

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

**May 23, 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  
John Kelly, Department of Inspectional Services

**Call to Order**

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

**New Business**

**1. 61 (aka 45) Fremont Street (ZB-2016-016)**

**Special Permit:** To allow a club, lodge, other private grounds (non-profit and profit) in a MG-2.0 (Manufacturing, General) Zoning District (Article IV, Section 2, Table 4.1., General Use #4)

**Petitioner:** Brian Arcolte

**Present Use:** Presently on the property is a warehouse.

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

**Petition Purpose:** The petitioner seeks to convert the existing warehouse into an office and private club.

**Public Hearing Deadline:** 5/27/16

Jacob Mungeon was present for the application and stated that the petitioner is seeking approval to operate a private club which has existed for 30 years within the city of Worcester.

Mr. Rolle stated that the petitioner seeks to operate a portion of the existing warehouse with a small parking area to the right of the building. Mr. Rolle asked the applicant to specify the hours of operation.

Mr. Mungeon stated that the hours will be from 7 pm to 9 pm and will be varied between those hours. Mr. Abramoff asked the petitioner to state how many hours they need to operate and Mr. Mungeon stated that the club would need 4 or 5 hours.

Mr. Michajlow asked how many members would be present at one time. Mr. Mungeon stated 12.

Mr. Valeri asked if there is a function, will the visitors be allowed to bring alcohol. Mr. Mungeon said yes. Mr. Kelly stated that the applicant should acquire special one day liquor licenses for any special events when alcohol is being sold. Michael Robadu, 81 Bancroft Street, Auburn MA, owner of the property, stated that the lease specifies that alcohol is not to be sold on the premise.

Mr. Abramoff opened the hearing to the public. No one was present to comment.

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 special permit, including the requested waiver to show abutters and abutters to abutters and with conditions of approval as listed by staff in the staff review memo, striking item #1 in the suggested conditions of approval relating to the hours of operation restrictions.

**List of Exhibits:**

- Exhibit A: Special Permit Application; received 3/28/16; prepared by Brian Arcolte.
- Exhibit B: Floor Plan; un-dated; preparer unknown.
- Exhibit C: Memorandum from the City of Worcester Fire Department to the Zoning Board of Appeals; dated 4/22/16.

**2. 22 & 24 Northboro Street (ZB-2016-018)**

**Variance (lot 4):** For relief of 5 ft. from the minimum required frontage dimensional requirement for a structure in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2).

**Variance (lot 5):** For relief of 5 ft. from the minimum required frontage dimensional requirement for a structure in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2).

**Petitioner:** Richard Black

**Present Use:** Presently on the property is a two-family detached dwelling.

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

**Petition Purpose:** The petitioner seeks to convert the existing structure into single-family detached dwelling on lot 5 and construct a single-family detached dwelling on lot 4 with associated grading and site work.

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

**Constructive Grant Deadline:** 7/21/16

Zac Couture from HS&T Group presented the application and stated that approximately 83% of nearby properties are not in compliance with frontage requirements. The proposal is consistent with the rest of the neighborhood.

Ms. Tatasciore asked the applicant to clarify the labeling of Lots 4 and 5, regarding existing driveway, curb cuts and retaining existing driveway and easement and removal of street side tree. Mr. Couture stated that the original plan recorded when the lots were split were referenced as lots 4 and 5. Currently there is a large driveway and the proposal is that the driveway be removed to provide more green space, however this would increase curb cuts to 2. Mr. Couture stated the mature street tree would be removed and replaced with 2 new trees.

Mr. Abramoff opened the hearing to public comment.

Henry Martin of 25 Northboro Street gave a history of the applications regarding the petitioner's subject address.

Mr. Martin asked what the board's criteria for conversion to a single family are. Mr. Kelly stated that this is the reason the petitioner is in front of the board, to request relief from that criteria.

Mr. Martin stated that the new plans show a driveway on the side of 24 Northboro Street and that Worcester has lost enough trees. Mr. Rolle stated that the applicant would need approval from DPW to remove a tree from the public Right of Way and for the new curb cut. If DPW does not grant the necessary approvals, then the applicant would have to return to amend their application.

Joe Camera, 20 Northboro Street, stated that there would have to be a posted hearing for the removal of the tree. Mr. Camera also asked for clarification regarding the process for transitioning uses on the lot from a 2 family to a 1 family. Mr. Abramoff stated that the Special Permit would be contingent upon the change in use and an occupancy permit would only be granted upon approval of the 2 structures. Mr. Rolle stated that it is under the board's purview to have a condition of the approval that requires the two-family to become a one family.

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

Mr. Abramoff asked the petitioner to explain how the second family will be converted to a single family. Mr. Couture stated that it would be interior renovation. Kitchens will be removed and a building permit will be obtained.

Upon a motion by Mr. Michajlow, and seconded by Mr. Valeri, the board voted 5-0 to approve the Variances with conditions of approval as noted in the staff review memo, with additional condition that the existing two-family residence must be converted to a single family and applicant must submit proof of conversion prior to receiving an occupancy permit and with a friendly amendment to require the new trees be a minimum of 3 inch caliper, and friendly amendment to require a building permit must be obtained to convert the 2-family to a 1-family home and that these requirements only pertain to the existing house lot and not the proposed; and to approve the requested waiver to label abutters and abutters to abutters within 300 feet of the property.

#### **List of Exhibits:**

- Exhibit A: Variance Application; received April 12, 2016; prepared by Richard Black.
- Exhibit B: Variance Plan; dated April 11, 2016; preparer by HS&T, Inc.

**3. 14 Coburn Avenue Street (ZB-2016-019)**

**Lot 1**

**Variance:** For relief of 154 SF the minimum required lot area dimensional requirement for a residential structure in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2).

**Variance:** For relief of 5 ft. from the minimum required frontage dimensional requirement for a residential structure in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2).

**Variance:** For relief of 3 ft. from the maximum required height dimensional requirement for a residential structure in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2).

**Lot 2**

**Variance:** For relief of 154 ft. from the minimum required lot area dimensional requirement for a residential structure in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2).

**Variance:** For relief of 5 ft. from the minimum required frontage dimensional requirement for a residential structure in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2).

**Variance:** For relief of 3 ft. from the maximum required height dimensional requirement for a residential structure in a RL-7 (Residence, Limited) zone (Article IV, Section 4, Table 4.2).

**Petitioner:** Alco Real Estate Co., Inc.

**Present Use:** Presently on the property is a commercial warehouse.

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

**Petition Purpose:** The petitioner seeks to demolish the existing structure and construct a single-family semi-detached.

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

**Constructive Grant Deadline:** 7/21/16

Attorney Wayne LeBlanc presented the application and stated that the property has a pre-existing non-conforming structure. The structure is a warehouse use. The proposal is to construct a single-family semi-detached structure with a zero lot line. Attorney LeBlanc stated that the height of the structure will be 38 feet with 2 habitable stories and a garage on the bottom floor. Attorney LeBlanc stated that the petition is in conformance with the existing neighborhood as opposed to the existing warehouse.

Attorney LeBlanc stated many of the homes are setback off the street and the applicant is willing to use the front yard alignment provision to bring the structure to within a 25 foot setback rather than the proposed 40 feet. In order to make the structure at a 12 foot front setback, then motor vehicles would not be able to park properly. Mr. Rolle stated that 30 feet is better than the suggested 25 feet as this would allow a 9x18 space in front of the one-car garage in front of both the dwelling units.

Mr. Rolle stated that the petitioner has agreed to provide 3 foot central landscaped strip separating the two driveways and 3 inch caliper shade trees. The petitioner has confirmed that the attic is not to be habitable space and that 3 foot height variance is required, not a 5 foot.

Mr. Abramoff opened the hearing to public comment. There was no one in the public to comment on the item.

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. Valeri, the board voted 5-0 to approve the requested Variances with conditions as noted in the staff review memo with additional conditions that the front yard setback be reduced to 30 feet and 3 foot strip of green space be maintained down the center of the driveway and that the height variance be reduced from 5 feet to 3 feet and to show the location of any proposed decks on the plan; and acceptance and approval of the requested waiver to label abutters and abutters to abutters within 300 feet of the property.

**List of Exhibits:**

Exhibit A: Variance Application; received April 12, 2016; prepared by Alco real Estate, Inc.

Exhibit B: Plan for Variance; dated March 16, 2016; prepared by B&R Survey, Inc.

Exhibit C: Rendering with elevations and floor plans; received April 27, 2016; preparer unknown.

**4. 9 & 37 Piedmont Street (ZB-2016-020)**

**Variance:** For relief of 9.4 feet from the minimum required front yard setback dimensional requirement for a residential structure in a RG-5 (Residence General), BG-3.0 (Business, General) zone (Article IV, Section 4, Table 4.2).

**Petitioner:** Iglesia Evangelica de Worcester

**Present Use:** Presently on the property is an existing religious assembly use building.

**Zone Designation:** RG-5 (Residence, General) and partially within the BG-3.0 (Business, General) zone and CCOD-E (Commercial Corridor Overlay District – Elsewhere) overlay district.

**Petition Purpose:** The petitioner seeks to renovate the existing structure and construct a ~4,625 SF addition with associated grading and site work.

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

**Constructive Grant Deadline:** 7/21/16

Attorney Wayne LeBlanc presented the application and stated that the church has been growing and expanding its congregation. The only way the church can expand is by converting the existing storage building. There is area on the westerly and easterly sides and by addition onto the easterly side. A Variance is required for the addition which would project into the front-yard setback.

Attorney LeBlanc said that by adding the building addition to the rear would interrupt flow of parking lot traffic.

Ms. Tatasciore stated that about 35% of properties nearby do not comply with front yard setbacks.

Attorney LeBlanc stated that the intention is to provide signage and have met and discussed access to the premises and a third point of egress has been added.

Pastor William Almeda stated that there are always employees out directing traffic during events and services.

Mr. Abramoff opened the hearing to public comment.

Jo Hart stated that the hillside on the property was demolished and in her opinion the hill should be restored.

Attorney LeBlanc stated that the owner had previously received parking approval which was spurred from a cease and desist regarding the regrading of the hill.

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. Valeri, the board voted 5-0 to approve the requested variance with conditions of approval as noted in the staff review memo; and also to approve the requested waiver to label abutters and abutters to abutters within 300 of the property.

**List of Exhibits:**

Exhibit A: Variance Application; received April 12, 2016; prepared by Attorney Wayne LeBlanc.

Exhibit B: Variance Plan; dated 4/8/16; prepared by Tetra Tech.

Exhibit C: Memorandum from the City of Worcester Fire Department to the Zoning Board of Appeals; dated 4/18/16.

**5. 267 Shrewsbury Street (ZB-2016-021)**

**Special Permit:** To allow a Clinic in a MG-2.0 (Manufacturing, General) zone (Article IV, Table 4.1, General Use #3).

**Special Permit:** To modify parking, loading requirements, dimensional requirements, layout or the number of required parking spaces (Article IV, Section 7) – 1 loading space.

**Petitioner:** Genesis KC Development, LLC

**Present Use:** Presently on the property is a vacant structure.

**Zone Designation:** MG-2.0 (Manufacturing, General) , CCOD-S (Commercial Corridor Overlay District – Shrewsbury Street), and USOD (Union Station Sign Overlay District) districts.

**Petition Purpose:** The petitioner seeks to renovate the existing structure for a dialysis clinic and for relief from 1 loading space with associated grading and site work.

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

Mr. Loew and Mr. Haddon recused themselves from the hearing. Seated to vote was Mr. Dillon.

Attorney Brian Beaton presented the application and stated that DaVita is not proposing any exterior work aside from new windows and entry ways. The clinic will consist of 1 main room, the treatment room, with 15 chairs and 1 additional chair in a supplemental office, additionally a couple other offices for diet,

social, and nutritional counseling. There will be approximately 18 patients at any 1 time. There will be only 1 delivery per day, which will not include loading of pallets or anything of that nature typically seen in a manufacturing zone. The petitioner has proposed an infiltration unit for stormwater, and discharge rates will reduce as a result.

Attorney Beaton stated that providing a fence on the northern property line, that trees be planted in the parking area, that exterior lighting not spillover past the site, and that the proposed sign be moved back 5 feet are all agreeable conditions of approval.

Ms. Tatasciore asked the petitioner to address snow storage. Attorney Beaton stated that snow will be removed from the site.

Mr. Abramoff opened the hearing to public comment.

Vincent Pignataro, 277 Shrewsbury Street, stated concerns over agreements with the previous contractor who had promised to do work. Attorney Beaton stated that the petitioner is agreeable to remove the trees as stated by Mr. Pignataro which interfere with utilities attached to Mr. Pignataro's building provided that the trees are on the property subject to this petition.

Mr. Piganataro asked for a maintenance-free fence rather than a wood fence. Attorney Beaton is agreeable to a 6 foot vinyl fence.

Donald Morse, 1 Envelope Terrace, stated concerns over the amount of parking. Also, that shuttle vans may be idling in the parking lot. Lastly, that the hours are too long to be so close to residential uses.

Attorney Beaton stated that the petitioner is complying with the ordinance in regards to parking. Also, not all patients drive themselves, only about a third drive themselves to their appointments and that the maximum is 18 people at any one time.

A representative from DaVita, present to speak stated that vans are not typically used for this use and that idling should not be an issue. It is a 4 hour treatment 3 days a week. Regarding hours, these are the hours necessary to conduct business. Patients and staff would be leaving at 9:30 at a maximum 18 people total as well as in the morning. The patients are scheduled in 4 hours shifts, with peak times of mid-morning and about 5-5:30 pm.

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 Special Permits with conditions of approval as noted in the staff review memo and additional conditions that snow much be removed from the site as needed and that trees located along the northern edge of the parking lot where is abuts residential uses be removed and an amendment to condition 1.j. to include a 6-foot high vinyl fence and also to approve the requested waiver to label abutters and abutters to abutters within 300 of the property.

#### **List of Exhibits:**

- Exhibit A: Special Permit Application; received April 12, 2016; prepared by Arthur Richey.
- Exhibit B: Site Plan; dated April 8, 2016; prepared by In Site Engineering Services, LLC.
- Exhibit C: Building Rendering & Floor Plan; undated; prepared by NEMD Architects, Inc.

**6. 120 Indian Hill Road (ZB-2016-023)**

**Variance:** For relief of 3.3 feet from the minimum required rear yard setback dimensional requirement for a residential structure in a RS-7 (Residence Single-Family) zone (Article IV, Section 4, Table 4.2).

**Petitioner:** Kenneth O'Brien

**Present Use:** Presently on the property is single-family detached dwelling.

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

**Petition Purpose:** The petitioner seeks relief for a constructed deck that projects into the rear yard setback.

**Public Hearing Deadline:** 6/29/16

**Constructive Grant Deadline – Variance:** 8/03/16

Applicant Kenneth O'Brien stated that he is built a split level home and the original location of the deck was changed to the opposite end of the home and it was revealed by a survey that the deck was located within the rear yard setback. Mr. O'Brien stated that the request is for 4 feet of relief, not the noted 2.8 feet. That the second band joist and the overhang of the deck would add 4 inches totaling a total relief of 3 feet 3 inches.

Mr. O'Brien requested waiver of the requirement to label abutters and abutters to abutters within 300 feet of the property.

Mr. Michajlow asked if there was a Cease and Desist ordered. Mr. O'Brien stated that there was not.

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 Variance for 3 feet and 3 inches from the rear setback requirements with conditions of approval as noted in the staff review memo and also to approve the requested waiver to label abutters and abutters to abutters within 300 of the property.

**List of Exhibits:**

Exhibit A: Variance Application; received April 25, 2016; prepared by Kenneth O'Brien.

Exhibit B: Variance Plan; dated 4/20/16; prepared by Sadowski Engineering.

**Other Business**

7. Communications

8. Signing of Decisions from prior meetings

**Adjournment**

Upon a Motion by Mr. Valeri, and seconded by Mr. Michajlow, the board voted 5-0 to adjourn the meeting at 7:24 pm.