

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

**April 6, 2015**

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

**Zoning Board Members Present:** Lawrence Abramoff, Chair  
Joseph Wanat  
George Valeri  
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  
John Kelly, 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**

**UNFINISHED BUSINESS**

1. **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, 4/28/2015

The item was held until later in the meeting until the applicant or the representative appeared.

This item was later heard at 6:50 p.m.

Charles Wilmot, representing the applicant, introduced the owner, Michael Crowley.

Mr. Abramoff asked whether revised plans had been submitted.

Mr. Wilmot stated that they did submit it and it showed that the left rear corner roof overhang encroaches 0.8” onto the neighbor’s property. The entire existing building will be demolished, but the foundation will not be disturbed since it is within the property lines. As the house is rebuilt, the rear of the house will be shortened to cure the encroachment issue and to make the house less non-conforming.

Ms. Smith stated that on February 23, 2015 the Board continued the petition to allow the applicant to submit a revised, certified, to-scale plan of land. The plan submitted did not adequately depict existing setbacks, and staff could not confirm that the entire building envelope – including roof overhangs – is within the property boundaries. On March 30, 2015, the applicant submitted revised, surveyed plans showing the existing 0.7 ft. encroachment on to abutting property to the west, at 43 Litchfield Street.

Mr. Abramoff asked about a rendering and Mr. Wilmot showed them the rendering submitted and it is similar to what is existing onsite. Mr. Abramoff proposed a condition of approval that the house be substantially in design to what is currently existing with the exception that the new house be two-story.

Mr. Wilmot was amenable to that and stated that they can submit as-built plans to Building Code to clearly show that there is no encroachment. He also stated that the shed will be either moved or removed.

Mr. Rolle stated that a variance might be required instead of a special permit. The item will need to be continued once again. By demolishing the house voluntarily, it loses its pre-existing non-conforming designation and the work proposed would need a variance and not a special permit.

Mr. Wilmot stated that he was told by the Building Department that if taken down to the existing foundation there is a one year window in which he can build within the foundation.

Mr. Kelly stated that he needs to confer with staff to ensure that the applicant is applying for the correct approvals but he agreed with Mr. Rolle and believes that it should be a variance.

Mr. Crowley stated that he has been working on this process since November and he needs to demolish the property because it is unsafe.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted to continue the item to April 27, 2015.

**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.
- Exhibit E: Request to continue; dated and received, 2/23/2014.
- Exhibit F: 47 Litchfield Street Certified Plan; dated 3/25/2015; prepared by HS&T Group.

**NEW BUSINESS**

**2. 770 Franklin Street (ZB-2015-001)**

- Special Permit: To allow a multi-family low-rise dwelling in a RL-7 Zoning District (Article IV, Section 2, Table 4.1, Residential Use #11)
- Variance: For relief of 35 ft. from the 140 ft. frontage dimensional requirement for a multi-family low-rise in an RL-7 Zoning District (Article IV, Section 4, Table 4.2)
- Petitioner: Crescent Builders, Inc.
- Present Use: Vacant Lot
- Zone Designation: RL-7 (Residence, Limited)
- Petition Purpose: The petitioners seek to construct a three-story, 36-unit (each with 1-3 bedrooms) multi-family low-rise building on the western portion of the property along with a ~72 space surface parking area
- Public Hearing Deadline: 4/16/2015
- Constructive Grant Deadline (Variance): 4/16/2015

Hussein Haghanizadeh, HS&T Group, stated that they are proposing to construct a three-story, 36-unit (each with 1 to 3 bedrooms) multi-family low-rise building on the western portion of the property along with a ~72 space surface parking area, with associated site-work, grading, and paving in an RL-7 Zoning District. He stated that the area is full of duplexes but they decided to propose a multi-family low-rise dwelling instead because the area is mostly ledge. This proposal provides more green space than constructing a road, extending utilities, and building multiple duplexes.

Mr. Haghanizadeh stated that per staff’s suggestions, they met with the neighbors. They explained the project and the different design options they considered and that they went with the option presented today to minimize the blasting and disruption that would need to be done with other options.

Mr. Haghanizadeh stated that these will be mainly 2 bedroom condos.

Ms. Smith stated that revised plans were submitted to the office but staff has not been able to review them. She reviewed the recommended conditions of approval with the Board.

Mr. Abramoff asked what the by-right development options are. Ms. Smith stated that by right the applicant could construct single- or two- family homes, via a subdivision. Such a development would likely be similar to the three roads and associated development to the

east of the subject parcel (Frongillo Farm Rd., Angela Rose Ln., & Christine Dr.) which are comprised of duplexes. This would only need Planning Board approval.

Leonard Ciuffredo, 289 Harrington Way, stated that he represents the Brown Square Neighborhood Group and that he served as a Zoning Board member for eight years. He stated that he does not believe the proposal meets the statute regulations to be considered a hardship. He believes the petition should be denied and that the developer is only looking to maximize for profitability. This does not fit in with the character of the neighborhood.

Frank Corridori, 727 Franklin Street, stated that Franklin Street cannot deal with additional traffic. He is also concerned with flooding and drainage.

Mike Frongillo, 8 Frongillo Farm Road, stated that the ball field has tournaments all summer long and parking is horrendous. During the winter the right-of-way is narrowed down to allow one car to go down the street at a time. Emergency vehicles had issues accessing a house this winter. There are several cul-de-sacs in that area where Franklin Street is the only way in and out. Mr. Frongillo stated that the neighborhood character and social structure would be negatively affected and property values will be affected too. He is also concerned with what clear cutting will do to the wildlife in the area. He stated that the hardship the applicant is claiming is self-imposed.

Madeline Martin, 721 Franklin Street, stated that she is concerned about the springs that run through the area, the wildlife in the area, and the extra burden on public services such as sewers. She stated that the blasting that will take place will disrupt the entire neighborhood.

Mary Jo Frisoli, 9 Frongillo Farm Rd, stated that she was concerned how the blasting might affect her slab foundation. She also stated concern with proper drainage and circulation for the parking lot and that the fence proposed will not be sufficient screening. She stated that she was opposed to the lighting because it will disturb her. She was also concerned with the visibility of oncoming traffic as people exit the proposed parking because of the bump in the road. She stated that a traffic study should be done to determine if the road width and sight lines support the additional development. The development does not fit into the neighborhood and the wetlands will be disturbed.

Gary Olson, 25 Northboro Street, stated that this affects the other streets as much as Franklin Street because the traffic will get worse on the side streets.

Mr. Haghanizadeh stated that they are willing to work with the neighborhood. He stated that 36 condo units would generate similar traffic than 10-12 duplexes. The condo units will be 1-2 bedrooms and the duplexes will be 3 bedrooms. The duplexes will generate more traffic because there will be larger families living there that may have more vehicles. They are willing to reduce the amount of units and hence the number of parking spaces will be reduced as well.

Mr. Haghanizadeh stated that there is a drainage system proposed with a detention pond to control the flow of water draining to Franklin Street. Both the Conservation Commission and the Planning Board will require a storm water management plan be in place to ensure the proposal does not overload the neighborhood.

Mr. Wanat asked if there will be any three bedroom units and Mr. Haghanizadeh stated that there will only be 2 bedroom units in the condo but 3 bedrooms if they have to go with the subdivision and build duplexes.

Mr. Loew stated that they received a petition opposing the project with 113 signatures from neighbors in the area.

Mr. Frongillo stated that the engineer did meet with the neighborhood but while half did not want the development, the other half was open to them pursuing the subdivision.

Michael Frisoli, 9 Frongillo Farm Rd, stated that 36 units would more likely equal 72 people living there and 10-12 duplexes will only generate about 30 people. The two options are not equivalent. He also stated that approving this will create a precedent that other projects of this type will like to come to the neighborhood.

Mr. Abramoff stated that he believes that the design looks like this is an institution. The project needs to have a lot of landscaping to be more appealing. He is concerned the density is very high and also about the amount of impervious area. He would like to see the applicant meet with the neighborhood again because right now there is a big gap from what is proposed to what the neighbors want.

Mr. Haghanizadeh stated that he would like to request a continuance for the first meeting in May to address the concerns from the neighbors and the Board.

Ms. Smith stated that the approval grant deadline would also need to be extended to June 16, 2015 and the applicant was amenable to that.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon, the Board voted 4-0 to continue the item to May 18, 2015 and extend the constructive approval date to June 16, 2015.

**3. 200 Harrington Way (ZB-2015-002)**

Special Permit: To allow a Ground-Mounted Personal Wireless Service Facility (PWSF) in a RL-7 Zone (Article IV, Section 2, Table 4.1, General Use #15)

Variance: For ~150 ft. of relief of from the 0 ft. height dimensional requirement for a ground mounted PWSF in a RL-7 Zone (Article IV, Section 12 C.3.e.)

Variance: For ~66 ft. of relief of from the ~150 ft. fall zone requirement for a ground mounted PWSF in a RL-7 Zone (Article IV, Section 12 C.3.f.)

Petitioner: American Towers, LLC and New Cingular Wireless PCS, LLT (AT&T)

Present Use: Part of the existing parking area associated with adjacent property at 222 Harrington Way (the EcoTarium Museum)

Zone Designation: RL-7 (Residence, Limited)

Petition Purpose: The petitioners seek to construct a ~150 ft. monopole style PWSF tower, with 12 multi-band panel antenna arrays, 24 remote radio units, a GPS antenna, and associated cables and equipment within a 40 ft. x 60 ft. fenced compound. Within the proposed compound is

an 11 ft. x 17 ft. equipment shelter, which includes a ~50 KW diesel back-up generator, 2 HVAC units, and other associated equipment. Additionally, proposed are a gravel access road and transformer & pad, along with associated grading & site-work, at property located at 200 Harrington Way.

Public Hearing Deadline: 4/17/2015, 4/30/15

Attorney Earl Duval, representing the applicants, stated that the applicant is proposing a 150-foot monopole tower within a 40' x 60' compound area that will be surrounded by an 8 foot high stockade fence. He introduced Jesse Marino, who will review the proposed site, Dan Goulet, RF engineer, and Jim George, site acquisition specialist. Mr. Duval stated that this proposal was originally proposed at 145 Harrington Way and they met with the neighborhood on September 24<sup>th</sup> at the Ecotarium, followed by a site walk on October 25<sup>th</sup>. The balloon test was performed on December 5<sup>th</sup> and a second neighborhood meeting was held December 9<sup>th</sup>. As the process continued, the site was eventually moved to the one before the Board today at 200 Harrington Way.

Jesse Marino, project engineer, showed the Board where the monopole was being proposed in comparison to the Ecotarium and North High School.

Mr. Abramoff asked if the variance for ~66 ft. of relief of from the ~150 ft. fall zone requirement extended into the public way or onto North High School.

Mr. Marino stated that there were no homes in the immediate vicinity and the closest building was the high school, which was still 350' away. The parcel the tower will be on drops off in a steep slope towards the back so they needed to stay closer to the right-of-way for the elevations. The equipment will be housed by an 11' x 16' shelter and backup generator. It will not be a manned station so it does not need public services and will not create traffic. Mr. Marino reviewed the shelter and pole details with the Board and showed them examples of a similar material that will be used to shield or camouflage the antennae.

Mr. Rolle stated that the applicants worked with the City to find a more suitable location for this cell tower. He reviewed the standard conditions of approval for personal wireless facilities in the City:

1. **Cost of decommissioning:** That an affidavit, signed by a qualified professional, be submitted that provides an accurate and complete estimate of the costs of decommissioning and removal of the proposed PWSF, and that said affidavit be submitted to the Division of Building and Zoning and the Division of Planning & Regulatory Services prior to the issuance of a building permit;
2. **Paint color matching:** That the tower, and to the extent practicable the proposed equipment, be painted a light gray or other color of the ZBA's choosing;
3. **Surety Bond:** That prior to the issuance of a building permit, a surety bond, equal to the cost of decommissioning and removal of the proposed PWSF, be obtained. Said bond shall remain in force throughout the lifetime of the PWSF, with minimum renewal terms of at least two years. The value of the bond will be adjusted to account for inflation every five years based on the CPI-U index. The provisions of said bond shall be to the satisfaction of the Director of Planning & Regulatory Services;

4. ***Post-installation measurement of sound and RFR:*** That post-installation measurements of the total noise and total Radio Frequency Radiation emitted by all PWSF on the site are taken by a certified noise and RF engineer; that results of these measurements demonstrate compliance with the Noise and Radio Frequency Radiation standards of the Zoning Ordinance and Federal Communication Commission Guidelines; and that these results are submitted to the Division of Planning & Regulatory Services and Department of Inspectional Services prior to the issuance of the Certificate of Use & Occupancy;
5. ***Public Safety Radio Equipment:*** That the City of Worcester be permitted to install and maintain public safety radio equipment and antennas on the structure free of charge, pending an acceptable agreement between parties;
6. That the structure is constructed in substantial compliance with all governmental codes and the City of Worcester Zoning Ordinance, and in accordance with the final approved site plan on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.

Mr. Rolle also stated that staff would be amenable to granting the waivers from the application requirements.

Leonard Ciuffrida, 289 Harrington Way, stated that he was representing the Brown Square Neighborhood Association. He stated they were not in opposition but he did want to mention that this was an RL-7 zone and asked the Board to impose condition on the screening of this installation.

Mr. Abramoff stated that the board rarely sees these since most (~90%) of the towers are on existing buildings. He asked why this petition required a variance since they are mostly dealt with through a special permit. He also asked if they are compelled to approve the petition due to the Telecommunications Act as long as they prove they need the coverage.

Mr. Rolle stated that because this type of petition was not allowed in our zoning ordinance, the ordinance did not specify a maximum height. Therefore, at staff's request, the applicant applied for a variance equal to the entire height of the monopole. They also asked the applicant to apply for a variance for the fall zone because of its proximity to the right-of-way, although there are no residences within the fall zone. Mr. Rolle stated that if the Board feels that the applicant has proven that this location will provide the necessary coverage with the least amount of impact then the Board is compelled to approve it.

Mr. Duval stated that they have to prove that there is a significant gap in coverage and that there are no other feasible co-location alternatives. Their radio frequency engineer can attest to the gap in coverage and they provided an alternative site analysis to answer colocation concerns.

Mr. Abramoff asked about security measures that will be in place.

Mr. Marino stated that there are two fences; the one the Ecotarium already has around their entire property and the hardwood fence that will be placed around the installation site. Both fences will be locked. The shelter is also locked and the climbing rungs on the bottom 20 feet on the pole are removed to deter climbing.

Mr. Abramoff asked about the RF emissions within that fenced compound.

Dan Goulet stated that they submitted an exhibit where they show the emissions for the proposal as is and also the emissions with 5 wireless carriers collocating and the emissions would still be 0.19% of the permitted allowable emissions.

Mr. Valeri asked how noisy this installation will be.

Mr. Marino stated that there was a sound study done and submitted to the board. What would produce the noise is the equipment within the shelter and they have noise reducers on them. The generator will only be on in the event of a prolonged outage.

Mr. Abramoff stated that part of the standard conditions of approval is that the Board requires post-installation emissions and noise testing to ensure they are in compliance.

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 the special permit and variances requested subject to the conditions in the memo and that approve the waivers as listed on Exhibit F (submitted at the meeting) subject to staff review. Mr. Abramoff made a friendly amendment that the color be light gray or a lesser obtrusive color.

#### **List of Exhibits**

- Exhibit A: 200 Harrington Way Special Permit and Variance Application; received February 11, 2015 and revised on March 26, 2015; prepared by Applicant's agent, Attorney Earl W. Duval.
- Exhibit B: American Tower – Ecotarium II Plan; dated February 9, 2015; prepared by ProTerra Design Group, LLC
- Exhibit C: Comments from Police Department; dated February 18, 2015.

#### **4. Lot 2 (aka 34-40) Fielding Street (ZB-2015-003)**

- Special Permit: To allow a single-family attached dwelling in an RL-7 Zoning District (Article IV, Section 2, Table 4.1, Residential Use #12)
- Petitioner: Elio Romeo and Mario N. Ritacco
- Present Use: Presently located on the premises is a vacant lot
- Zone Designation: RL-7 (Residence, Limited)
- Petition Purpose: The petitioner seeks to construct a single-family attached dwelling, with a total of 3 units (with ~1,750 SF each), and off-street 6 parking spaces (3 garage, 3 surface), along with associated site-work, grading, and paving on property located at 0 (aka 34-40) Fielding Street.

Public Hearing Deadline: 4/25/15

Robert O'Neil, representing the applicants, stated that the property is a 16,200 SF lot and the proposal is to construct a single-family attached dwelling, with a total of 3 units (with the two exterior units ~1,750 SF each and the interior unit ~2,400 SF), and off-street 6

parking spaces (3 garage, 3 surface), along with associated site-work, grading, and paving. The lot has sufficient frontage for 4 single-family attached dwellings but the proposal is only for 3. The applicants built a similar project in the Plantation/Lincoln Street area. He addressed the comments in the memo.

Ms. Smith stated that as shown, it appears that the garages occupy slightly less than 50% of the ground floor. This renders the floor habitable from a zoning perspective (see Article IV, Section 4, Table 4.2, Footnote 2). The proposal as depicted therefore does not comply with the maximum number of stories allowed in the zoning district, which is 2 habitable stories and a non-habitable attic. The applicant must demonstrate that the portion of the ground floor dedicated to the garage exceeds 50%, or a height variance must also be sought.

Mr. O'Neil showed a floor plan and clarified that the garages would not be habitable and the plans will be revised to show that.

Mr. Wanat asked how they will handle roof runoff and Mr. O'Neil stated that roof drains will be tied to the perimeter drains and brought out to the drainage system out on Fielding Street.

Mr. Loew asked why the applicant chose this proposal when there was by-right alternatives permitted. Mr. O'Neil stated that in order for it to make sense financially they needed more than two units.

Mr. Haddon asked if the applicants plan to have a window installed in the dormer. Mr. O'Neil stated that they did not unless the Board wanted them to. They just wanted to ensure that the attic remain inhabitable.

Mr. Haddon stated that a dormer without windows would look awkward, they just needed to ensure that the attic isn't finished.

Nancy Blanchard, 30 Fielding Street, stated that she was the direct abutter to the east. She stated that the road is very narrow and cannot support additional street parking and since these are three-bedroom units they could have more than two vehicles. The area is very congested with two schools and all the parents, teachers, and staff that are parked in the area.

Peter Maki, abutter, stated that he sent a petition letter in opposition of this project. He stated that he would lose all privacy with this development. It does not fit in the neighborhood. He would not be opposed to a single family house but does not want a four story building next to his one story ranch house.

Joyce Jean, 149 Apricot Street, stated that there are dump trucks always parked on the corner making it unsafe and additional traffic will make it a bigger hazard for pedestrians and school children.

Neal Richard, lives at 37 Fielding Street, stated that he was concerned about drainage. The road has pot holes, proof that it has lousy drainage.

Mr. O'Neil stated that there is an existing 12" storm drain in the street and they capture all the roof runoff and connect it to the perimeter drain so that will take care of any drainage concerns. He also stated that any single-family home in the City can be 35' in height (measure from the ground level to the peak).

Mr. Kelly stated that they just need to ensure that the garage is not habitable space or that would be counted in the height calculation.

Mr. Smith stated that staff asked the applicant if they had considered reducing the height of the proposed structure.

Mr. Abramoff stated that he could not approve as presented and would like to continue to allow the applicants to submit revised plans and floor plans.

Mr. Loew asked if the applicants had met with the neighborhood because there were 93 signatures in opposition of the project.

Mr. O'Neil stated that he did not believe his clients have met with the neighborhood and he will advise them to do so. He requested a continuance to April 27, 2015.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 5-0 to continue the item to April 27, 2015.

### **List of Exhibits**

- Exhibit A: 0 Fielding Street Application; received 2/19/2015; prepared by Elio Romeo & Mario Ritacco.
- Exhibit B: 0 Fielding Street Plan; dated 2/10/2015; prepared by Robert D. O'Neil.
- Exhibit C: 0 Fielding Street; rendering; undated; prepared by unknown.
- Exhibit D: Letter of opposition from abutter Peter Maki (16 Clegg Street); re: 0 Fielding Street; dated 3/30/2015.

### **5. 29 Wallingford Road (ZB-2015-005)**

- Special Permit: To allow the Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Structure (Article XVI, Section 4)
- Petitioner: John DiVerdi
- Present Use: Presently located on the premises is an existing ~420 SF one-story single-family detached dwelling with 3 off-street parking spaces.
- Zone Designation: RL-7 (Residence, Limited)
- Petition Purpose: The petitioner seeks to construct an addition to the north side of the existing structure, add a second story to the entire structure (expanding the structure by ~800 SF), and add a farmer's porch along the east side of the structure, in addition to associated site-work and landscaping on property located at 29 Wallingford Road.
- Public Hearing Deadline: 5/7/15

John DiVerdi stated that that he is looking to increase the value of the home by increasing the square footage. There are two easements on the property so where he proposed the addition to the house is the only place that it can go. He needs the Special Permit because the existing structure is within the front yard setback.

Ms. Tatasciore stated that this is a pre-existing nonconforming structure and the structure is encumbered by easements that dictate how they can build. The neighborhood analysis showed that 43% of the properties in the immediate vicinity are non-conforming with front yard setback. The Board has previously required a variance in situations where a privileged, preexisting dimensional nonconformity was to be increased or intensified. Review of recent case law interpretations of Massachusetts General Law Chapter 40A confirms that specifically for one and two family residential uses, a special permit is the appropriate consideration.

Only an increase or intensification of a pre-existing nonconformity may be granted by special permit; introduction of a new nonconformity requires a variance. In considering whether to grant a special permit, the Board must find that allowing the extension of the existing nonconformity is not substantially more detrimental to the neighborhood.

Mr. Abramoff asked if the applicant had a rendering. Mr. DiVerdi submitted the rendering he prepared.

Anthony Matulaitis, 25 Wallingford Road, stated that he was concerned about how it will look. He asked about the footprint for the property, setbacks, and parking.

Mr. DiVerdi stated that he is eliminating the proposed porch on the plan because it would be too close to the driveway. He stated that the addition is changing from 12' x 18', shown on the plot plan, to 14' x 18'. They will be encroaching on the front yard setback, which is what made this property non-conforming in the first place, but they comply with the rest. As for parking, there is a driveway off of Wallingford Rd that fits two vehicles and because of the easement towards the back of the property, he can also park a vehicle on that driveway although it is on the abutting property.

John Kelly stated that since there were so many small changes being made to what was submitted, he would like to see a revised plan that incorporates all the changes and also notes the parking.

Daniel Hackenson, 26 Rydberg Terrace, stated that he is concerned about the drainage and decreased property values due to the additional wear and tear on the streets due to the construction equipment.

Mr. Abramoff stated that they are only adding ~200 SF of roof space, which would not significantly affect drainage.

Mr. Rolle asked if the parking in the front is privileged non-conforming because that is how the house was constructed and that is the location of the driveway.

Mr. Kelly stated that since the applicant is only proposing an addition the location of the parking will be considered pre-existing non-conforming.

Mr. Abramoff stated that they want to see a revised plan that eliminates the porch, shows the parking, shows the correct size of the addition. Parking on the driveway with the easement is a private matter between the homeowners.

Hector Cay, 1 Wallingford Road, stated that the proposal does not fit what the original property was built for. It was meant to be an in-law apartment, not a two-story structure. It will block the view.

Mr. Rolle stated that the applicant must show parking on his property.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 5-0 to continue the item to April 27, 2015.

**List of Exhibits:**

- Exhibit A: 29 Wallingford Road Special Permit Application & Rendering; received March 3, 2015; prepared by John DiVerdi.
- Exhibit B: 29 Wallingford Road Plan; dated February 5, 2015; prepared by Finlay Engineering Services.
- Exhibit C: Sewer & Driveway Easement Plan; dated June 5, 2008; prepared by Finlay Engineering Services.

**6. 0 Breck Street (ZB-2015-006)**

- Variance: For relief of 5 ft. from the 55 ft. frontage dimensional requirement for a two-family dwelling in an RG-5 Zoning District (Article IV, Section 4, Table 4.2)
  - Variance: For relief of 1,000 SF from the 6,000 SF lot area dimensional requirement for a two-family dwelling in an RG-5 Zoning District (Article IV, Section 4, Table 4.2)
  - Petitioner: Valdete K. Manfron
  - Present Use: Presently located on the premises is a vacant lot.
  - Zone Designation: RG-5 (Residence, General)
  - Petition Purpose: The petitioner seeks to construct a ~2,028 SF two-family dwelling and 4 off-street parking spaces, along with associated site-work, grading, and paving on property located at 0 Breck Street.
- Public Hearing Deadline: 5/7/15  
Constructive Grant Deadline (Variance): 6/11/15

Robert O’Neil, introduced Joe Goodman, the applicant’s husband, and stated that the petitioner seeks to construct a two-family dwelling and 4 off-street parking spaces, along with associated site-work, grading, and paving. This request is consistent with the homes in the area. The project needs two variances because it is a 5,000SF lot, where 6,000SF is required and they also need an additional 5 ft. of frontage than what they are providing (50ft.) The design chosen requires the minimum amount of grading on the lot.

Ms. Tatasciore stated that approximately 36% of the properties in the neighborhood are non-complaint with frontage and 45% are non-complaint with area. She asked the applicant if any of the mature trees onsite will remain. Staff recommends protecting existing mature trees on the property to the extent possible during construction. Ms. Tatasciore asked the applicant to also comment on the façade and the exterior materials.

Mr. O’Neil stated that they will only be able to save one tree, a 10” maple at the rear of the property due to grading. They will be providing six 3.5” caliper dogwoods and 8 shrubs. The proposed two-family would be vinyl sided.

Mr. Goodman stated that the façade facing the street is the narrower portion and there are two doors, one leading to the first floor apartment and the other leading to the stairwell for the second floor apartment.

Mr. Abramoff stated that he did not like the design and wanted to see a few more windows or architectural detail to make the house look better.

Mr. Wanat stated that he believed it was an awkward layout.

Mr. Haddon discussed a few options with the applicant.

Irene Chiarvalloti, 1 Breck Street, stated that she believed the site was tight to fit what is proposed.

Mr. Loew asked that the type of trees proposed be changed because he does not believe they will survive.

Mr. Kelly asked the applicant if he considered moving the property back a little bit and adding a porch to the front of the house with only one entrance. The design will break up the façade of the building.

Mr. Goodman stated that there are two decks in the front of the house with wrought iron railings and he can provide the Board with a picture of what it would look like because he has built this design before.

Mr. Abramoff stated that he would have to see it.

Upon a motion by Mr. Haddon and seconded by Mr. Loew, the Board voted 5-0 to continue the item to April 27, 2014.

**List of Exhibits:**

Exhibit A: 0 Breck Street – Variance Application; received 3/3/15; prepared by Valdete K. Manfron.

Exhibit B: Plan of Land; dated 3/1/15; prepared by Robert D. O’Neil, Jr.

**7. 38 & 40 Esther Street**

**38 Esther Street:**

**Variance:** For relief of 928 SF from the 7,000 SF lot area dimensional requirement for a three-family dwelling in an RG-5 Zoning District (Article IV, Section 4, Table 4.2)

**Variance:** For relief of 7.8 ft. from the 10 ft. exterior side-yard dimensional requirement in an RG-5 Zoning District (Article IV, Section 4, Table 4.2, Note 7)

**Variance:** For relief of 6 parking spaces from the 6 space parking requirement for a three-family dwelling (Article IV, Section 4, Table 4.4)

**40 Esther Street:**

**Variance:** For relief of 1,058 SF from the 5,000 SF lot area dimensional requirement for a single-family dwelling in an RG-5 Zoning District (Article IV, Section 4, Table 4.2)

Variance: For relief of 10 ft. from the 50 ft. frontage dimensional requirement in an RG-5 Zoning District (Article IV, Section 4, Table 4.2)

Variance: For relief of 2 parking spaces from the 2 space parking requirement for a single-family dwelling (Article IV, Section 4, Table 4.4)

Petitioner: Scudder Bay Capital, LLC

Present Use: Presently located on the premises at 38 Esther Street is a three-family dwelling and located at 40 Esther Street was a recently demolished dwelling.

Zone Designation: RG-5 (Residence, General)

Petition Purpose: No changes are proposed to the structure at 38 Esther Street. The petitioner seeks to construct a single-family dwelling, along with associated site-work, on property located at 40 Esther Street.

Public Hearing Deadline: 5/7/15

Constructive Grant Deadline (Variance): 6/11/15

Donald O’Neil and Victor Ang, representative of Scudder Bay Capital LLC, were present for this petition. Mr. O’Neil stated that there are no changes proposed to 38 Esther Street. There was an existing property at 40 Esther Street that was purchased in June 2014 and it was later demolished. The house was demolished without the proper building permit. The proposed property will be improvement over what was there because it will meet front, side, and rear yard setbacks. Mr. O’Neil stated that there is no parking proposed because no parking existed there previously.

Ms. Tatasciore stated that the house at 38 Esther is a three-family and the house at 40 Esther Street that was demolished was a single family. None of these homes have driveways or parking. The neighborhood analysis showed that 55% of the properties in the vicinity are non-compliant with lot area, 45% are non-compliant with frontage, 55% are non-complaint with side-yard setback, and 64% are non-compliant with parking. Staff recommends the applicant requests a waiver from showing abutters within 300 feet. If approved, staff respectfully recommends the following suggested conditions of approval:

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;
2. Provide an Asian Longhorned-Beetle resistant tree fronting #40 Esther Street.

Mr. O’Neil stated that he was amenable to the conditions and requested the waiver.

Velma Tourtellote, 3 Payson Street, stated that she was concerned with parking. They just remodeled those units so now they are no longer vacant. The petitioner also owns 34 Esther Street, which has 6 vehicles parking on street, 38 Esther Street, which now has 8 vehicles parking on street, and they are looking to add at least two more vehicles to the on street parking situation. She was concerned about emergency services getting through, trash pickup, etc.

Justin McKeon, 3 Payson Street, asked if the petitioner can add a driveway from Payson Street into the back.

Mr. O’Neil stated that if they do that then they have no yard. He stated that if his client had kept a wall up they could have built on the same footprint by right, without even taking

parking into consideration. The proposed is a better proposal and his client has spent over \$150,000 in improvements in the properties they purchased.

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. Haddon, the Board voted 5-0 to approve the findings of fact as modified by staff and approve the variances and waiver requested subject to the conditions in the memo.

**List of Exhibits:**

Exhibit A: 38 & 40 Esther Street – Variance Application & Rendering; received March 3, 2015; prepared by Attorney O’Neil on behalf of Scudder Bay Capitol, LLC.

Exhibit B: 38 & 40 Esther Street – Variance Plan; dated February 26, 2015; prepared by New England Land Survey.

**APPROVAL OF MINUTES**

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to approve the minutes for March 16, 2015.

**OTHER BUSINESS**

8. **Communications** - None
9. **Signing of Decisions from prior meetings** – the decision for 455 Lincoln Street was signed.

**ADJOURNMENT**

Upon a motion the Board voted 5-0 to adjourn the meeting at 9:20 p.m.