

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

October 26, 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, Alternate
Thomas Dillon, Alternate

Zoning Board Members Absent: None

Staff Present: Stephen Rolle, Division of Planning and Regulatory Services
Domenica Tatasciore, 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 5:33 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)

Special Permit: To decrease the minimum parking requirement by a maximum of 10% (Article IV, Section 7. 2.)

Variance: For relief from the minimum off-street parking requirements for an automobile repair garage (Article IV, Section 7, Table 4.4)

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, 8/17/15, 9/21/15, 10/5/15, 10/26/15

Constructive Grant Deadline: 9/22/15, 10/6/15, 11/10/15

Mr. Abramoff stated that there is a request to withdraw the application.

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

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; last revised 10/22/2015; prepared by Robert D. O’Neil, Jr.

Exhibit C: Massachusetts Cultural Resource Information System (MACRIS) property card.

Exhibit D: Letter of Opposition from Kirsten Hubbard; dated 10/5/2015.

NEW BUSINESS

2. 10 Nebraska Street (ZB-2015-038)

Variance: For relief from the 15 ft. rear-yard setback dimensional requirement for a non-residential structure in a BG-2.0 Zoning District (Article IV, Section 4, Table 4.2)

Special Permit: To modify parking, loading requirements, dimensional requirements, layout, or the number of required parking spaces (Article IV, Section 7, 2.)

Petitioner: Tony Bianco

Present Use: Presently located on the premises is a vacant commercial building and associated off-street parking.

Zone Designation: BG-2.0 (Business, General) and located within the Commercial Corridors Overlay District Shrewsbury Street Parking Sub-Area (CCOD-S) and Union Station View Corridor Sign Overlay District (USOD)

Petition Purpose: The petitioner seeks to add an addition to the second story of the existing structure, making the entire structure two-stories, for reuse as both medical offices (~16,250 SF) and residential dwellings (8 units total).

Public Hearing Deadline: 9/04/15, 9/21/15, 10/5/15, 10/26/15

Constructive Grant Deadline: 10/09/15, 11/30/15

Timothy Loew and Robert Haddon recused themselves.

Hussein Haghanizadeh, HS&T Group, stated that there is an existing vacant commercial building onsite with associated parking. They are proposing to use the premises for a medical office and for 8 residential units (6 two-bedrooms and 2 one-bedrooms). The building is non-conforming with regards to the rear yard setback so they need a variance and they also need relief of the loading dock requirement because supplies will be delivered via small vehicles.

Mr. Rolle stated that the parking requirement is determined differently because this property is in the Commercial Corridor Overlay District. Therefore, the relief needed for parking will be granted through a Special Permit through the Planning Board. If approved, staff outlined some recommended conditions of approval in the memo.

Mr. Kelly stated that the applicant was issued a permit for interior demolition and they exceeded their permit and built an addition; therefore the building department issued a cease and desist order.

Alan Jolicoeur, 1 Envelope Terrace, stated that he lives across the street from this property in a condominium building with 43 units and they are greatly concerned with the parking that is being proposed. The intersection of Envelope Terrace and Nebraska is very busy with 12 businesses located right at the intersection. The amount of parking they are providing is not enough to accommodate the medical facility and the residential units.

Mr. Rolle stated that in this case the parking relief was under the Planning Board's purview and if the application was not approved they would need to provide all the required parking before moving forward with the project. The Planning Board meeting is on November 18, 2015 and the abutters can present their concerns there.

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. Valeri, the Board voted 5-0 to approve the findings of fact as modified by staff and to approve variance of 15 feet from the 15 feet rear-yard setback requirement and the Special Permit requested subject to the conditions in the memo, and to approve the waiver of the application requirement to label all abutters on the plan.

List of Exhibits

Exhibit A: 10 Nebraska Street Application; received 7/1/2015 (Variance) & 10/2/1015 (Special Permit); prepared by Anthony Bianco.

Exhibit B: 10 Nebraska Street Definitive Site Plan; dated 6/30/2015; revised 10/5/2015; prepared by HS&T Group, Inc.

Exhibit C: Rendering; undated; prepared by unknown.

Exhibit D: Cease & Desist Order from Inspectional Services Department; issued 7/2/2015.

Exhibit E: Worcester Fire Department Comments; received 7/21/2015.

3. 20 Fifth Avenue (ZB-2015-056)

Variance: For relief from the minimum frontage dimensional requirement in an RG-5 (Residence, General) Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum lot area dimensional requirement in an RG-5 (Residence, General) Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum side-yard setback dimensional requirement in an RG-5 (Residence, General) Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum parking requirement for a three-family detached dwelling (Article IV, Section 7, Table 4.4)

Petitioner: Bolivar Melo

Present Use: Presently located on the premises at 20 Fifth Avenue is a three-family detached dwelling.

Zone Designation: RG-5 (Residence, General)

Petition Purpose: The petitioner seeks to create easement for access to the abutting property at 22 Fifth Avenue in order for the abutter to construct a two-family detached dwelling at 22 Fifth Avenue along with associated off-street parking, site work, grading, and paving.

Public Hearing Deadline: 12/11/15

Constructive Grant Deadline: 1/15/16

List of Exhibits:

Exhibit A: Variance Application; received October 7, 2015; prepared by Bolivar Melo.

Exhibit B: See 20 Fifth Avenue Variance Plan; dated July 15, 2015; prepared by H.S. & T. Group, Inc.

Item #3 and #4 were taken up contemporaneously.

4. 22 Fifth Avenue (ZB-2015-046)

Variance: For relief of the 55 ft. minimum frontage dimensional requirement in an RG-5 (Residence, General) Zone (Article IV, Section 4, Table 4.2)

Petitioner: Juana Veras

Present Use: Presently located on the premises at 22 Fifth Avenue is a vacant, partially paved lot.

Zone Designation: RG-5 (Residence, General)

Petition Purpose: The petitioner seeks to construct a two-family detached dwelling at 22 Fifth Avenue along with associated off-street parking, site work, grading, and paving at both 20 & 22 Fifth Avenue.

Public Hearing Deadline: 10/14/15, 10/26/15

Constructive Grant Deadline: 11/18/15, 12/28/15

Timothy Loew and Robert Haddon returned to the meeting. Vadim Michajlow left the meeting.

Item #3 and #4 were taken up contemporaneously.

Chavely Rodriguez, Juana Vera's daughter, was interpreting for both applicants. She stated that Ms. Veras wants to build her a two-family home at 22 Fifth Avenue.

Mr. Rolle stated that the property at 20 Fifth Avenue is an existing property and no changes are proposed other than a shared driveway between both properties. It used to be a privileged non-conforming lot but once it came into common ownership it loses that privileged non-conforming status even though it's no longer held in common ownership. Therefore it is in violation of the Zoning Ordinance and these variances would be to cure that. The two-family property is proposed at 22 Fifth Avenue.

Ms. Tatasciore stated that there are no parking spaces at all for the existing three family dwelling at 20 Fifth Avenue. This petition will give them 3 spaces but they will be curing the requirement for the remaining 3 with the variance requested.

Ms. Rodriguez stated that they do not have a rendering but the house will have a front porch. Mr. Kelly stated that if the Board decides to approve it without a rendering he could require at time of pulling permits that they bring the rendering to his office and he can ensure it fits in with the neighborhood.

Limary Medina, 24 Fifth Ave., stated that she was opposed to the petition because it will be located too close to her property. She is looking to sell her property and she feels it will reduce its value.

Ms. Tatasciore stated that Ms. Medina's property will be abutting 22 Fifth Avenue and the only relief being asked for that is a frontage variance. They are complying with all other dimensional requirements, including parking.

Joseph Cummings, 54 Raymond Street, stated that he is concerned with all the parking in the backyard that will have fumes coming into his backyard. He was also concerned that the work proposed will disturb his retaining wall, which is 100 years old.

Mr. Abramoff stated that Ms. Veras and Mr. Cummings should take pictures of the retaining wall and any damage done to it should be repaired by the applicant.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted to close the hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 5-0 (Alternate Robert Haddon voted) to approve the findings of fact as modified by staff and the petition for 20 Fifth Avenue subject to the conditions in the memo and to approve the waiver to label all abutters.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 5-0 (Alternate Tom Dillon voted) to approve the findings of fact as modified by staff and the petition for 22 Fifth Avenue subject to the conditions in the memo and that all parking spaces be provided in the rear of the property and that the applicant document the condition of the retaining wall and the applicant shall repair any damage done to it as a result of the construction work and that the façade be approved by Commissioner Kelly and to approve the waiver to label all abutters.

List of Exhibits:

- Exhibit A: Variance Application; received August 10, 2015; prepared by Juana Veras.
- Exhibit B: 20 Fifth Avenue Variance Plan; dated July 15, 2015; prepared by H.S. & T. Group, Inc.
- Exhibit C: Abutter Letter from Limary Medina; received September 24, 2015.

5. 50 Winneconnett Road (ZB-2015-051)

- Variance: For relief from the minimum front yard setback dimensional requirement in an RL-7 (Residence, Limited) Zone (Article IV, Section 4, Table 4.2)
- Variance: For relief from the minimum rear yard setback dimensional requirement in an RL-7 (Residence, Limited) Zone (Article IV, Section 4, Table 4.2)
- Variance: For relief from the minimum lot area dimensional requirement in an RL-7 (Residence, Limited) Zone (Article IV, Section 4, Table 4.2)
- Special Permit: To allow a multi-family low-rise dwelling in an RL-7 (Residence, Limited) Zone (Article IV, Section 2, Table 4.1.)
- Petitioner: William Dowell
- Present Use: Presently located on the premises is a vacant lot.
- Zone Designation: RL-7 (Residence, Limited)
- Petition Purpose: The petitioner seeks to construct a multi-family low-rise dwelling with a total of 21 dwelling units and associated off-street parking (surface & drive-under garage), site work, grading, and paving.

Public Hearing Deadline: 11/26/15

Constructive Grant Deadline (Variance only): 12/31/15

William Dowell gave a short presentation to the Board regarding the project. The applicant seeks to construct a 3-story multi-family low-rise dwelling (total of 25,668 SF) with 21 dwelling units and 42 associated off-street parking spaces, along with related site work and grading. There will be 9 one-bedrooms and 12 two bedroom units. On April 15, 2015, the Planning Board approved a Definitive Site Plan and a Chapter 41 Section 81-G Street for Mohican Road. On October 20, 2014, the Zoning Board of Appeals approved a Special

Permit to allow a multi-family low-rise dwelling in a RL-7 zoning district with conditions. On October 18, 2006, the Planning Board approved a Chapter 41 Section 81-G Street Opening for Mohican Road.

Mr. Rolle explained that the applicant will have to apply to the Planning Board for another 81G (road opening permit) to revise street layout that was approved. He also said that while the layout is under the Planning Board's purview, the Zoning Board can still make it a condition of approval that Winneconnett Road connects to Dominion Road to provide connectivity for snow plowing, emergency response, etc.

Mr. Dowell stated one of his challenges is a grade change of 33 feet. There is a lot of existing vegetation and they intend to salvage as much as possible. He could build 12 units without the variances but then he would have to build bigger units and the traffic impact would have to be the same since it would exceed the number of bedrooms that he is providing now. He will be providing Class II handicapped accessible building with elevators. He submitted a letter of support from the tenants of his other properties on Carver Street.

Ms. Tatasciore stated that the applicant needs a Variance for relief of 2 feet from the 18 feet minimum front yard setback dimensional requirement, a Variance for relief of 1 ft. from the 20 ft. minimum rear yard setback dimensional requirement, a Variance for 17,481 SF relief from the 47,000 SF minimum lot area dimensional requirement, and a Special Permit for the use.

Mr. Dowell stated that the utility easements that straddle the property lines between 4 Dominion Road and the subject property currently exist. Most of the lighting will be attached to the building and some along the walkways and no signage is proposed. The driveway aisle width, entering into the parking garage, is 24-feet wide, it narrows down to 16 feet at the garage door, thus making two-way vehicular traffic challenging so he is looking into adding one door for entrance and one for exiting.

Engineer Andrew Baum showed the Board on the plans what existing vegetation will be maintained and what will be disturbed. The retaining walls onsite will vary from 0 to 8 feet in height and those above 6 feet will meet the setback requirements.

Ms. Tatasciore stated that the Fire Chief recommends that the building's sprinkler system be designed and installed throughout the structure in accordance with NFPA 13.

Annette Mysliwicz, 64 Coburn Avenue, stated that she is opposed to all the relief needed because the building is not in harmony with the neighborhood. It is one and two family homes and his building does not fit the context and the neighborhood character should be protected. Her mother owns three duplex lots on Winneconnett Road and they would never put up a building like this because they respect the integrity of the neighborhood.

Laila Mhirig, 4A Dominion Road, stated that she decided to buy where she did 8 years ago because it was quiet and she has children who play outside. These 21 units will increase traffic, noise, safety, etc. She is also concerned about the work that will be done next to their property since she thought the existing easement was for the use of both owners at 4 Dominion Road only.

Mr. Abramoff asked if the applicant was proposing fencing next to Ms. Mhirig's property line. Mr. Dowell stated that there wasn't but he is amenable to it. He also stated that they

would be using the utilities easement just to excavate and extend the utilities needed underground to service the new building.

Mr. Abramoff asked how much of the area will be impervious. Mr. Dowell stated that 55% will be impervious and the remaining 45% will be green space. Mr. Baum showed the Board the common areas.

Mr. Abramoff asked if the applicant was amenable to push the building back 4 ft. Mr. Dowell was amenable to that.

Mr. Abramoff identified Alternate Robert Haddon to vote on the item.

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted to close the hearing.

Mr. Dowell requested a leave to withdraw without prejudice for the variance for relief of the front yard setback.

Upon a motion by Mr. Wanat and seconded by Mr. Valeri, the Board voted 5-0 to approve the findings of fact as modified by staff, grant a leave to withdraw without prejudice for the variance for relief of front yard setback requirements, and approve the following:

Special Permit: To allow a multi-family low-rise dwelling in an RL-7 (Residence, Limited) Zone (Article IV, Section 2, Table 4.1.)

Variance: For relief of 5 feet from the minimum rear yard setback dimensional requirement in an RL-7 (Residence, Limited) Zone (Article IV, Section 4, Table 4.2)

Variance: For relief of 17,481 square feet from the minimum lot area dimensional requirement in an RL-7 (Residence, Limited) Zone (Article IV, Section 4, Table 4.2)

Subject to the following conditions of approval:

1. That eight (8) copies of revised plans showing the following be submitted to the Division of Planning and Regulatory Services prior to the issuance of a building permit;
 - a. Rename the Winneconnett Road stub and change the plan note to read “Unconstructed Private Way, not on the Official Map”;
 - b. That all driveway aisles and garage entrances/exits shall be at least 24-foot wide;
 - c. Notate the width of both entrances on the plan;
 - d. All parking spaces shall be striped, and accessible spaces placarded, as required by the Architectural Access Board;
 - e. Ensure that the rendering matches the proposed building layout and design.
 - f. Provide the specifications for the proposed lighting, if any;
 - g. Provide the specifications for the proposed signage, if any;
 - h. Provide a detail of the proposed dumpster to be located on a concrete pad and enclosed with a 6-foot stockade fence;
 - i. Provide a detail of the proposed retaining walls;

- j. That the proposed building will be protected throughout with an approved automatic sprinkler system installed in accordance with NFPA 13 and a statement shall be provided on the plan to indicate this;
 - k. That a 6-foot high stockade fence be installed between the subject property and 4B Dominion Road;
2. That the building be shifted back an additional 4 feet from its proposed location on Mohican Road , thus to be located 5 feet from the rear lot line, in order to provide more of a vegetated buffer and additional landscaping;
 3. That Mohican Road be constructed the entire length from Dominion Road to Winneconnett Road and be improved through binder course prior to the start of construction.
 4. That the applicant coordinate with DPW's Engineering Division to obtain a municipal address on the new frontage to be constructed instead of Winneconnett Road.
 5. That no permanent structures be constructed in the Winneconnett Road ROW.
 6. That the proposed building will be protected throughout with an approved automatic sprinkler system installed in accordance with NFPA 13.
 7. That the structure be constructed in substantial accordance with the final approved plot plan on file with the Division of Planning and Regulatory Services.

The Board also voted 5-0 to approve the requested waiver of the application requirement to label all abutters and abutters within 300 ft. on the plan of land or label said abutters on revised plans.

APPROVAL OF THE MINUTES

Upon a motion, the Board voted 5-0 to approve the minutes for October 5, 2015.

OTHER BUSINESS

6. Communications - none
7. Signing of Decisions from prior meetings – the decision were signed.

ADJOURNMENT

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted to close the hearing at 7:34 p.m.