

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

**May 2, 2016**

**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 Member  
Thomas Dillon, Alternate Member

**Staff Present:** Stephen Rolle, Division of Planning and Regulatory Services  
Domenica Tatasciore, Division of Planning and Regulatory Services  
Michael Antonellis, Division of Planning and Regulatory Services  
David Horne, Department of Inspectional Services

**CALL TO ORDER**

Mr. Abramoff called the meeting to order at 5:30 PM.

**New Business**

**1. 21 Merrick Street (ZB-2016-013)**

**Variance:** For relief from the minimum 5-foot setback dimensional requirement for an accessory structure in a RG-5 (Residence, General) zoning district (Article IV, Section 8)

**Petitioner:** Jenny Quinones

**Present Use:** Presently at the property is a three-family dwelling.

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

**Petition Purpose:** The petitioner seeks relief for the constructed garage that projects into the required minimum 5-foot setback for an accessory structure.

**Public Hearing Deadline:** 5/22/16

**Constructive Grant Deadline:** 6/26/16

Michael Burke, engineer, and Jenny Quinones are present. Mr. Burke stated that on the property was a dilapidated garage and the petitioner wanted to replace the structure. The structure was mistakenly built without knowledge of the accessory structure setback requirements. Mr. Burke stated that other buildings in the neighborhood are essentially on the property line.

Mr. Antonellis asked for the petitioner to confirm the height of the structure. Mr. Burke stated 12 feet.

Mr. Antonellis asked the petitioner to respond to Fire Department comments. Ms. Quinones stated that the building will be used for storage only.

Mr. Horne stated that Inspectional Services will need an engineered stamped plan of the garage from the structure's manufacturer.

Abutter Arthur Mouradian stated he does not think the plan submitted is accurate and that the building location will create a hazard and he asked that a fence be erected between the structure and his property. Mr. Mouradian also stated that he would like that a plan be submitted that is stamped by a registered professional land surveyor.

Mr. Rolle asked clarification on how Mr. Burke delineated the property lines on the plan.

Upon a motion by Mr. Valeri, and seconded by Mr. Loew, the board voted 5-0 to close the public hearing.

Upon a motion by Mr. Michajlow, and seconded by Mr. Wanat, the board voted 5-0 to approve the variance subject to conditions as noted in staff review memo and additional conditions that the building permit be subject to a survey completed by a professional land surveyor and that a fence erected between the subject property's accessory structure and the property to the rear of the garage.

Upon a motion by Mr. Michajlow, and seconded by Mr. Wanat, the board voted 5-0 to approve the requested waiver to list abutters and abutters to abutters with 300 feet of the property.

**List of Exhibits:**

Exhibit A: Variance Application; received March 18, 2016; prepared by Jenny Quinones.

Exhibit B: Plan of Property; dated 3/3/16; prepared by Burke Engineering Services.

Exhibit C: Fire Department e-mail & comment letter; received March 23, 2016.

Exhibit D: 21 Merrick Street; Rough Plan Showing Existing Structure with Previous Structure.

Exhibit E: ISD Violation Work Order; dated December 15, 2014.

**2. 1394 Main Street (ZB-2016-014)**

**Amendment to  
Special Permit:**

To allow a food service establishment that includes the consumption and/or sale of alcoholic beverages in a BL-1.0 (Business, Limited) Zoning District (Article IV, Section 2, Table 4.1., Business Use #8)

Petitioner: A & L Realty

Present Use: Presently on the property is restaurant.

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

Petition Purpose: The petitioner seeks to amend the previously approved Special Permit to change the condition of approval to allow outdoor dining.

Public Hearing Deadline: 5/26/16

Oriola Koci and Anton Mahelay are present. Ms. Koci stated that the previous owner received a Special permit with restrictions excluding outdoor seating. There is a patio existing on the property and customers have expressed interest in outdoor seating.

Mr. Antonellis asked if access will be through the restaurant. Ms. Koci stated that access will be through the inside of the restaurant.

Mr. Abramoff asked about fencing. Ms. Koci stated there will be a fenced barrier.

Mr. Antonellis asked about the hours of operation. Ms. Koci stated that the hours of operation will not change.

Mr. Antonellis asked if there will be any changes to parking. Ms. Koci stated that there will not be any changes to the parking.

Upon a question by Mr. Antonellis, Ms. Koci stated that there is a residential component within the existing structure on the property.

Mr. Michajlow asked about a trigger for more parking. Mr. Rolle stated that the trigger for more seating is in relation to the suggested conditions of approval.

Mr. Wanat asked about changing in lighting. Ms. Koci stated there will be no change and that special events at night will be inside.

Mr. Rolle stated that the petitioner will have to go before License Commission and this will give more opportunity address concerns such as lighting.

Mr. Abramoff opened the hearing to public comment.

Rev. Steve Barret spoke in favor of the petition.

Mr. Abramoff stated that the board received a letter in support of the petition by Rod Lee.

Upon a motion by Mr. Valeri, and seconded by Mr. Wanat, the board voted 5-0 to close the public hearing.

Upon a motion by Mr. Michajlow, and seconded by Mr. Wanat, the board voted 5-0 to approve the Amendment to a Special Permit subject to conditions of approval as noted by staff in the staff review memo with friendly amendment to strike the condition that outdoor seating shall be limited between April and October.

Upon a motion by Mr. Michajlow, and seconded by Mr. Wanat, the board voted 5-0 to approve the requested waiver to list abutters and abutters to abutters with 300 feet of the property.

**List of Exhibits:**

Exhibit A: Special Permit Application; received March 22, 2016; prepared by Oriola Koci.

Exhibit B: Seating Plan; dated March 29, 2016, prepared by Phung/Parzio Studio of Architecture.

Exhibit C: Special Permit – Findings of Fact and Decision; ZB-2008-097; signed 12/15/08.

### 3. 40 Hollywood Street (ZB-2016-015)

**Variance:** For relief from the parking requirements to provide 6 parking spaces in a RG-5 (Residence, General) zoning district (Article IV, Section 7).

**Variance:** For relief from the minimum rear-yard setback dimensional requirement for a structure in a RG-5 (Residence, General) zoning district (Article IV, Section 4, Table 4.2)

**Special Permit:** To allow a Lodging House in a RG-5 (Residence, General) zoning district (Article IV, Section 4, Table 4.1, Residential Use #8).

**Special Permit:** To allow the Expansion, Alteration, or Change of a Pre-existing, Non-conforming Structure (Article XVI, Section 4).

Petitioner: Luis Yapor

Present Use: Presently at the property is a single-family detached dwelling.

Zone Designation: RG-5 (Residence, General) zoning district

Petition Purpose: The petitioner seeks to convert the dwelling into a Lodging House, relief from providing the required parking of 6 off-street parking spaces, relief from the minimum rear yard setback, and to expand, alter or change a privileged nonconforming structure.

Public Hearing Deadline: 5/26/16

Constructive Grant Deadline – Variance: 6/30/16

Wanda Yapor and Louis Yapor are present for the application. Ms. Yapor provided translation services for Mr. Yapor. Ms. Yapor, speaking for Mr. Yapor, stated that they would like to convert the home to a lodging house which will require a sprinkler system with the addition that was added to the home.

Mr. Abramoff asked if they are currently using the structure for a lodging house. Ms. Yapor stated it is not currently a lodging house.

Mr. Abramoff asked for how many people the lodging house will provide. Mr. Yapor stated that including themselves it will be 12 rooms.

Ms. Tatasciore asked that the applicants address staff comments in the review memo, specifically relating to screening, fencing, or landscaping. Ms. Yapor stated that the property is not noisy.

Mr. Abramoff stated that a 3-family home would achieve the same desired effect for the applicants.

Mr. Yapor and Ms. Yapor stated they wanted to do a lodging house in order to comply with the ordinance.

Ms. Tatasciore asked the applicant to comment about the retaining wall that was created to the rear of the property. Mr. Rolle explained that the question is in regards to an open violation order regarding wood in the rear functioning as a retaining wall. Mr. Yapor stated that the retaining wall has been there since purchasing the property.

Ms. Tatasciore asked that the applicant comment on how trash will be handled. Mr. Yapor stated that they currently use a dumpster. Ms. Tatasciore stated this would be unacceptable to staff due to the residential character of the neighborhood.

Ms. Tatasciore asked how snow storage would be handled. Ms. Yapor stated it would be pushed to the side of the driveway toward the home.

Ms. Tatasciore asked the applicant to comment on the adequacy of parking on and off street for guests and residents.

Mr. Abramoff opened the hearing to the public.

Neighbor David Bogoian stated that the applicant is currently in litigation regarding a violation. Mr. Bogoian stated that the addition that was put up illegally is larger than the original structure. He has also stated his opposition to the location and use of a dumpster on the property.

Mr. Bogoian stated that the retaining walls are unsatisfactory and are not composed of suitable materials. Mr. Bogoian submitted Exhibit H to the board. This is a letter signed by abutters opposing the application.

William Burrow was present to speak on behalf of Main South Alliance for Public Safety. Mr. Burrow stated that other residents have moved out of the neighborhood due to the influx of lodging houses. Also, that there is limited parking in the area for this particular use and he urged the board to deny.

Mr. Michajlow stated that there are a number of substantial issues regarding the petition and that the requirements for a variance are not met.

Mr. Valeri asked if the building has a sprinkler system. Ms. Yapor stated that it does not.

Mr. Valeri asked if the building has an approved hardwired fire alarm system. Ms. Yapor stated that it does.

Mr. Valeri stated that regarding the number of code violations it appears as if the petitioner is asking for forgiveness. Mr. Valeri stated that he has concerns about the applicant's ability to operate a lodging house.

Mr. Yapor stated that there are other rooming houses and multifamily residences within the area.

Mr. Horne stated that the home does not have a fire alarm system or sprinkler system as required.

Mr. Abramoff stated that a lodging house is subject to more rules and conditions and that the current track record of the homeowner raises concerns to navigate those additional rules and conditions. In order for the petitioner to receive approval, they would need 4 votes. Mr. Abramoff explained the benefits of Leave to Withdraw versus being denied for the petition.

Mr. and Ms. Yapor requested a Leave to Withdraw without prejudice.

Upon a motion by Mr. Michajlow, and seconded by Mr. Valeri, the board voted 5-0 to approved the request for Leave to Withdraw without prejudice.

**List of Exhibits:**

Exhibit A: Special Permit & Variance Application; received March 22, 2016 & updated April 26, 2016; prepared by Jose Martinez.

Exhibit B: Existing and Proposed, Parking Plan, 1st and 2nd Floor Plans, Elevations and Notes; dated March 22, 2016; prepared by Viacad, LLC.

Exhibit C: Worcester Fire Department Comments; received March 31, 2016.

Exhibit D: Cease & Desist Letter from ISD; dated July 28, 2015.

- Exhibit E: Cease & Desist Letter from ISD; dated August 14, 2015.  
Exhibit F: Violation Letter from ISD; dated November 5, 2015.  
Exhibit G: Map of Nearby Lodging Houses; prepared by DPRS staff.  
Exhibit H: Letter from abutters opposing the application; dated April 27, 2016.

#### **4. 1 & 15 Webster Street (ZB-2016-017)**

**Variance:** For relief from the rear yard setback dimensional requirements in the ML-2.0 (Manufacturing, Limited) zone (Article IV, Section 4, Table 4.2).

**Special Permit:** To allow accessory storage of flammable liquid/gas/explosives (excluding residential use up to 1,000 gallons) in a BG-2.0 (Business, General) zoning district (Article IV, Section 2, Table 4.1, Manufacturing Use #1)

**Petitioner:** 1-15 Webster Street, LLC

**Present Use:** Presently at the property is a hardware store.

**Zone Designation:** BG-2.0 (Business, General), ML-2.0 (Manufacturing, Limited), and located in the CCOD-E (Commercial Corridor Overlay District – Elsewhere) zoning district.

**Petition Purpose:** Presently at the property is a hardware store and the petitioner seeks to construct an addition and is seeking relief from providing the required rear yard setback and to install a liquid propane storage and dispensing facility.

**Public Hearing Deadline:** 6/8/16

**Constructive Grant Deadline – Variance:** 7/13/16

Matt Brassard from Nitsch Engineering and Brian Barrows from Barrows Hardware are present. Mr. Brassard stated that the request is for a rear yard variance and a special permit to allow an accessory storage of flammable liquid on the property.

Mr. Abramoff asked what will happen to the adjacent parcel, on Nixon Street, which currently serves the flammable liquid storage. Mr. Brassard stated that the parcel will now be used for overflow storage.

Ms. Tatasciore stated that certain Fire Department comments are to be withdrawn regarding a 12 foot requirement.

Mr. Abramoff opened the hearing to public comment.

Stuart Loosemore with the Worcester Regional Chamber of Commerce stated that the Chamber is in favor of the petition.

William Burrow, Arthur Mouradian and Peter Baban all spoke in favor of the petition.

Upon a motion by Mr. Valeri, and seconded by Mr. Wanat, the board voted 5-0 to close the public hearing.

Upon a Motion by Mr. Michajlow, and seconded by Mr. Valeri, the board voted 5-0 to approve the requested Variance and Special Permit with all the conditions of approval from staff's review memo and to also approve the request for a waiver to list abutters and abutters to abutters within 300 feet of the property.

**List of Exhibits:**

- Exhibit A: Special Permit and Variance Application; received on April 4, 2016; prepared by Matthew Brassard of Nitsch Engineering, Inc.
- Exhibit B: Site Layout Plan; dated April 4, 2016 and revised on April 11, 2016; prepared by Nitsch Engineering.
- Exhibit C: Fire Department comments; received April 15, 2016.

**Other Business**

- 5. Communications
- 6. Approval of minutes from April 11, 2016

Upon a motion by Mr. Valeri, and seconded by Mr. Michajlow, the board voted 5-0 to approve the minutes from April 11, 2016.

- 7. Signing of Decisions from prior meetings

**Adjournment**

Upon a motion by Mr. Valeri and seconded by Mr. Loew the board voted 5-0 to adjourn at 7:11 pm.