

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

June 10, 2019

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

Zoning Board Members Present: Joseph Wanat, Chair
Andrew Freilich, Vice-Chair
Jordan Berg Powers
George Cortes
Robert Haddon, Alternate Member
Russell Karlstad, Alternate Member

Absent: -

Staff Present: Stephen R. Rolle, Division of Planning & Regulatory Services
Michelle M. Smith, Division of Planning & Regulatory Services
David Horne, Department of Inspectional Services

Approval of the Minutes

January 14, 2019; February 25, 2019; March 18, 2019; April 8, 2019; April 29, 2019, May 20, 2019 – Held to July 1, 2019.

Requests for Continuances, Extensions, Postponements & Withdrawals

1. 33 Dominion Road (MBL 46-006-00180) (ZB-2019-017)

Special Permit: To allow a multi-family low-rise structure in an RL-7 zone (Article IV, Section 2, Table 4.1, Residential Use #11)
Petitioner: Silver Tree Realty, LLC
Present Use: A vacant lot
Zone Designation: RL-7 (Residence, Limited)
Petition Purpose: To construct a multi-family low-rise dwelling with 7 dwelling units and associated parking.
Public Hearing Opened: 4/29/19; Constructive Grant Deadline: TBD

Upon a motion by Mr. Freilich and seconded by Mr. Berg Powers, the Board voted 5-0 to postpone the Special Permit application to the July 1, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to July 23, 2019.

New Business

2. 53 Housatonic Street (MBL 36-002-00149) (ZB-2019-009)

Special Permit or Variance: To exceed the maximum size (footprint or SF) limitation for a detached garage (Article IV, Section 8)
Variance: For relief from the maximum height dimensional requirement for an accessory structure in a residential district (Article IV, Section 8)
Petitioner: Mark Boisseau
Present Use: A single-family dwelling with a detached garage
Zone Designation: RS-7 (Residence, Single-Family) zoning district and within the Water Resource Protection Overlay District (WR(GP-3))
Petition Purpose: To demolish the existing garage and construct a 6 car detached garage.
Public Hearing Deadline: 6/10/19; Constructive Grant Deadline: 7/2/19

Steve Mirick appeared upon behalf of the applicant, Mark Boisseau. The applicant seeks to demolish the existing garage and construct a 6-car detached garage and Mr. Mirick gave an overview of the project.

Upon a motion by Mr. Berg Powers and seconded by Mr. Haddon, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Berg Powers and seconded by Mr. Haddon, the Board voted 5-0 to accept the Withdrawal of the Variance for relief of 400 SF, and Variance for 4.5 FT for height.

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers the Board voted 4-1 (Mr. Cortes voting against) to approve the Special Permit with conditions outlined in the staff memo, with the additional conditions that the storage of cars is for personal use, not commercial use; carriage style lighting, architectural features on doors (paneling, decorative hinges), recharge roof runoff, garage not to be habitable. The Board also voted 4-0 to approve a waiver of the application requirement to label abutters and abutters thereto within 300 feet

List of Exhibits

- Exhibit A: Variance Application; received January 29, 2019; prepared by Mirick & Daniels, Inc.
- Exhibit B: Site Plan – New Garage; dated September 27, 2018; revised May 14, 2019, prepared by Graves Engineering, Inc.
- Exhibit C: Special Permit Application; received March 15, 2019; prepared by Mirick & Daniels, Inc.

3. 49 Arlington Street (MBL 05-037-00031) (ZB-2019-016)

- Variance: For relief from the minimum lot area dimensional requirement in an RG-5 zone (Article IV, Section 4, Table 4.2)
- Variance: For relief from the minimum frontage dimensional requirement in an RG-5 zone (Article IV, Section 4, Table 4.2)
- Variance: For relief from the minimum side-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)
- Variance: For relief from the minimum front-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)
- Petitioner: Fortin Investments, LLC
- Present Use: A vacant lot
- Zone Designation: RG-5 (Residence, General) zoning district
- Petition Purpose: To construct a three-family dwelling along with associated retaining walls and parking.
- Public Hearing Deadline: 6/10/19; Constructive Grant Deadline: 7/2/19

James Vevone of Seder & Chandler and Javier Fortin of Fortin Investments, LLC appeared upon behalf of the application. The applicant seeks to construct a three-family detached dwelling, along with associated retaining walls and parking.

The Board and the applicant reviewed the proposal.

Upon a motion by Mr. Berg Powers and seconded by Mr. Haddon, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Haddon and seconded by Mr. Berg Powers, the Board voted 5-0 to accept the withdrawal of the Variance for the minimum lot area, and to approve the Variances for relief from the minimum frontage, front-yard, and side-yard dimensional requirements, with conditions of approval outlined in the staff memo, as well as the following additional condition:

1. The relief granted for the front-yard setback dimensional requirement shall be specific to the proposed stairs and related retaining walls as depicted on the plan.

The Board also voted to approve the following waivers requested by the applicant:

1. To not label abutters and abutters to abutters thereto within 300 feet on the plan.
2. That the property lines have been field verified.

List of Exhibits

- Exhibit A: Variance Application; received March 5, 2019; revised April 16, 2019; prepared by Fortin Investments, LLC.
- Exhibit B: Plan Showing Proposed Building; dated March 4, 2019; prepared by D. O'Brien Land Surveying.
- Exhibit C: Site Plan and Rendering; dated February 28, 2019; revised April 12, 2019; prepared by Boston Architects and Builders, Inc.

4. 3 Newton Avenue (MBL 11-013-00004) (ZB-2019-021)

3 (aka Lot 1) Newton Avenue (Existing):

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

Lot 2 Newton Avenue (Proposed):

- Variance:* For relief from the minimum frontage dimensional requirement (Article IV, Section 4, Table 4.2)
- Variance:* For relief from the minimum lot area dimensional requirement (Article IV, Section 4, Table 4.2)
- Variance:* For relief from the minimum side-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)
- Variance:* For relief from the minimum rear-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)

- Petitioner:** Guri Dura and Marjeta Skenderi
- Present Use:** Presently on the premises at 3 Newton Avenue (aka Lot 1) is an existing two-family dwelling and on proposed Lot 2 Newton Avenue is a detached garage
- Zone Designation:** RL-7 (Residence, Limited) zoning district
- Petition Purpose:** To convert the existing garage on Lot 2 into a single-family dwelling and to conduct related site work.
- Public Hearing Deadline:** 6/10/19; **Constructive Grant Deadline:** 7/4/19

Attorney Donald O'Neil appeared upon behalf of the applicants, Guir Dura and Marjeta Skenderi. The applicant seeks to convert the existing garage on Lot 2 into a single-family dwelling and to conduct related site work.

Mr. O'Neil reviewed the scope of work, noting that the application had been before the Board reviously stated that this application had been before the Board previously, but was withdrawn and they are now re-applying and reviewed the scope of the work.

The Board expressed concern that the parking spaces shown on the plan and they felt they did not look functional and told Mr. O'Neil they would like to see more information with regard to that.

Elizabeth Garmash expressed concern about the work being done and the parking for the location.

Upon a motion by Mr. Berg Powers and seconded by Mr. Haddon, the Board voted 5-0 to continue the Variance applications to the July 1, 2019 Zoning Board of Appeals meeting. Upon a motion by Mr. Berg Powers and seconded by Mr. Haddon, the Board voted 5-0 to continue the Variance applications to the July 1, 2019 Zoning Board of Appeals meeting.

List of Exhibits

- Exhibit A: Variance Application; received March 26, 2019; prepared by Attorney Donald J. O'Neil.

Exhibit B: Plan for Variance; dated October 22, 2018; prepared by B&R Survey.

Exhibit C: Rendering for 3 Newton Avenue Exterior Renovations; prepared by Joe Graham; dated 5/14/2019.

Board took a ten-minute recess

5. 31 Greendale Avenue (MBL 2-018-00006) (ZB-2019-026)

31 (aka Lot 30) Greendale Avenue (Existing):

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

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

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

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

Lot 29 Greendale Avenue (Proposed):

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

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

Petitioner: Yuliya J. Hirnyk

Present Use: At 31 Greendale Avenue (aka Lot 30) is an existing non-conforming single-family detached dwelling and an accessory structure; Lot 29 is vacant.

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

Petition Purpose: The applicant seeks to divide the lot into two and construct a two-family detached dwelling on Lot 29.

Public Hearing Deadline: 6/20/19; Constructive Grant Deadline: 7/25/19

Attorney Donald O'Neil appeared upon behalf of the applicant, Yuliya J. Hirnyk. The applicant seeks to divide the lot into two and construct a two-family detached dwelling on Lot 29 and Mr. O'Neil gave an overview of the proposal.

Attorney Wayne LeBlanc, representing the owners of 30 Greendale Avenue, stated that the requested Variances do not meet the requirements for approval.

Mike Dodos, abutter, spoke in opposition to the proposal.

Denise Denault, abutter, spoke in opposition to the proposal, claiming that it would affect property values.

Mike and Elaine Casey, abutters to the property, spoke in opposition to the proposal.

Eric Rich and Denise Rhyhan, abutters to the property, spoke in opposition to the proposal.

Yurlya Hirnkg, abutter, spoke in opposition to the proposal.

The Board asked if the possibility of a single-family dwelling had been discussed with the neighbors. Mr. O'Neil stated that he had spoken with neighbors, who seemed to be in opposition of anything being built on the lot, though he did have a rendering of a single-family dwelling on hand.

Staff suggested that the Board consider having the applicant amend the application to show the different proposal discussed at the meeting.

Attorney Donald O'Neil requested to continue the application.

Upon a motion by Mr. Freilich and seconded by Mr. Berg Powers, the Board voted 5-0 to continue the Variance applications to the July 1, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to July 23, 2019.

List of Exhibits:

- Exhibit A: Variance Application; received 4/16/19; prepared by Attorney Donald J. O’Neil.
- Exhibit B: Proposed Variance Plan; dated 3/21/19; received 5/7/19; prepared by Levesque Geomatics, Inc.
- Exhibit C: Rendering of Proposed Structure received 5/16/19; prepared by Igor’s Construction LLC.
- Exhibit D: Letter of concerns; from Richard & Janice Herman; received May 16, 2019.
- Exhibit E: Letter of concerns; from Karen Allard; received May 20, 2019.
- Exhibit F: Single-family Dwelling Rendering; received June 10, 2019.

The Board took a five-minute recess.

6. 73 & 75 Townsend Street (MBL 06-001-00018) (ZB-2019-027)

73 (aka Lot 1) Townsend Street:

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

75 (aka Lot 2) Townsend Street:

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

- Petitioner: Ermal Kroi
- Present Use: A non-conforming two-family detached dwelling.
- Zone Designation: BL-1.0 (Business, Limited) zoning district and within the Commercial Corridors Overlay District (CCOD-E)
- Petition Purpose: The applicant seeks to divide the property into two lots in order to convert the existing structure into a single-family semi-detached dwelling (duplex) and to conduct associated site work.
- Public Hearing Deadline: 7/6/19; Constructive Grant Deadline: 8/10/19

Ermal Kroi appeared upon behalf of the application. The applicant seeks to divide the property into two lots in order to convert the existing structure into a single-family semi-detached dwelling (duplex) and to conduct associated site work.

Mr. Kroi reviewed the history of the property and the proposal.

Upon a motion by Mr. Berg Powers and seconded by Mr. Freilich, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Haddon and seconded by Mr. Freilich, the Board voted 5-0 to approve the requested Variances with conditions outlined in the staff memo, with the following additional condition:

1. That relief granted for the side-yard setback shall be specific to the existing stair configuration along the interior side-yard lot line (i.e. along the proposed zero lot line).

List of Exhibits:

- Exhibit A: Variance Application; received 5/2/19; prepared by Ermal Kroi.
- Exhibit B: Plan for Variance; dated 4/3/19; prepared by B&R Survey, Inc.

7. 10 Huntington Avenue (MBL 13-020-00031) (ZB-2019-028)

Special Permit: To modify dimensional standards for a Residential Conversion (Article IV, Section 9)
Petitioner: Andrew Steele Turgeon
Present Use: A privileged non-conforming single-family detached dwelling.
Zone Designation: RL-7 (Residence, Limited) zoning district
Petition Purpose: The applicant seeks to convert the existing single-family detached dwelling into a two-family detached dwelling and to construct associated parking.
Public Hearing Deadline: 7/10/19; Constructive Grant Deadline: TBD

Andrew Turgeon appeared upon behalf of the applicant. The applicant seeks to convert the existing single-family detached dwelling into a two-family detached dwelling and to construct associated parking.

The applicant and the Board discussed the location of onsite parking.

Upon a motion by Mr. Berg Powers and seconded by Mr. Haddon, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Haddon and seconded by Mr. Freilich, the Board voted 5-0 to approve the requested Special Permit to modify dimensional standards for Residential Conversion, with conditions outlined in the staff memo, as well as the following additional condition:

- 1. The width of the driveway shall not be changed, but the length will double (to the east). The three proposed unpaved parking spaces to the east of the driveway shall be constructed using pervious pavers, in compliance with the specifications on file.

List of Exhibits:

- Exhibit A: Special Permit Application; received May 6, 2019; prepared by Andrew Steele Turgeon.
- Exhibit B: Fire Comments; dated May 28, 2019.

Other Business

8. Communications

9. Discussion of Board Policies and Procedures

Upon a motion by Mr. Wanat and seconded by Mr. Berg Powers, the Board voted 5-0 to advertise for a public hearing to remove the requirement for plan submission to label abutters and abutters to abutters within 300 feet on a plan

10. Signing of Decisions from prior meetings

Adjournment

Upon a motion by Mr. Berg Powers and seconded by Mr. Haddon, the Board voted 5-0 to adjourn the meeting at 9:32 PM.