

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

July 27, 2015

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

Zoning Board Members Present: Lawrence Abramoff, Chair
Joseph Wanat
George Valeri
Timothy Loew (arrived at 5:40)
Robert Haddon, Alternate
Thomas Dillon, Alternate

Zoning Board Members Absent: Vadim Michajlow, Vice-Chair

Staff Present: Stephen Rolle, Division of Planning and Regulatory Services
Domenica Tatasciore, Division of Planning and Regulatory Services
Michelle Smith, Division of Planning and Regulatory Services
John Kelly, Inspectional Services
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. 1121 (aka 1123) Pleasant Street (ZB-2015-029)

Special Permit: To allow motor vehicle sales in a BL-1.0 Zone (Article IV, Section 2, Table 4.1, Business Use #15)

Special Permit: To allow motor vehicle display in a BL-1.0 Zone (Article IV, Section 2, Table 4.1, Business Use #16)

Petitioner: Bruce J. Gerardi

Present Use: Presently located on the premises is a ~1,480 SF commercial building used as an automobile repair facility.

Zone Designation: BL-1.0 (Business, Limited)

Petition Purpose: The petitioner seeks to continue the current use of the property while also adding motor vehicle sales & display, along with associated site improvements.

Public Hearing Deadline: 8/7/15

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted 5-0 to postpone the item to August 17, 2015 and extend the Constructive Approval Date to September 22, 2015.

List of Exhibits:

- Exhibit A: 1121-1123 Pleasant Street Application; received 6/3/2015; prepared by Bruce Gerardi.
- Exhibit B: 1121 Pleasant Street Plan; dated 11/10/2014; revised 3/18/2015; prepared by Robert D. O'Neil, Jr.
- Exhibit C: Massachusetts Cultural Resource Information System (MACRIS) property card.

2. 232 Burncoat Street (ZB-2015-030)

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

Petitioner: Dawn E. Clark

Present Use: Presently located on the premises is an existing non-conforming single-family detached dwelling and off-street parking.

Zone Designation: RS-7 (Residence, Single-family)

Petition Purpose: The petitioner seeks to sell a portion of the existing lot to the abutting property owner. The property is existing non-conforming with regards to lot area, frontage, parking, exterior side-yard setback, and rear-yard setback.

Public Hearing Deadline: 8/20/15

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted 5-0 to postpone the item to August 17, 2015.

List of Exhibits:

- Exhibit A: Special Permit Application; received June 16, 2015; prepared by Dawn E. Clark.
- Exhibit B: Variance Plan; dated September 15, 2014; prepared by HS&T Group.

3. 2 Rollingwood Drive (ZB-2015-032)

Variance: For relief of the 10 ft. side-yard setback dimensional requirement for a single-family detached dwelling (Article IV, Section 4. Table 4.2)

Petitioner: Fred J. & Marcy Z. Shuster

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

Zone Designation: RS-10 Zoning District

Petition Purpose: The petitioner seeks to add an attached carport to the eastern side of the existing structure along with associated site-work.

Public Hearing Deadline: 8/26/15

Constructive Grant Deadline: 9/30/15

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted 5-0 to postpone the item to August 17, 2015.

List of Exhibits:

Exhibit A: 2 Rollingwood Drive Application; received 6/22/2015; prepared by Fred & Marcy Shuster.

Exhibit B: 2 Rollingwood Drive Plan; dated 6/8/2015; prepared by HS&T Group, Inc.

Exhibit C: 2 Rollingwood Drive Rendering; dated 11/7/2014; last revised 4/30/2015; prepared by Deck House.

NEW BUSINESS

4. 44 Moore Avenue (ZB-2015-014)

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 relief of the 8 ft. side-yard setback dimensional requirement for a single-family detached dwelling in a RS-7 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Vincent & Denise Bilotta

Present Use: Presently located on the premises is an existing single-family detached dwelling along with a detached garage (carriage house).

Zone Designation: RS-7 (Residence, Single-Family)

Petition Purpose: The petitioner seeks to convert the existing carriage house into a single-family detached dwelling along with off-street parking and associated site-work, grading, and paving. The existing carriage house is non-conforming with regard to the required side-yard setback.

Public Hearing Deadline: 7/27/15

Constructive Grant Deadline: 8/31/15 (variance)

Attorney Todd Rodman, representing the owners, stated that they have an existing carriage house on their property that they want to convert to a single-family home for their daughter. In order to do this they need a variance for relief of the side-yard setback. If they are approved, they need to submit an ANR plan to the Planning Board to divide the lots into two separate lots. Since the existing driveway from Moore Avenue crosses what would be the newly created lot with the carriage house a cross-easement will also be filed to ensure both properties can use the driveway.

The carriage house was built in the 1800s but it was moved to this location in 1906 from a farm on Moreland St. The carriage house is only 4'3" from the closest side-yard and to use it for residential purposes, it requires a 8 foot side yard setback; therefore, they are seeking 3'9" of relief. Mr. Rodman stated that there is access to the new lot from Ashmore Road and the carriage house will have a one car garage in the basement. The garage will occupy more than 50% of the basement and the attic will not be habitable. There is room outside the structure to provide an additional parking space. The existing driveway will be utilized by both parties and governed by the terms of the cross-easement.

Mr. Rodman stated that the applicant is looking to remove four pine trees for safety purposes because they are tall and spindly and lean towards the property. The property is otherwise extensively landscaped and it will remain that way. Mr. Rodman submitted letters of support by six abutters (Exhibit G).

Mr. Rodman addressed the letter of opposition by Ms. Newton, abutter at 4 Ashmore Road, by stating that they are using the property as it is currently configured and will not affect sight lines on the intersection of Moore Avenue and Pleasant Street or cause an increase to vehicular traffic. They are not altering any driveways or curb cut, as these already exists. The front of the existing house and the carriage house are both on Moore Avenue and they will remain so. Moore Avenue will be the primary means of access for both properties. Ms. Newton mentioned that this proposal will increase fire hazards but Mr. Rodman stated that upgrading the existing electrical system, installing smoke detectors, and meeting current building/fire codes should reduce potential fire hazards. The footprints of the homes will not change and emergency personnel will be able to gain access as they do now from both Moore Avenue and Ashmore Road. The abutter mentioned snow removal issues but the use of this single driveway should not present traffic or snow removal issues for the residents on Ashmore Road. The one thing that will change is that the applicants, the Bilottas, in the past have allowed neighbors to use their driveway to dump snow but using that against them now does not seem appropriate since it is their driveway and they have the right to use it. Lastly, Ms. Newton asked that the Bilottas create a second driveway on Moore Avenue instead of using the existing one on Ashmore Road but the existing Moore Avenue driveway will continue to be used the same way as it is used today and the Ashmore Road one will just need to accommodate one car. Adding another curb cut will just disrupt the traffic pattern.

Ms. Tatasciore stated that staff advertised for both a special permit and a variance to ensure the proper relief was advertised. Staff has concluded the relief needed is through the form of a variance (3'9"). Staff recommends approval with the conditions listed in the memo and the waiver request.

Mr. Rodman stated that he is amenable to all the conditions.

Laura Breck, 47 Moore Avenue, stated that she is in support of the petition and does not feel that a single-family house would disrupt the neighborhood in any way.

Michele Buteau, 1 Ashmore Road, stated that they are in support of the project as well and feel the project will beautify the project. They are one of the neighbors that used to shovel their snow on their driveway but they have other places to put the snow and don't have a problem with the project.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 5-0 to close the item. Chair Abramoff identified Robert Haddon as the alternate.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon, the Board voted 5-0 to approve the findings of fact as modified by staff and approve the variance for 3'9" with the conditions of approval in the memo and the waiver for labeling abutters.

Mr. Rodman requested a leave to withdraw for the special permit.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon, the Board voted 5-0 to approve the leave to withdraw without prejudice for the special permit.

List of Exhibits

- Exhibit A: Variance Application; received July 17, 2015; prepared by Vincent & Denise Bilotta.
- Exhibit B: Plan of Land; dated November 25, 2015 and revised through to July 1, 2015; prepared by A.S. Elliot Associates.
- Exhibit C: Rendering, Elevations & Floorplans; prepared by Janez Design.
- Exhibit D: Irregularity Factor Calculation; dated July 9, 2015; prepared by Elliott Paturzo of A.S. Elliott & Associates.
- Exhibit E: Postponement Requests – various.
- Exhibit F: Letter of Opposition; prepared by Rachel Newton; dated and received June 25, 2015.
- Exhibit G: Various Letters of Support by Abutters; received July 27, 2015.

5. 79 Joppa Road (ZB-2015-026)

Variance: For relief of the 65 ft. frontage dimensional requirement for a single-family detached dwelling in a RS-7 Zone (Article IV, Section 4, Table 4.2)

Petitioner: James Spahiu

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

Zone Designation: RS-7 (Residence, Single-family)

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

Public Hearing Deadline: 7/31/15; **Constructive Grant Deadline:** 9/04/15

James Spahiu, 34 Wrentham Rd, stated that they have a large lot on Joppa Road, the majority of which is wetlands and that portion is intended to be donated to the Greater Worcester Land Trust for protection. Mr. Spahiu stated that he wants to build a single-family residence for his daughter but the lot has 45.92 feet of improved frontage on Rockrimmon Road, necessitating a Variance for relief of 19.08 ft. from the 65 ft. frontage dimensional requirement.

Mr. Spahiu addressed the questions to the applicant on the memo. He stated that the house will have a garage on the right side and a deck (10' x 25'). They will install gutters and they will be directed to drain onto his parcel.

Mr. Spahiu stated that they have access right now through Joppa Road but the road is not in good condition. He stated that he would use either Joppa or Rockrimmon in order to access the site to do the construction, whichever the Board prefers.

Ms. Smith stated that the applicant is seeking the variance because the improved portion of the road does not extend the full 65 feet of required frontage. Staff is concerned that the parking spaces are not the adequate dimensions and would need to see revised plans to be comfortable with that requirement. Ms. Smith asked the applicant to clarify what the structure, north of the proposed driveway, was supposed to be. Mr. Spahiu stated that is a stone retaining wall.

Ms. Smith stated that a rendering was not provided and asked the applicant to comment on the number of stories and height of the structure. Mr. Spahiu stated there will be a basement level that includes the garage, a living level, and an attic that they plan to put a room in.

Ms. Smith asked what landscaping is proposed and if trees will be removed from the property. Mr. Spahiu stated that they will clear enough area to access the site but do not propose any trees or shrubs. He stated that he was amenable to planting a tree along Rockrimmon Road.

Mr. Haddon asked for clarification on the location of the garage. Mr. Abramoff stated that they will need to see revised plans. Mr. Kelly stated that they would like to see a floor plan and elevation to ensure compliance. Ms. Smith stated that staff would suggest amending the size for clarification.

Dana Lewis, 38 Joppa Road, stated that he represents the West Tatnuck Neighborhood Preservation Society, which is comprised of people who own property on Joppa Road and Rockrimmon Road. He stated that Joppa Road is in poor condition now and if Mr. Spahiu uses that road for construction equipment it will make it worse. He stated that he objected to the applicant getting access to his site through Joppa Road. He also asked if it was possible to have the applicant bring Joppa Road to City standards.

Mr. Spahiu stated that they can use Rockrimmon Road. Ms. Smith stated that staff recommended that be a condition of approval.

Mr. Abramoff stated that it would be unfair to ask the applicant not to use the road but to pave it.

Don Wentworth, 33 Joppa Road, asked if the applicant plans to fill the lot. Mr. Spahiu explained the project and stated that no filling will occur.

Mr. Abramoff stated that they need to see revisions. Mr. Spahiu asked for a continuance to September 21, 2015.

Mr. Kelly asked if dumping of materials had been authorized by him. Mr. Spahiu stated that he has not authorized anyone; he had been out of the country since May and just recently returned.

Upon a motion by Mr. Valeri and seconded by Mr. Loew to continue the item to September 21, 2015 and extend the constructive grant deadline to October 6, 2015.

List of Exhibits:

- Exhibit A: 79 Joppa Road Application; received 5/27/2015; prepared by James Spahiu.
- Exhibit B: 79 Joppa Road Plan; dated 4/16/2015; prepared by Finlay Engineering.
- Exhibit C: Letter from Dana Lewis; re: 79 Joppa Road; various dates.

6. 50 Gardner Street (ZB-2015-031)

Special Permit: To allow open lot storage for more than one (1) unregistered automobile in excess of seven (7) days in an MG-2.0 Zoning District (Article IV, Section 2, Table 4.1, General Use #13)

Petitioner: Ralph & Matthew Dworman, Trustees of The GTH Trust

Present Use: Presently located on the premises is an existing warehouse/manufacturing building with associated off-street parking.

Zone Designation: MG-2.0 (Manufacturing, General) Zoning District and AR (Adaptive Reuse) Overlay District

Petition Purpose: The petitioner seeks to use the property for open lot storage associated with the storage and transportation of motor vehicles, along with associated site improvements.

Public Hearing Deadline: 8/20/15

Ralph Dworman, applicant, stated that three years ago another applicant who happened to be his previous tenant, had the same request before the Board. He is requesting this relief for his existing tenant, Professional Autos. Mr. Dworman stated that even though the application stated this was open lot storage for 30 cars, they would be hard pressed to fit more than 30 on-site. His tenant does auto repair and stores the vehicles but they are not shipping vehicles overseas. They tow damaged vehicles to the site with a registered towing vehicle. The hours of operation will be Monday through Friday 8 am to 5:30 pm.

Mr. Abramoff asked if the applicant was aware and amenable to the conditions of approval recommended by staff. Mr. Dworman stated that he was not aware of them.

Ms. Tatasciore stated that the applicant was seeking to reactivate the special permit that expired in 2013 because there was a cease and desist order issued by Inspectional Services in February 2015. She stated that staff did not know all the tenants at that location so parking was calculated using the entire square footage of the property as warehousing/storage area and one office space.

Jarvis Dominguez, Barre, MA resident and owner of Professional Autos, stated that they also operate on Saturdays from 8 am to 2 pm. The loading takes place inside the site because most cars being towed are not operational.

Ms. Tatasciore stated that there are some conditions from the previous approval that were never complied with and also when staff went on site views they noticed that there were cars parked on the landscaping buffer and they would like the applicant to ensure they do not encroach on that space. She also stated that the applicant should 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 and from the Plot Plan application requirement that a plot plan be provided that includes the entire site owned by the property owners.

Mr. Dworman reviewed the conditions of approval and stated some were not applicable since the current business is not doing export (condition #2.n) and they will not be towing vehicles 24 hours a day either (Condition #2.1).

Steve Teasdale, Executive director of Main South Community Development Corporation, stated that three years ago they opposed the use of the site for storage of junk vehicles because the area was undergoing renovations totaling \$30 million and that type of business was unsightly. There were a lot of conditions placed on the approval in order to make that use of the site more appropriate and less visibly intrusive. One of those conditions was that the applicant had to return in one year to ensure the conditions were being adhered to. The conditions have not been met and while they are not opposing the request this time the Board should be ensured that those conditions are adhered to.

Eddy Williams, 10 Hollis Street, stated that he was opposed to the petition because they did not adhere to any of the previous conditions of approval. He is an abutter to the property and stated that it was a blight to look at. Many times he has seen people doing drugs at this location and has called the police. He has even seen the gates wide open after this incident. He would be for the project if the conditions are met.

Mr. Abramoff asked the applicant if he would be amenable to a condition that would require them to keep the gate closed unless there is someone present onsite.

Councilor Sarai Rivera, District 4, stated that she is not opposed to a particular business but is concerned that the same conditions were placed on the petition last time and none were adhered to, which is disrespectful for the neighborhood and unfair to the residents. She has called the code department multiple times regarding this property and stated that some plan must be put in place to hold the property owner accountable to adhere to the conditions.

Mr. Rolle stated that Inspectional Services is always available to respond to nuisance calls but the Board can also approve this with a time lapse so the applicant can come back in a year and report on the progress.

Mr. Abramoff asked the applicant how long it would take to meet all the conditions. Mr. Dworman stated that three months.

Mr. Kelly stated that the Board can condition the approval to compel the applicant to call his department to schedule a re-inspection in 30, 60, or 90 days. Mr. Dworman stated that he was amenable.

Mr. Loew asked what the number of cars allowed on the lot will be because the applicant stated 30 cars but the plans shows 38.

Mr. Dominguez stated that he would like to keep it to 30 vehicles to be able to have space to maneuver around. He also stated that he would work with the owner to get anything that needs to get done on the property completed.

Mr. Abramoff stated that staff has recommended that if approved, this petition be approved with the previous conditions of approval including the following repair/maintenance conditions and a few new ones that have to do with the use of the parking lot itself.

- a) Remove litter on Gardner Street adjacent to 50 Gardner Street on a daily basis;
- b) Remove existing tree trunks entwined in fencing along Gardner Street;
- c) Remove debris and trash from site regularly;
- d) Relocate proposed dumpsters closer to building and screen with fencing (stockade, simulated stockade or chain link with slats);
- e) Remove steel frame structure abutting Gardner Street;
- f) Repair existing fencing at 38 and 50 Gardner Street;

Mr. Abramoff continued to state that the number of vehicles will be reduced from 38 to 30 and that the operation is limited M-F 8 am to 5:30 pm and Sat. 8 am to 2 pm and no towing operations outside the work hours are allowed. He would like to add the one year expiration clause to the special permit.

Mr. Loew asked for clarification on the condition: “That appropriate soil erosion and sediment control measures shall be installed and maintained throughout the development of the property to the satisfaction of the Director of Code Enforcement.” Ms. Tatasciore stated that during the staff site view they noticed a curb cut at the end of their curb cut that was full of debris and construction materials that seemed to originate from the property, which prompted the condition.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 5-0 to close the hearing. Mr. Abramoff identified Mr. Dillon as the voting alternate member.

Mr. Valeri stated that he believed they should not vote on the item and allow the applicant 90 days to come into compliance before they approve the use. Mr. Abramoff stated that if approved with the condition that all items needs to be substantially completed within 90 days then Inspectional Service can issue a cease and desist if they do not comply and the Special Permit would lapse.

Upon a motion by Mr. Wanat and seconded by Mr. Valeri, the Board voted 5-0 to approve the petition with the following conditions:

1. The Special Permit is valid for a period of one year from the date of the Board's final action;
2. Submit a Certificate of Compliance with Revenue Collection signed by property owner prior to the issuance of any building permit;

Outstanding conditions from the expired Special Permit to be incorporated in this Special Permit

3. That six (6) copies of final revised plans be submitted to the Division of Planning & Regulatory Services prior to issuance of the Building Permit/Certificate of Use and Occupancy with the following modifications including a note on the plans stating conditions of approval:

Landscaping / Buffer Improvements

- g) Install additional plantings, including one ornamental tree with additional low level plantings around the tree, in the buffer along Gardner Street in front of proposed office trailer;
- h) Install a mix of trees and shrubs along the adjacent 38 Gardner Street property along the length of Hollis Street which is held in common ownership with 50 Gardner Street;
- i) In area currently marked as snow storage closest to Gardner Street, create an additional landscape island with one tree and low level plantings and relocate snow storage to the side of the parking lot away from Gardner Street;
- j) Install wisteria, jasmine or other perennial climbing vine along existing fencing in area of transformer for additional screening of this corner.

Plan Annotation Updates

- k) In the Zoning Table – there is no minimum area or frontage requirement in MG-2.0 zoning districts. The rear yard setback provided is not 104-ft. That appears to be the setback of the proposed office trailer; however the existing building on site appears to extend to the rear yard setback and is a pre-existing dimensional nonconformity. There is no required number of parking spaces for vehicle display use.
- l) Existing front, side, rear yard setbacks and height should be derived from the existing building on site;
- m) Parking summary does not include existing parking and required parking for existing uses on site;
- n) Area shows motor vehicle sales as 8 spaces; however motor vehicle sales is not limited in MG-2.0 and removing the label will provide flexibility on site.

Use Related Restrictions

- o) No dismantling of motor vehicles is to be conducted on site;
- p) No storage of motor vehicle parts is to be conducted in the parking area. (Note: indoor storage of vehicle parts/salvage materials would require additional permits from the Fire Department);
- q) Total vehicles on the lot are limited to a maximum of 30 vehicles as shown on the approved plan and limited to the proposed configuration as shown on submitted plan (applicant can use the motor vehicle display spaces if needed);
- r) All loading/unloading of vehicles is to take place on site, not on public streets;

Repairs/ Maintenance

- s) Remove litter on Gardner Street adjacent to 50 Gardner Street on a daily basis;
 - t) Remove existing tree trunks entwined in fencing along Gardner Street;
 - u) Remove debris and trash from site regularly;
 - v) Relocate proposed dumpsters closer to building and screen with fencing (stockade, simulated stockade or chain link with slats);
 - w) Remove steel frame structure abutting Gardner Street;
 - x) Repair existing fencing at 38 and 50 Gardner Street;
4. 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.

5. And the following new conditions of approval:
 - y) That all aisles comply with Article IV, Section 7 Table 4.4 Note 2 b) of the Zoning Ordinance and be 24 feet in width or obtain a Special Permit for relief from the Zoning Board of Appeals;
 - z) That the storage of vehicles will not encroach on the landscaped buffer along Gardner Street;
 - aa) That appropriate soil erosion and sediment control measures shall be installed and maintained throughout the development of the property to the satisfaction of the Director of Code Enforcement;
 - bb) That the gate will be locked whenever staff is not present;
 - cc) That the hours of operation be limited to Mondays – Fridays from 8:00 am – 5:30 pm and Saturdays from 8:00 am – 2 pm;
 - dd) This site will not be utilized for vehicle exporting; and
6. That the site shall be in substantial compliance with all Conditions of Approval within 90 days of the date of final action, at the discretion of the Building Commissioner. It shall be the responsibility of the applicant to request an inspection from the Department of Inspectional Services at 30, 60, and 90 day intervals and to provide an update regarding the remaining work to be completed.

The Board also approved the following waivers:

1. Labeling abutters and abutters thereto within 300 ft. on the plan or on revised plans.
2. Provide plot plan that includes the entire site owned by the property owners.

List of Exhibits:

- Exhibit A: Special Permit Application; received June 16, 2015; prepared by Ralph and Matthew Dworman of The GTH Trust.
- Exhibit B: Plan; dated January 31, 2012 and revised through to April 9, 2012; prepared by Viacad, LLC.
- Exhibit C: ZBA Special Permit – Findings of Fact and Decision; approved March 26, 2012.
- Exhibit D: Letter from ISD – Cease and Desist; dated February 10, 2015.

7. 551 (aka 551-563) Main Street (aka 8 & 10 Federal Street), 0 Federal Street & 2 (aka 2 & 4) Southbridge Street (MBL 03-013-00009; -00011; -00012; & 03-013-000E2)

Variance: For relief of the 10 ft. rear-yard setback dimensional requirement for a non-residential structure in a BG-6.0 Zone (Article IV, Section 4, Table 4.2)

Petitioner: 551 Main Street Holding Corporation

Present Use: Presently located on the premises at 551 (aka 551-563) Main Street (aka 8 & 10 Federal Street) is an existing two-story commercial building. Presently located on the premises at 0 Federal Street is a paved parking area. Presently located on the premises at 2 (aka 4) Southbridge Street is a two-story commercial building used as a theatre.

Zone Designation: BG-6.0 (Business, General) zoning district and within the CCOD-D (Commercial Corridors – Downtown Parking Subarea) and DSOD (Downtown/Blackstone Canal Signage) Overlay Districts

Petition Purpose: The petitioner seeks to expand the existing buildings, located at 551 (aka 551-563) Main Street (aka 8 & 10 Federal Street) and 2 (aka 4) Southbridge Street, to allow for interconnectivity and expanded function room and office space, along with associated site-work.

Public Hearing Deadline: 8/26/15

Constructive Grant Deadline: 9/30/15

Attorney Paul Demoga introduced Tory Sable, president of the 551 Main Street Holding Corp, which operates the Hanover Theatre. He also introduced architect Jacqueline Baum and Craig Blais from WBDC, representing the principal abutter at 20 Franklin Street. Attorney Demoga stated that they are requesting the variance because the petitioner wants to connect the two buildings to accommodate foot traffic from the mezzanine of the Hanover Theatre to the second floor of 551 Main Street. The purpose is to provide additional function space for the theatre and to accommodate office space for theatre staff. The architect has recommended that the most efficient and practical way to connect the buildings is to build an addition in the alley way behind 551 Main Street creating a foot bridge between the two buildings. They cannot connect the buildings in any other way because the theatre side would necessitate damaging the historic VIP room in the Hanover Theatre with all its accoutrements (archway windows, fireplace, etc.) and on the 551 Main Street side there is a stairwell in the location where the building would connect.

Attorney Demoga stated that the addition is required because 551 Main Street is not deep enough to connect the second floor to the mezzanine of the Hanover Theatre without extending the building. They would extend the building to the property line of 551 Main St and encroach on the setback of the landlocked parcel behind 551 Main St.

Attorney Demoga stated that there are several easements on that alleyway, some date back to the 1870s. One was to maintain fire escapes and that easement will be replaced with an easement from the abutter, 20 Franklin QualicB Corporation, to maintain fire egress and access to the

loading dock at 551 Main Street. There were cross-easements between 20 Franklin QualicB Corporation and 551 Main Street that go back to the 1920s and those will be extinguished by agreement.

Ms. Tatasciore stated that Attorney Demoga submitted a document explaining the status of the easements and she would like to introduce that as Exhibit C. She stated that there are three parcels being affected. Parcel 1 is the Hanover Theatre, Parcel 2 is 551 Main Street (corner building), and Parcel 3 is the small landlocked rectangular piece for which they need 9'2" of relief. Staff recommends approval of this application and mentioned that the Variance does not extinguish any existing rights established in easements and rights-of-ways on the parcels; therefore, building permits shall not be issued by the Department of Inspectional Services until after the applicant has satisfactorily resolved all issues pertaining to existing onsite easements and rights-of-ways to the satisfaction of the Building Commissioner.

Attorney Demoga stated that he would like to submit an existing conditions plan (Exhibit D) and 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. Abramoff identified Mr. Haddon as the voting alternate member. Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 5-0 to close the hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 5-0 to approve the variance requested and the waiver requested with the condition I the memo.

List of Exhibits

- Exhibit A: Variance Application; prepared by Attorney Paul Demoga; received June 22, 2015.
- Exhibit B: Floor Plans and Elevations; prepared by Dixon Salo Architects; dated May 19, 2015.
- Exhibit C: Status of easements; submitted by Paul Demoga on July 27, 2015.
- Exhibit D: Existing Conditions Plan; prepared by Dixon Salo Architects; submitted July 27, 2015.

8. 551 (aka 549) Park Avenue (ZB-2015-034)

- Variance:** For relief of the rear-yard setback dimensional requirement in a BG-2.0 Zone (Article IV, Section 4, Table 4.2)
- Petitioner:** Savage Realty, Inc.
- Present Use:** Presently located on the premises is an existing 9,025 SF commercial building used for automobile repair along with associated off-street parking.
- Zone Designation:** BG-2.0 (Business, General) & RG-5 (Residence, General)

Petition Purpose: The petitioner seeks to divide the split-zoned property into two lots.

Public Hearing Deadline: 8/27/15

Constructive Grant Deadline: 10/01/15

Attorney Mark Donahue stated that the applicant proposes to ultimately create a separate building lot, via the ANR process with the Planning Board, in order to divide the existing split-zoned lot into two so that there will be a buildable residential lot, located at the rear of the existing building, fronting onto Birch Street. The applicant's lot currently straddles both Park Avenue and Birch Street. The property is split-zoned; a portion of the lot, where the commercial structure is located, is located in the BG-2.0 zone and the rear and vacant portion is located in the RG-5 zone. The L-shaped building on the lot is being used for auto repair and auto service.

Mr. Rolle stated that the existing commercial building is a privileged nonconforming structure, noncompliant with regard to the rear yard setback requirement (15 ft. required, 0 ft. provided). He stated that he would recommend asking for the 15 feet of variance rather than the 10' 6" he was requesting so that no one can ever contest the privileged non-conforming status of that existing portion that is already built on the property line.

Attorney Donahue stated that he will request the 15 ft. because that would eliminate any confusion if the building has to later come in for any approvals.

Deborah Stevens, 559 Park Avenue, stated that she was opposed because they will be taking a bad property and making it worse by creating another auto body place. She also had complains about the property at 555 Park Avenue.

Mr. Abramoff clarified that no change will occur to the auto-body shop. They are just creating a second lot fronting on Birch Street that will be used for a residence. The complaints regarding 555 Park Avenue should be directed through Code Enforcement.

Lynnel Powell, 83 Birch Street, stated that she was representing her neighbors on 78 Birch Street and 85 Birch Street. She stated that she lives across from 5 properties owned by the applicant and her concerns are that all those properties are all run down and unkempt. She has called Code Enforcement numerous times on all the Savage properties in the area. So she and her neighbors oppose the variance once the other properties are addressed and they know what is planned for that additional lot they are trying to create. She would like to know which ones are still going to be owned by Savage Realty and which ones have been sold.

Gay Stevens, 559 Park Avenue, asked if 555 Park Avenue is owned by the same entity as the garage. Mr. Abramoff stated that 555 Park Ave is not before the board and he does not have the answer to that.

Attorney Donahue stated that Savage Realty was owned by Mr. Savage, who passed away. His family members are in the process of disposing all his properties. All the holdings of Savage Realty on Birch Street were sold to Gold Star Builders on July 17, 2015. The 549 Park Avenue property and three other dwellings on Park Avenue, including 555 Park Avenue, are under agreement to a single owner, who intends to operate his own auto-body shop within the facility.

As far as he knows the intention of Gold Star Builders is to rehab the properties they bought and they will seek to build a dwelling on the vacant lot but he does not know the specifics.

Mr. Rolle stated that the lot they are creating on Birch Street will be 5,000 SF and has 50 feet of frontage so they are limited to a single-family unless they obtain additional relief.

Alternate Robert Haddon will vote on this item. Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 5-0 to close the hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and the variance for relief of 15 feet of the rear yard setback subject to the conditions of approval in the memo and the waiver from labeling abutters is also approved.

List of Exhibits

- Exhibit A: Variance Application; prepared by Applicant’s Agent, Attorney Mark Donahue; received June 23, 2015
- Exhibit B: Plan of Land; prepared by HS&T Group, Inc.; dated June 2, 2015; received June 23, 2015.

9. 75 Shore Drive (ZB-2015-035)

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 relief from the minimum parking dimensional requirement for a health club or recreation/service facility in an RS-7 Zone (Article IV, Section 7, Table 4.4)

Petitioner: Kathryn Zingg Hunter, YMCA of Central Massachusetts

Present Use: Presently located on the premises is an existing ~120,000 SF health club and associated off-street parking.

Zone Designation: RS-7 (Residence, Single-Family)

Petition Purpose: The petitioner seeks to construct a ~2,800 SF addition to the existing health club, along with associated site work, grading at property located at 75 Shore Drive. The existing structure is non-conforming with regard to the existing use and the required rear-yard setback.

Public Hearing Deadline: 8/27/15

Constructive Grant Deadline: 10/01/15 (variance)

Attorney Mark Donahue, representing the YMCA, stated that this property was before the board in 2006 for an expansion to the wellness area. The applicant seeks to add a 2,800 SF addition to the wellness portion of the facility in order to expand its services to existing members. It proposed

addition is slated to be located within an area between two existing structures. It does not increase any non-conformities of the building. It will be constructed with features that will fit the architecture present now.

Attorney Donahue stated that the previous addition included an expansion of 74 parking spaces that far exceeded the parking spaces required for the addition. They have entered into an agreement with Bancroft School, who own the property at 100 Shore Drive, to utilize 10 spaces on their property during peak times of the YMCA.

Ms. Tatasciore stated that the variance for parking is still needed despite the agreement with Bancroft School because lease agreements are not permitted on residential zoned properties, as the school and the health club are. She did review the agreement and it meets all the requirements of the Ordinance so she asked that condition #3 be removed (“That the applicant submits a copy of the new Parking Lease Agreement for review and the record.”).

Mr. Abramoff identified Alternate Dillon to vote on this petition.

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. Dillon, the Board voted 5-0 to approve the findings of fact as modified by staff and the petition with the conditions in the memo without the condition to provide the Parking Lease Agreement. The board also voted to approve the waiver requested.

List of Exhibits

- Exhibit A: Variance & Special Permit Application; received 6/23/15; prepared by Kathryn Zingg Hunter, CEO.
- Exhibit B: Building Addition Plan; dated 6/15/2015; prepared by Waterman Design Associates, Inc.
- Exhibit C: Agreement between YMCA and Bancroft School; submitted July 27, 2015.

APPROVAL OF MINUTES - June 15, 2015

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to approve the minutes for June 15, 2015.

OTHER BUSINESS

10. Communications – None

11. Signing of Decisions from prior meetings

Ms. Tatasciore stated that at the last meeting, there was a question regarding what the specific relief was needed for 21 Aetna Street and 1 Taconic Road. For 1 Taconic Road, staff advertised for 1 Special Permit and 3 Variances and only the Special Permit was required. For 21 Aetna Street, staff advertised a special permit and a variance for frontage and one for lot area. Only the Special Permit and the Frontage variance were needed.

The rest of the decisions were signed.

ADJOURNMENT

Upon a motion, the Board voted 6-0 to adjourn the meeting at 8:00 pm.