

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

April 27, 2015

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
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**

1. 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: 4/28/15

Ms. Smith stated that the applicant is seeking a leave to withdraw without prejudice because they are seeking by-right alternative.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to grant a Leave to Withdraw Without Prejudice.

2. 36 Washburn Street (ZB-2015-009)

- Special Permit: To allow for an Expansion, Alteration, or Change to a Privileged Pre-existing Non-Conforming Structure (Article XVI, Section 4)
- Variance: For ~14.9 ft. of relief of from the 15 ft. rear-yard setback dimensional requirement for a non-residential structure in a RG-5 Zone (Article IV, Section 4, Table 4.2)
- Petitioner: Robert J. Martin
- Present Use: Presently located on the premises is an existing non-conforming auto-repair shop.
- Zone Designation: RG-5 (Residence, General)
- Petition Purpose: The petitioners seek to construct a ~510 SF (footprint) addition to the rear of the existing structure, used as an automobile service/repair shop, with a residential dwelling unit proposed on the second floor, along with associated paving & site-work, at property located at 36 Washburn Street. The property is pre-existing non-conforming with regards to lot area, parking, front-yard and side-yard setbacks.

Public Hearing Deadline: 5/28/15

Constructive Grant Deadline (Variance): 7/2/15

Mr. Abramoff stated that the applicant requested a postponement to May 18, 2015.

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted 5-0 to postpone the item to May 18, 2015.

List of Exhibits:

- Exhibit A: 36 Washburn Street Application; received 3/24/2015; prepared by Robert Martin.
- Exhibit B: 36 Washburn Street Plan; dated 2/27/2015; prepared by Jarvis Land Survey.
- Exhibit C: 36 Washburn Street Rendering; undated.

UNFINISHED BUSINESS

3. 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

Mr. Rolle stated that the applicant and his representative were not present yet so he asked that they hold the item until they arrive. He stated that at the last meeting he and Mr. Kelly realized that they had an issue with the proposal but the applicant and his representative have since spoken to the Inspectional Services Department and come up with a plan that will allow it to go forward by retaining most of the first floor and build the second floor on top of that, which would allow this application to proceed as a special permit.

Mr. Kelly that was correct and they do not plan to demolish the house now but just adjust the corner that encroaches and the second floor would be conforming to setbacks.

Mr. Abramoff stated that they will hold the item and see if the applicant shows up later.

The hearing was opened again at 6:08 p.m.

Charles Wilmot, Mr. Crowley's contractor, stated that they will not remove the entire building. They will repair the interior of the first floor and build the second floor. The square footage will be 1,180 square feet. They are close to the corner of the abutting property so they will shorten that corner to ensure that they do not encroach on the property line.

Mr. Rolle stated that it can proceed as a special permit now and they recommend the conditions in the memo. He stated that condition #1 of the review memo is no longer required.

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted 5-0 to close the 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 and To approve the requested Special Permit for an Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Structure having found that said extension is an intensification of an existing non-conformity and will not be substantially more detrimental to the neighborhood subject to conditions #2 & #3 in the review memo and to approve the waiver requested.

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, 2/23/2015 & 4/6/2015.
- Exhibit F: 47 Litchfield Street Certified Plans; dated 3/25/2015; prepared by HS&T Group.

NEW BUSINESS

4. 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

Mr. DiVerdi, the applicant, stated that there were some issues on the April 6, 2015 meeting when this was first heard that had to be addressed, such as the discrepancy of the addition's dimensions. He submitted revisions that clarify that the addition will be 14' x 18'.

Mr. Abramoff asked if he removed the farmer's porch and Mr. DiVerdi stated that he did. Mr. Abramoff also stated that he was to show the parking, the easement, and the drainage. Mr. DiVerdi stated that he spoke to the City and to his engineer and everyone agreed that water barrels will suffice because the addition to the roof was not substantial.

Mr. Rolle stated that there is no additional parking required because as a privileged existing use, the parking as proposed is sufficient for the use. The applicant is not proposing to change the use.

Mr. Kelly stated that the easement is pre-existing and it doesn't affect the proposal because the parking is nowhere near it.

Mr. Rolle stated that staff does not have additional comments and the only suggested condition of approval is that the project be built in substantial accordance to the plan on file.

Mr. Abramoff stated that Mr. Michajlow cannot vote since he was not present at the last meeting.

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted 5-0 to close the 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 and the petition with the condition that the structure be built in substantial accordance to the plan on file, that water barrels be provided for the roof runoff, and the board also approved the waiver to show abutters within 300 feet on the plan.

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 Proposed Foundation Plan; dated February 5, 2015 and updated April 14, 2015; prepared by Finlay Engineering Services.
- Exhibit C: Sewer & Driveway Easement Plan; dated June 5, 2008; prepared by Finlay Engineering Services.
- Exhibit D: Renderings & Elevations for 29 Wallingford Road; dated April 17, 2015; prepared by The Drawing Board, Inc.

5. 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

Mr. Rolle stated that the applicant was not present. Mr. Abramoff stated that they will hold the item until later.

The hearing was called again at 6:17 p.m.

Mr. Rolle stated that the primary concern stated by the Board at the last meeting was regarding the front façade detail of the building.

Joe Goodman, the applicant's husband, stated that revised renderings were provided and that a roof was added over the two porches and he added a window to the front façade. He will also be putting cedar shake on the top portion of the eave for more architectural detail.

Mr. Loew asked if the front would be landscaped. Mr. Goodman stated that wherever he can plant something he will add landscaping. Mr. Loew suggested some foundation plantings or at least some planters.

Mr. Abramoff reviewed the conditions with the applicant and he stated that he would provide what was required. Mr. Abramoff stated that he wants to see foundation plantings to soften the look of the house.

Mr. Rolle stated that the following conditions have already been included in the revisions and are no longer needed:

- a. Label trees to remain on the premises and protect said trees by avoiding disturbance to the drip-line, to the extent practicable, during construction;
- b. That two additional 3” caliper shade tree be planted on both sides of the driveway;
- c. Provide a label on the plan indicating that all proposed trees shall be Asian Longhorned-Beetle resistant;
- e. 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.

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. Valeri, the Board voted 5-0 to approve the findings of fact as modified by staff and the two variances requested subject to the conditions in the staff memo #1 and #2(d). The board also approved the waiver request showing abutters within 300 feet on the plan.

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.

6. 4 Porter Street (ZB-2015-008)

Variance: For relief of 18.82 ft. from the 70 ft. minimum frontage dimensional requirement for a two-family dwelling in an RL-7 Zoning District (Article IV, Section 4, Table 4.2)

Variance: For relief of 4.5 ft. from the 15 ft. maximum height dimensional requirement for an accessory structure in an RL-7 Zoning District (Article IV, Section 8, B.10)

Petitioner: Nancy D’Iorio

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 ~1,656 SF, footprint, two-family detached dwelling and a detached garage and four associated parking spaces, along with associated site-work, grading, and paving on property located at 4 Porter Street

Public Hearing Deadline: 5/17/15

Constructive Grant Deadline (Variance): 6/21/15

Nancy D'Iorio stated that she was denied a building permit because the actual constructed portion of the street is not long enough and does not satisfy the frontage requirement - her property is 75' x 100' and the city street is not long enough to provide the required frontage.

Ms. Smith stated that the applicant proposes to construct a detached garage with a proposed height of 19.5 feet, thereby exceeding the height for an accessory structure by 4.5 feet or ~30% relief of the maximum height allowed in the zone for an accessory structure. The applicant has not provided information regarding why a height exceeding 15 feet is necessary and since it was a variance the applicant needs to comment on the hardship she is seeking relief from.

Mr. Abramoff asked if staff received a rendering for the proposed. Ms. Smith stated that a rendering was not provided.

Ms. D'Iorio stated that the length and width of the garage necessitate a higher roof so that the pitch helps shed snow.

Julian Votruba, New England Environmental Design, stated that he did some of the site engineering. He stated that he brought a rendering for the board (Exhibit C). Also, the reason for the additional height on the garage is that it will have a truss roof with additional storage area in the attic. It is also aesthetically more pleasing to have a higher pitch on the roof.

Mr. Rolle stated that the reason it is only 15 feet is that it is a detached structure because if it was attached the regular 35 ft. requirement would apply.

Mr. Abramoff asked if they had a rendering for the house as well and Mr. Votruba provided one. Mr. Abramoff asked abutters to approach and look at the rendering.

Ms. Smith stated that if approved staff recommends that the applicant provide six (6) copies of revised plans to the Division of Planning and Regulatory Services showing the following:

Landscaping

- a. Show existing and proposed landscaping on the revised plan and notate on the plan that all proposed trees shall be Asian Longhorned-Beetle resistant;
- b. That one 3" caliper shade tree of a non-Asian Longhorned Beetle species is planted in the lot fronting Porter Street;
- c. That each side of the driveway remains as green space and not be paved;

Renderings

- d. Provide to-scale copies of renderings, including floor plans and the height for both the proposed residential structure and the detached garage.

Ms. Smith also stated that the applicant should also request a waiver from the application requirement to label abutters and abutters thereto within 300 ft. on the plan or provide such notation on revised plans.

Mr. Votruba stated that he shows most of the required conditions on the plans and also the request for the waiver. And he submitted supplemental finding of fact for the garage height variance (Exhibit F).

Mr. Michajlow asked if the storage area can become habitable. Mr. Votruba stated that it cannot because the truss roof only gives it about 5.5 ft. of height and 12 ft. across.

Ms. Smith stated that an abutter at 13 Porter Street was not able to stay for the duration for the meeting left an exhibit for the board (Exhibit E). Mr. Abramoff read the letter into the record.

Mr. Kelly stated that the Board can always add the condition that the additional storage space not be converted into habitable space.

David Fisher, 3B Porter Street, asked where the four parking spaces are provided and will on-street parking spaces be used for this residence. He also wanted to know how far back the structure was from Porter Street.

Mr. Abramoff stated that they are providing 6 parking spaces, which should be more than adequate but that you cannot always control where people will actually park but they are providing the required spaces. Also, the house is setback 25 ft.

Mr. Fisher also stated his concern was with noise during construction and with the state of the street once the construction is complete. He and some of his neighbors paid to have the road paved and he doesn't want to see the road in shambles after this project is done.

Mr. Votruba stated that the only thing they can propose to minimize disturbance due to noise is to limit the hours of construction, Monday through Friday 7 am to 5 pm. The contractors hired are all licensed professionals and will take great care not to damage anything but if they do then they will be required fix it.

Mr. Abramoff asked if they were amenable for that to be a condition. Ms. D'Iorio stated that she was.

Upon a motion by Mr. Valeri 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 to approve the findings of fact as modified by staff and the two variances with the conditions in the memo and that the applicant obey city ordinance relative to construction hours, and that the petitioner rectify any damage done to Porter Street due to construction, and that the residential garage not be used as a dwelling unit. The board also approved the waiver request showing abutters within 300 feet on the plan.

List of Exhibits

Exhibit A: Variance Application; prepared by Nancy D'Iorio; received March 13, 2015.

Exhibit B: Plot Plan; prepared by Bruce E. Wilson, Jr.; dated November 17, 2014; received March 13, 2015.

- Exhibit C: Rendering: 2 Car Detached Garage 4 Porter Street; prepared by RGD Designs; dated November 11, 2014; received April 27, 2015.
- Exhibit D: Rendering: 4 Porter Street; prepared by RC Searles Associates; dated February 21, 2014; received April 27, 2015.
- Exhibit E: Letter of Opposition; prepared by David & Judith Markunas; dated and received April 27, 2015.
- Exhibit F: Supplemental Letter re: relief of 1.5' from 15' maximum height dimensional requirement for an accessory structure; prepared by Julian P. Votruba; dated February 21, 2014; received April 27, 2015.

OTHER BUSINESS

7. **Communications** – There were no communications.
8. **Signing of Decisions from prior meetings** – the decisions for 200 Harrington Way and 38-40 Esther Street were signed.

ADJOURNMENT

Upon a motion by Mr. Michajlow and seconded by Mr. Abramoff, the Board voted 5-0 to adjourn the meeting at 6:25 p.m.