

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

**March 5, 2018**

**WORCESTER CITY HALL, 455 MAIN STREET, ESTHER HOWLAND CHAMBERS  
CHAMBER**

**Zoning Board Members Present:** Vadim Michajlow, Chair  
Joseph Wanat, Vice-Chair  
Andrew Freilich  
Robert Haddon, Alternate Member  
Russell Karlstad, Alternate Member

**Staff Present:** Stephen S. Rolle, Division of Planning & Regulatory Services  
Michael Antonellis, Division of Planning & Regulatory Services  
David Horne, Department of Inspectional Services

**Requests for Continuances, Extensions of Time, Postponements, Withdrawals**

**1. 37 Fruit Street & 59 William Street (ZB-2018-003)**

**Special Permit:** To allow a multi-family residence in an RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #5)

**Special Permit:** To allow a lodging house in an BO-1.0 Zone (Article IV, Section 2, Table 4.1, Residential Use #8)

**Special Permit:** To modify parking, loading requirements, dimensional requirements, layout, and/or the number of required spaces and landscaping requirements (Article IV, Section 7)

**Special Permit:** To allow the extension, alteration, or change to a privileged non-conforming structure/use (Article XVI, Section 4)

**Variance:** For relief from the minimum parking requirements (Article IV, Section 7, Table 4.4)

**Variance:** For relief from the minimum frontage dimensional requirements (Article IV, Section 4, Table 4.2)

**Variance:** For relief from the minimum front-yard setback dimensional requirements (Article IV, Section 4, Table 4.2)

**Variance:** For relief from the minimum side-yard setback dimensional requirements (Article IV, Section 4, Table 4.2)

**Variance:** For relief from the minimum rear-yard setback dimensional requirements (Article IV, Section 4, Table 4.2)

**Variance:** For relief from the minimum exterior side-yard setback dimensional requirements (Article IV, Section 4, Table 4.2)

**Variance:** For relief from the minimum lot area dimensional requirements (Article IV, Section 4, Table 4.2)

**Petitioner:** Hampton Properties, LLC

**Present Use:** Presently on the premises at 37 Fruit Street & 59 William Street are two residential/professional office structures.

**Zone Designation:** 37 Fruit Street - BO-1.0 (Business, Office) zoning district & 59 William Street - RL-7 (Residence, Limited) zoning district

**Petition Purpose:** The applicant seeks to convert the existing structure at 37 Fruit Street into a lodging house with a total of 12 dwelling units along with office space and to convert the existing structure at 59 William Street into a multi-family low-rise dwelling, with a total of 6 dwelling units, along with related exterior changes for egress, and to re-configure and expand the parking areas to be used in association therewith, along with related site work.

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to continue the requests for the Special Permits and Variance Requests to the March 26, 2018 Zoning Board of Appeals meeting and to extend the public hearing deadline until April 3, 2018.

**2. Lot 2 – 36 Mountain Street West (ZB-2017-054)**

**Variance:** For relief from the minimum frontage dimensional requirement in a BL-1.0 Zone (Article IV, Section 4, Table 4.2)

**Petitioner:** Lorne Johnson

**Present Use:** Presently on the premises is a partially paved lot.

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

**Petition Purpose:** The applicant seeks to construct a two-family detached dwelling along with related site work.

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to allow for Leave to Withdraw without Prejudice for the Variance request.

**3. 384 Southwest Cutoff (ZB-2017-065)**

**Special Permit:** To allow filling and/or excavating of earth (Article IV, Section 5)

**Petitioner:** Joseph F. Shay, Jr.

**Present Use:** Presently on the premises is a vacant lot with an existing driveway and stormwater features servicing the abutting property, at 330 Southwest Cutoff.

**Zone Designation:** ML-0.5 (Manufacturing, Limited) zoning district

**Petition Purpose:** The applicant seeks to conduct granite quarrying operations at the site, along with related grading, drainage, and site work.

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to postpone the Special Permit application to the April 23, 2018 Zoning Board of Appeals meeting and to extend the public hearing deadline until April 24, 2018.

**4. 118 Commonwealth Avenue (ZB-2017-067)**

**Special Permit:** To allow single-family attached dwellings in an RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #12)

**Special Permit:** To allow the extension, alteration, or change to a privileged non-conforming structure (Article XVI, Section 4)

**Petitioner:** Goldstar Builders, Inc.

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

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

**Petition Purpose:** The applicant seeks to construct a two dwelling unit addition to the existing structure, to be used as a single-family attached dwelling (total of three units), along with associated site work.

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to postpone the Special Permit application to the March 26, 2018 Zoning Board of Appeals meeting and to extend the constructive grant deadline until April 24, 2018.

**5. 329 (aka Lot 1 & 2) June Street (ZB-2018-017)**

Lot 2 - Existing

**Variance:** For relief from the frontage dimensional requirement in an RS-7 Zone (Article IV, Section 4, Table 4.2)

**Variance:** For relief from the minimum dimensional requirement for an accessory structure in a residential zoning district (Article IV, Section 8)

**Petitioner:** Lawrence Hammond

**Present Use:** Presently on Lot 2 is a two-family detached dwelling with associated site improvements and Lot 1 is presently vacant.

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

**Petition Purpose:** The applicant seeks to divide the property into two lots and construct a new single-family detached dwelling on Lot 1, along with associated site work.

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to postpone the Variance Request to the March 26, 2018 Zoning Board of Appeals meeting.

**Unfinished Business**

**6. 231 Lake Avenue (ZB-2018-007)**

**Special Permit:** To allow a Three-Family Dwelling in an RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #16)

**Petitioner:** One Waterfront, LLC

**Present Use:** Presently on the premises is a two-family detached dwelling and associated site improvements.

**Zone Designation:** RL-7 (Residence, General) zoning district

Petition Purpose: The applicant seeks to convert the existing structure to provide an additional dwelling unit (for a total of 3 dwelling units), to be used as a three-family dwelling, along with related site work.

James Soffan, the applicant, appeared upon behalf of the application and stated that he is seeking to convert the existing two-family residential structure to a three-family dwelling by providing an additional dwelling unit within.

Mr. Michajlow asked if the location could be used as a restaurant again. Mr. Horne stated no.

Abutter Catherine Britt expressed concern that in the future that location could be turned into an apartment building.

Staff and the Board reviewed what uses could be used at the site.

Abutter Paul Towler stated that he would like the location restricted to three apartments on the property.

Abutter Frank Denoia expressed concern that a precedent was being set if this application is approved.

Mr. Freilich reviewed what the applicant could put on the site that would be allowed by right.

Upon a motion by Mr. Freilich and seconded by Mr. Karlstad the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Wanat, and seconded by Mr. Karlstad, the Board voted 5-0 to approve the waiver to not label abutters to abutters on the plan.

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to approve the Special Permit with conditions outlined in staff's memo.

*List of Exhibits:*

- Exhibit A: Special Permit Application; received December 12, 2017; prepared by One Waterfront, LLC.
- Exhibit B: Floor Plans; dated December 7, 2017; preparer unknown.
- Exhibit C: Site Plan; provided by One Waterfront, LLC; prepared by B&R Survey; dated February 23, 2017.

**7. 9 Mount Pleasant Street (ZB-2018-009)**

- Variance:** For relief from the frontage dimensional requirement in an RG-5 Zone (Article IV, Section 4, Table 4.2)
- Petitioner:** Matthew 25 Inc.
- Present Use:** Presently on the premises is a vacant partially paved lot.
- Zone Designation:** RG-5 (Residence, General) zoning district
- Petition Purpose:** The applicant seeks to construct to construct 2 two-family detached dwellings (for a total of 4 units), along with associated site work.

Adam Colbert along with a Chris Burke from Matthew 25, Inc. appeared upon behalf of the application. Mr. Colbert stated that the applicant seeks to construct two 2-family detached dwellings (for a total of 4 units).

Mr. Colbert reviewed that trash would be curbside pickup and how snow removal would be handled. He stated that if snow was over certain amount it be trucked off site. Mr. Colbert provided letters of support for the proposal.

Mr. Colbert discussed with the Board and staff an easement for the abutting property.

Abutter Tracy Snow stated that her only problem is how close this proposal would come to her home.

Mr. Freilich asked if proposal was for four units. Mr. Colbert stated yes.

Mr. Freilich stated that he is not thrilled with the design as he does not like sideway buildings.

The Board discussed with the applicant what other design could be used for the site.

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

Upon a motion by Mr. Wanat, and seconded by Mr. Haddon, the Board voted 5-0 to approve the waiver to not label abutters to abutters on the plan.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to approve the Variance for 52.58 feet of frontage with conditions outlined in staff's memo.

*List of Exhibits:*

- Exhibit A: Special Permit Application; received December 18, 2017; prepared by Matthew 25, Inc.
- Exhibit B: Plan of Land; dated December 6, 2017 & revised February 21, 2018; prepared by Jarvis Land Survey, Inc.
- Exhibit C: Renderings; undated; preparer unknown.
- Exhibit D: Letter of support; dated March 2, 2018; submitted by WamsWorks.org.

**8. 89 Kenberma Road (ZB-2018-014)**

- Special Permit:** For relief of the dimensional standards for a residential conversion (Article IV, Section 9)
- Variance:** For relief from the parking requirements for a two-family dwelling (Article IV, Section 4, Table 4.4)
- Petitioner:** 28 Kitchen Cabinet, LLC
- Present Use:** Presently on the premises is a single-family detached dwelling and associated site improvements.
- Zone Designation:** RL-7 (Residence, Limited) zoning district
- Petition Purpose:** The applicant seeks to construct to convert the structure into a two-family detached dwelling, along with associated site work.

Attorney Don O'Neil appeared upon behalf of the applicant, 28 Kitchen Cabinet LLC, along with representatives from 28 Kitchen Cabinet LLC.

Attorney O'Neil stated that the applicant seeks to convert the structure into a two-family detached dwelling and submitted photos of exterior/interior photos of the building which shows that the premises

was used as a two family. He reviewed the past history of deeds for the property and stated that based on the history that property has been used as a two family so would not be fair to the applicant not to continue as a two family.

John Mahassel presented to the board a listing that shows property as single family. Mr. Mahassel stated that he was previous owner and he tried to convert to a two family but could not afford as the property does not have adequate frontage.

Abutters John & Diana Lacaire expressed concern that this would be rental property and that people would park in front of their house.

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

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to approve the waiver request to not show abutters to abutters on the plan.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to approve the Special Permit for residential conversion and the Variance for 2 parking spaces with conditions outlined in staff's memo.

*List of Exhibits:*

- Exhibit A: Variance Application; received January 9, 2018; prepared by Attorney Donald J. O'Neil.
- Exhibit B: Variance Plan; dated December 28, 2017; preparer by B & R Survey, Inc.
- Exhibit C: Photos of the interior; submitted by applicant.

**New Business**

**9. 638 Chandler Street (ZB-2018-001)**

- Special Permit:** To allow a change of a privileged non-conforming use to a use of a similar nature (Article XVI, Section 4)
- Petitioner:** High Noon, LLC
- Present Use:** Presently on the premises are two commercial structures, used for a mix of business purposes including a food service use with the consumption/sales of alcohol, along with associated site improvements and surface parking.
- Zone Designation:** RS-7 (Residence, Single Family) & BL-1.0 (Business, Limited) zoning districts
- Petition Purpose:** The applicant seeks to convert the existing food service use into a use of a similar nature and to amend the hours of service.

Attorney Mark Borenstein appeared upon behalf of the applicant, High Noon LLC and stated that the applicant seeks to convert the existing food service use into a use of a similar nature and to amend the hours of service. Attorney Borenstein stated that he reviewed staff's memo and would like the condition regarding seating be conditioned to a condition that applicant be limited to number listed on occupancy permit.

Attorney Borenstein asked for clarification about the condition in staff's memo regarding outdoor seating. Mr. Rolle stated that the condition was to prevent outdoor dining on the side adjacent to the residential area.

Mr. Michajlow asked if there was security on site. Attorney Borenstein stated that all the tenants through their common fees pay for a security person for the plaza.

Mr. Freilich asked if the operation is open to 2:00 a.m. would the security guard still be there. Attorney Borenstein stated that if they open to 2:00 a.m. they would try and enter into an agreement to have a security guard there to 10:00 p.m. and then staff from the licensed premises would provide security after 10:00 p.m.

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

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to approve the waiver request to not label abutters to abutters on the plan and from the provision of providing a to-scale plan of land.

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to approve the Special Permit with conditions outlined in staff's memo with change to condition #1 to eliminate the bar seating capacity and to remove condition relative to hours and that would be decided by the License Commission.

*List of Exhibits:*

- Exhibit A: Special Permit Application; received January 31, 2018; prepared by Lawrence J. Noon.
- Exhibit B: Seating Plan; received January 31, 2018, within application packet.
- Exhibit C: Special Permit – Findings of Fact and Decision; signed September 12, 2012.

**10. 393 (aka Lot 1 & 2) Hamilton Street (ZB-2018-015)**

393 Hamilton Street (aka Lot 1) - Existing

- Variance:** For relief from the minimum lot area dimensional requirement in an RL-7 Zone (Article IV, Section 4, Table 4.2)
- Variance:** For relief from the front-yard setback dimensional requirement in an RL-7 Zone (Article IV, Section 4, Table 4.2)
- Variance:** For relief from the minimum exterior side-yard setback dimensional requirement in an RL-7 Zone (Article IV, Section 4, Table 4.2)
- Special Permit:** To allow an extension, alteration, or change of a privileged non-conforming structure/use (Article XVI, Section 4)

Lot 2 Brookdale Street – Proposed

- Variance:** For relief from the minimum lot area dimensional requirement in an RL-7 Zone (Article IV, Section 4, Table 4.2)
- Petitioner:** Thomas Ayers
- Present Use:** Presently on the premises at 393 Hamilton Street is a three-family dwelling and associated improvements and Lot 2 Brookdale Street is presently vacant.

Zone Designation: RL-7 (Residence, Limited) zoning district

Petition Purpose: The applicant seeks to divide the property into two lots and construct a new single-family detached dwelling on Lot 2 Brookdale Street, along with associated site work

David Sadowski appeared upon behalf of the applicant, Thomas Ayers and stated that the applicant seeks to divide the property into two lots and construct a new single-family detached dwelling on Lot 2 Brookdale Street and reviewed the proposed site.

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

Upon a motion by Mr. Wanat, and seconded by Mr. Freilich, the Board voted 5-0 to approve the waiver to not label abutters to abutters on the plan.

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to approve the Variances and Special Permit requested with conditions outlined in staff's memo.

*List of Exhibits:*

Exhibit A: Special Permit & Variance Application; received January 30, 2018; prepared by Tom Ayers.

Exhibit B: Special Permit Site Plan; received January 30, 2018; dated January 28, 2017; prepared by Sadowski Engineering.

Exhibit C: Rendering with elevations and floorplans; dated January 29, 2018; preparer unknown.

**11. 5 (aka Lot 1 & 2) Modoc Street (ZB-2018-016)**

Lot 2 - Proposed

**Variance:** For relief from the frontage dimensional requirement in an RL-7 Zone (Article IV, Section 4, Table 4.2)

**Petitioner:** Pakor Rejaey

**Present Use:** Presently on Lot 1 is a single-family detached dwelling with associated site improvements and Lot 2 is presently vacant.

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

**Petition Purpose:** The applicant seeks to divide the property into two lots and construct a new single-family detached dwelling on Lot 2, along with associated site work.

Attorney Don O'Neil appeared upon behalf of the applicant, Pakor Rejaey and stated that the applicant seeks to divide the property into two lots and construct a new single-family detached dwelling on Lot 2. Attorney O'Neil stated that staff had requested renderings and he provided them to the Board.

Abutter Christian Escobar expressed concern about the oddity of the lot. The Board showed the renderings provided by Attorney O'Neil.

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

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to approve the waiver requested to not label abutters to abutters on the plan.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to approve the Variance for 30 feet from the frontage dimensional requirement with conditions outlined in staff's memo.

*List of Exhibits:*

- Exhibit A: Variance Application; received January 30, 2018; prepared by Attorney Donald O'Neil.
- Exhibit B: Plan for Variance; dated December 7, 2017; prepared by B&R Survey, Inc.
- Exhibit C: Rendering; undated; prepared by unknown.

**12. 20 Alvarado Avenue (ZB-2018-018)**

**Special Permit:** To allow a single-family attached dwelling in an RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #12)

**Petitioner:** Triple J. Monteiro, LLC

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

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

**Petition Purpose:** The applicant seeks to construct a single-family attached dwelling (with a total of 4 units), along with associated site work.

Pat Burke from H.S.&T. Group appeared upon behalf of the applicant, Triple J. Monterio, LLC and stated that the applicant seeks to construct a single-family attached dwelling (with a total of 4 units) and reviewed the proposal.

Abutter Gary Marvin stated that he has reservations about four units being put in.

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

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to approve the waiver requested to not label abutters to abutters on the plan.

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board voted 5-0 to approve the Special Permit with conditions outlined in staff's memo.

*List of Exhibits:*

- Exhibit A: Special Permit Application; received January 30, 2018; prepared by David C. Monteiro.
- Exhibit B: Special Permit Site Plan; dated January 30, 2018 and revised on February 26, 2018; prepared by HS&T Group, Inc.
- Exhibit C: Fire Department Comments; dated February 5, 2018.

## **Other Business**

**13. Communications**

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

## **Adjournment**

Upon a motion the Board voted 5-0 to adjourn the meeting at 7:57 p.m.