

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

**June 15, 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  
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. 14 Blanche Street (ZB-2015-011)**

**Special Permit:** For relief of the dimensional requirements for a Residential Conversion of a two-family detached dwelling to a three-family detached dwelling in a RG-5 Zoning District (Article IV, Section 9.A.)

**Petitioner:** Sedona Realty Group, LLC

**Present Use:** Presently located on the premises is a two-family detached dwelling and off-street parking

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

**Petition Purpose:** The petitioner seeks to convert the existing two-family detached dwelling into a three-family detached dwelling with six associated off-street parking spaces.

**Public Hearing Deadline:** ~~6/7/15~~, 6/15/15

Ms. Smith stated that the applicant wants to use the home as a two-family in order to avoid the costs to install a sprinkler system, etc.

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

**List of Exhibits:**

- Exhibit A: 14 Blanche Street Special Permit Application; received April 8, 2015; prepared by Michael O'Connor of Sedona Realty Group, LLC.
- Exhibit B: 14 Blanche Street Mortgage Inspection Plan; dated October 23, 2008; prepared by Reney, Moran & Tivnan.
- Exhibit C: 14 Blanche Street Cease and Desist Order issued March 2, 2015 by Inspectional Services Department.
- Exhibit D: Comments by Fire Chief; undated

**UNFINISHED 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~~, ~~6/16/15~~, 7/28/15

Hussain Haghanizadeh, HS&T Group, introduced Pat Burke, engineer for the project, and the applicant. Mr. Haghanizadeh stated that they were originally proposing 36 units with 72 parking spaces and from the feedback received at the previous meeting they have revised their proposal down to 24 units with 48 parking spaces. The main concern expressed by the residents was density and the new proposal addresses that and will provide a greater landscaping buffer between the development and the direct abutters (from 10' to 59'). They are also providing more open space for the project. The lighting was redesigned to ensure that no more than ½ a foot candle will spillover. Fencing and screening will be provided around the entire property.

Mr. Haghanizadeh stated that they met with the neighbors and they expressed concern with overloading the sewer system. He stated that if they built 10 duplexes they would produce

6,600 gallons/day but the 24 units will only produce 5,000 gallons/day. Also, a detention basin will be installed to capture runoff.

The 24 units will be built in two buildings so that it reduces the amount of impervious area and making it fit better into the neighborhood. The hardship with using this lot is the amount of ledge on the property and the topography. They are also trying to do this type of development rather than a subdivision because that will require a lot of disturbance to the site.

Ms. Smith stated that the first floor patio areas, located at the front of the proposed buildings, are shown on the ground level rendering on sheet A010. She asked if the doors would be operational given the footprint of the structure at ground level directly abuts the proposed walkway.

Mr. Burke stated that they will make sure they are operational.

Ms. Smith asked if the applicant would consider re-locating the small windows proposed near each corner of the structure on the front and rear facades, to be located midway between the proposed balconies and the corner of the structure. Mr. Burke stated that they are there to let light into the stairwell.

Ms. Smith asked if the applicant would consider adding an awning to the front entrance of each structure. Mr. Burke stated that he was amenable to that.

Ms. Smith asked the applicant to comment on the proposed exterior materials of the structure. Mr. Burke stated that the buildings will be vinyl sided. Ms. Smith asked the applicant to verify the plan's side-yard setback along the western lot line. Staff measured ~29 ft. and not 30.5 ft. as indicated on the plan. Staff recommends the inclusion of Hickory and/or Cherry Trees in the proposed planting list to help maintain the current wildlife habitat and asked if they would consider planting shrubbery (e.g. rhododendrons, hydrangea, etc.) along the eastern side of Dwelling #1 in order to provide additional screening to tenants on the ground floor. She also stated that the applicant needed to provide additional shrubbery, between the proposed trees, along the western lot line. Mr. Burke stated he was also amenable to that.

Ms. Smith stated that a 6 ft. stockade fence is now proposed along the lot line owned by n/f Ricciardi. Given that the proposed fencing extends to the limit of the right-of-way, staff recommends tapering the proposed stockade fence, where it nears the street, to a height of 4 ft. for the first ~15 ft. to ensure adequate sightlines. Staff would recommend vegetative screening, as is required for a parking area, where the lot line abuts the proposed driveway. Staff feels that additional screening from vehicular traffic for the abutting residence is warranted and that such plantings would break up the appearance of the proposed (6 ft. tall, ~150 ft. long) stockade fence in this area. Mr. Burke stated he was amenable to adding those.

Ms. Smith stated that staff recommends additional plantings to the rear of proposed Dwelling #1, nearest the lot line, to provide privacy screening for residents at a canopy level. She asked if perimeter fencing has been considered along the lot line with N/F Ambrose. Mr. Haghanizadeh stated that they can add that but all those items would have been brought up at Planning Board during site review so they have no problem adding it now.

Ms. Smith stated that staff reviewed the photometric plan and it shows lighting levels that are less than a tenth of a foot candle at any respective lot line. Did the photometric plan take into consideration proposed fencing and screening on-site? Will any additional lighting be proposed on Dwelling #2? Is the applicant proposing any signage on-site? Will any amenities (i.e. picnic tables, benches, recreational court, etc.) be provided in the designated recreational area? Would it be possible to preserve the existing trees closest to the eastern lot line where the passive recreational area is proposed to help retain existing mature trees and associated screening (any trees within 25 feet of the eastern lot line)?

Ms. Smith asked the engineer to comment on the total SF of open space provided on-site, the snow storage area location, the fire department's comments, and the number of daily trips that are anticipated to be generated by the proposed use both to and from the site. Also, a single dumpster is proposed to the south of the site. Ms. Smith asked the applicant to comment on the hours for trash pickup and proposed method of screening.

Lastly, Ms. Smith asked if the applicant would consider making the parking spaces, located closest to the southwest corner of the parking area, as compact spaces and where the roof-runoff will be directed. Staff is concerned that if all runoff is directed away from the existing wetland it may dry up. She reviewed the conditions of approval with the Board.

Mr. Haghanizadeh stated that he does not have any issues with any of those comments.

Mike Frongillo, 8 Frongillo Farm Road, stated that the neighborhood does not want this development because it does not fit in with the neighborhood. He stated that he is still concerned with the parking lot lighting. Also, he stated that he was not sure what ledge the developer was referring to and urged the Board to deny both the special permit and the variance.

Leonard Ciuffredo, 289 Harrington Way, stated that there was a neighborhood meeting but the engineer was disrespectful to the abutters. These types of buildings are not allowed unless by Special Permit and the applicant has not made a compelling argument as to how the benefits outweigh the negative effects. Recent approvals state that there is plenty of housing stock that will be available in Worcester.

Ms. Smith stated that the applicant's by-right development options are to construct a single family detached or semi-detached dwelling or a two-family home, a school, day-care, place of worship, or group residence. The applicant could construct a subdivision consisting of single- or two- family homes by providing the required frontage and lot sizes specified by the Ordinance. 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. A subdivision would require approval by the Planning Board. A Special Permit to allow a multi-family low-rise dwelling would allow the applicant could construct, without a Variance for frontage, a 9-unit multi-family low-rise dwelling.

Joe Camarra, 20 Northoro Street, stated that this does not fit into the neighborhood and it is not appropriate.

Candice Carlson, 42 Benedict Road, stated that they do not mind the duplexes and would prefer that type of development. She stated that the neighborhood meeting was not productive because the representatives were unprofessional and yelling at the abutters.

Noelle Frongillo, 8 Frongillo farm Road, stated that this is too much development and will require cutting down many trees. She stated concerns with traffic. This will change the character of the neighborhood.

Alex Madrigal, 13 Frongillo Farm Road, stated that he was concerned that if approved the unprofessionalism displayed at the neighborhood meeting and in a personal dealing with them will continue as this development is built.

Madeline Martin, 721 Franklin Street, stated that she was concerned for the wildlife that will be affected by this development. She is also concerned with mosquitoes due to the detention pond.

Darcy Carol, 758 Franklin Street, stated that she was a direct abutter. She stated that this will affect her use of her backyard. She is concerned with noise and would prefer the duplexes.

May Jo Frisoli, 9 Frongillo Farm Road, stated that she was also a direct abutter. She stated that she was concerned with the recreation area that will abut her property and the noise it can generate. Also, she is concerned with the disturbance that having vehicles constantly driving in and out to the parking lot. It will rob her of the serenity to enjoy her backyard.

Hale Yang, 7 Frongillo Farm Road, stated that she was concerned with any blasting because it can cause damage to her slab foundation. She is also concerned with sediment going into the wetlands and with the noise that can be cause by the recreation area. She also does not want their dumpster to be anywhere near her property.

Timothy Moynihan, 5 Frongillo Farm Road, stated that he was concerned with the grade of the parking area and whether the headlights will be level with the top of the fence they will install.

Steven Loew, 6 Pollock Street, stated that this is a multi-generational neighborhood and this will have a permanent impact on the neighborhood character.

John Dull, 18 Angela Rose Lane, stated that the duplexes would be a better option. During ball games, traffic is reduced to only one way because of cars parked.

Mr. Abramoff asked clarification on the recreation area.

Mr. Haghanizadeh stated that the plan for the recreation area was to add a few benches and a playground for children but they are willing to relocate it or to screen it further. The recreational area was required during staff review. They are willing to remove it altogether.

Mr. Abramoff stated that Mr. Michajlow cannot vote on this item therefore Mr. Haddon will vote.

Mr. Loew asked if the applicant really analyzed the by-right options.

Mr. Haghanizadeh stated that they evaluated all their options but he wanted to point out that they reduced the units originally proposed from 36 to 24 units and the parking from 72 to 48 spaces. They are leaving a 60' buffer, which is almost big enough for a house to be built, to provide sufficient screening. They are trying to compromise and work with the neighborhood.

Frank Corridori, 727 Franklin Street, stated that there was no compromise or agreement at the neighborhood meeting. They do not want this type of project in the neighborhood.

Mr. Wanat stated that the applicant addressed some of his concerns but he is concerned with this development not quite fitting in to the neighborhood and the traffic that will be generated due to the density. Mr. Haddon concurred.

Mr. Haghanizadeh stated that he would like to request a leave to withdraw without prejudice.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 5-0 to grant a Leave to withdraw without prejudice.

**List of Exhibits:**

- Exhibit A: 770 Franklin Street Application; received 2/10/2015; revised 6/5/2015; prepared by Crescent Builders.
- Exhibit B: 770 Franklin Street Plan; dated 2/10/2015; revised 6/2/2015; prepared by HS&T Group, Inc.
- Exhibit C: Rendering; dated 12/3/2014; revised 4/6/2015; prepared by Architects' Studio.
- Exhibit D: Letter of opposition from various abutters:
1. Pui Cheng, dated and received 3/9/15.
  2. Pui Cheng, dated and received 3/10/15.
  3. MaryJo Frisoli; dated 3/11/15; received 3/12/15.
  4. Linda Mulcunry; dated and received 3/13/15.
  5. John Ambrose; dated and received 3/17/15 at 8:32 a.m.
  6. John Ambrose; dated and received 3/17/15 at 12:16 p.m.
  7. Michael Frongillo; dated and received 3/31/15.
  8. James & Linda Mulcunry; dated and received 4/4/15.
  9. MaryJo Frisoli; dated and received 6/8/15.
  10. Linda Mulcunry; dated and received 6/11/15.
  11. John Ambrose; dated and received 6/12/2015.
- Exhibit E: City of Worcester Fire Comments; undated.
- Exhibit F: Continuation Requests; various dates.

**3. 1 Berkshire Street (ZB-2015-010)**

**Special Permit:** For relief of the dimensional requirements for a Residential Conversion of a two-family detached dwelling to a three-family detached dwelling in a RG-5 Zoning District (Article IV, Section 9.A.)

**Petitioner:** John M. & Matthew J. Cogswell

**Present Use:** Presently located on the premises is a two-family detached dwelling and four parking spaces.

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

Petition Purpose: The petitioner seeks to convert the existing two-family detached dwelling into a three-family detached dwelling with six associated off-street parking spaces.

Public Hearing Deadline: 6/7/15

Mike Sowyrda, representing the applicants, stated that they were before the board on May 18<sup>th</sup> seeking to convert the existing two-family detached dwelling into a three-family detached dwelling with no changes to the exterior. There was no neighborhood opposition at the prior hearing. There were two issues raised at the last hearing; the first was from the fire department, who asked that the parking spaces be located as far away from the building as possible to allow first responders sufficient space in case of emergencies. The other was a question whether the existing parking spaces needed to comply with the 10' setback requirement. Since then they have confirmed that the existing spaces do not have to comply with the existing setback.

Mr. Sowyrda stated that they presented two options for parking space configuration. Option A shows the 4 existing and the 2 proposed parking spaces in a side-by-side configuration with wheel stops and a 2-foot wide space separating this space from the house. The applicant is proposing that 1 space be compact and the other space be regular-sized. Option B shows a 3-stack option at the rear of the property and the removal of the shed. The other proposed space is shown beside the existing parking space #4. Again, wheel stops are proposed and a 2-foot wide space separating proposed space #5 from the house has been provided for consideration. The applicant prefers Option B and asks that if this one is approved that the Board approve the need for the two new parking spaces to comply with the 10' setback. This can be done under the Special Permit already before the Board.

Mr. Abramoff asked if space #5 & 6 would have direct access to the street in Option A. Mr. Sowyrda stated that the curb cut is very wide so they would have access and that the fencing will be moved and the trees will remain.

Mr. Sowyrda submitted another layout option to the Board known as Option D (Exhibit F).

Ms. Tatasciore stated that this is a corner lot and the ordinance requires that the exterior side back setback be 10'. The four existing parking spaces are grandfathered from this provision, but the two newly proposed spaces are subject to it. Inspectional Services has concluded that Article IV, Section 9.A, which is the Special Permit that is already being sought, can remedy the location of the new proposed parking spaces since this provision in the Ordinance allows the alteration of dimensional standards to reduce the side yard setback, thus allowing the proposed parking spaces to be provided. The applicant has indicated that he prefers the layout in Option B and staff concurs with this since it will have the least impact on the landscaped side yard. If approved, the first condition states that the waiver of dimensional requirements pertains only to the existing structural footprint and the new proposed parking areas not to any future additions. The applicant has also requested a waiver from labeling abutters within 300'.

Ms. Tatasciore asked the Board to specify what paving material was satisfactory to the Board.

Mr. Abramoff stated that he wanted to keep the green space too but he wasn't sure the stacked parking will work.

Mr. Haddon stated that he didn't like the stacked parking either.

Mr. Abramoff stated he thought Option D was the best option and after staff reviewed it, they concurred. Mr. Sowyrda stated that they will have control of who parks where because they can define it in the lease.

Mr. Loew asked if they have a plan to deal with the snow since this is such a tight space. Mr. Cogswell stated that they are amenable to removing excess snow offsite if it's a condition of approval and he is also amenable to permeable pavers.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 5-0-1 (Wanat abstaining) to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Valeri, the Board voted 5-0-1 to approve the findings of fact as modified by staff and the petition with the conditions in the memo and that excess snow is removed offsite, that the parking lot layout in Option D be utilized, and that permeable pavers be used to install the two new compact parking spaces.

Upon a motion by Mr. Valeri and seconded by Mr. Michajlow, the Board voted 5-0-1 to approve the waiver.

**List of Exhibits:**

Exhibit A: Special Permit Application; received April 3, 2015; prepared by John Cogswell.

Exhibit B: Plot Plan; dated July 4, 2011 and revised January 19, 2015 through to June 2, 2015; prepared by Hub Survey Associates, Inc.

Exhibit C: Letter from Attorney Michael Sowyrda to the ZBA; dated May 18, 2015.

Exhibit D: Letter from Attorney Michael Sowyrda to the ZBA and two new parking layout options; dated June 3, 2015.

Exhibit E: Memo from Fire Chief Courtney; received June 4, 2015.

Exhibit F: Option D parking layout; submitted June 16, 2015.

**4. 338 Park Avenue (ZB-2015-016)**

**Special Permit:** To allow a food-service drive-through use in an BG-4.0 Zoning District (Article IV, Section 2, Table 4.1, Business Use #6)

**Special Permit:** To modify the 240 ft. minimum drive-through length dimensional requirement for a food-service drive-through (Article IV, Section 7, A. 7.)

**Special Permit:** To modify the width of the required 5 ft. landscape setback and strict compliance with required plantings in said setback, where parking abuts the street (Article IV, Section 7, Table 4.4 Note 5.a.)

**Petitioner:** Eyad Nashef, of Boston Donuts

Present Use: Presently located on the premises is ~1,449 SF commercial structure, used as a coffee & donut shop (Boston Donuts).

Zone Designation: BG-4.0 (Business, Limited)

Petition Purpose: The petitioner seeks to demolish the existing structure and construct a new ~2,048 SF commercial building to be used as a food-service drive-through and associated restaurant. Additionally proposed are 13 associated off-street parking spaces, along with associated site-work, grading, and paving.

Public Hearing Deadline: 6/18/15

Norman Hill, engineer with Land Planning, introduced the applicant and owner, Eyad Nashef, and stated that there is an existing restaurant and his client has been operating it for 10 years. A drive-through is very important for his type of business and his proposal is to move the building 30 feet to make room for the drive through. There were a few items brought up at the previous meeting and it was confirmed that the legal advertisement and abutter notification were sufficient and that the plans no longer show three parking spaces that backed up into the drive-through since the drive-through has shortened to alleviate that issue.

Mr. Abramoff asked how long the escape lane and drive-through lane were. Mr. Hill stated that the drive-through would be 131 ft. and the escape lane will be 167 ft., which is reduced by 18 ft.

Ms. Tatasciore stated that the applicant has revised the plans, as follows:

1. No parking spaces have been specifically designated for employees;
2. The start of the drive-through and escape lanes do not interfere with the location of the proposed parking spaces and will not block access to or egress from these spaces;
3. The location of the proposed building has been pulled back approximately 5 feet in order to increase site visibility upon exiting and to provide a landscaped buffer between the restaurant and the sidewalk. The relocation of the building results in a 1.8 foot landscaped setback at the rear lot line; no additional relief is required since the legal advertisement and abutter notification addressed relief from Article IV, Section 7, Table 4.4 Note 5.a.

Ms. Tatasciore clarified the percentages of relief requested which were different from the memo. Mr. Hill stated that he was amenable to the conditions of approval in the memo.

Mr. Wanat asked if handicapped spaces will have a sign and Mr. Hill stated that they will have placards.

Mr. Loew asked about snow storage. Mr. Hill stated that his client is willing to remove any excess snow. Mr. Loew also stated concern with making a left turn from the establishment onto Park Avenue during peak times. Mr. Hill stated that they are willing to put signage to require right turn only when exiting the site from 6-8 am and 4-6 pm.

Mr. Rolle stated that it is against traffic regulations to limit it by hours so it should either be allowed or not. The applicant moved the building back five feet to improve visibility. Mr.

Loew stated that it would be easier for his patrons to go right only. Mr. Hill is amenable to making the change.

Attorney Jonathan Finkelstein, 19 Cedar Street, representing Park Chandler Realty, owner of the lot where Walgreens is located, stated that he still does not believe the applicant has demonstrated the need for the relief (46%) that they are asking for. He stated that he does not believe the length of the drive-through accommodates the stacking that can occur at this location because if two or three cars get backed up from the speaker box that will block the spaces they were shortening the lanes for and people entering the site. He stated concern because Walgreen's curb cut would be affected if the applicant gets backed up.

Mr. Michajlow stated that the backup, if any, occurs at the pick-up window not the order window.

Mr. Hill stated that the impact report submitted addresses stacking. He stated on average it takes 4 minutes for a person to be served so if there are 8 cars waiting no one else will wait because it will be almost a half hour wait.

Mr. Haddon asked if the applicant could move the speaker to where the gas meter was to provide that additional space. Mr. Hill stated that they need the distance between the order box and the pickup window to allow the time to prepare the order.

Mr. Finkelstein stated that not every donut shop needs to have a drive-through and that this lane will only fit ~6 cars. It is not an appropriate use for the location.

Mr. Loew asked if rendering were provided. Mr. Hill stated that one was not provided but this will be a one story building with a pitch roof and grass in front. There will be lots of windows.

Mr. Abramoff stated that the existing structure is a pretty old building and the proposed will be an improvement and a significant investment. It is not the desired length of a drive-through but he believes the improvement to the area will be substantial.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 5-0-1 (Mr. Wanat abstaining) to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0-1 (Mr. Wanat abstaining) to approve the findings of fact as modified by staff and the petition with the conditions of approval in the memo and that excess snow be trucked offsite, that no traffic may back up to the right-of-way, that the handicapped spaces have a placard, and that the exit have a right turn only sign.

### **List of Exhibits**

Exhibit A: ZBA – Special Permit Application & Project Impact Statement; received April 14, 2015 and updated June 8, 2015; prepared by Applicant Eyad Nashef of Nashef LLC and Land Planning, Inc.

Exhibit B: Site Plan for Drive-thru Coffee Shop, Prepared for Boston Donuts, Located at 338 Park Avenue; dated April 10, 2015 and revised through to June 1, 2015, prepared by Land Planning, Inc.

**5. 342 West Boylston Street (ZB-2015-017)**

**Special Permit:** To allow a food-service drive-through use in an BL-1.0 Zoning District (Article IV, Section 2, Table 4.1, Business Use #6)

**Special Permit:** To modify the 240 ft. minimum drive-through length dimensional requirement for a food-service drive-through (Article IV, Section 7, A. 7.)

**Petitioner:** Eyad Nashef, of Boston Donuts

**Present Use:** Presently located on the premises is a vacant ~1,693 SF commercial structure, formerly used as a restaurant.

**Zone Designation:** BL-1.0 (Business, Limited)

**Petition Purpose:** The petitioner seeks to use the structure as a food-service drive-through and associated restaurant and plans to construct a ~100 SF addition to the south re-configuring the existing parking layout to provide 15 associated off-street parking spaces, along with associated site-work, grading, and paving

**Public Hearing Deadline:** 6/18/15

Norman Hill, engineer with Land Planning, introduced the applicant and lessee, Eyad Nashef, and stated that the existing property is in disrepair and Mr. Nashef would like to take it over and open a Boston Donuts with a drive-through there. At the last meeting, the Board raised an issue with parking spaces backing up onto the drive-through lane and they have reconfigured the layout in order to avoid those spaces backing up into the lane. Mr. Hill stated that they are amenable to the recommended conditions of approval.

Ms. Tatasciore stated that the revisions submitted by Mr. Hill show that no parking spaces have been specifically designated for employees and that the start of the drive-through and escape lanes do not interfere with the location of the proposed parking spaces and will not block access to or egress from these spaces. Ms. Tatasciore clarified the percentages of relief requested which were different from the memo and she reviewed the conditions of approval.

Mr. Abramoff stated that this is similar to the previous request but with less relief. The location is currently an eyesore so it is a good thing that it will be revived.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 (Mr. Wanat abstaining) to approve the findings of fact as modified by staff and the petition with the conditions of approval in the memo and that egress be restricted to right-turn only, excess snow be trucked offsite, and that no traffic may back up to the right-of-way.

**List of Exhibits**

**Exhibit A:** ZBA – Special Permit Application & Project Impact Statement; received 4/14/15 & revised on 6/8/15; prepared by Applicant Eyad Nashef of Nashef LLC and Land Planning, Inc.

Exhibit B: Site Plan for Drive-thru Coffee Shop, Prepared for Boston Donuts, Located at 342 West Boylston Street; dated 4/14/15 and revised 6/1/15, prepared by Land Planning, Inc.

## **RECESS**

Mr. Abramoff called a recess at 7:15 p.m. and called the meeting to order at 7:21 p.m.

## **NEW BUSINESS**

### **6. 170 Prescott Street (ZB-2015-013)**

**Special Permit:** To allow Retail Sales in an MG-2.0 Zoning District (Article IV, Section 2, Table 4.1, Business Use #26)

**Special Permit:** To allow a Shooting Range in an MG-2.0 Zoning District (Article IV, Section 2, Table 4.1, General Use #22)

**Petitioner:** Justin Gabriel, The Gun Parlor, Inc.

**Present Use:** Presently located on the premises is an existing ~10,000 SF warehouse and associated off-street parking.

**Zone Designation:** MG-2.0 (Manufacturing, General)

**Petition Purpose:** The petitioner seeks to convert the existing structure into a shooting range, with ten lanes, along with associated retail sales, and motorcycle sales along with associated off-street parking.

**Public Hearing Deadline:** 6/18/15

Attorney Don O'Neil introduced the applicant, Justin Gabriel, and stated that a representative for the company that designs and installs shooting ranges is also present to answer any questions related to the installation of ranges. Mr. Gabriel's retail business is currently located at 210 Summer Street and he has been there for three years. That building is slated for development and his lease has not been renewed so he is on a 60 day notice. He wants to stay in Worcester and this prompted one of the Special Permits since Mr. Gabriel sells firearms, ammunition, gun safes, ear and eye protection, targets, cleaning solvents, and accessories related to those uses. Mr. Gabriel also operates a used motorcycle sales business and that is a by-right use for the MG-2.0 zone and that use will continue at the new location. He presently does not have a gun range so that will be a new use and it is only allowed by special permit in the MG-2.0 zone.

Mr. O'Neil stated that they have received multiple letters of opposition that he believes these concerns based on outdated information. The design company is here to address the concerns about noise and explain the new technology available for sound control, environmental control, and safety.

Mr. O'Neil stated that the proposed location is ideal because it abuts railroad tracks, I-290, and another manufacturing zone to the rear. Across the street is zoned RG-5 and Rural Cemetery is located there. Mr. O'Neil described the boundary of the manufacturing zone and his location in the center of it and stated that this use is compatible with adjacent uses.

He stated that the previous use of the site was a packaging company and warehouse distribution for fruits and vegetables. That use entailed significant tractor trailer traffic at all hours of the day and their proposal will have less of an impact than what was there previously.

Mr. O'Neil stated that there is no other facility like this in the city or even in the state; this is a cutting edge facility which does not exist in Massachusetts. This is a membership only facility and in order to become a member the person needs to have a valid license to carry or FID card. The only exception to that is if the person is there for training and then they will be supervised by the trainer. The use is allowed in this location and it will be used by law-abiding people exercising their rights. The applicant has an up-to-date ventilation and state of the art noise control system. They have a recovery system in place for the lead from the bullets as well and will dispose of the lead properly. The entire use will be contained within the building and should not be compared to outdoor facilities because those do not have the same controls in place.

Mr. O'Neil stated that they feel that there is a legitimate need for people who are entitled to exercise their right and this gives them a safe, controlled, supervised place where they can practice. Some of the comments that have been made are that this would be an incompatible use with the development at Gateway Park but this property is a half mile away. They are not within 100 ft. of a public playground or park and they are not within 1,000 ft. of a school (primary, secondary, or vocational). The comments that these people present a risk as they drive past other uses is illogical since these are people that have been vetted by the police and have a license and the concern should be with people that do not have a license to carry.

Mr. O'Neil stated that they have 24 parking spaces and only 10 are required. They also have loading facilities. Prescott Street has handled tractor trailer traffic and can definitely handle this less intense use. All utilities are present and already onsite. The proposal fits into the manufacturing zone and it meets all the setbacks required by the zoning ordinance. No one will be disturbed walking or driving past since the building is setback from the street and it will be limited to people with a license. The use is contained totally within the building and it is about the most isolated location they could find. He stated that their customers should not be demonized to the point they cannot drive past the WPI building on their way to the shooting range.

Mr. O'Neil stated that this should not come down to whether or not you like guns and this use is allowed by special permit and they do not perceive any adverse effect due to this proposal. There will be no impact to the natural environment because they have a system designed to recover the lead from the bullets and dispose of it and noise will be contained within the building. Mr. O'Neil stated that Mr. Gabriel currently employs five people and he is looking to add 5 or 6 additional employees and is investing approximately \$1.5 million on the site.

Mr. O'Neil stated that Mr. Gabriel has 9 separate licenses just to be able to sell firearms. The shooting range will require a license from the License Commission and will all require approval from the Zoning Board of Appeals. Although the City had problems with a previous operator, they should not be punished for the wrong doings of someone else. They will fully comply with all the rules and regulations. That license needs to be renewed annually and they are subject to random inspections from the police department.

Mr. O'Neil introduced Derek White, from Fusion Targets, who has designed and installed shooting ranges on the 6<sup>th</sup> floor of an office building located in downtown Boston. Mr. White stated that in the past people used to shoot into a hill and the lead contamination later became a problem. That is why he is in business because he builds shooting ranges that uses acoustic materials to control noise, accounts for all bullet trajectories and accounts for the environmental factor of disposing the lead. He stated that it is rare that private companies reach out to him because usually government and federal agencies have the funds for such state of the art technology. He stated that the benefits to having a facility such as this is because if someone wants to shoot they will find a place; this provide a safe, controlled way to do so. They have installed the systems for the Federal Reserve, which is in a downtown area with offices surrounding it.

Mr. Rolle stated that the applicant is seeking a special permit to allow retail use in an MG-2.0 zoning district, and a special permit to allow a shooting range in an MG-2.0 zoning district. Firearms sales are classified as ordinary "retail sales" by the Worcester Zoning Ordinance. Retail sales are allowed only by special permit in the MG-2.0 zoning district (and all other Manufacturing zoning districts). The property is located in a manufacturing zoning district (MG-2.0) that abuts Rural Cemetery (RG-5) to the west, railroad tracks and I-290 to the east, and other manufacturing/ industrial businesses to the north and south. With the exception of Rural Cemetery, nearby neighboring uses are manufacturing or industrial in nature. That being said, the Gateway Park area, to the south of the site, has transitioned from industrial uses to a mixed-use district comprised predominately of office, research, educational, retail, social service and residential uses. A residential neighborhood is located to the north of the site, with the nearest residential property located approximately 360 feet from the property (and approximately 450 feet from the location of the building).

Mr. Rolle stated that Mr. O'Neil addressed the six Special Permit Findings of Fact but staff had a few modifications. There are presently no shooting ranges in Worcester. There are 7 ranges within 10 miles of Worcester; the majority is outdoor-only facilities. The Worcester Police Department (WPD) operates a shooting range for the use and training of its officers. Staff defers to WPD with regard to comment on the applicant's statement that the proposal addresses an "Unmet need for a state of the art indoor shooting range for use of members and by local police departments for training purposes."

Mr. Rolle stated that primary potential environmental impacts are associated with noise and disposal of lead from ammunition. Lead exposure is a potentially serious health risk to employees and patrons of the range, as well as an environmental contaminant. The applicant has stated that the site will contain state of the art ventilation system. Noise, if not fully suppressed by the building system and noise dampening features, would adversely impact the quiet and solitude of the neighboring Rural Cemetery.

Mr. Rolle reviewed the suggested conditions of approval, from staff's review memo, if the Board chooses to approve the petition.

Deputy Chief Sean Fleming, introduced Captain John Ryder, and stated that they reviewed the proposal and Chief Gemme prepared a statement that Chief Fleming to read. Chief Gemme wanted to express his opposition to the gun range given past tragedies associated with gun ranges in the City and the ongoing efforts to combat gun related crimes and gang violence. Chief Gemme believes that the community is served by the other gun ranges in

Central Massachusetts and believes that this proposal will not serve the community. Captain Ryder stated that in 2008, he was in charge of the license division and the Boston Gun Range was licensed for a shooting range. Some of the issues with this establishment were that it was used by gang members and ammunition could easily be stolen from the range. On May 12, 2008, the License Commission denied renewal of the license because they were found to be in violation of 7 regulations at that establishment (allowing people to rent and shoot a firearm without a license to carry or FID card, etc.). The next day, the license division revoked the three licenses held with them for 12 violations of MGL Chapter 140 Section 123.

Mr. Michajlow asked if this applicant is affiliated in any way with Boston Gun Range. Mr. O'Neil stated that Mr. Gabriel was not affiliated in any way. He has been in business for three years with two of the uses and he has not had any problems or complaints. They cannot be punished for the fact that a bad operator did not follow the rules. He stated that their proposal will not affect the battle against gang violence.

Mr. Michajlow stated that he did not see the correlation between a law-abiding business and gang violence. He also did not see how denying this petition will diminish gang violence or street crimes.

Russ Hames, 5 Claremont Street, stated that he is a patron of the Gun Parlor and belongs to a high-tech gun range in Western Massachusetts. He also used to frequent the Boston Gun Range when it was in operation and they allowed people to rent a gun with a valid driver's license and there were never more than two people on site at the same time. As a 30 year legal gun carrier, he has visited 15 establishments in the state of Massachusetts. The Gun Parlor ranges in the top five because of their professionalism, well-lit, spacious, and he frequently sees off duty police officers present. He stated that the gun range he belongs to has 450 members and he never sees more than 8 vehicles at any one time and it is also situated in a similar location as the one being proposed here and it has never had any issues. He stated that he is in favor of this proposal because a lot of people that have guns don't know how to properly use them and you can get gun safety training at these locations. This business is creating jobs and making an investment in the community.

Wayne Griffin, 12 Chamberlain Parkway, stated that he has had a license to carry since 1967. In order to get a license you have to take a class, get letters of recommendation, and if they believe you are of sound mind you are issued a license to carry. They never ask if you have ever handled a gun. The more you handle the gun the more proficient you become and the more comfortable you are handling it safely. Even police officers have to pass a proficiency test twice a year to show they can handle it correctly and shoot accurately. That is the benefit to the legitimate license holders of the City.

Claudia Russo, 14 Metcalf Street resident and direct abutter at 162 Prescott Street, stated that she wants to discourage the Zoning Board from approving this business. This is not in the best interest of the local community or the City of Worcester. She stated that she is not against guns, but felt that it does not fit into the family neighborhood. There are always families walking down Prescott Street. There are no tractor trailers on Prescott Street, most of the establishments there are business to business models and few customers visit the site. She presented a petition signed by 52 people in the neighborhood that are opposed to this type of business at this location (Exhibit M). She was also concerned with the work going on in the building because she has called Inspectional Services and they stated that they

have no building permits. She is concerned with Mr. Gabriel's disregard for following the rules and found reviews online that are unfavorable.

Chris Pinto, 58 Wildrose Avenue, stated that he has had an FID since he was 16 years old and has had the license to carry for over 30 years. License to carry holders are most law-abiding citizen and he finds it insulting that someone would be afraid when they walk into this building. They have had background checks at the federal, state, and local level. He would welcome this type of business in his neighborhood because he knows the people that frequent it are law-abiding citizens.

Councilor Michael Gaffney stated that the City Council asks the Zoning Board to do their due diligence and thoroughly scrutinize the petition. He also stated that he is a gun owner himself and that he was not in agreement with some of the comments WPI made regarding this petition considering he enlisted in the ROTC in WPI and he carried his weapon on campus at the time. The City of Worcester should not be in the business of banning products that are legally and protected by our constitution.

Juan Gomez, 16 Northridge Street, stated that he joined the Marine Corps right out of high school and believes in the second amendment. He stated that he believes the City of Worcester should have a gun range run by an experienced professional. He stated that he wanted to know what special training or expertise the petitioner has. He is concerned with the residential homes in close proximity but he is impressed by the ventilation and noise suppression system that will be installed.

Jaffrey Smith, Worcester resident, stated that it is unfair to compare this proposal with a previous business. We should want license holders to have a place to practice and get experienced with their weapon. All the safeguards will be put in place and Mr. Gabriel has operated a business in Worcester and there have been no issues. He believes this petition will have no affect, whatsoever, on street crimes. Instead it will create jobs and make an investment in the City and if the rules are not followed, then the license can be revoked.

Margaret Guzman, 10 Moore Avenue, stated that she is sure that the previous shooting range that was closed said all the right things in the beginning. She is concerned about the appropriateness of the location proposed. The neighborhood, although zoned for it, does not have manufacturing uses. The size of the investment should not fog the issue that this business does not fit in the proposed location.

Tom Lamarche, 25 Kenwood Ave, stated that he is a WPI alumnus and that he hopes the proposal is given fair consideration and any issues are discussed without preconceived information. He does not believe that this business will be detrimental to the area or the residents.

Mr. Abramoff stated that if someone comes from another state if their license to carry would be valid here.

Justin Gabriel stated that if you have a valid license to carry you can become a member. Although he doubts that he would get a lot of out of towners since the memberships have to be renewed annually. He also gave a background of his expertise in the business.

Mr. Abramoff asked how Mr. Gabriel would monitor that only members would be allowed in. Mr. Gabriel stated that at any moment ATF and the local police department can come in and inspect and audit all the records. The process works as follows: you enter the

establishment and approach a sales professional, you will be asked to provide two forms of ID along with payment, they verify that the license is valid, then the applicant signs an application, watches a safety instructional video, and get a membership card. The lounge and range areas require key card access, which will have a photo ID and all the member's information. He will be able to track who went in and came out at all times. Also, each lane will have a camera and they will keep the footage for 60 days.

Mr. Abramoff asked Mr. Gabriel to clarify staffing. Mr. Gabriel stated that all employees must have a license to carry and pass a CORI check. He has been in business selling firearms for three years and has never had any issues. Everything is under video surveillance and he is present 90% of the time. The new facility will have 35 cameras total.

Mr. Abramoff asked who staffs the motorcycle business and Mr. Gabriel stated that he is the only one that does vehicle sales. He will have anywhere from 6-8 people working at any one time at the new location.

Mr. Abramoff referred to one of the communication the board received stating that they purchased an illegal weapon at The Gun Shop and asked the applicant to comment. Mr. Gabriel stated that in every business there are people that give false reviews. He has never been in trouble or had a formal complaint against his business and anyone nowadays can write a review online without having to prove accuracy.

Mr. Valeri asked if the gate that currently exists will remain closed during business hours. Mr. Gabriel stated that it will be open during business hours and provide additional security at night. They can't close it during business hours in case there is an emergency and first responders need to access the site right away.

Mr. Michajlow asked if he owned the building. Mr. Gabriel stated that he bought it in December through his realty company.

Mr. Valeri stated that Mr. Gabriel's track record speaks for itself.

Mr. Abramoff asked Deputy Chief Fleming how they monitor this type of business. Deputy Chief Fleming stated that there is a unit that is assigned to checking up on this business and they perform periodic inspection to ensure compliance. It is an annual license and every year they look at the procedures and the track record before re-issuing it. They have not had any issues with Mr. Gabriel's current business.

Mr. Valeri stated that the police gave the applicant the license to operate at Summer Street and there have been no violations. He is being forced to move and he does not see why things should change.

Mr. Loew asked what the proposed hours of operation were. Mr. Gabriel stated that he would maintain his schedule of 10:00 am to 8:00 pm for patrons and then use the last allowable block from 8:00 pm to 11:00 pm for law enforcement only so they can do their training away from civilian activities.

Mr. Rolle stated that the License Commission has purview over hours of operation so they might adjust those if they deem it necessary or if over time that needs to be amended.

Mr. Abramoff stated that he would like a condition that the owner shall maintain a Shooting Gallery License, issued by the City's License Commission, in good standing or the Special Permit shall lapse. Mr. Loew also suggested that they may require that the

Special Permit lapse in a year and that the applicant has to come back so they can re-evaluate the matter.

Mr. Rolle stated that because of the initial investment needed, that would not be the best avenue and if they chose to pursue that he would need to get a Law Department opinion on it.

Mr. O'Neil stated that the License Commission license is an annual license so the review process is already built into the system. Also, they have purview that if something shall occur they can require a violation hearing at any moment.

Mr. Abramoff asked staff if they could tie the special permit to the property owner and not the property. Mr. Rolle stated that they can add a condition that the special permit will be revoked if the license holder has his license revoked by the License Commission.

Mr. O'Neil asked for a waiver from the application requirement from showing abutters and abutters thereto within 300 ft.

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

Mr. Haddon stated that suspensions for minor infractions should not invalidate the special permit. It should be revoked entirely.

Mr. Abramoff stated that if there are any violations to any of the licenses he holds then the special permit expires.

Mr. Valeri stated that the condition was too harsh because there were procedures in place already to deal with any violations or infractions but the applicant had been in business for 3 years without any issues or violations.

Mr. Rolle stated that he had concerns with the severity of the condition because the License Commission might not have the freedom to vote minor infractions as a violation if the outcome is that the special permit will lapse.

Mr. Michajlow stated that he was amenable to not having that condition altogether.

Mr. Abramoff stated that there needed to be incentive for the applicant to ensure proper compliance to all the rules and regulations.

Mr. Loew stated that the language should be that if the License Commission revokes their license, then the special permit is also revoked. Having his entire business end due to a one day suspension would be unfair.

Mr. Abramoff asked if they could tie the approval to the applicant and not the site. Mr. O'Neil stated that was acceptable to his client.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and approve the two special permits with the conditions in staff's memo with the exception of requiring that all parking spaces shall be set back a minimum of 5 feet from the boundary lines and be landscaped, and that the shooting lanes be open to the public from 10 a.m. to 8 p.m. Only law enforcement officers/agencies shall be allowed to use the shooting range after 8 p.m. and the facility shall close at or before 11 p.m.; that the special permit shall lapse upon revocation or non-renewal of the Shooting Gallery License or through any change or transfer in business

ownership from The Gun Parlor, Inc., and that members with shooting range access shall be required to hold and maintain in good standing a Class A License to Carry Firearms or FID card and over 21 years of age. The Board also approved the requested waiver of showing abutters within 300 feet on the plan.

**List of Exhibits:**

- Exhibit A: Special Permit Application; prepared by Justin Gabriel; dated April 14, 2015. The Gun Parlor Expansion Outline; received June 5, 2015; prepared by Justin Gabriel (supplemental document).
- Exhibit B: Site Plan; dated June 4, 2015; prepared by B&R Survey, Inc.
- Exhibit C: Floor Plans; dated April 29, 2015.
- Exhibit D: Abutter List Within 1,000 feet of Subject Property; dated April 29, 2015.
- Exhibit E: Ventilation System Proposal; dated November 25, 2014 and received June 5, 2015; prepared by Carey’s Small Arms Range Ventilation.
- Exhibit F: Fusion Targets Information and Details; received June 5, 2015.
- Exhibit G: City of Worcester’s General Revised Ordinance Chapter 11, Section 8A.
- Exhibit H: E-mail to City Manager Augustus from Claudia Russo; dated May 4, 2015.
- Exhibit I: Memorandum to ZBA in Opposition to Application for Special Permits by Attorney Adam Ponte; received May 18, 2015.
- Exhibit J: E-mail from anonymous; received June 4, 2015.
- Exhibit K: Letter from Al Prescott; received June 5, 2015.
- Exhibit L: Letter from Art O’Leary; received June 10, 2015.

**RECESS**

Mr. Abramoff called a recess at 9:20 p.m. and called the meeting to order at 9:30 p.m.

**7. 36 Washburn Street (ZB-2015-009)**

- Special Permit:** To allow for an Expansion, Alteration, or Change to a Privileged Pre-existing Non-Conforming Structure/Use (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)
- Variance:** For ~8.3 ft. of relief of from the 10 ft. side-yard setback dimensional requirement for a non-residential structure in a RG-5 Zone (Article IV, Section 4, Table 4.2)
- Variance:** For relief of 8 parking spaces from the 8 space minimum off-street parking requirement for a two bay automobile repair/service station &

single residential dwelling unit in a RG-5 Zone (Article IV, Section 7, Table 4.4)

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 existing non-conforming with regards to lot area, parking, front-yard and side-yard setbacks.

Public Hearing Deadline: ~~5/28/15~~, 6/15/15

Constructive Grant Deadline (Variance): ~~7/2/15~~, 7/30/15

Ms. Smith stated that staff had concerns that the findings of fact provided do not sufficiently address all the forms of relief requested. There are two special permits to allow for an Expansion, Alteration, or Change to a Privileged Pre-existing Non-Conforming Structure and for the Use and three variances. The Board asked the applicant if he wanted to proceed and they stated that they would like to go forward.

Robert and Roberta Martin, 24 Pincroft Rd, Holden, were present for the application. Mr. Martin stated that the proposal is to build a residence for them on top of the existing building and to expand the first floor business space by 500 SF. Ms. Martin stated that they had to resubmit a plan with corrections to the parking area and stated that although they do not comply, they have the keys to all the vehicles that park there for the business and can move them as needed. They asked for clarification as to how much relief for parking is needed since there was a communication from staff to them stating that they can only fit 6 parking spaces onsite.

Michelle Smith stated that the applicant seeks to add a ~510 SF footprint addition to the rear of the existing structure on each floor. The total gain in SF will be ~1,020 SF with a site total of 3,145 SF (on a 4,108 SF lot). Staff has concerns about the intensification of the proposed use in such close proximity to the abutting residential structures as well as further intensifying the proposed use by adding a residential dwelling unit to the lot. Since the abutting property is also very close to the lot line, they are not sure if the buildings will meet the building separation requirements from the Fire Department. She asked the applicants how the addition will change the use.

Ms. Martin stated that it will add space and security.

Ms. Smith stated that the applicant provided a revised plan showing the location of seven spaces with an aisle width varying from 10.3'-14.6'. However, the aisle width shown is too narrow to meet the requirements of the Ordinance and for vehicles comfortably maneuvering on-site. With the proposed addition and re-configuration of the existing parking layout, staff believes the applicant requires relief from required parking, despite the applicant's submittal of a plan of land showing seven parking spaces. She asked the

applicant if they were going to retain the mature maple tree onsite. Mr. Martin stated that the tree will remain; only half of the tree is on his property and they recently had it serviced. Deliveries are made by pickup truck for one or two items at a time and only during business hours (M-F 9 am – 5 pm & Sat 9am – 3 pm). He stated that he has a snow removal company and he has a place to store the snow. Trash is collected by a trash collection company.

Ms. Smith reviewed the conditions of approval:

1. That six (6) copies of final revised plans be submitted to the Division of Planning and Regulatory Services, prior to the issuance of a building permit, showing the following conditions:
  - a. Provide the location of the existing maple tree on the site;
  - b. Provide a minimum of 5' x 5' planting bed around the existing tree and that the tree shall be replanted as needed overtime;
  - c. Provide a 5 ft. buffer along the western lot line where parking abuts the adjacent property with densely planted arborvitae (~every 3-5 ft. on center);
  - d. Provide a minimum 4 ft. stockade style fence along the southern, eastern, and western lot lines in place of the existing chain-link fence;
  - e. Label the distance from the proposed addition to the existing structure on the abutting property at 547 Cambridge Street;
2. That the existing maple tree located to the southwestern corner of the site be protected within the drip-line, to the maximum extent possible, during and after construction;
3. That there shall be no roof-overhang on the western side of the proposed addition;
4. That any roof-overhang on the northern side of the proposed addition shall not extend over the property line.

Ms. Martin stated that they are unsure if they can provide the planting bed around the tree because only half of it is located on their property. Ms. Smith also asked if the applicant was amenable to planting arborvitae along the property to provide screening to the abutting multi-family. Ms. Martin stated that they haven't reached an agreement on what would be planted there but they are amenable to adding screening but they do not like arborvitaes. They were planning on adding raised beds with plantings between their property and the parking for the abutting property. Mr. Martin stated that they have a 2 ft. strip all along the northerly side of the property. They are proposing to place a raised bed and plant flowers there as well.

Ms. Smith stated that condition 1(e) can be removed and that the Board would need to amend condition 1(c) to reflect what the applicant proposed if the Board is amenable to that.

Mr. Abramoff stated that he was concerned with the applicant having to go on the neighbor's property to service the back of his building.

Mr. Rolle stated that the aisle width provided for the parking is physically unusable. He discussed layout options and approval conditions with the Board.

Mr. Abramoff suggested the applicant move the addition back one foot to allow for a larger buffer because he is concerned that there is no margin for error. Mr. Haddon stated that he would prefer 2 feet and that still does not leave enough space to set a ladder.

Mr. Horne stated that despite the good relationship the applicant has with the owner next door, he was concerned with him having to go onto someone else's property for anything needed on that façade. The owners of the abutting building can change and then he has no recourse if the new ones do not want them on their property.

Mr. Martin stated that he can move the building one foot. Mr. Abramoff stated that he needed at least 2 ft. to be able to move around.

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. Michajlow and seconded by Mr. Wanat, the Board voted 5-0 (Mr. Haddon could not vote) to approve the finding of fact (verbal and written) as modified by staff and to approve the following:

**Special Permit:** To allow for an Expansion, Alteration, or Change to a Privileged Pre-existing Non-Conforming Structure/Use (Article XVI, Section 4)

**Variance:** For 13 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)

**Variance:** For ~8.3 ft. of relief of from the 10 ft. side-yard setback dimensional requirement for a non-residential structure in a RG-5 Zone (Article IV, Section 4, Table 4.2)

**Variance:** For relief of 4 parking spaces from the 8 space minimum off-street parking requirement for a two bay automobile repair/service station & single residential dwelling unit in a RG-5 Zone (Article IV, Section 7, Table 4.4)

With the following conditions:

1. That six (6) copies of final revised plans be submitted to the Division of Planning and Regulatory Services, prior to the issuance of a building permit, showing the following conditions:
  - a. Provide the location of the existing maple tree on the site;
  - b. Maintain a planting bed around the existing tree;
  - c. Provide raised planting beds along the 1.7 ft. buffer along the western lot line where parking abuts the adjacent property ;
  - d. Label the distance from the proposed addition to the existing structure on the abutting property at 547 Cambridge Street;
  - e. Plantings be providing along the northern property line;
2. That the existing maple tree located to the southwestern corner of the site be protected within the drip-line, to the maximum extent possible, during and after construction;

3. That there shall be no roof-overhang on the western side of the proposed addition;
4. That any roof-overhang on the northern side of the proposed addition shall not extend over the property line.
5. That a stockade fence be installed along the exterior of the existing chain link fence (chain link fence to remain) along the entire property and stopping 6 feet away from the Washburn Street right-of-way, located on the southern property line;
6. A 1.7 foot raised landscaped bed be provided along the entire northerly lot line;
7. That the proposed addition not be built or located within 2 feet of the westerly lot line;
8. Provide 6 copies of revised floor plans and to-scale renderings to verify compliance with dimensional requirements and floor-area ratio; and
9. That the structure be constructed in substantial accordance with the final approved plot plan and with the submitted and in compliance with all governmental codes.

The Board also approved the requested waiver from labeling all abutters from 300 ft.

**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.
- Exhibit D: Application, Decision & Plan of Land from 2003 Relief.
- Exhibit E: Decision & Plan of Land from 2000 Relief.
- Exhibit F: E-mail from Michelle Smith to Applicant Robert Martin; dated 4/23/2015.
- Exhibit G: Letter from the applicant and Supplemental Renderings; dated & received 6/10/2015.
- Exhibit H: 36 Washburn Street Plan; dated 5/18/2015; prepared by Jarvis Land Survey.
- Exhibit I: Request to Postpone; dated 4/22/2015 and 5/18/2015.
- Exhibit J: Worcester Fire Department Comments

**8. 159 Apricot Street (fka 1 Fielding Street) (ZB-2015-018)**

**Amendment to Variance:** To Amend the conditions associated with a Variance granted for relief of the frontage dimensional requirement for a single-family detached-dwelling in a RS-7 zone (Article IV, Section 4, Table 4.2)

Petitioner: Reinardele Chaveiro

Present Use: Presently located on the premises is a vacant lot.

Zone Designation: RL-7 (Residence, Limited)

Petition Purpose: The petitioner seeks to amend the conditions of the relief previously granted in order to construct the proposed structure with a smaller footprint and a modified design while retaining the proposed off-street parking and associated site improvements.

Public Hearing Deadline: 7/9/15

Constructive Grant Deadline: 8/13/15

Reisnardele Chaveiro, 6 South Edlin Street, stated that he purchased a property that had obtained a variance to build a ranch style house but he did not like the design. The new colonial design has a much smaller footprint (28' x 38') and allows for more yard space.

Ms. Tatasciore clarified that the previously approved variance was tied to the rendering and since he changed the design he needed to amend that with the Board.

Mr. Rolle stated that there was an abutter earlier in the audience and they expressed concern that there be screening via a fence and that is one of the recommended conditions. Mr. Chaveiro stated he was amenable to the condition of approval.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the petition with the conditions in the memo and the findings of fact as modified by staff. They also approved the waiver for labeling abutters within 300 ft.

**List of Exhibits:**

- Exhibit A: Amendment to Variance Application & Rendering/Blueprint of proposed house; received May 5, 2015; prepared by Reisnardele Chaveiro.
- Exhibit B: Variance Plan – Lot 2 Apricot Street; dated April 16, 2015; prepared by HS&T Group, Inc.
- Exhibit C: Variance – Findings of Fact and Decision; signed June 4, 2012 for ZB-2012-028 application.
- Exhibit D: Rendering of the Clairmont home by Westchester Modular Homes, Inc.
- Exhibit E: ANR Plan for 1 Fielding Street & 159 Apricot Street; endorsed August 17, 2011.

**9. 6 Gothic Avenue (ZB-2015-024)**

**Variance:** For relief of the 65 ft. frontage dimensional requirement (Article IV, Section 4, Table 4.2)

**Petitioner:** Tallage Adams, LLC

**Present Use:** Presently located on the premises is an existing ~483 SF mobile home.

**Zone Designation:** RS-7 (Residence, Single-Family) & Water Resource WR-(GP3) Overlay District

Petition Purpose: The petitioner seeks to construct a single-family detached dwelling with two off-street parking spaces (garage), along with associated site work and grading.

Public Hearing Deadline: 7/24/15

Constructive Grant Deadline: 8/28/15

Carl Hultgren, Quinn Engineering, stated that Gothic Avenue is a private dead end street. The lot is non-compliant with regards to frontage. The zone requires 65 ft. and they only have 50 ft. The owner proposes to construct a single-family detached dwelling with two off-street parking spaces (garage), which meets all other dimensional requirements. There are no other by-right alternatives for this property so literal enforcement of the ordinance will preclude him from building anything at all. The hardship is owing to the shape of the lot, which was created in 1917. The use proposed is consistent with other uses in the area and the existing mobile home is no longer allowed in the City.

Mr. Hultgren stated that the abutter at 7 Fatima Lane was concerned about drainage, he was here but had to leave. The abutter is concerned about runoff onto his property and wanted to engage an engineer to review their work so they are requesting a continuance until the abutter's new engineer has had a chance to review the plans.

Ms. Tatasciore stated that the definitive site plan has already been approved for this project. They will remove the decrepit mobile home and the proposal is in keeping with the neighborhood character and staff supports the application.

Mr. Hultgren stated that they withdrew a previous filing for a special permit and they would like to request the fees for this variance be refunded. Mr. Rolle stated that staff erred in the type of relief needed in the original filing so they support a refund of the special permit application fees.

Upon a motion by Mr. Valeri and seconded by Mr. Michajlow, the Board voted 5-0 to approve the refund for the Special Permit application fees.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 5-0 to continue the item to July 6, 2015.

**List of Exhibits:**

- Exhibit A: 6 Gothic Avenue Special Permit Application & rendering; received May 20, 2015; prepared by William Cowin of Tallage Adams, LLC.
- Exhibit B: Definitive Site Plan for 6 Gothic Avenue; dated December 8, 2014, revised through to May 18, 2015; prepared by Quinn Engineering, Inc.
- Exhibit C: E-mail from Mr. & Mrs. Russell Pichette; received May 9, 2015.
- Exhibit D: Letter from Carl Hultgren; dated and received May 27, 2015.

**10. 126 Southwest Cutoff (ZB-2015-019)**

**Special Permit:** To allow Motor Vehicle Sales/Rental in a BL-1.0 Zoning District (Article IV, Section 2, Table 4.1, Business Use #15)

**Special Permit:** To allow Motor Vehicle Display in a BL-1.0 Zoning District (Article IV, Section 2, Table 4.1, Business Use #16)

**Petitioner:** Trusswan, Inc.

**Present Use:** Presently located on the premises is an existing ~6,200 SF commercial structure and associated off-street parking.

**Zone Designation:** BL-1.0 (Business, Limited)

**Petition Purpose:** The petitioner seeks to use the existing structure for motor vehicle sales, rental, and associated display and to complete grading, paving, and drainage associated with improvements of the off-street parking area for ~220 parking spaces, along with associated site improvements.

**Public Hearing Deadline:** 7/10/15

Attorney Jonathan Finkelstein stated that the applicant seeks a Special Permit to allow motor vehicle sales/rental and display (Article IV, Section 2, Table 4.1, Business Use #15 & #16) on the property to be leased for use by Enterprise. They are providing over 200 parking spaces, 27 off which will be designated employee parking and the rest will be used as customer parking and display spaces.

Ms. Smith stated that on November 4, 2013, the ZBA approved a Special Permit to operate motor vehicle sales for a period of 12 months, after which the applicant was required to seek an amendment of this Special Permit to allow the use to continue. The applicant did not file for an Amendment prior to the relief expiring and therefore the relief is no longer valid, requiring new Special Permits.

The Board reviewed the conditions of approval with Mr. Finkelstein. He stated that they wanted to amend the proposed condition that lighted signs shall not operate from the hours of 10 pm to 7 am. There will be lighted signs on the front of the building along Route 20 but will not be visible to the residents on the back. Mr. Abramoff stated that they can strike that ask long as they comply with the condition that lighting greater than 0.5 foot-candles shall not spillover onto abutting property residential parcels at the property lines (including signs). Mr. Finkelstein also stated that they want to maintain the existing mature landscaping in the 10ft. wide landscape buffer along the lot lines abutting properties owned by N/F Robert Heath and Raymond & Donna Griffin and the Saybrook Road right-of-way. Staff's suggested conditions also call for a new fence to be installed where the property abuts Saybrook Road, but there is one there and they just want to repair it. He asked that the right turn only allowed for the egress on Route 20 be removed since it was going to be very hard to enforce that. Mr. Finkelstein was amenable to the rest of the conditions.

Ms. Smith stated that there was an outstanding fee and that needed to be paid prior to the issuance of nay building permits. Mr. Abramoff stated that they will add that as a condition.

Ray Griffin, 19 Saybrook Road, stated that they have been working with Mr. Russell, which has conceded to the concerns and requests they have made. He stated he supports this petition.

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. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and the petition with the following conditions of approval:

1. Provided that the project is constructed in substantial accordance with the final revised plans on file with the City of Worcester and in accordance with all applicable governmental codes.
2. That six (6) copies of the final revised plans are submitted to the Division of Planning & Regulatory Services prior to the issuance of a Building Permit showing the following:

*Operations*

- a. Customers shall be discouraged from using Saybrook Road and Polito Drive as part of any test-drive route;
- b. There shall be no speaker systems external to the building;
- c. Car carrier parking and any unloading or loading of vehicles shall be performed on the easterly side of the existing building;
- d. Loading or unloading, parking of vehicles for customers and employees, parking of vehicles for display, sale, or relocation shall be not conducted or stored on Southwest Cutoff (Route 20), Saybrook Road, and Polito Drive;
- e. All vehicle delivery and dumpster servicing shall be limited to 7 am to 7 pm Monday through Friday;
- f. Lighting greater than 0.5 foot-candles shall not spillover onto abutting residential parcels property at the property lines and lighted signs shall not operate from the hours of 10 pm to 7 am;

*Landscaping and Screening*

- g. That a minimum 10 ft. wide landscape buffer shall be provided along the lot lines abutting properties owned by N/F Robert Heath and Raymond & Donna Griffin and the Saybrook Road Right-of-way to provide adequate screening. The applicant shall not disturb the existing trees located therein and said vegetation shall be maintained;
- h. The fence shall be repaired and maintained regularly as a barrier along the lot line where the property abuts Saybrook Road;
- i. That a minimum six foot stockade style fence shall be provided to screen the proposed dumpster;
- j. Comply with the requirements of Article IV, Section 7 and Article V, Section 5. C;

- i. Provide a 5 ft. landscape buffer along the side, rear, and front lot lines;
- ii. Provide plantings in the landscape buffer, located along the street, and where parking abuts residential uses;
- iii. Provide planting inside the proposed landscape islands;
- k. Provide a landscaping table that includes number, type, and size of all proposed plantings;
- l. That all proposed plantings shall be of a non-Asian Longhorned Beetle susceptible species;

*Parking and Traffic*

- m. That the applicant comply with the Architectural Access Board standards for accessible parking spaces and provide a minimum of one van accessible space and an additional two accessible spaces;
- n. The applicant shall use appropriate signage and pavement marking to direct customers to a dedicated customer entrance to the site where all customer parking spaces shall be clearly demarcated;
- o. All parking spaces and traffic circulation shall be striped;
- p. That the southernmost curb cut be used as a deliveries only access point;

*General*

- q. Provide information regarding the existing right-of-way along the southern lot line and update the area calculations to exclude this 20 ft. wide area; and
- r. That the outstanding application filing fees shall be paid prior to the issuance of any building permits or certificate of occupancy.

The Board also approved a waiver of the application requirement to label abutters and abutters within 300 feet on the plan.

**List of Exhibits:**

- Exhibit A: ZBA – Special Permit Application; received May 6, 2015; prepared by Trusswan, Inc.
- Exhibit B: Special Permit Plan – 126 Southwest Cutoff; dated May 5, 2015, prepared by H.S&T. Group, Inc.
- Exhibit C: ZBA Special Permit – Findings of Fact and Decision; approved November 4, 2013.
- Exhibit D: Planning Board Parking Plan Decision; approved November 20, 2013.
- Exhibit E: Letter from Stephen S. Rolle, Director of Planning & Regulatory Services, regarding approval expirations to Anthony Russell; dated .

**11. 67 Heywood Street (ZB-2015-020)**

**Variance:** For relief 50 ft. frontage dimensional requirement for a single-family detached dwelling in an RG-5 Zoning District (Article IV, Section 4, Table 4.2)

**Petitioner:** RPM Realty, LLC

**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 single-family detached dwelling along with 2 off-street parking spaces and associated site-work, grading, and paving on property located at 67 Heywood Street and accessed via Rosamond Street

**Public Hearing Deadline:** 7/16/15

**Constructive Grant Deadline:** 8/20/15

Jeff Howland, JH Engineering, representing the owner, stated that they are proposing a single-family house on this odd shaped lot, which has legal frontage on Heywood Street but due to the topography, the existing guardrail along Heywood Street, access should be off of Rosamond Street. However, frontage on Rosamond Street is only 48.89 feet and 50 ft. is required. The Fire Department comments were that they prefer they change the address to reflect Rosamond Street in order to ensure that first responders can find the house. The house will be a two-story colonial.

Ms. Tatasciore stated that the variance was for 1.11 ft. of relief of the frontage variance. Staff recommends that they go through DPW to get a change of address for that lot. Staff asked the engineer who owned the deck that saddled the lot line. Mr. Howland stated that the deck belongs to the abutter and they will be removing the portion that on their property.

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. Michajlow and seconded by Mr. Wanat, the Board voted 5-0 to approve the findings of fact as modified by staff and the 1.11 ft. relief from the frontage requirement subject to the conditions in the memo and the Board approved the waiver to label all abutters within 300'.

**List of Exhibits:**

**Exhibit A:** 67 Heywood Street – Variance Application; received May 12, 2015; prepared by RPM Realty, LLC.

**Exhibit B:** Proposed Variance Plan – 67 Heywood Street; dated May 11, 2015; prepared by JH Engineering Group.

**Exhibit C:** Letter from Fire Chief Courtney; undated.

**12. 32 Burncoat Street (ZB-2015-023)**

**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)

**Special Permit:** To allow for an Expansion, Alteration, or Change to a Privileged Pre-existing Non-Conforming Structure/Use (Article XVI, Section 4)

**Petitioner:** Edward Bradley & Renee Mikitarian-Bradley

**Present Use:** Presently located on the premises is an existing three-family detached-dwelling and associated off-street parking.

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

**Petition Purpose:** The petitioner seeks to add a fourth dwelling unit to the existing structure and construct a parking area for additional off-street parking, along with associated site improvements.

**Public Hearing Deadline:** 7/18/15

John Finlay, Finlay Engineering, stated that presently located on the premises is an existing three-family dwelling and the basement contains a laundry room. They would like to convert the laundry room into a fourth apartment and add a small addition that will house an interior stairway and upgrade the parking to the rear of the building to provide adequate parking. The addition conforms to all dimensional requirements; the special permit was needed because of the non-conformity of the existing structure.

Ms. Tatasciore stated that one of the conditions of approval is to provide a fence along the length of the northerly lot line (properties owned N/F by Leary, Philbin and Dunn) in order to provide screening from these abutting residential properties. Fencing should be minimum 6 ft. in height and of a stockade variety.

Mr. Abramoff stated that they received a letter from the abutter regarding some trees that are leaning over her house. Ms. Mikitarian-Bradley, owner of the property, stated that she is amenable with removing those trees because they are leaning. Mr. Abramoff asked if she was amenable to planting another one and the applicant agreed.

Mr. Finlay asked for a waiver from the labeling abutter requirement.

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 petition with the conditions in the memo and that they remove the tree hanging over the Philbin's property and plant an ALB resistant tree. The Board also approved the waiver request for labelling abutters within 300 feet on the plan.

**List of Exhibits**

**Exhibit A:** Special Permit Application and associated rendering & elevation; received May 14, 2015; prepared by Edward J. Bradley III & Renee A. Mikitarian-Bradley.

- Exhibit B: Site Plan - 32 Burncoat Street; dated May 12, 2015; prepared by Finlay Engineering Services.
- Exhibit C: E-mail from Joseph & Catherine Philbin; received June 6, 2015.
- Exhibit D: Memo letter from Fire Chief Courtney; undated.

**APPROVAL OF THE MINUTES** – April 27, 2015 & May 18, 2015

Upon a motion by Mr. Michajlow and seconded by Mr. Haddon, the Board voted 6-0 to approve the minutes for April 27, 2015. The minutes for May 18, 2015 were not ready.

**OTHER BUSINESS**

**13. Communications**

- a. Information Briefing Invitation on Electromagnetic Radiation Exposure – No Comment.

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

- a. Modify the Decision for 0 Breck Street

Ms. Tatasciore stated that after the public hearing was closed and the Zoning Board of Appeals voted to grant the two Variances, they were made aware that the 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) was not necessary due to Article IV, Section 4, Note 15 of the City of Worcester Zoning Ordinance which states that in the RG-5 zoning district any undeveloped lot in existence by recorded deed or plan as of September 18, 2013, the minimum lot area shall be 4,000 square feet for the construction of single-family detached, single-family attached, single family semi-detached, two-family and three-family dwellings. Thus, the only Variance that required approval pertained to the relief of 5 feet from the 55 foot frontage dimensional requirements and it remains in effect.

Upon a motion by Mr. Michajlow and seconded by Mr. Valeri, the Board voted 5-0 to modify the decision to clarify that due to the fact that the Variance for area was not properly before them, the Zoning Board of Appeals has modified its decision and rescinds the approval of the Variance pertaining to area only.

**ADJOURNMENT**

Upon a motion the Board voted to adjourn the meeting at 11:30 p.m.