



The City of
WORCESTER

Zoning Board of Appeals

Russell Karlstad, Chair
Jordan Berg Powers, Vice Chair
George Cortes
Anthony Dell'Aera
Eric Torkornoo
Nathan Sabo, Alternate
Shannon Campaniello, Alternate

**MINUTES OF THE PROCEEDINGS OF THE
ZONING BOARD OF APPEALS OF THE CITY OF WORCESTER
November 6, 2023**

Worcester City Hall – Esther Howland Chamber,
with remote participation options available via Webex online at:
<https://cityofworchester.webex.com/meet/zoningboardofappealswebex> and
call-in number 1-844-621-3956 (Access Code: 2630 362 4924).

Zoning Board Members Present: Russell Karlstad, Chair
 Jordan Berg Powers, Vice-Chair – *Participated Remotely*
 George Cortes
 Eric Torkornoo – *Participated Remotely*
 Anthony Dell'Aera – *Participated Remotely*
 Nathan Sabo – *Alternate*
 Shannon Campaniello – *Alternate*

Zoning Board Members Absent:

Staff Participating: Michelle Smith, *Division of Planning & Regulatory Services*
 Andreeana Brenner, *Division of Planning & Regulatory Services*
 David Horne, *Inspectional Services Department*

Call to Order:

Mr. Karlstad called the meeting to order at 5:47PM.

Requests for Continuances, Extensions, Postponements, and Withdrawals

- Item 1. 2 Vaughan Avenue (ZB-2022-074) Special Permit & Variance Application**
Request to Continue the Public Meeting to December 18, 2023
Extend the Constructive Grant Deadline to January 23, 2024
- Item 2: 114 Austin Street (ZB-2023-077) Special Permit & Variance Application**
Request to Postpone the Public Meeting to November 27, 2023
Extend the Constructive Grant Deadline to December 18, 2023

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to grant the postponements.

Old Business – Public Hearings

2. 309 Shrewsbury Street (ZB-2023-055) (MBL 16-029-00002)

Special Permit: To allow a pre-existing, nonconforming non-accessory freestanding static billboard sign to be converted to a digital display in the MG-2.0 zone (Article IV, Section 6.L.2.b. & Article IV, Table 4.3.3)

Special Permit: To allow an extension, alteration, or change of a privileged pre-existing nonconforming structure and/or use (Article XVI, Section 4)

Petitioner: Clear Channel LLC

Present Use: Presently on the premises is a three-bay automotive repair shop with a freestanding, two-sided, static billboard with associated site improvements

Zone Designation: MG-2.0 (Manufacturing, General) zoning district, CCOD-S (Commercial Corridors Overlay district – Shrewsbury Street Subarea), and the USOD (Union Station Sign Overlay District)

Petition Purpose: The petitioner seeks to convert the existing freestanding billboard to two-sided digital display.

Public Hearing Deadline: 11/6/2023 **Constructive Grant Deadline:** TBD

Mr. Jonathan Finkelstein, representative, gave an overview of the project stating that there's an existing billboard with two faces that they would like to convert to digital.

Mr. Karlstad asked if there are any elevations; Mr. Finkelstein confirmed.

Ms. Smith gave an overview stating there's an existing billboard and it was approved years ago by past Zoning Board members, and the current applicant would like to convert it to digital display.

Ms. Smith stated that the sign is located in the Union Station Overlay district which protects the visual of Union Station and prevents visual clutter.

Ms. Smith stated that the applicant is not proposing any physical changes in terms of height, only the conversion to a digital display.

Mr. Karlstad asked if any site work is involved. Mr. Mike Morella, project member, stated that no additional site work is needed, they will only be replacing the display and upper structure.

Mr. Sabo asked how many residents are within view of the billboard. Ms. Smith said the exact number is unknown, but it is within a residential area. Mr. Finkelstein stated that there are no residents on one side of the billboard, but the other side does have residents in view.

Mr. Morella stated that any existing residents are already in view of the existing billboard, and this won't change once it's digital. Mr. Finkelstein stated that the current sign already has external lighting.

Mr. Karlstad stated that digital will be different because it's color and asked if the brightness for the display could be modified. Mr. Morella stated that this is regulated by the state, and they must conform to those.

Mr. Karlstad asked the City to confirm if it was a state regulation. Ms. Smith stated that the memo is following the zoning ordinance and models after state regulations.

Mr. Karlstad asked if the applicant accepts the waivers; Mr. Finkelstein confirmed.

No public comment.

Board Discussion

Mr. Cortes asked if the billboard display, if digital, would blind drivers due to brightness. Mr. Morella stated no, and brightness would be regulated by the state and the lights would not stream down into traffic.

Mr. Cortes asked if specifically white light would be used; Mr. Morella said no.

Mr. Berg Powers stated that he is against the petition because he doesn't believe it's the appropriate place for a digital sign, they're a distraction, and bad for the environment.

Mr. Dell'Aera stated that he does not support the petition and that the change in illumination will have a negative impact.

Mr. Horne asked if approved, if the applicant will need a building permit for the structural aspect of it; Mr. Finkelstein confirmed.

Mr. Finkelstein asked if the two remote members are voting members; Mr. Karlstad confirmed.

Mr. Karlstad asked the applicant at this point they can either get a no vote or withdraw.

Mr. Finkelstein requested to withdraw the application without prejudice.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to grant the request to Leave to Withdraw without Prejudice.

4. 5 Alder Street (ZB-2023-079) (13-018-00011)

Special Permit: To allow an extension, alteration or change of a privileged pre-existing, nonconforming structure/use (Article XVI, Section 4).

Petitioner: Robert P. and Gayla M. McNally

Present Use: A nonconforming single-family detached dwelling

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

Petition Purpose: The applicant seeks to expand the nonconforming front porch and to conduct associated site improvements

Public Hearing Deadline: 11/26/2023 **Constructive Grant Deadline** TBD

Mr. Robert McNally, applicant, stated he is the owner of 5 Alder Street.

Mr. Bill Servant, contractor, gave an overview of the project stating that they want to tear down the existing porch and put in an open-air porch that is bigger, encroaches further towards the road, and is safer and more accessible for the applicant.

Mr. Karlstad asked if the applicant accepts the conditions & waivers. Mr. Servant said the conditions are reasonable and they accept the waivers.

Ms. Brenner gave an overview of the project stating that the proposed porch would encroach into the front-yard setback and that staff would like the applicant to restore areas where grass is damaged, and a tree to be planted in the front yard due to the property's proximity to Indian Lake.

No public comment.

Board Discussion

Mr. Cortes asked what they're expanding and what will be before the steps on the porch.

Mr. Servant stated that the current stairs in front will move to the side and will be wider than what's currently there.

Mr. McNally stated that moving the stairs to the side will increase the amount of space available for a future ramp.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to close the public hearing.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to approve the application with all waivers and conditions.

5. 103 Alvarado Avenue (ZB-2023-084) (MBL 17-020-38+40)

Special Permit:	To allow the extension, alteration or change of a privileged pre-existing, nonconforming structure (Article XVI, Section 4)		
Special Permit:	To allow a multifamily low-rise dwelling in an RL-7 zone (Article IV, Section 2, Table 4.1)		
Special Permit:	To modify parking, loading requirements, dimensional requirements, layout, and/or the number of required spaces and/or landscaping requirements (Article IV, Section 7, A, 2)		
Variance:	For relief from the minimum lot area requirement for a multifamily low-rise dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)		
Petitioner:	Rodrigo M. Salgado		
Present Use:	A nonconforming two-family detached dwelling with associated site improvements		
Zone Designation:	RL-7 (Residence, Limited) zoning district		
Petition Purpose:	The petitioner seeks to construct a ± 6,124 square foot addition to the existing structure in order to provide four (4) additional dwelling units, converting the structure to a multifamily dwelling with a total of six (6) dwelling units, to install a surface parking lot with ±11 parking spaces, and to conduct associated site improvements		
Public Hearing Deadline:	11/30/2023	Constructive Grant Deadline	01/04/2024

Mr. Mark Borenstein, representative, gave an overview of the project, stating that the applicant is proposing an addition to the current structure, which will increase the total units to 6 with associated site improvements.

Mr. Borenstein stated that the applicant conducted neighborhood outreach and concerns over privacy, plantings, and a multi-family use in the neighborhood were mentioned. He stated that there are other existing multi-family dwellings in the neighborhood.

Mr. Borenstein stated that they request the waivers and have comments on some of the staff's conditions.

Ms. Smith gave an overview of the project stating that staff would like to see a vegetative buffer on the property as well as shade trees, a sidewalk along the frontage, architectural features maintained, and screening for the dumpster. Mr. Karlstad asked if the applicant had any comments on the conditions.

Mr. Borenstein stated that the applicant accepts conditions 1A-1E and 1G but is concerned about 1F because there is limited side yard available for the instillation of the sidewalk, concerns over liability as it would be private, and there's a utility pole in the area that may need to be relocated.

Mr. Karlstad asked if the applicant agrees with the condition of trees on the East. Mr. Borenstein stated that the applicant accepts this but is concerned over the location of the EV conduits, as these would potentially be near the trees.

Mr. Karlstad stated that the conduit can go under the pavement. Mr. Borenstein stated that the concern is over the future instillation itself and not the conduit.

Mr. Karlstad asked about the fencing for the dumpster. Mr. Borenstein stated that the applicant accepts this condition and that there will likely be shrubs around the HVAC units.

Mr. Karlstad asked if condition G was acceptable; Mr. Borenstein confirmed.

Mr. Karlstad asked if this proposal falls under the inclusionary zoning act; Mr. Borenstein said no.

Public Comment

Mr. Mike Chasna, 90 Alvarado Avenue, stated that he brought a poster and asked if he could present it; Mr. Karlstad said yes.

Mr. Chasna stated that the pictures on the poster shows the trash process, parking in the area, and the buildable lot between 91 & 103 Alvarado. Mr. Chasna stated that there is an empty buildable lot in the area, there is already parking on Alvarado Avenue, others will keep seeking relief, and parking in the area creates roadblocks.

Mr. Karlstad asked if the applicant has control over the empty lot mentioned; Mr. Borenstein said no.

Ms. Marianne Wilder, 81 Alvarado Avenue, stated that she is concerned over the parking and wanted to know if only EV cars can park in the EV parking stations. Ms. Wilder asked if low-rise means up to 4 stories. Ms. Smith stated that a low-rise is 3 stories and a high-rise is 4 stories, but a basement is not considered a story.

Ms. Wilder stated that the proposed trees will block the stop sign in the area, there are children who walk to school in the area which means that the driveway would block the children's access and wants to know if the trash pickup hours will change and cause extra noise.

Ms. Dolores Squido, 98 Alvarado Avenue, stated that there is one dumpster in the front and one on the side, and were told by the owner that the one in front would be removed. Ms. Squido stated that the owner's wife brings her trash to the property, there are concerns over rodents due to trash, the noise at the property is very loud, and parking will become more limited for neighbors.

Mr. Frank Chesna, neighborhood resident, stated that he lives in the neighborhood for years and that residents received a letter from the water department stating that the pumping station for their neighborhood is maxed out. Mr. Chesna stated that the addition of multifamily homes in the neighborhood causes concerns due to this and that a representative of the water department indicated that the water at Mr. Chesna's house is not drinkable.

Mr. Chris Ram, 100 Alvarado Avenue, stated that the house is treated like a hotel with people moving in and out frequently, and nearby neighbors saw the owners throwing cabinets out the window. Mr. Ram stated that there are 8-10 cars parked outside the house and was told by the owner not to park on that side of the road so his tenants could park there. Mr. Ram stated that there are frequent parties and he's concerned parking will only get harder if the project is approved.

Mr. Mike Chesna, 90 Alvarado Avenue, stated that he heard Worcester will soon allow apartments to be in attics and said that the applicant could easily put another unit in the 3rd floor or the basement and that it would increase the number of units from 6 to 8. Mr. Chesna asked if there's a setback requirement for dumpsters and that the 100-unit apartment shown earlier by the representative is not in the neighborhood.

Board Comment

Mr. Cortes stated that he likes the idea of off-street parking and wants to know if the driveway is two-way or one-way. Mr. Borenstein stated that it is wide enough for 2 vehicles but less than the minimum requirement as outlined in the Zoning Ordinance because staff suggested this.

Mr. Karlstad asked if the house is a two-family or three-family and why there are 3 mailboxes. Mr. Borenstein said it's two-family and there were additional people living in the units which is why there are 3 mailboxes.

Mr. Karlstad stated that the Board will condition the project on a maximum of six residents.

Mr. Karlstad asked for the snow removal plan. Mr. Borenstein stated that there's a snow storage area on the plan and they will truck it offsite.

Mr. Karlstad stated site lines will be controlled by the city through the building permit and the hours of trash will have to remain since pickup does not occur before 7 AM.

Mr. Horne stated that DPW is in charge of trash pickup. Mr. Borenstein stated they have a commercial private service.

Mr. Karlstad asked if the Board can put limitations on when the services occur on the property; Mr. Borenstein said he is amenable.

Mr. Karlstad stated that any noise complaints should be directed to the police and filed with the building commissioner.

Mr. Karlstad asked if the existing tenants will be evicted when they do construction. Mr. Borenstein stated that the tenant who was loud on the premises no longer lives there and the applicant will have a property management company to assist.

Mr. Borenstein stated that the applicant requested the dumpster be removed previously, but it has not yet been removed and there is one dumpster on the site, but it is owned by a neighbor. Mr. Karlstad stated that the property owner or his wife can put whatever they want in the dumpster because they own it.

Mr. Karlstad asked about the water condition in the applicant's neighborhood. Mr. Horne stated that he has no knowledge as DPW is in charge of that.

Mr. Borenstein stated that to his knowledge there are sufficient utilities onsite and that if there were any concerns, it would need site plan approval from the Planning Board, and they would evaluate that.

Mr. Karlstad stated that the project will be limited to 6 units and asked about dumpster setbacks.

Mr. Horne stated that the dumpster location is set by the fire department, and this application will be heard by the Planning Board who will determine this.

Mr. Borenstein stated that the proposed dumpster is shown along the North of the property adjacent to a fence.

Mr. Horne asked if the owner is under any enforcement from Inspectional Services due to the alleged illegal apartment; Mr. Borenstein said no.

Mr. Cortes stated that the project looks good for the area, but neighborhood concerns are important. Mr. Cortes stated that neighbors have concerns over the number of parking spaces and the EV chargers. Mr. Cortes asked where the charger will be if it's not occupying a parking space. Mr. Borenstein stated the applicant is proposing conduits only at this time in the parking facility, which means they would be EV ready for future tenants.

Mr. Cortes asked if that meant the charger would not be occupying a parking space; Mr. Borenstein confirmed.

Mr. Cortes asked about limiting the residential use and not business use in any of the apartments. Mr. Borenstein stated that one of the residents had a commercial vehicle on the premises that he would use, and charge and the owner instructed him not to do this at the property.

Mr. Cortes asked what trees or fence would be in place to make sure the high trees aren't blocking the stop sign at the corner. Mr. Borenstein stated that the applicant will work with city staff to make sure the tree will be located in a safe area where it will not impact visibility.

Mr. Cortes asked if the snow will be plowed towards the back or side of the building and not towards the street. Mr. Borenstein stated any snow that can't be stored onsite will be trucked off.

Mr. Karlstad stated that the Board just received a notice from the Department of Transportation and Mobility and asked if Mr. Borenstein had seen it. Mr. Borenstein stated that he was given the letter at the meeting and requests that the conditions are not included for this meeting and are instead saved for the Planning Board's review.

Mr. Karlstad stated that he would like to find out if there's an issue with the water in the neighborhood and wants that determined before the Board makes a decision.

Mr. Borenstein asked if the application could be continued so that staff could obtain that information from the Department of Public Works; Mr. Karlstad confirmed.

Mr. Borenstein asked if they could seek that information and then re-open the meeting.

Mr. Karlstad said he doesn't like to condition too much, would prefer to see answers, and wants to know the conditions of the water.

Mr. Borenstein called on the engineer to speak on the water condition; he was not available. Mr. Borenstein stated that they will have to confer with DPW.

Mr. Karlstad said in general the project is acceptable, but he is listening to the abutters and the Board can't move forward if the water condition is unknown. Mr. Borenstein requested a continuance to the next available meeting.

Ms. Smith stated that the next available meeting is November 27, 2023 and asked if any other Board members had concerns they wanted to share. Ms. Smith stated that Board members may want to comment on the sidewalk issue on Anna Street.

Ms. Smith gave an overview of Board comments in regards to conditions for the project stating that the Board wants a condition to limit overall units to 6, include the standard snow storage condition, and to limit the hours for dumpster removal.

Mr. Karlstad stated that he would like to see a sidewalk like staff suggested and not gravel, as stated on condition 1F. Ms. Smith stated that was a comment from DTM as well as staff.

Mr. Sabo stated that there's a comment on the memo about additional sidewalk and ADA compliance. Mr. Karlstad stated that he saw that and wants to make sure it's documented.

Mr. Karlstad asked if it was acceptable; Mr. Borenstein said yes.

Mr. Berg Powers stated that he is curious about updates, the water situation, and is relatively in favor of the project.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to continue the application to the next available meeting on November 27, 2023.

6. 171 Stafford Street (ZB-2023-085) (MBL 28-004-0003B)

Special Permit: To allow food service (including the consumption/sale of alcoholic beverages) and/or providing dancing or entertainment in the BL-1.0 zone (Article IV, Section 2, Table 4.1, Business Use #8)

Petitioner: Ira Resuli

Present Use: Presently on the premises is a ±1,000 SF commercial building used as a food-service establishment (aka Sister's Breakfast & Lunch), a surface parking lot, and a vacant outbuilding

Zone Designation: BL-1.0 (Business, Limited)

Petition Purpose: The applicant seeks to serve alcohol at the existing food-service establishment on the site

Public Hearing Deadline: 12/21/2023 **Constructive Grant Deadline:** TBD

Ms. Ira Resuli, owner and applicant gave an overview of the project stating that she is seeking a Special Permit that will later allow her to obtain a liquor license in order to serve alcohol at her restaurant.

Mr. Karlstad asked if she's looking for a full liquor license or just one for beer and wine. Ms. Resuli said a full liquor license in order to have options, but for now is interested in only serving beer and wine.

Ms. Brenner gave an overview of the project stating that the applicant is seeking a Special Permit to serve alcohol at Sister's Breakfast and Lunch restaurant and had originally gone to the License Commission but was told she needed Zoning Board approval first.

Ms. Brenner stated that the applicant opted out of providing a survey and instead provided a GIS sketch and has some waivers to request.

Ms. Brenner stated that there was a concern for parking as customers would have to back out onto a main street, and due to safety concerns, staff is suggesting a condition that requires the instillation of a sign stating parking on the premises is for employees only in order to reduce safety concerns.

Ms. Brenner stated that no interior or exterior changes are proposed, there's a dumpster already located on the premises, and staff wanted to know what the building occupancy was and if it will be changing.

Mr. Karlstad asked if the hours of operations change if the applicant will have to come back for Zoning Board approval. Ms. Smith stated yes, she would need to come back for Zoning Board approval.

Mr. Karlstad asked what the current occupancy for the building is. Ms. Resuli stated that she doesn't know. Mr. Horne stated that it's low occupancy and probably sits around 35 people max, which means it will never be a place of assembly and does not see the place being used as a club.

Mr. Karlstad asked if the applicant read through the conditions recommended by staff and received the packet; Ms. Resuli said no.

Mr. Karlstad read through the conditions which included reflecting signage for ADA and employees and all other conditions related to building code.

Mr. Karlstad stated that waivers are information included on plans but since her project is small the Board will likely waive them.

Mr. Karlstad asked if the applicant accepts the waivers; Ms. Resuli said yes.

No public comment.

Board Comments

Mr. Cortes asked if the applicant understands the recommendations read to her and asked if she accepts them; Ms. Resuli said confirmed.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to close the public hearing.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to approve the application with all conditions and waivers.

7. 26 Maxwell Street (ZB-2023-087) (MBL 10-004-00010)

Extension of Time:

Lot 1:

Variance: For relief from the minimum front-yard setback dimensional requirement for a single-family attached dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum rear-yard setback dimensional requirement for a single-family attached dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Lot 2:

Variance: For relief from the minimum lot area dimensional requirement for a single-family attached dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum front-yard setback dimensional requirement for a single-family attached dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum rear-yard setback dimensional requirement for a single-family attached dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Lot 3:

Variance: For relief from the minimum lot area dimensional requirement for a single-family attached dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum front-yard setback dimensional requirement for a single-family attached dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum rear-yard setback dimensional requirement for a single-family attached dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Daniel Morkeh & Emma Pace

Present Use: Presently on the premises is a vacant unimproved lot

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

Petition Purpose: The applicant seeks an extension of time for a period of six months for previously approved relief to construct a single-family attached dwelling (townhouse) with three units and associated parking

Public Hearing Deadline: N/A Constructive Grant Deadline 11/01/2023

Mr. O'Neil gave an overview of the project, stating that the applicant is seeking a 6-month extension for the Variance as there are delays due to financing.

Mr. Karlstad asked if 6 months is enough. Mr. O'Neil stated that it's all they can get for the Variance.

Ms. Smith gave an overview of the project stating that the applicant is seeking a 6-month extension through April 6th, 2024 and that the applicant would still need to meet the conditions of approval if granted the extension.

No public comment.

No Board discussion.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, Board voted 5-0 to close the public hearing.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, Board voted 5-0 to approve the 6-month extension of time with all previously approved conditions.

8. 18 Wayne Street (ZB-2023-089) (MBL 08-026-00033)

Special Permit: To modify dimensional standards for a Residential Conversion (Article IV, Section 9)

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

Petitioner: Michael J. Fedyk

Present Use: Presently on the premises is a single-family detached dwelling with associated site improvements

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

Petition Purpose: The applicant seeks to convert the existing structure into a two-family detached dwelling, to expand existing driveway and to conduct associated site improvements

Public Hearing Deadline: 12/22/2023 **Constructive Grant Deadline:** N/A

Mr. O'Neil, representative, gave an overview of the project, stating that the applicant is seeking to turn the existing house into a two-family dwelling and needs relief for the parking spaces, as the premises does not currently allow for the required amount of space needed to not provide a landscape buffer.

Mr. O'Neil stated the house has historic features that will be maintained and that the current attic would be converted into a bedroom.

Ms. Brenner gave an overview of the project stating that the applicant needs the special permits in order to allow more than 2 habitable floors in this zoning district and to not provide a landscape buffer for parking. Ms. Brenner stated that the house has historical features, and any exterior changes might result in historical commission approval.

Ms. Brenner stated that the applicant is proposing to increase the existing curb cut but staff wants it narrowed, aligned with the property, and that the Department for Transportation and Mobility has recommended conditions for the project.

No public comment.

Board Comment

Mr. Horne asked if the first 2 floors are occupied and if the third floor will be the second dwelling. Mr. O'Neil stated that the first-floor apartment would remain, but the second-floor apartment would be both on the second floor and third floor and an exterior stairway to the rear of the building would be added.

Mr. Karlstad asked if the applicant is amendable to conditioning the home to a two-family only; Mr. O'Neil agreed.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to close the public hearing.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to approve the applications will all waivers, conditions, the added condition that the house be limited to a two-family dwelling, and DTM comments as conditions.

9. 194 (aka 196) Park Avenue (ZB-2023-090) (MBL 11-006-0012A)

Special Permit: To allow a food-service use (including consumption/sale of alcoholic beverages) and/or providing dancing or entertaining in a BL-1.0 zone (Article IV, Section 2, Table 4.2, Business Use #8).

Special Permit: To allow the extension, alteration or change of a privileged pre-existing, nonconforming use to a use of a similar nature (Article XVI, Section 4).

Special Permit: To allow the extension, alteration or change of a privileged pre-existing, nonconforming structure and/or use (Article XVI, Section 4).

Variance: For relief from the minimum parking requirements for a food-service use (Article IV, Section 7, Table 4.4)

Petitioner: 194 Park Avenue LLC

Present Use: Presently on the premises is a ±9,000 SF multi-tenant commercial structure with a mix of food service, personal service, and retail uses and ±50 surface parking spaces

Zone Designation: BL-1.0 (Business, Limited) and RS-7 (Residence, Single-Family) zoning districts

Petition Purpose: The applicant seeks to operate a food-service establishment, with alcohol, within a ±3,000 SF portion of the premises

Public Hearing Deadline: 12/23/2023 **Constructive Grant Deadline:** 01/27/2024

Mr. Finkelstein, representative, gave an overview of the project stating that a nail salon, smoke shop, and Bagel Time are currently being operated on the premises and that the owner is seeking to operate a restaurant on the premises instead.

Mr. Finkelstein stated that the restaurant will have an occupancy of 86, which requires 58 spaces, but are short 8 spaces. He stated that the applicant doesn't foresee parking issues and the hours of operation should not conflict with the other nearby businesses.

Ms. Smith gave an overview of the project stating that the applicant is seeking special permits in order to allow the use and parking relief for 8 spaces. Ms. Smith stated that staff recommends enhancements to the parking lot, bike rack installation, screening, and vegetation.

Mr. Karlstad stated that the trees are important. Mr. Finkelstein stated that the area is public, and trees can be requested but are not guaranteed.

Ms. Smith stated that the applicant would be responsible for this but would not be penalized if it did not occur.

Public Comment

Mr. Earl Atchue, 190 Park Avenue, stated that his company has 15 parking spaces and that neighbors will use their lot frequently limiting access to their leased spaces. Mr. Atchue said the applicant had reached out requesting to lease their spaces but was denied, and the traffic flow nearby is heavy and may be dangerous.

Mr. Atchue stated that the nail salon onsite is likely not seasonal and that the previous owner hired private security to restrict parking because people were parking in his lot. Mr. Atchue said there's limited parking for all of the neighbors and does not believe there will be a sufficient amount of parking for the proposed restaurant.

Board Comment

Mr. Cortes asked if the hours of operation are 5 days a week. Mr. Finkelstein stated that they are 11-9, 7 days a week, no bar will be operated, but staff will come in earlier to do prep work.

Mr. Cortes asked about closing time; Mr. Finkelstein said it's 10 PM but staff will close earlier for cleanup.

Mr. Cortes asked if there will be dancing and entertainment; Mr. Finkelstein said no.

Mr. Horne stated they will need to meet mechanical code and was unaware if there was a hood on the premises. A project representative stated that there will be a new hood located close to the middle of the building.

Mr. Finkelstein stated that the parking near the dumpster is existing and has never been a problem and does not want to restrict the parking to employees only.

Ms. Smith stated that the Department of Transportation and Mobility had a concern with circulation and conflicts with vehicles pulling into the parking lot. Mr. Finkelstein stated that there's already a sign for employees only and they will maintain it. Mr. Karlstad said he doesn't feel strongly about the employee parking.

Mr. Finkelstein stated that they opt for wheel stops over a fence and would like the wording for the hours of operation clarified. Ms. Smith stated that the memo will be updated to reflect the hours of operation are related specifically to service to patrons.

Mr. Finkelstein requested the waivers.

Mr. Karlstad asked what the occupancy is on the sit-down-side of the restaurant. Ms. Smith said there are 74 total seats. A project representative said 74 total seats, 48 main dining, 16 near bar, and 12 seats at the bar, and 12 employees.

Mr. Karlstad said the current parking is tight and asked if there's any options for leased parking across the street for employee parking. Mr. Finkelstein said no as it doesn't make sense for people to have to cross Park Avenue, but they are not expecting to have a high flow of traffic.

A project representative stated that the businesses nearby are seasonal and busier in the summer, unlike the restaurant which will serve soup and will likely be busier in the winter.

Mr. Karlstad stated that people often carpool to restaurants and that even though parking is tight, he does not think it will make matters worse.

Mr. Cortes addressed the abutter comment, stating that to prevent people from parking in their lots, they can put a sign saying people parked in leased spots will be towed.

Mr. Finkelstein stated that they accept all of the recommendations.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to close the public hearing.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 4-1 (Torkornoo opposed) to approve the application with all waivers, conditions, DTM comments as conditions, and to strike condition 11.

10. Lot 2A or 34 (aka 52 & 54 Circuit Avenue South) Lakeside Avenue (ZB-2023-091) (MBL 08-046-00003)

Variance: For relief from the maximum height dimensional requirement for other permitted uses in an RS-7 zone & single-family attached dwellings in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum front-yard setback dimensional requirement for other permitted uses in an RS-7 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the maximum accessory structure height dimensional requirement in an RS-7 & RG-5 Zone (Article IV, Section 8, B.10.)

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

Special Permit: To allow the Extension, Alteration or Change of a Privileged Pre-existing, Nonconforming Structure and/or Use (Article XVI, Section 4)

Petitioner: Tremont Development Partners, LLC and E3 Development, LLC

Present Use: Presently on the premises is a portion of the Lakeside Apartments Campus (known as Lot 2A) are two (2) existing, privileged, nonconforming, 3-story, low-rise multifamily buildings with ±13 residential units, along with accessory surface parking and associated site improvements

Zone Designation: Lot 2A is presently split zoned, located partially within the RS-7 (Residence, Single-Family) and RG-5 (Residence, General) zoning district

Petition Purpose: The petitioner seeks to demolish the existing site improvements on Lot 2A and construct a ±10,496 SF, ±2-story multifamily low-rise dwelling with ±8 units, and an ±8,085 SF, ±3-story single-family attached (townhouse style) style dwelling with ±5 units (for a total of 13 units) and associated surface and garage parking and to conduct associated site improvements

Public Hearing Deadline: 12/23/2023 Constructive Grant Deadline 1/27/2024

Mr. Borenstein, representative, gave an overview of the project stating that the project is in the second phase, as the first one was already approved by the Board.

Mr. Borenstein stated that the applicant seeks to demolish the current buildings on lot 2A and construct 2 multifamily dwellings (C-1 & C-2) that will be ownership units at 80% AMI, with 2 accessible units in building C-2.

Mr. Borenstein stated that the plans will be updates to reflect the correct size of the curb cut and the percentage of the impervious surface. Mr. Borenstein requested all waivers.

Ms. Smith gave an overview of the project stating that the Special Permit to modify parking and loading can be withdrawn based on the evidence presented, and that condition 1D can be struck but staff would like to see new trees.

Mr. Borenstein stated that they accept most of the conditions but they still require the Special Permit because they have to modify the parking spaces.

Ms. Smith asked for the dimensions of the spaces; Mr. Borenstein said 8 Ft X 18 FT. Ms. Smith asked if they're compact; Mr. Borenstein confirmed.

Mr. Borenstein stated that condition 1A regarding trees causes a concern because the applicant may not be able to identify every tree. Ms. Smith stated that staff's concern is the minimization of the canopy cover in the area.

Mr. Borenstein stated that the retaining wall along the Southern portion will remain along with the tree buffer.

Ms. Smith stated there would need to be trees along the side, but it is ultimately the Board's discretion.

Mr. Karlstad asked if they don't want to mark the trees. Mr. Borenstein stated that the identification of each tree may be hard but wants to know what exactly staff is proposing in regards to the canopy.

Mr. Karlstad said that we should adjust the language to depict the exact trees to remain. Ms. Smith recommended that the condition that says the applicant must reflect caliper and location of trees be struck with the retaining wall condition remaining. Mr. Borenstein stated that he is amenable to this and that the limit of clearing is shown on the plan.

Mr. Borenstein stated that for condition 1C, there is concerns for space for a tree near the attached structure. Ms. Smith stated that staff is looking for between the accessible space in the landscape buffer.

Mr. Borenstein stated he is amenable but had questions about the DTM comments. Ms. Smith stated that DTM comments can be discussed at the Planning Board meeting as they're more design related.

Mr. Karlstad said he is amenable to this; Mr. Borenstein agreed.

No public comment.

No Board comment.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to close the public hearing.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted 5-0 to approve the application with all waivers, conditions, adjusted language to conditions discussed, and all DTM comments to be discussed by the Planning Board.

11. Lot 2B or 2 Circuit Avenue South (aka part of 17 Garland Street) (ZB-2023-092)(MBL; 14-017-00016)

Variance: For relief from the maximum height dimensional requirement for an accessory structure in an RG-5 Zone (Article IV, Section 8, B.10.)

Variance: For relief from the minimum setback dimensional requirement for an accessory structure in an RG-5 Zone (Article IV, Section 8, B.10.)

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

Petitioner: Tremont Development Partners, LLC and E3 Development, LLC

Present Use: Presently on the subject portion of the Lakeside Apartments Campus (known as Lot 2B) is vacant lot

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

Petition Purpose: A part of a multi-phase campus redevelopment project, the petitioner seeks to construct a ±18,357 SF, ±3-story, multi-family, low-rise dwelling with a total of ±15 dwelling units, associated parking and to conduct associated site

Public Hearing Deadline: 12/23/2023 **Constructive Grant Deadline:** 01/27/2024

Mr. Borenstein, representative, gave an overview of the project stating that this was building 2B for phase 2 of the Lakeside project. Mr. Borenstein stated that the lot is currently vacant except for 1 structure which will be demolished at a later date.

Mr. Borenstein stated that there will be a multifamily dwelling with 15 units that will allow for ownership, associated parking, and additional plantings. He stated that for condition 1A the applicant would like to have 15% EV ready spaces and not 20% and stated that the curb cut is actually 24FT and is amenable to condition 1C regarding bicycle rack installation.

Mr. Borenstein stated that condition 1D, the applicant deems this will be challenging due to the topography and would like to have this condition struck. Mr. Borenstein stated that for condition 1G, they would like to have the proposed layout remain and keep the current parking configuration proposed.

Mr. Borenstein stated that the applicant is amenable to landscape buffers, as outlined in condition 1H.

Mr. Borenstein requested the waivers and that all DTM comments be saved for Planning Board.

Ms. Smith gave an overview of the project, stating that there was a typo, and the applicant is seeking 13 Ft of relief in regard to height and 2 FT for the setback; Mr. Borenstein agreed.

Ms. Smith stated that staff is amenable to striking condition 1B but for 1A stretch code requires 20% at least but staff is amenable to 15% if this information is incorrect.

Ms. Smith asked about mailbox relocation and stated that staff is amenable to striking language in 1G and changing language to reflect 9 FT wide or 8 Ft wide spaces to clarify between compact and regular spaces. Mr. Borenstein stated that applicant is willing to explore that, but it is not guaranteed and asked for language to reflect that the applicant will explore if it is reasonably possible, with documentation provided, if not.

Ms. Smith said yes, staff will strike the first part of condition 1G and asked Mr. Horne about the mailbox relocation.

Mr. Horne stated that there's a new stretch code, but the wiring has to be there but not the charging unit; just ready and wired.

No public comment.

Mr. Karlstad asked if 20% is the correct number; Mr. Horne said he doesn't know off the top of his head.

Mr. Borenstein requested that it remain at the proposed 15%. Mr. Karlstad stated that the Board can tie it to the stretch code.

Mr. Berg Powers stated that he will not vote for this project if it's below 7 spaces because he believes it should be at least 50%. Mr. Horne stated that he wants to make sure it meets the stretch code and whatever that is, that's what it will be.

Mr. Berg Powers stated that it can be more than the stretch code; Mr. Horne agreed. Mr. Berg Powers stated that there should be more than 7 spaces. Mr. Karlstad stated that the Board won't push the limits for this project and wants to follow the stretch code. Mr. Berg Powers stated that he wants to follow the city's recommendation and do 20%. Mr. Borenstein stated that the 20% is amenable to the applicant.

Mr. Karlstad asked if the mailbox relocation will allow for more walkability. Mr. Borenstein said yes, as long as it's acceptable to the USPS. Mr. Karlstad agreed but stated that walkability is important.

Mr. Cortes asked what kind of drop is next to the retaining wall and if there's a fence on top of the retaining wall for safety.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, Board voted 5-0 to close the public hearing.

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, Board voted 5-0 to approve the application with all conditions, waivers, corrections to relief including height relief, and with all modifications discussed.

12. Communications – *No discussion*

13. Approval of Minutes – 8/28/2023;9/18/2023;10/16/2023

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, Board voted 5-0 to approve the 8/28/2023 minutes and wait on approving the rest.

14. Discussion of Board Policies and Procedures – *No discussion*

Adjournment:

On a motion by Mr. Berg Powers, seconded by Mr. Cortes, the Board voted unanimously to adjourn at 8:44pm.