms. Tatasciore stated that the applicant should provide an additional tree along the southerly property line, as well as along Lamar Avenue in order to comply with the Zoning Ordinance requirement that trees shall be planted every 20-25' on center. Also, the proposed rear parking area does not appear well-screened from the neighboring residence at 1 Lamar Avenue. Staff recommends that the Board consider additional landscaping to better screen the parking area.

Mr. Kelly stated that he applicant needed to make sure that the entrance and parking meet ADA accessibility requirements.

Patricia Ronco, 1Lamar Ave., stated that she is against the petition because there are no businesses currently in that portion of Grafton Street and she wants to preserve the character of the neighborhood.

Gloria Salaro, who grew up on Standish Street, stated that they want to retain the neighborhood character and therefore oppose the petition. Businesses are already encroaching on the residential areas and they just want to preserve the rich history of the area.

John Ronco, 1 Lamar Ave, stated that he did not want this change due to the parking lot proposed. He is concerned that the additional traffic from the business could be a danger to the children from the nearby school.

Philip George, 8 Lamar Ave, stated that having a business where it is proposed will negatively impact the neighborhood.

Mr. Wanat stated that his concern still remains and he does not believe that this is an appropriate use. The change in grade is not conducive to handicap accessibility since there is a six foot grade change from the walkway to the front. Plus the concerns he mentioned at the previous meetings are still valid.

Mr. Abramoff stated that they should evaluate the findings of fact. He stated that the community needs jobs and businesses that pay taxes. He is not overly concerned about traffic flow and safety

because cars will not be allowed to back into traffic. The utilities should not be impacted by the additional use. The tree plantings will add trees and screening that are good to the natural environment. The project will not affect the City fiscally. The main concern with this project is the impact to neighborhood character and social structure and therefore he is not in favor of the petition.

Ms. Harrison, petitioner, stated that she has heard and understands the concerns voiced by the neighborhood. The change proposed is not dramatic. There is a crossing guard present at that intersection and all the vehicles will have to obey the laws. The drainage, snow removal, and landscaping have been well addressed. The proposed sign is flush with the building and will not attract undue attention. Their business currently has a location at 429 Park Avenue and if denied, the Grafton location will remain a 2 family.

Mr. Abramoff stated that the petitioner might be risking a no vote since the Board is still divided and asked the petitioner what they want to do.

After conferring with his clients, Mr. Lucier stated that they want to withdraw and will resubmit the request at a later date.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0-1 (Mr. Michajlow abstained because he was not at the first meeting this item was opened) to grant a Leave to Withdraw Without Prejudice.

#### **List of Exhibits**

- Exhibit A: Special Permit Application; August 1, 2014; prepared by Ernest Acquaaah-Harrison.
- Exhibit B: Special Permit Site Plan; dated August 14, 2014; prepared by HS&T Group, Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 586 Grafton street; dated September 17, 2014, revised October 15, 2014.
- Exhibit D: Decision – Zoning Board of Appeals – 586 Grafton Street; June 10, 1991.

#### **NEW BUSINESS**

### **2. 50 Winneconnett Road (ZB-2014-032)**

- Special Permit:** To allow a multi-family low-rise dwelling in a RL-7 (Residence, Limited) Zone (Article IV, Section 2, Table 4.1, Residential Use #11)
- 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 multi-family low-rise dwelling with 4 dwelling units and 8 associated off-street parking spaces, along with related site work and grading

Public Hearing Deadline: ~~8/28/14, 9/22/14,~~10/20/14

Attorney Donald O’Neil stated that he is representing Real Estate Alternatives, Inc. and introduced the president of the company, Nick Grandy, and two HS&T engineers, Hussein Haghanizadeh and Carol Redden. The proposal is to construct a multi-family low-rise dwelling with 4 dwelling units and 8 associated off-street parking spaces, along with related site work and grading. The entire frontage length of Mohican Road is a paper street and is listed as a Private Street but they are proposing improving a portion of Mohican Road to provide adequate access to the property. Mr. O’Neil stated that the proposal is consistent with the rest of the neighborhood.

Mr. Haghanizadeh stated that the applicant has an approved 81G plan to open up the road and be able to fit more units in that area but due to neighborhood opposition and topographical difficulties, that is no longer the applicant’s intent.

Ms. Tatasciore stated that if approved, staff respectfully recommends the following Conditions of Approval:

1. The structure be constructed in substantial accordance with the final approved plot plan;
2. That no permanent structures be constructed in the Winneconnett Road ROW;
3. Provide eight (8) copies of a to-scale rendering to DPRS that identifies building materials and labels the structure’s height in feet and stories.
4. That eight (8) copies of revised plans showing the following be submitted to the Division of Planning and Regulatory Services prior to the issuance of a building permit; Rename Parcel D to reflect Winneconnett Road ROW and change the plan note to read “Unconstructed Private Way, not on the Official Map”;
  - Provide a detailed landscaping table and specify which existing trees will be retained and what types are proposed;
  - Provide the specifications for the proposed lighting;
  - Provide the specifications for the proposed signage;

Mr. O’Neil stated that they are not proposing any signage and lighting will only be installed on the structure themselves.

Mr. Abramoff stated that Mr. Loew will vote on this item.

Mr. Wanat asked regarding the drainage and sewage connections and Mr. Haghanizadeh clarified what is being proposed.

Peter Salvatore, 18 Mohican Road, stated that he was concerned with how the proposal will affect the drainage.

Mr. O’Neil stated that the neighbor’s concerns will be addressed when they go before the Planning Board and the Conservation Commission.

Councilor Palmieri stated that it was a good idea for the applicant to discuss the proposal with the abutters in the area.

Steve Prentice, 39 Winneconnett Street, stated that he did not get notified and thought the applicant was trying to sneak this through. He opposed the project because he thought it would be detrimental to the neighborhood and thought there was something in the deed that might prevent them from building the proposed structure.

Mr. Abramoff stated that the Assessing department prepares the list of abutters and staff notifies abutters. There were 19 homes notified of this project.

Mr. Abramoff and Mr. Michajlow stated that they were in favor of the project but they recommended the applicant meet outside with any neighbors that have concerns or questions to clear up any misunderstandings.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0-1 (Mr. Haddon abstained) to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0-1 (Mr. Haddon abstained) to approve with the conditions of approval in the memo minus the last two conditions pertaining to lighting and signage and that runoff/drainage created via paving and construction of Mohican and impervious surfaces on the lot at 50 Winneconnett do not negatively impact neighbors.

#### **List of Exhibits**

- Exhibit A: 50 Winneconnett Road Special Permit Application; received June 24, 2014; prepared by Attorney Donald J. O'Neil on behalf of applicant/owner Real Estate Alternatives, Inc.
- Exhibit B: 50 Winneconnett Road Special Permit Site Plan; dated June 24, 2014 and revised on October 6, 2014; prepared by H.S. & T. Group, Inc.
- Exhibit C: 50 Winneconnett Road rendering, received June 24, 2014 and revised on October 6, 2014.
- Exhibit D: Belgrade Terrace Building Sites Plan; dated 1913; approved by the Worcester District Forestry on January 20, 1914.
- Exhibit E: Chapter 41 Section 81-G Street Opening Permit approval from the Planning Board on October 18, 2006.
- Exhibit F: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 50 Winneconnett Special Permit; dated October 16, 2014.
- Exhibit G: Fire Department Comment Letter, received October 9, 2014.

**3. 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, 9/22/14,~~ 10/20/14

**Constructive Grant Deadline:** ~~10/24/14,~~ 11/11/14

Mr. Abramoff recused himself and Mr. Michajlow was acting chair.

Attorney Joe Boynton, representing Steven John and his wife, owners of 113 Highland Street, and Irene John, owner of 117 Highland Street, stated that the purpose is to construct a ~431 SF commercial addition to the first floor to expand the existing restaurant (The Boynton) easterly. 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. There will be no additions to the number of seats to the restaurant, which means that additional parking is not required.

Mr. Boynton stated that the buildings do not meet current zoning regulations so anything proposed would need ZBA approval.

Mr. Tatasciore stated that interior changes include relocation of the booths that are located along the wall closest to the alley. Additionally, a new drink rail will be installed in the proposed expanded space.

Terry Putnam, 125 Highland Street, stated that she was concerned with traffic flow and read the letter she submitted to the Board that expressed her concerns with parking, traffic, illegal parking, etc.

Mr. Michajlow stated that the Board does not have purview over traffic issues.

Mr. Rolle stated that the proposal will not create additional traffic but the letter was forwarded to the Department of Public Works for their review.

Mr. Tatasciore recommended the following the conditions of approval:

That six (6) copies of final revised plans be submitted to the Division of Planning & Regulatory Services with the suggested Conditions of Approval:

1. The structure is constructed in substantial accordance with the final approved plans;
2. Provide an accurate variance request list on the plan, in keeping with the Zoning Determination Form, by:
  - a. Remove the front yard setback relief request for 113 Highland Street;
  - b. Remove the frontage relief request for 117 Highland Street;

Mr. Tatasciore stated that condition #3 was removed because the rendering was provided.

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

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 5-0-1 (Mr. Abramoff recused himself and therefore abstained) to approve the petition with the conditions of approval as modified above.

#### **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, revised September 15, 2014.
- Exhibit E: Letter from abutter Terry Putnam re: traffic concerns; dated September 15, 2014.

- Exhibit F: Request for Postponement; received September 22, 2014.
- Exhibit G: DPW Comment Letter, dated September 19, 2014.
- Exhibit H: E-mail from Ernest W. Foster, Jr., Trustee; dated September 22, 2014.

**4. 304-308 Park Avenue & 45 Abbott Street (ZB-2014-042)**

- Special Permit:** To allow a food-service drive-through use in a BG-3.0 (Business, General) (Article IV, Section 2, Table 4.1, Business Use #6)
- Special Permit:** To modify the drive-through lane and escape lane length requirements (110 ft. provided, 240 ft. required) for a food-service drive-through use (Article IV, Section 7.A.7.c.)
- Special Permit:** To modify the 5 ft. landscaping buffer width (0.4 ft. provided) and for relief from strict compliance with the landscape screening requirements (Article IV, Section 7, Note 5.a.)
- Petitioners:** Henry G. Askew
- Present Use:** A partially paved vacant lot
- Zone Designation:** BG-3.0 (Business, General)
- Petition Purpose:** To construct a ~1,940 SF food-service restaurant with an associated drive-through and with a 16 space accessory off-street parking lot along with associated site improvements

Public Hearing Deadline: 10/23/14

Attorney Jeffrey Rosario Turco introduced the applicant, Henry Askew, and the engineer, Paul Avery. Mr. Turco stated that the proposed drive-through is in fact a pick up window only. There will not be a squawk box or lighted menu for ordering at the window. It is akin to a dry cleaner or laundry. After feedback from staff and the neighbors revisions were made to the placement of the building and the pickup window. Also the landscaping relief needed now is only 8” in one small area towards the back of the lot. They have taken great pains to address all the traffic, screening, and noise concerns by the abutters.

Ms. Tatasciore stated that the petitioner seeks to construct a ~1,940 SF food-service restaurant (Domino’s Pizza) with 28 seats along with an associated drive-through and 15 space accessory off-street parking lot along with associated site improvements. The applicant has requested a waiver from the requirement to show all abutters within 300 feet on the plan. Ms. Tatasciore stated that the applicant is proposing a 12-foot wide drive-through and escape lane with a length of 87 feet and a 4.4 ft. landscaped buffer along the northerly property line abutting 300 Park Avenue.

Ms. Tatasciore stated that given the shortened length of the proposed drive-through (~87 ft.), it is critical that vehicle stacking does not extend out onto the sidewalk or Park Avenue. The applicant has not submitted to staff a transportation analysis that provides information regarding vehicle stacking, the average number of vehicles per hour using the pick-up window and peak drive-through hours. Also, in order to ensure that stacking does not project onto the sidewalk or street, a sign should be posted indicating this. Additional planting are recommended behind the proposed dumpster location, in order to better screen and attenuate noise from the abutting residential

property. Landscape screening shall be required along the sidewalk edge and side lot lines where the parking, work or service area of a proposed project abuts a street, public park or residential property. Additional trees are required to be planted in the landscaped buffer adjacent to 49 Abbott Street and shall be planted every 20 to 25 feet on center. Also a note should be added to the plan indicating that all trees are to be of an Asian Long-horned Beetle resistant variety.

Ms. Tatasciore stated that the applicant should consider adding a note on the plan that in case of substantial snowfall, if the proposed snow storage designated areas are full, that the excess should be trucked off site. The dining room will open from 10:30 am to 10:00 pm. The pickup window will be open until 2 am on Tuesdays, 3 am on Wednesdays, and 4 am on Thursdays, Fridays, and Saturdays. She also asked the applicant if they were amenable to have dumpster pick-up hours limited to 7 am – 8 pm.

Mr. Turco stated that they are amenable to that.

Mr. Wanat stated that he was concerned with overflow from the pickup window going onto Park Ave. He asked if they considered moving the building or moving the placement of the pickup window.

Mr. Turco stated that they could not move the building back to gain additional drive-through length because they would encounter ADA accessibility issues. If it gets busy, there will be designated spaces where people will be told to park and someone will bring out their order.

Paul Avery stated that moving the pickup window makes the floor plan dysfunctional.

Henry Askew stated that they do not have many pick up windows in the Domino's franchise but he asked the ones that do have it and the franchisees stated that the queuing is 3-4 cars. They are providing space for 4 cars.

Mr. Michajlow stated he is also concerned with the congestion of Park Avenue in that area and the possible overflow of cars would be detrimental.

Mr. Turco stated that the drive-through lane will only be used to pick up food; no ordering will be allowed. Therefore, it does not have the same functional requirements as a full service drive-through window. The Worcester Zoning Ordinance does not distinguish between full-service drive-through windows and pick-up windows, but to provide a sense of context, the drive-through lane lengths for a laundry or dry cleaner is only 80' and they are providing 87'. While this project site is located adjacent to the Commercial Corridors Overlay District (CCOD) and not subject to its requirements, the CCOD proposes only 60' for a laundry or dry cleaning business.

Mr. Turco stated that they will also make the egress a right turn only onto Park Avenue.

Mr. Haddon asked if the pickup parking spaces could be designated. Mr. Kelly stated that those designated parking spaces would have to be in addition to the minimum required parking spaces.

Celeste Rice Kimball, 300 Park Ave, stated that she has some additional concerns. She asked if this petition warranted a traffic study and disagreed with dumpster pick up being in the morning since a funeral could be taking place at that time.

Nicholas Bazukas, 361 May Street, representing the Petsas family at 49 Abbott Street, stated that their concern is the hours and do not want to see shootings, assaults, and gang activity there. He stated that this will have a dramatic effect on traffic and will affect the neighborhood character.

District 5 Councilor, Gary Rosen, stated that he wants to promote business but not at the expense of quality of life for a neighborhood. He stated that he appreciated the lengths the applicant has gone to in order to address the neighborhood concerns. They have addressed the concerns with the dumpster location, snow storage, fencing along Abbott Street, right turn only onto Park Ave, and lighting. He is still concerned with the hours of operation.

Konstantinos Petsas, 49 Abbott Street, stated that with the changes the applicant made, it makes the proposal acceptable. But he was still concerned with the lateness of the closing hours and being able to open the windows and enjoy the nice weather without being disturbed.

Anatoly Yankovsky, 90 Outlook Drive, used to live in the area and agrees with the other neighbor's concerns. He does not believe that this is the right place for this type of business.

Pauline Rice, 300 Park Avenue, stated that the fence the applicant is proposing should go the entire length of the parcel. She also suggested the dumpster be moved so it was not as visible.

Garabed & Joanne Garabedian, own 42 Abbott Street, stated that they are concerned with noise and the lateness of the closing hours. They want to ensure Domino employees do not park on Abbott Street.

Mr. Askew stated that he is closing the dining room at 10 p.m. to avoid the issues that other restaurants that stay late encounter. They will only be open later for delivery and pick up only. There will also not be a gate on Abbott Street; the fence will go all the way across.

Mr. Turco stated that there will be a security surveillance system on the property and will have appropriate lighting to deter illegal activities. As for the noise and the traffic, there is a 40' buffer to Abbott Street and the building has been pulled closer to Park Avenue so the noise and traffic should be at a minimum. Mr. Avery stated that the photometric plan was still being developed but they will not spillover above what is allowed in the ordinance.

Mr. Abramoff identified Robert Haddon as the voting alternate member.

Mr. Kelly stated that a restaurant without alcohol can be open 24 hours. It is up to the Board to condition the hours the pickup window can be open. Mr. Turco stated that the applicant is willing to withdraw the application and build the building further back as originally proposed and keep their hours as allowed by right.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 5-0-1 (Tim Loew abstained) to approve the waiver request pertaining to showing abutters within 300-feet on the plan, approve the findings of fact as modified by staff and approve the petition with the Conditions of Approval in the staff memo, as follows:

1. That the site is to be operated in substantial accordance with the plan on file with the Division of Planning and Regulatory Services;
2. That the drive-through be limited to pick-up only (no ordering).
3. That the dumpster pick-up hours be restricted to between 7 am to 8 pm;
4. That eight (8) copies of final revised plans are submitted to the Division of Planning and Regulatory Services, prior to the release of the Decision, showing the following conditions and required annotations listed below:

General

- Provide the scale on all plan sheets;
- That no loading or unloading of vehicles and deliveries take place in the public street right-of-ways (Park Avenue or Abbott Street).

Traffic flow and circulation:

- Clearly demarcate on-site circulation using pavement marking/arrows in accordance with the final approved plans;
- Sign the entrances and exits to the site in accordance with the final approved plans;
- Provide a sign instructing pick-up window customers to not block the sidewalk or Park Avenue.

Landscaping

- Provide additional plantings (tree and/or shrubs) behind the proposed dumpster location, in order to better screen and attenuate noise from the abutting residential property, located at 43 Abbott Street;
- One additional tree is required to be planted in the back-north landscaped buffer adjacent to 49 Abbott Street to meet the requirements that trees be planted every 20 to 25 feet on center.
- Add a note to the plan indicating that all trees are to be of an Asian Long-horned Beetle resistant variety.

The Board approved additional conditions, that include: that the dining room service stops at 10 p.m.; traffic queue is managed so that there is no back-up onto Park Avenue; that excess snow is trucked offsite; that a sign is installed clearly stating that the exit onto Park Avenue is right turn only; that employees are not allowed to park on Abbott Street; and that the fence along Abbott Street is not gated.

**List of Exhibits**

Exhibit A: ZBA – Special Permit Application; received August 19, 2014; prepared by Applicant’s Agent, Attorney Jeffrey Rosario Turco of 378 Broadway Street, Chelsea, MA and Owner Park Avenue Management Group, LLC of 291 Park Avenue, Worcester, MA.

- Exhibit B: Site Layout Plan; dated August 18, 2014, prepared by Oak Consulting Group; revised on August 25, 2014 & September 4, 2014.
- Exhibit C: Architectural Renderings/Schematics prepared by Gnich Architecture Studio, dated August 19, 2014.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 304-308 Park Avenue, dated September 18, 2014.
- Exhibit E: E-mails from abutter Ted Petsas & City Councilor Gary Rosen, District 5, sent September 11 & 12, 2014.
- Exhibit F: E-mail from abutter Ted Petsas, sent September 15, 2014.
- Exhibit G: Letter from abutter Konstantinos Petsas, received September 15, 2014.
- Exhibit H: E-mail from abutter Argyrios Petsas, sent September 15, 2014.
- Exhibit I: E-mail from Ted Petsas, sent October 10, 2014.
- Exhibit J: Fire Department Comments, received October 10, 2014 & October 15, 2014.

**5. 22 & 22 A Sherer Trail (MBL 42-010-00212) (ZB-2014-043)**

*22 A Sherer Trail:*

- Special Permit:** Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Use (Article XVI, Section 4)
- Variance:** For relief of 4.3 ft. from the 65 ft. frontage requirement for a single-family detached dwelling in an RS-7 (Residence, Single-family) zoning district (Article IV, Section 4, Table 4.2)
- Variance:** For relief of 8 ft. from the 8 ft. side-yard setback requirement for a single-family detached dwelling in an RS-7 (Residence, Single-family) zoning district (Article IV, Section 4, Table 4.2)

*22 Sherer Trail:*

- Special Permit:** Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Use (Article XVI, Section 4)
- Variance:** For relief of 15.7 ft. from the 65 ft. frontage requirement for a single-family detached dwelling in an RS-7 (Residence, Single-family) zoning district (Article IV, Section 4, Table 4.2)
- Variance:** For relief of 8 ft. from the 8 ft. side-yard setback requirement for a single-family detached dwelling in an RS-7 (Residence, Single-family) zoning district (Article IV, Section 4, Table 4.2)

- Petitioners: Zachary Zisk, Dennis B. Collins, and Melinda A. Collins
- Present Use: A two-family detached dwelling
- Zone Designation: RS-7 (Residential, Single-family)
- Petition Purpose: To create a zero lot line through the existing structure changing the use to a single-family semi-attached dwelling (duplex) at property located at 22 Sherer Trail. The present use is existing non-conforming.

Public Hearing Deadline: 11/16/14

Constructive Grant Deadline: 12/21/14

Attorney Donald O'Neil, representing the applicants, gave an overview of the proposal and explained how the current structure was built when the home was originally zone RL-7 and it exceeded all of the dimensional requirements at the time. The zoning has since changed to RS-7. What they are proposing now is to divide the property with a zero lot line (party wall) and that is what triggered all the relief requested but the duplex is already there. Mr. O'Neil stated that he is amenable to the conditions of approval suggested by staff. He is also requesting a waiver from the requirement that all abutters within 300' be on the plans.

Alternate Loew was identified as the voting member.

Mr. Wanat asked if there was any work proposed to the wetland. Mr. O'Neil stated that the house was built in 1984 so they are not proposing any work on site. They are just dividing the lot.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0-1 (Robert Haddon abstaining) to approve the waiver for labeling abutters within 300-feet on the plan and approved the findings of fact as modified by staff and approve the petition with the Conditions of Approval in the staff memo, as follows:

1. That the use be operated in substantial accordance with the final approved plot plan;
2. That each side of the driveway remain as green space and not be paved;
3. That the applicant complies with the Ordinance and ensures parking is not located in the front-yard setback (20 ft. from the lot line) OR seeks relief in the form of Special Permit's and Variances in accordance with the requirements of the Ordinance (2 spaces per dwelling unit);
4. That the applicant provide 6 copies of revised plans to the Division of Planning and Regulatory Services showing the following:
  - o Add a Zoning Summary table;
  - o Label the requested relief;
  - o Add a note stating that parking shall not be allowed in the required front-yard setback;
  - o Label the open space on either side of the driveway;
  - o Label all existing and any proposed vegetation on the property;
  - o Provide a landscaping table;
  - o Remove references to Lots A1 & Lot B1 and replaces with #22 and #22A; and
  - o Relocate the two required parking spaces for #22A outside of the 20 ft. front-yard setback.

**List of Exhibits:**

Exhibit A: 22 & 22A Sherer Trail Application; received 9/12/2014; prepared by Zachary Zisk, and Dennis B. & Melinda A. Collins.

Exhibit B: 22 & 22A Sherer Trail Plan; undated; prepared by Blanchard Survey.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 22 & 22A Sherer Trail- Variance & Special Permit; dated October 15, 2014.

**6. 15 Melville Street (MBL 09-020-09+10) (ZB-2014-044)**

***Existing 15 Melville Street Two-Family Structure & Accessory Structure:***

- Variance:** For relief of 1,400 SF from the 8,000 SF lot area requirement for a two-family dwelling in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2)
- Variance:** For relief of 10 ft. from the 70 ft. frontage requirement for a two-family dwelling in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2)
- Variance:** For relief of 4 ft. from the 5 ft. accessory structure side yard setback requirement (Article IV, Section 8.B.10.)
- Variance:** For relief of 2.5 ft. from the 5 ft. accessory structure rear yard setback requirement (Article IV, Section 8.B.10.)

***Proposed 15 Melville Street - Lot 2A:***

- Variance:** For relief of 700 SF from the 4,000 SF lot area requirement for a single-family semi-detached dwelling in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2)
- Variance:** For relief of 5 ft. from the 35 ft. frontage requirement for a single-family semi-detached dwelling in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2)

***Proposed 15 Melville Street - Lot 2B:***

- Variance:** For relief of 700 SF from the 4,000 SF lot area requirement for a single-family semi-detached dwelling in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2)
- Variance:** For relief of 5 ft. from the 35 ft. frontage requirement for a single-family semi-detached dwelling in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2)

Petitioner: Gold Star Builders, Inc

Present Use: A two-family detached dwelling, a detached accessory barn, and associated off street parking

Zone Designation: RL-7 (Residence, Limited) zone

Petition Purpose: To construct a single-family semi-detached dwelling (duplex) and associated off-street parking on the easterly portion of the existing lot and to later subdivide the existing parcel into three lots: 15 Melville Street, Lot 2A, & Lot 2B. The petitioner is seeking the above relief from the area, frontage, and setback requirements in order to construct the duplex

Public Hearing Deadline: 11/20/14

Constructive Grant Deadline: 12/25/14

Attorney Donald O'Neil, representing Gold Star Builders, stated that the applicant seeks to construct a new single-family semi-detached dwelling (duplex) at 15 Melville Street which consists of two separate parcels also known as Tract I and Tract II. Given Tract 1 is undeveloped; Merger Theory applies joining the lots to make the existing structure more conforming. Thus, to render Tract 1 a buildable lot they are seeking relief for the existing structure and lot and the proposed structure and lot. Mr. O'Neil stated that renderings have not been submitted but he commented on the façade of the proposed dwelling.

Ms. Smith asked if the applicant will keep the existing trees and Mr. O'Neil stated that they will have to take those down in order to develop the lot but they are amenable to the condition to add trees. Mr. O'Neil requested a waiver of showing on the plans the abutters to abutters within 300ft.

Robert Curry, 11 Melville Street, stated that he is concerned with the amount of relief requested and believes it will negatively impact neighborhood character.

Greg O'Connor, 136 Paine Street, stated that he opposed the request because he does not believe the petition meet the statutory hardships set by law to be granted a variance.

John Kullas, 18 Norton Street, stated that 18% relief in area and 14% relief in frontage for each lot is a lot of relief and he opposes the petition. The architecture in the neighborhood is fantastic and a rendering is needed to see how this will fit into the neighborhood. He is also concerned that the cars parked in the driveway will look into his bedroom due to elevation changes.

Councilor Palmieri stated that this was an outrageous proposal and he is concerned about the additional traffic this proposal will generate.

Mr. O'Neil stated that despite the amount of relief being asked the proposal will fit into the current neighborhood because the majority of the homes in the neighborhood are not complaint with all the dimensional requirements. As for the parking concern, the proposal will provide the necessary parking spaces for each dwelling unit.

Mr. Wanat stated that having the parking in front of the structure does not fit in with the rest of the neighborhood. He would like to see the structure closer to the street and the parking enclosed entirely in the garages. He also stated that he would like to see the suggested porch in the front in the renderings.

Mr. O'Neil stated that he was amenable to making those changes.

Mr. Abramoff stated that the applicant should meet with the neighbors about the project and a rendering should be provided. Mr. Michajlow agreed.

Mr. O'Neil stated that he would like to ask for a continuance.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 6-0 to continue the item to December 15, 2014 and extend the Constructive Grant Deadline to January 13, 2015 to

allow for plan revisions (bring structure toward street), rendering (parking interior and add porch), and meeting with neighbors.

**List of Exhibits:**

- Exhibit A: 15 Melville Street – Variance - Application; received 9/16/2014; prepared by Gold Star Builders, Inc.
- Exhibit B: 15 Melville Street – Variance - Plan; dated 8/18/2014; prepared by B&R Survey, Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 15 Melville Street – Variance -; dated 10/16/2014.
- Exhibit D: 15 Melville Street Deed – Tracts 1 & 2; dated 7/17/1987; per Book 10644, Page 125.
- Exhibit E: 15 Melville Street – Subdivision Plan; dating to 1882; per Book 1133, Page 653.

**APPROVAL OF THE MINUTES**

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 6-0 to approve the minutes for August 18, 2014.

**OTHER BUSINESS**

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

Ms. Tatasciore stated that staff requests to postpone this discussion to a later date at their discretion.

**8. Communications**

- a. Received from Environ re: Notice of Document Availability - Activity and Use Limitations – 53 Millbrook Street – No Comment

**9. Signing of Decisions from prior meetings**

The Board signed the following decisions: Bonair Road – Special Permit (ZB-2014-039), 100 Chatham – Variance & Special Permit (ZB-2014-024), 922 Grafton – Special Permit (ZB-2014-033), 16 Norwich – Variance (ZB-2014-040).

**ADJOURNMENT**

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 6-0 to adjourn the meeting at 9:10 p.m.