

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

**February 23, 2015
WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER**

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

Zoning Board Members Absent: Vadim Michajlow, Vice-Chair

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
David Horne, Inspectional Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Chair Lawrence Abramoff called the meeting to order at 5:30 PM.

**REQUESTS FOR CONTINUANCES, EXTENSIONS OF TIME, POSTPONEMENTS,
WITHDRAWALS**

1. 5-7 Forbes (ZB-2014-057)

- Variance:** Relief of 14 ft. from the 15 ft. rear-yard setback dimensional requirement in the RG-5 zone (Article IV, Section 4, Table 4.2)
- Variance:** Relief of 10 ft. from the 15 ft. front yard setback dimensional requirement in the RG-5 zone (Article IV, Section 4, Table 4.2)
- Variance:** Relief of 47.06 ft. from the frontage dimensional requirement of 160 ft. in the RG-5 zone (Article IV, Section 4, Table 4.2)
- Variance:** Relief of 5,413 SF from the 17,600 SF minimum lot area dimensional requirement in the RG-5 zone (Article IV, Section 4, Table 4.2)
- Variance:** Relief of 7 parking spaces from the 16 parking space off-street parking requirement for a single-family residential use (Article IV, Section 7, Table 4.4)
- Special Permit:** To allow for modification of the off-street parking requirements by 1 space (Article IV, Section 7, A. 2.)
- Special Permit:** To allow for modification of the required 5 ft. landscape setback buffer (Article IV, Section 7, Table 4.4, Note 5. a.)
- Petitioner:** Worcester East Side Community Development Corporation

Present Use: Two vacant lots
Zone Designation: RG-5 (Residence, General)
Petition Purpose: The petitioner seeks to construct a ~5,040 SF two-level structure with 8, one-bedroom, single-family attached dwelling units with a total of 8 accessory off-street parking spaces

Constructive Grant Deadline: 3/19/2015

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted 5-0 to approve the petitioner's request for a Leave to Withdraw without prejudice.

UNFINISHED BUSINESS

2. 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

Constructive Grant Deadline: ~~12/25/2014~~; ~~1/13/15~~; ~~2/24/2015~~; 3/17/2015

Attorney Donald O'Neil, representing Gold Star Builders, stated that since the last time they were before the board they have met with the neighbors. They have revised their plans to address some of the neighbor's concerns. The new proposal is to build a single-family dwelling on the additional lot (instead of a duplex) and thus reducing the number of variances required by two. They will be providing two parking spaces for the new house bringing the parking into compliance and adjusting the placement of the parking per the neighbor's request.

Mr. O'Neil stated that initially they were requesting two single-family attached (duplex) units, which were going to be in compliance with side-yard setbacks but in changing the proposal now they can also increase the side-yard setback for the existing house. An arborvitae hedge will be installed towards the front of the building for additional screening. These changes reduce the variance request from 700 SF from the 4,000 SF area requirement for each unit to 400 SF from the 7,000 SF area requirement for the newly proposed single family. It also reduced the request for the frontage variance since now they only need relief for 5 ft. of frontage instead of 10 ft.

Ms. Smith reviewed the new relief requested:

Existing 15 Melville Street Two-Family Structure & Accessory Structure (Lot 1):

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 2):

Variance: For relief of 400 SF from the 7,000 SF lot area requirement for a single-family detached dwelling in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2)

Variance: For relief of 5 ft. from the 65 ft. frontage requirement for a single-family detached dwelling in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2)

Ms. Smith asked Mr. O'Neil what, if any, existing landscaping will remain on-site (specifically the mature trees), what their species are, and what the exterior materials and height of the proposed structure are.

Mr. O'Neil stated that the neighbors have also requested that they save as many trees as possible. They will try to keep the existing trees on the rear and side lot line and the oak in front but unfortunately they might not be able to keep the oak due to the disturbance. As for any new trees proposed, they will add Asian-Longhorned beetle resistant species. The building will be 2 stories, under 35 ft. in height, with vinyl siding and asphalt shingle roof.

John Kullas, 18 Norton Street, asked for clarification on the relief requested. He stated that he is concerned about losing the mature oak trees that are onsite.

Derek Lirange, 461 Lake Avenue, stated that he has used software called iTree that allows you to place a value on the existing trees. Those trees have provided over \$15,000 in benefits over their existence on that property and over the next 20 years they would provide an estimated \$5,000 in benefits. The smaller trees cannot provide even half of the benefits in the same period of time therefore the best effort would be to maintain the existing trees. He requested that the trees to be maintained be labeled on the plans.

Michael Gleason, 17 Melville Street, stated that he was concerned that the driveway to his property will be right along the proposed driveway for the new structure. If the driveways meet he would like some sort of fence to separate the two. He is also concerned about the applicant changing the topography of the lot at 15 Melville Street and causing additional stormwater onto his property.

Mr. O'Neil stated that there will be some grade change and the proposed driveway will be 12 ft. wide. He stated they were amenable to providing a fence at that property line since there was not enough space for shrubs to be planted.

Mr. Abramoff stated that he would prefer a 6ft. stockade fence from the property line to the end of the parking area.

Mr. Kelly stated that the first 5-10 feet from the property line should have a fence that is not more than 3 ft. high to aid in visibility as cars try to back out onto the street. The rest of the fence can be 6ft. high.

Mr. O'Neil stated that they will make every effort to save those trees but it is a construction site and he does not want to be tied to the drip line so strictly that his client gets in trouble if there a branch that gets damaged.

Ms. Smith stated that there is a condition in staff's memo that might address that.

Upon a motion by Mr. Valeri and seconded by Mr. Haddon, the Board voted 4-0 to close the hearing.

Mr. O'Neil stated that he is requesting a waiver of the application requirement to label abutters and abutters thereto within 300 ft. on the plan or label said abutters on a revised plan.

Upon a motion by Mr. Wanat and seconded by Mr. Valeri, the board voted 5-0 to approve:

Existing 15 Melville Street Two-Family Structure & Accessory Structure (Lot 1):

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 2):

Variance: For relief of 400 SF from the 7,000 SF lot area requirement for a single-family detached dwelling in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2)

Variance: For relief of 5 ft. from the 65 ft. frontage requirement for a single-family detached dwelling in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2)

With the following conditions:

That six (6) 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:

- 1) That the structure be constructed in substantial accordance with the final approved plot plan on file with the Division of Planning and Regulatory Services and in compliance with all governmental codes;
- 2) Label the distance from the proposed structure on Lot 2B to the abutting property at 11 Melville Street owned by n/f Robert Currie;
- 3) That each side of the driveway remains as green space and not be paved;
- 4) Provide proposed tree species in the landscaping table on the plan;
- 5) That a minimum of 3 non-Asian Longhorned Beetle susceptible species trees be planted in addition to existing trees on site; and
- 6) Label trees, if any, to remain on the premises and protect said trees by avoiding disturbance to the drip-line, to the extent practicable, during construction;
- 7) That a graduated stockade fence be installed along the lot line with 17 Melville St., beginning at the edge of the Right-of-Way, continuing into the property for 10 ft. (at a height of 3 ft.) and continuing ~30 ft. (at a height of 6 ft.) along the proposed parking area.

And to approve the waiver for labeling abutters and abutters thereto within 300 ft. on the plan or label said abutters on a revised plan.

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; revised 2/13/2015; 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; revised 2/20/2015.
- 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.
- Exhibit F: Request to Continue; various dates.
- Exhibit G: Rendering of proposed structure; dated 11/13/2009; prepared by EAS.

NEW BUSINESS:

3. 2 Northboro Street (aka 298 Plantation Street) (ZB-2014-052)

Variance: Relief of 0.12:1 Floor to Area Ratio (FAR) from the 0.5:1 FAR dimensional maximum in the RL-7 zone

Variance: Relief of 20' from the front yard setback dimensional requirement of 20'

Variance: Relief of 15' from the exterior side yard setback dimensional requirement of 15'

Petitioner: Rodney Haddad

Present Use: A ~2,979 SF structure previously used as a dry-cleaning establishment with ~10 associated off-street parking spaces

Zone Designation: RL-7 (Residence, Limited)

Petition Purpose: The petitioner seeks to construct a ~2,979 SF second story addition to allow for expansion of a previously approved restaurant use. The existing structure is non-conforming with regards to the required front-yard setback (20 ft. required, 0 ft. provided) and exterior side-yard setback (15 ft. required, 0 ft. provided).

Public Hearing Deadline: ~~1/11/2015; 1/12/2015, 2/2/2015; 2/23/2015~~

Constructive Grant Deadline: ~~2/15/2015; 2/24/2015; 3/17/2015~~

Patrick Burke, HS&T Group, introduced the applicant, Rodney Haddad, and stated that they were before the Board to seek approval to expand the current pre-existing non-conforming structure by constructing a second story for storage that is related to the proposed food-service use. There are three entrances to the building, of which, two will be general entrances and the rear one will be dedicated for deliveries. Deliveries will occur during early hours so that the parking is not affected during operational hours.

Mr. Kelly stated that the variances were not completed or commenced within one year so they expired and the applicant had to re-apply. The special permits previously approved are still valid.

Mr. Abramoff asked why the project was delayed.

Rodney Haddad, 11 Thayer Street, Northborough, stated that he did not seek the extension of time because there was construction by the City in front of his property and he did not know how long it would take for them to finish it. The petition is the same except for fixing some errors in square footage.

Ms. Smith asked the applicant to address the questions listed in the memo.

Mr. Burke stated that they will be operating a 20-seat restaurant in the first floor and the second floor will have a small office for management, employee bathrooms, coolers, and storage. The proposed hours are 6:00 am to 9:00 p.m., 7 days a week. Deliveries will occur in the mornings during non-peak hours (7:00 -10:00 am) so as to not take up the parking to the rear entrance.

Mr. Burke stated that the windows will be false windows for aesthetic purposes. There is a discrepancy between the square footage for each floor as labeled on the site plan (2,979 SF) and as labeled on the floor plans (2,985 SF). The floor plans are correct, the square footage is 2,985. The petitioner will get a street alteration permit in order to grade the street to be more handicapped accessible.

Henry Martin, 25 Northboro Street, asked if there was an EPA inspection for the chemicals used at the site and what the snow moving procedures are once the restaurant is open. He stated that he requested that a stop sign be installed at the intersection of Peabody and Plantation Street. That corner is a bus stop and he was concerned about the additional traffic from the deliveries. He also stated that he was not in agreement to make this already non-conforming structure even more so by allowing a second story.

Mr. Abramoff stated that the stop sign was not under the board's purview but that staff could look into the status and get back to him.

Joe Camarra, 20 Northboro Street, stated that he was concerned that Northboro Street is narrow and there is a daycare opposite this establishment. It is hard to come out of Northboro Street as it is without the added traffic of this business.

Mr. Haddad stated that he hires a gentleman who plows and shovels the sidewalk and maintains it. He is willing to truck it offsite, if necessary. The curb cuts on the plans already exist and they are keeping the circulation one-way and proposing a stop sign at the exit point on Northboro Street.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, 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 to approve the findings of fact as modified by staff's review memo:

1. Submit six (6) copies of revised, to-scale, floor plans, with the scale labeled, of the proposed second floor which provide a breakdown of the total SF – consistent with the Site Plan – the SF of each room, based on use (primary, accessory, etc.), itemizing the

total SF of the accessory uses, as well as the SF provided for circulation on each floor, prior to the issuance of a Building Permit;

2. Submit six (6) copies of revised, to-scale, site plans to the Division of Planning and Regulatory Services, prior to the issuance of a Building Permit with the following changes:
 - a. The rear doors to the kitchen area be shown as in-swing only in order to avoid a conflict with the 10th required parking space;
 - b. Add a note to the plan indicating the relief (special permits) previously granted, the dates on which the relief was granted, and the Book and Page references to the Special Permits recorded at the Registry of Deeds;
 - c. Update the Zoning Summary Table to reflect the relief requested;
 - d. Indicate the location of the proposed front-yard and side-yard;
 - e. Revise the plan to ensure the total SF of the structure is consistent with that labeled on the floor plans;
3. That the rear door to the kitchen area, located on the easterly side of the structure, be used for deliveries/loading only given the conflict with the 10th required parking space.
4. That the rear doors to the kitchen area, located on the easterly side of the structure, be installed as in-swing only doors, in order to avoid a conflict with the 10th required parking space;
5. An As-Built Plan shall be submitted to the Inspectional Services Department to verify that the second floor is compliant with the accessory use guidelines of the Ordinance, with no more than 25% of the floor area of the entire structure to be utilized for accessory uses, being those other than food preparation spaces, as outlined by Article IV, Section 8. A.2.a.;
6. That the second floor is used as accessory use to the restaurant only as food preparation and related administrative/office spaces;
7. That the restaurant shall be limited to 20 seats;
8. That no blasting be done;
9. That the hours of operation shall be limited from 6:00 a.m. to 9:00 p.m.;
10. That outdoor dining shall not be permitted;
11. That a regular six month landscaping maintenance plan be submitted; and
12. That the project is constructed in substantial accordance with all plans and renderings submitted on file with the Division of Planning & Regulatory Services and in compliance with all governmental codes.

The Board also approved the variances requested with the additional conditions that signage is added on the plan and onsite indicating a one-way circulation pattern; and a stop sign is added on the plans and onsite where vehicles exit onto Northboro Street; and that excess snow shall be trucked off-site once snow impedes the 10 required parking spaces.

List of Exhibits:

- Exhibit A: 2 Northboro St. Variance Application prepared by Rodney Haddad; received 11/7/2014.
- Exhibit B: 2 Northboro St. Definitive Site Plan; dated 8/16/2013; prepared by HS&T Group, Inc.; received 11/28/2014.
- Exhibit C: Floor Plans prepared by J.R. Associates; dated 3/22/2013 & revised 10/3/2013.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 2 Northboro Street (aka 298 Plantation Street); dated 1/7/2015.
- Exhibit E: April 29, 2013 Zoning Board of Appeals Decision.
- Exhibit F: June 25, 2012 Zoning Board of Appeals Decision.
- Exhibit G: Request for Postponement; dated & received 12/10/2014; 1/8/2015; & 2/2/2015.
- Exhibit H: Rendering of 2 Northboro St.; prepared by unknown; undated; received 2/17/2015.

4. 455 (aka 453 & 453 A) Lincoln Street (ZB-2014-058)

Amendment to Special Permit: To allow Motor Vehicle Sales (Article IV, Section 2, Table 4.1, Business Use #15) in an BL-1.0 zone

Amendment to Special Permit: To allow Motor Vehicle Service and Display (Article IV, Section 2, Table 4.1, Business Use #16) in an BL-1.0 zone

Petitioner: Therich Besong

Present Use: An existing ~4,017 SF commercial building used as a food-service restaurant, office space, and motor-vehicle sales with ~14 associated off-street parking spaces and three display spaces

Zone Designation: BL-1.0 (Business, Limited)

Petition Purpose: The petitioner seeks to amend the Special Permit previously granted on July 29, 2013 to allow Motor Vehicle Sales & Display on in order to conduct car wash and detailing services, in addition to the existing uses

Public Hearing Deadline: ~~2/20/2015~~; 2/23/2015

Therich Besong stated that on July 29, 2013, the Zoning Board granted a Special Permit , for motor vehicle sales and display at 455 (aka 453 & 453A) Lincoln Street. It was conditioned that the Special Permit would expire in one year and he was before the Board looking to get approved once again.

Mr. Abramoff stated that the applicant has not complied with all the conditions of approval from the last approval.

Ms. Tatasciore stated that upon staff site visit, dumpsters were observed in the rear of the building where three parking spaces are proposed. She stated that it be notated on the revised plans appropriately.

Mr. Besong stated that those were the neighbor's dumpsters and they could move them over.

Mr. Abramoff suggested that they consolidate into one dumpster and share the costs amongst each other to avoid space issues.

Ms. Tatasciore reviewed the conditions of approval proposed in the memo.

Mr. Abramoff stated that he would like to see a revised plan prior to approving it due to the number of conditions and annotations required. He also stated that he wanted to see a timetable of when the lot will be striped.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to continue the item to March 16, 2015 to allow the applicant to submit revised plans and timeframe for completion. The constructive decision deadline will be extended to April 7, 2015.

List of Exhibits:

- Exhibit A: Special Permit Application; prepared by Therich Besong; dated December 17, 2014.
- Exhibit B: Parking Plan; prepared by Viacad, LLC; dated August 20, 2013.
- Exhibit C: Supplemental: Revised Parking + Floor Plans and Narrative; prepared by Viacad, LLC; dated January 26, 2015.
- Exhibit D: Postponement Request to February 23, 2015; submitted January 29, 2015; received January 30, 2015.

5. 145 Commonwealth Avenue (ZB-2014-060)

Special Permit: To allow a three-family use in a RL-7 (Residence, Limited) zone (Article IV, Section 2, Table 4.1, Residential Use #16)

Special Permit: To allow for modification of the off-street parking requirements by 1 space (Article IV, Section 7, A. 2.)

Amendment to Variance: Relief of an additional 0.3 ft. (for a total of 5.3 ft.) of the required 8 ft. side-yard setback in a RL-7 (Residence, Limited) Zone (Article IV, Section 4, Table 4.2)

Petitioner: Ketan Patel

Present Use: An existing two-family dwelling with associated off-street parking

Zone Designation: RL-7 (Residence, Limited)

Petition Purpose: The petitioner seeks to convert the existing structure into a three-family dwelling – adding a new unit above the existing garage, and provide 5 associated off-street parking spaces. Additionally, the

petitioner seeks to amend the relief previously granted via Variance, on October 7, 2002, for relief of an additional 0.3 ft. from relief from the required side-yard setback

Public Hearing Deadline: ~~2/25/2015~~; 2/23/2015

Constructive Grant Deadline (Variance): 4/1/2015

Patrick Burke, HS&T Group, representing Ketan Patel, stated that he revised plans based on comments received by staff. The applicant seeks to convert the vacant space, located above the garage, into a dwelling unit consisting of 1-bedroom, a kitchen and a full bathroom.

Ms. Tatasciore stated that staff has determined that parking relief is not necessary, as the parking space depicted as number “6” in the submitted plan is outside of the front yard setback when the Zoning Ordinance’s front yard alignment provision is considered. The properties at 143 and 142 Commonwealth Avenue are both located within 15 feet of the front right-of-way line, and the average of their minimum setback is less than the 13.6 feet of setback provided on the plan. The applicant has requested a Leave to Withdraw from this provision citing the front yard alignment provision. The applicant has requested a refund for this special permit as well.

Ms. Tatasciore stated that his amendment to variance is to remedy the further encroachment onto the setback with as built plans. She then asked if it was the applicant’s intention to pave and stripe the parking spaces, would the applicant consider removing paved areas not to be used for parking or access (e.g. – within the front yard setback), what landscaping is provided for the project, and will any trees be removed to accommodate for the proposed parking spaces? Ms. Tatasciore stated that staff recommends protecting existing mature trees on the property to the extent possible and if trees are to be removed, that replacements be planted along the road frontage.

Mr. Burke stated that the parking lot will be paved and striped. They will like to maintain the existing pavement for circulation. The intention is to keep all the trees presently on site.

Mr. Abramoff stated that will be included as a condition of approval and if any trees have to be removed or are damaged then they have to be replaced one for one with an ALB-resistant species.

Ms. Tatasciore stated that the following proposed conditions of approval should be removed: 2a) to add a Zoning Summary table to the revised plans and 2g) to provide a note on the plan to indicate that per Article IV, Section 4, Table 4.2 Note 6, the required front-yard setback is based on the average existing setback for neighboring properties located at 142 and 143 Commonwealth Avenue and is less than the 13.6 feet provided. These have already been addressed. Also, the applicant has requested a waiver from the requirement to label abutters and abutters thereto within 300 ft. on the plan or label said abutters on a revised plan.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, 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 to approve the findings of fact as modified by staff and to approve the Amendment to Variance and Special Permit for three-family use with the following conditions:

1. That the structure be constructed in substantial accordance with the final approved plot plan on file with the Division of Planning and Regulatory Services and in compliance with all governmental codes;
2. That the applicant provide 6 copies of revised plans to the Division of Planning and Regulatory Services showing the following:
 - a. Label the requested relief;
 - b. Add a note stating that parking shall not be allowed in the required front-yard setback;
 - c. Label trees to remain on the premises and protect said trees by avoiding disturbance to the drip-line, to the extent practicable, during construction. If trees are to be removed, replacements of 3” caliper shade tree be planted along the frontage of the property;
 - d. That any proposed trees be of a non-Asian Longhorned Beetle susceptible species and a note shall be added to the plan indicating such;
 - e. Label the open space on either side of the driveway.

And to approve the waiver for labeling abutters and to grant the Leave to Withdraw Without Prejudice for the Special Permit to modify parking and to refund \$44.50 to the applicant.

List of Exhibits:

- Exhibit A: Special Permit Application; received December 22, 2015; prepared by Ketan Patel.
- Exhibit B: Special Permit Plan; dated October 26, 2014; prepared by HS&T Group, Inc.
- Exhibit C: ZBA Findings of Fact and Decision for Variance; approved October 7, 2002.
- Exhibit D: City of Worcester Fire Department comments
- Exhibit E: Revised Special Permit Findings of Fact
- Exhibit F: Variance Findings of Fact
- Exhibit G: Waiver Request for Showing Abutters on Plan
- Exhibit H: Leave to Withdraw Request for Special Permit (parking relief) and Fee Refund Request
- Exhibit I: E-mails between Applicant, Michelle Smith & Domenica Tatasciore – various dates

6. 117 Stafford Street (ZB-2014-061)

- Special Permit:** To allow a bank/credit-union with drive-through in a BL-1.0 Zone (Article IV, Section 2, Table 4.1, Business Use #4)
- Special Permit:** To modify the required drive-through length for a bank/credit-union from 180 ft. to ~40 ft. (Article IV, Section 7, A.7.c.)
- Petitioner:** Colvest/Stafford-Heard Wor, LLC
- Present Use:** An existing ~13,013 SF retail building with a drive-through, a ~4,779 SF vacant building and 116 parking spaces
- Zone Designation:** BL-1.0 (Business, Limited)
- Petition Purpose:** The petitioner seeks to construct a ~1,500 SF addition to the vacant structure with an associated drive-through for a proposed credit union, and a net reduction of 1 off-street parking space

Public Hearing Deadline: 2/27/2015

Attorney Lawrence Brodeur with Fletcher Tilton, stated that the applicant is proposing to construct a 1,500 SF addition to the smaller commercial building (the former Blockbuster Video store building) and to subdivide the space into two tenant spaces – a 3,656 SF medical office use and a 2,623 SF credit union with 2 customer drive-through lanes and an escape lane. The credit union is allowed by right but the drive-through needs a special permit. Reducing the length of the drive-through also necessitated another special permit. They also asked for a waiver of the requirement to show abutters within 300 ft. The plans have been revised in response to staff's comments.

Dana Steele, Russo Surveyors & Engineers, stated that he discussed the conditions of approval with the client and they are amenable to them. He stated that the credit union that will occupy the space have done a study and they do not anticipate more than two vehicles at any one time in these lanes. But even if they did have more vehicles they have space before the entrance to the site and will not affect traffic on Stafford Street. He reviewed the other changes to the plans regarding circulation with the Board. The changes will not affect CVS's drive up window.

Ms. Tatasciore stated that staff respectfully recommends approval with the following suggested Conditions of Approval:

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 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:
 - a. Clearly demarcate on-site circulation using pavement marking/arrows in accordance with the final approved plans;
 - b. Sign the entrances and exits to the site in accordance with the final approved plans;
 - c. Install reflective warning signs to highlight the location of the dumpster;
 - d. The storage container behind CVS be relocated so as to not interfere with traffic circulation;

- e. Install signage and/or pavement marking designating that the three (3) closest parking spaces to the proposed drive-through are for employee only.

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 findings of fact as modified by staff, to approve the petition with the conditions of approval per staff memo (with length of 46'), and to approve the waiver for labeling abutters.

List of Exhibits

- Exhibit A: Special Permit Application; received December 24, 2015; prepared by Applicant Peter LaPointe.
- Exhibit B: Site Plan; dated December 22, 2015 and revised on February 11, 2015; prepared by Russo Surveyors & Engineers.
- Exhibit C: Proposed Elevations; prepared by The Colvest Group; dated December 19, 2014.
- Exhibit D: Memorandum from the City of Worcester Fire Department to the Zoning Board of Appeals; re: 117 Stafford Street; received January 9, 2015.
- Exhibit E: ZBA decision for Special Permits and Variances - ZB-2004-120; approved July 12, 2004.
- Exhibit F: Planning Board Site Plan decision – PB-2004-093; approved July 28, 2004.
- Exhibit G: Planning Board Amendment to Site Plan decision – PB -2004-131; approved September 15, 2004.
- Exhibit H: Letter from Attorney Mark Donahue to ZBA addressing issues from staff’s review memo; dated February 12, 2015.

7. 47 Litchfield Street (ZB-2014-062)

- Special Permit:** Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Structure (Article XVI, Section 4)
- Petitioner:** Mike Crowley
- Present Use:** An existing ~1,000 SF single-family dwelling
- Zone Designation:** RG-5 (Residence, General)
- Petition Purpose:** To demolish the existing structure and re-build said structure within the same footprint while also modifying the roof-line and increasing the building height by 3 ft. in order to construct a second story addition above the existing single-story portion of the first floor - increasing the gross floor area from 1,000 SF to 1,200 SF. The existing structure and lot are non-conforming with regards to required frontage, lot area, side-, front-, and rear-yard setbacks, and parking.

Public Hearing Deadline: 3/4/2015

Charles Wilmot, contractor, and Mike Crowley, owner, were present on behalf of the application. Mr. Wilmot stated that the building is 140 years old and is not repairable. Climbing the stairs to the second floor you must duck down to ensure you do not bump your head. The proposal is to remove the building to the foundation and build anew. They also propose to raise the walls to allow for greater ceiling height in the second floor bedrooms. The roof, in turn, will have a slighter pitch so as not to increase the height of the building.

Mr. Rolle stated that staff is recommending that the board continue the item and ask for additional information on the surveyed plans. The plans submitted with the application were a plot plan prepared for the purposes of subdividing the lot so it does not have sufficient information per the placement of the building onsite to ensure that the roof overhang is not encroaching on the neighboring property.

Ms. Smith stated that staff mis-advertised the item because staff understood that the applicant was proposing to demolish the second story and rebuild it with the walls a little higher and not that they were demolishing the entire structure and building from scratch. The nature of the petition is still the same and the abutters were notified sufficiently but the applicant should be aware in case someone is against the petition.

Mr. Wilmot stated that they do not believe it is an issue.

Ms. Smith went through the questions to the applicant.

Mr. Wilmot stated that they will be doing some repair on the top shelf of the foundation to ensure its level but the foundation will remain. Inside the cellar, they will reinforce it as well. They plan to stay within the footprint of the building.

Mr. Wilmot asked that the item be continued to April 6, 2015 and if they run into an issue they will then request an additional continuance.

Mr. Crowley asked if he could still demolish the structure in the meantime. Mr. Kelly stated that he can but it would be at the owner's risk.

Upon a motion by Mr. Loew and seconded by Mr. Valeri, the Board voted 5-0 to continue the item to April 6, 2015 and extend the constructive grant deadline to April 28, 2015 to allow for a surveyed plan of land.

List of Exhibits:

- Exhibit A: 47 Litchfield Street Application; received 12/29/2014; revised 2/2/2015; prepared by Mike Crowley.
- Exhibit B: 47 Litchfield Street Plan; dated 3/6/2013; prepared by HS&T Group.
- Exhibit C: 47 Litchfield Street Rendering and photos; undated; revised 2/2/2015; prepared by Mike Crowley.
- Exhibit D: 47 Litchfield Street DPRS Staff Memo, annotated by the applicant; submitted 2/2/2015.

8. 78 Upland Street (ZB-2014-063)

- Special Permit:** To allow two multi-family low-rises in a RL-7 Zoning District (Article IV, Section 2, Table 4.1, Residential Use #11)
- Special Permit:** To allow for modification of the required 5 ft. landscape setback (Article IV, Section 7, Table 4.4, Note 5. a.)
- Petitioner:** Robert D. O’Neil, Jr. and Mary E. O’Neil
- Present Use:** Vacant lot
- Zone Designation:** RL-7 (Residence, Limited)
- Petition Purpose:** The petitioners seek to construct a 12-unit three-story multi-family low-rise building at the northerly portion of the property and a 4-unit two-story multi-family low-rise building at the southerly portion of the property. A total of 16 2-bedroom units and a ~36 space surface parking area are also proposed.
- Public Hearing Deadline:** 3/4/2015

Attorney Donald O’Neil introduced the applicant Robert O’Neil, who also did the survey work. Atty. O’Neil stated that the petitioners seek to construct two multi-family low-rise structures with a total of 16 dwelling units and 35 off-street surface parking spaces on a vacant lot at 78 Upland Street. Zoning Ordinance requires that these stay under 50 ft. in height and both structures are under that. They revised their initial plans in response to staff comments.

Mr. O’Neil reviewed the plans with the Board. He stated that the project fit into the neighborhood since there were multiple multi-unit dwelling buildings in the vicinity. He explained the drainage, snow storage, and slopes proposed onsite. He stated that excess snow be trucked off-site.

The fire department had comments regarding the turning radius for a ladder truck and they showed on the plan that it was wide enough to accommodate a fire truck. Mr. O’Neil addresses the placement of the two dumpsters onsite. All the units will be two-bedroom apartments.

Ms. Tatasciore stated that the revisions show that the applicant complies with the landscaping requirements therefore the special permit to allow for modification of the required 5 ft. landscape setback needs to be withdrawn.

Atty. O’Neil requested a leave to withdraw for that special permit.

Ms. Tatasciore stated that the maple trees proposed are ALB-susceptible species and the species would need to be revised to be ALB-resistant.

Mr. O’Neil stated that he made revisions that provide a continuous concrete walkway along the proposed 4-unit building perimeter where it abuts parking. The handicapped spaces were relocated per staff’s comments. The photometric plan provided shows that no light will spillover onto abutting properties.

Ms. Tatasciore stated staff is concerned that the footcandles are too low by the parking spaces located closest to the dumpster and by the handicapped parking spaces located closest to Upland Street.

Mr. O'Neil stated that a hydrant will be installed per fire department's comments.

Greg Pomfret, 66 Upland Street, stated that he is concerned with traffic, which had increased tremendously in the last 30 years. There are no sidewalks on Upland Street and there are a lot of walkers. There are a lot of truck drivers using the road as a cut through from Auburn to Worcester.

Mary Cote, 70 Upland Street, was also concerned about the truck traffic on the street and the increased traffic due to the Walmart and the Arboretum development behind them. She was concerned about the placement of the dumpsters since they are close to her property line.

Mr. Abramoff stated that the neighbors can contact their district councilor to request a truck ban on the street.

Mr. Horne stated that if the dumpsters become a problem the neighbor can contact the nuisance inspector or the fire department to address the issue.

Mr. O'Neil stated that the dumpsters will be emptied once a week. He stated that there is a 6-8 ft. separation from her property to the dumpster and 75 feet of distance between the abutter's property and the dumpsters, which includes a landscape buffer, a 6 ft. high fence, and the enclosure for the dumpsters themselves.

Mr. Valeri stated that the applicant can ask the dumpster company to deodorize the containers when picking up the trash to alleviate those concerns.

Jo Hart, Worcester resident, stated that trucks going through small residential streets are a problem that has not been addressed in the city and suggested the Planning Division deal with the issue.

Mr. Rolle stated that the best course is to make a petition to City Council.

Mr. Loew stated that he was concerned with how the buildings will look in the context of the neighborhood. The faux-brick look of the smaller building, which is the one closest to the street, does not fit in well with the other homes in the area.

Mr. O'Neil stated that he is amenable to changing the exterior materials to fit in better with the neighborhood.

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 finding of facts as modified by staff and approve the request for a special permit to allow two multi-family low-rises in a RL-7 Zoning District with the conditions in the staff memo, listed below:

1. That six (6) copies of final revised plans are submitted to the Division of Planning & Regulatory Services addressing the following plan issues:

Dimensional Requirements

- a. Revise the Parking Requirement Chart to accurately reflect the number of parking spaces proposed;

Landscaping & Open Space

- b. Provide a detail on the plan of the proposed retaining wall;
- c. Revise the Landscaping Notes to include a variety of Asian Longhorned Beetle-resistant trees;

Fire Department Comments

- d. Install a new fire hydrant on the property or along Upland Street (east of main entrance);
 - e. Provide a curved driveway entrance curb cut that extends beyond the edge of the fire lane;
 - f. Provide simulation data showing that a fire apparatus can clear turns on the property to access the 12-unit building (i.e., west toward the proposed snow storage and east around the retaining wall with ornamental fence);
2. That the structures be constructed in substantial accordance with the final approved plan and rendering.

And with additional conditions that excess snow be trucked off site as required parking is impeded; that dumpsters be de-odorized; that landscaping plan revised to show non-ALB susceptible species of trees; that lighting plan complies with City requirements after additional lighting projected to dumpster area; and that materials of the smaller structure be similar to those of the rear structure in character with the neighborhood (vinyl clad) & approve the leave to withdraw for the special permit to modify the landscaping buffer. And to grant the Leave to Withdraw Without Prejudice for the Special Permit regarding the landscaped buffer.

List of Exhibits

- Exhibit A: Special Permit Application; prepared by Mary E. O’Neil and Robert D. O’Neil Jr.; received December 29, 2014.
- Exhibit B: Plan of Land; prepared by Robert D. O’Neil Jr., PLS; dated December 29, 2014, revised February 13, 2015.
- Exhibit C: Rendering and Floor Plans; prepared by unknown; undated.
- Exhibit D: Fire Department Comments from Chief Courtney re: 78 Upland Street; undated; received January 9, 2015.
- Exhibit E: E-mail attachment of questions; sent by Michael & Maureen Borowski; received February 19, 2015.

APPROVAL OF MINUTES

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to approve the minutes for January 12, 2015 & February 2, 2015 without edits.

OTHER BUSINESS

1. Communications

- a. February 13, 2015 e-mail from Patricia Burke re: Stop Smart Meters Massachusetts - No Comment.

2. Signing of Decisions from prior meetings – No decisions were signed.

ADJOURNMENT

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to adjourn the meeting at 8:07 p.m.