

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

October 7, 2019

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBERS

Zoning Board Members Present:

Joseph Wanat, Chair
Andrew Freilich
Jordan Berg Powers
George Cortes
Russell Karlstad, Alternate Member
Robert Haddon, Alternate Member

Absent:

Staff Present:

Michelle M. Smith, Division of Planning & Regulatory Services
Amanda Molina Dumas, Division of Planning & Regulatory Services
John Kelly, Department of Inspectional Services
David Horne, Department of Inspectional Services

Approval of the Minutes - 1/14/19, 2/25/19, 3/18/19, 4/8/19, 4/29/19, 5/20/19, 6/10/19, 7/1/19, 7/22/19, 8/12/19 & 9/9/19

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: The applicant seeks to construct a multi-family low-rise dwelling with 7 dwelling units and associated parking.
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 continue the Special Permit application to the October 28, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to November 19, 2019.

2. 757 Salisbury Street (MBL 50-023-00001) (ZB-2019-041)

Variance: For relief from the maximum height (stories & feet) dimensional requirements (Article IV, Section 4, Table 4.2)

Petitioner: HP Acquisitions, LLC

Present Use: Presently on the premises are vacant residential buildings.

Zone Designation: RS-10 (Residence, Single-Family) & RS-7 (Residence, Single-Family) zoning district

Petition Purpose: The applicant seeks to construct a Continuing Care Retirement Community consisting of three multi-family, low-rise buildings with a total of +/- 123 dwelling units, an associated driveway network, and related site work on approximately 17 acres of land (located off Salisbury Street).

Public Hearing Deadline: 10/7/19; Constructive Grant Deadline: 11/2/19

Variance: For relief from the maximum height (stories & feet) dimensional requirements (Article IV, Section 4, Table 4.2)

Petitioner: HP Acquisitions, LLC

Present Use: Presently on the premises are vacant residential buildings.

Zone Designation: RS-10 (Residence, Single-Family) & RS-7 (Residence, Single-Family) zoning district

Petition Purpose: The applicant seeks to construct a Continuing Care Retirement Community consisting of three multi-family, low-rise buildings with a total of +/- 123 dwelling units, an associated driveway network, and related site work on approximately 17 acres of land (located off Salisbury Street).

Public Hearing Deadline: 10/7/19; Constructive Grant Deadline: 11/2/19

Upon a motion by Mr. Cortes and seconded by Mr. Berg Powers, the Board voted 5-0 to postpone the Variance application the October 28, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to November 19, 2019.

3. 533 (aka 535-537) Cambridge Street (MBL 07-042-00044) (ZB-2019-045)

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

Petitioner: Van K. Nguyen

Present Use: Presently on the premises is an existing, nonconforming single-family detached dwelling with associated site improvements.

Zone Designation: RG-5 (Residence, General) zoning district and partially within the Floodplain Overlay District

Petition Purpose: The applicant seeks to construct an addition, adding 2 new dwelling units, in order to convert the existing single-family detached dwelling

into a single-family attached dwelling, with a total of 3 dwelling units, and to conduct associated site work.

Public Hearing Deadline: 10/12/19; Constructive Grant Deadline: TBD

Upon a motion by Mr. Freilich and seconded by Mr. Karlstad, the Board voted 5-0 to postpone the Special Permit application to the October 28, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to November 19, 2019.

New Business

4. 45 Webster Street (MBL 27-INX-00001) (ZB-2019-052)

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

Petitioner: Roman Catholic Bishop of Worcester

Present Use: Presently on the premises is a cemetery with associated buildings.

Zone Designation: RS-7 (Residence, Single Family) & BL-1.0 (Business, Limited) zoning district and is partially within the Floodplain Overlay District

Petition Purpose: The applicant seeks to expand the existing non-conforming use by developing a new section of grave space, with associated driveways, in the southeast corner of the cemetery property, and to conduct associated site work.

Public Hearing Deadline: 11/16/19; Constructive Grant Deadline: TBD

David Crispin from BSC Group appeared upon behalf of the applicant, Roman Catholic Bishop of Worcester.

The applicant seeks to expand the existing non-conforming use by developing a new section of grave space, with associated driveways, in the southeast corner of the cemetery property. Mr. Crispin gave a brief of history of the property and the proposed work and stated that the item has gone before the Conservation for their review.

The Board and the applicant discussed whether fencing or just the natural wood landscaping would be best suited for the site.

Pamela Barnes stated that a fence would be nice in addition to the woods.

Jose Santiago asked the applicant to review what is proposed for the site.

Mr. Wanat explained why the applicant needed Board approval for 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 the Board Mr. Freilich, voted 5-0 to approve the Special Permit with conditions outlined in staff's memo and additional conditions that the

applicant will close the driveway that accesses the newly expanded area, that erosion control mats will be used on all slopes and that a landscape buffer plan will be submitted. The Board also approved the following waivers

- The requirement to provide the percentage of the lot covered by the principal and accessory structures.
- To provide the distances to adjacent buildings on the plan.

and voted to accept the Findings of Facts as proposed by the applicant and modified by staff.

List of Exhibits:

Exhibit A: Special Permit Application; received 9/12/19; prepared by BSC Group.

Exhibit B: Proposed Special Permit Site Plans; dated 7/16/19; received 9/12/19; prepared by BSC Group.

Old Business

5. 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: At 3 Newton Avenue (aka Lot 1) is a two-family dwelling & on proposed Lot 2 is a detached garage.

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

Petition Purpose: To convert the garage into a single-family dwelling.

Hearing Opened: 6/10/19; Constructive Grant Deadline: 10/29/19

Attorney Donald O’Neil appeared upon behalf of the applicant, Guri 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 and Mr. O’Neil stated that the item had before the Board before and it was continued as there was a question about driveway turn around and the plans have been revised to address that.

The Board and Mr. O’Neil discussed the façade and egresses of the building and where they would be located on the property.

Inspectional Services stated that they would like to see a floor plan for the property.

The Board stated that they would prefer to continue the item so the questions raised by the Board and Inspectional Services could be addressed.

Jose Santiago stated that a cost analysis for the property should be done.

Upon a motion by Mr. Berg Powers and seconded by Mr. Haddon, the Board voted 5-0 to continue the Variance applications to the October 28, 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.
-

6. 17 Mattson Avenue (MBL 13-005-0026A) (ZB-2019-032)

- Variance:** For relief from the minimum frontage dimensional requirement (Article IV, Section 4, Table 4.2)
 - Variance:** For relief from the lot area dimensional requirement (Article IV, Section 4, Table 4.2)
 - Petitioner:** Artan Ametaj
 - Present Use:** Presently on the premises is an existing, non-conforming two-family detached dwelling.
 - Zone Designation:** RG-5 (Residence, General) zoning district
 - Petition Purpose:** The applicant seeks to construct an addition in order to convert the existing two-family detached dwelling into a three-family detached dwelling and to conduct associated site work.
 - Hearing Opened:** 7/1/19; Constructive Grant Deadline: 10/29/19
-

Zac Couture, from H.S.&T Group appeared upon behalf of the applicant, Artan Ametaj.

The applicant seeks to construct an addition in order to convert the existing two-family detached dwelling into a three-family detached dwelling and the item had been continued from a previous meeting as a question arose about the height of the old building to the proposed height of the new building. Mr. Couture stated that new height change will be 3 feet, 7 inches.

Mr. Wanat stated that the new proposal was a great improvement.

Jose Santiago asked for an explanation of what was being proposed.

Upon a motion by Mr. Haddon and seconded by Mr. Cortes, the Board voted 4-1 (Mr. Karlstad voting against) to approve the Variance applications with conditions outlined in staff's memo.

List of Exhibits

- Exhibit A: Variance Application; received May 28, 2019; revised June 13, 2019 & July 12, 2019; prepared by H.S. & T. Group, Inc.
 - Exhibit B: Site Plan Showing Existing and Proposed Conditions; dated May 28, 2019; revised June 13, 2019 & July 12, 2019 prepared by H.S. & T. Group, Inc.
 - Exhibit C: Rendering; received June 20, 2019; revised July 12, 2019; prepared by Exclusive Construction LLC.
-

New Business

Mr. Haddon recused himself from item #6

7. 67 West Boylston Street (MBL 20-023-0001A) (ZB-2019-036)

- Special Permit:** To allow the extension, alteration or change of a privileged pre-existing, nonconforming structure and/or use (Article XVI, Section 4)
- Special Permit:** To allow a food-service drive-thru (Business Use #6) in a BG-3.0 District (Article IV, Section 2, Table 4.1)
- Special Permit:** To allow an automobile refueling station (Business Use #17) in a BG-3.0 District (Article IV, Section 2, Table 4.1)
- Special Permit:** To modify parking, loading, dimensional requirements, layout, and/or the number of required spaces and/or landscaping requirements (Article IV, Section 7)
- Petitioner:** HTK8 Yankee LLC
- Present Use:** Presently on the premises is an automobile refueling station, a convenience store and food-service with a drive-thru, with associated off-street parking spaces.
- Zone Designation:** The property is split zoned, located within both BG-3.0 (Business, General) and RL-7 (Residential, Limited) zoning districts
- Petition Purpose:** The applicant seeks to construct an escape lane and re-configure the existing drive-thru lane and expand the parking area to add three (3) additional parking spaces, and conduct associated site work.

Attorney Todd Rodman appeared upon behalf of the application HTK8 Yankee LLC.

The applicant seeks to construct an escape lane and re-configure the existing drive-thru lane and expand the parking area to add three (3) additional parking spaces, and conduct associated site work.

Mr. Rodman stated that many of the changes proposed were approved in the past but never completed and these changes will enhance the site.

Mr. Freilich asked if there was a way to alleviate people just parking at the pump and just going into the Dunkin Donuts. One of the co-owners of the store stated that they do have signs but they cannot control human behavior.

Mr. Wanat stated that with these changes to the plan it should help issues with the lot.

Jose Santiago stated that there was not enough space to make the changes.

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. Berg Powers and seconded by Mr. Cortes, the Board voted 5-0 to approve the Special Permit applications.

List of Exhibits

Exhibit A: Special Permit Application; received July 2, 2019; prepared by James A. Vevone, Esq.

Exhibit B: Site Plan; dated May 21, 2019, revised 9/18/2019; prepared by Graves Engineering, Inc.

Board took a five minute recess

8. 9 (aka 11) Yukon Avenue (MBL 46-030-00239) (ZB-2019-040)

- Special Permit:** To modify parking, loading, dimensional requirements, layout, and/or the number of required spaces and/or landscaping requirements (Article IV, Section 7)
- Variance:** For relief from the minimum front-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)
- Petitioner:** Imagetech Properties, LLC
- Present Use:** Presently on the premises is a newly constructed single-family detached dwelling with associated site improvements.

Zone Designation: RS-7 (Residence, Single Family) zoning district and the Water Resource Protection Overlay District (WR(GP-3))

Petition Purpose: The applicant seeks retroactive relief for the construction of the single-family detached dwelling and associated site work.

Public Hearing Deadline: 10/7/19; Constructive Grant Deadline: 10/31/19

Attorney Jeremy Bomard and the owners of Imagetech Properties, LLC appeared upon behalf of the application.

The applicant seeks retroactive relief associated with the construction of the existing single-family detached dwelling. Mr. Bombard stated they are requesting this as the building contractor poured the concrete incorrectly and stated that the owners have no problem with putting in Asian Long Horn resistance trees and have no problem with the conditions proposed by staff.

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

Upon a motion by Mr. Cortes and seconded by Mr. Berg Powers, the Board voted 5-0 to approve the Special Permit and Variance applications with conditions outlined in staff's memo as well as the following waivers requested by the applicant;

1. The requirement to provide the percentage of the lot covered by the principal and accessory structures.
2. To provide the distances to adjacent buildings on the plan.

List of Exhibits:

Exhibit A: Special Permit & Variance Application; received 8/7/19; revised 9/13/19; prepared by Attorney Jeremy R. Bombard.

Exhibit B: Proposed Special Permit & Variance Plan; dated 8/22/19; received 8/7/19; revised 9/13/19; prepared by Ducharme & Dillis Civil Design Group, Inc.

New Business

9. 20 (aka Lot 1 & 2) Sherer Trail (MBL 42-026-00005) (ZB-2019-043)

20 (aka Lot 1) Sherer Trail (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 rear-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)

Lot 2 Sherer Trail (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:* Nicholas Hoffman
- Present Use:* Presently on the premises at 20 Sherer Trail (aka Lot 1) is an existing, nonconforming single-family detached dwelling, and on proposed Lot 2 is a vacant lot.
- Zone Designation:* RS-7 (Residence, Single-Family) zoning district
- Petition Purpose:* The applicant seeks to divide the existing lot into two, and construct a single-family detached dwelling on proposed Lot 2, along with related site work.

Public Hearing Deadline: 10/10/19; Constructive Grant Deadline: 11/14/19

Nicholas Hoffman appeared upon behalf of the application. The applicant seeks to divide the existing lot into two, and construct a single-family detached dwelling on proposed Lot 2, along with related site work.

Jose Santiago stated applicant would want to make sure if deck is built that it not too big.

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 Variance applications with conditions outlined in staff’s memo as well as the following waivers;

1. The requirement to provide the percentage of the lot covered by the principal and accessory structures.
2. To provide the distances to adjacent buildings on the plan.

List of Exhibits:

- Exhibit A:** Variance Application; received 7/25/19; prepared by Attorney Mark L. Donahue.
- Exhibit B:** Existing & Proposed Site Plans; dated 7/25/19; received 7/25/19; prepared by Marchionda & Associates, L.P.
-

10. 15 Hamilton Street (MBL 04-009-00038) (ZB-2019-044)

Variance: For relief from the minimum parking requirements (Article IX, Sec. 9, Table 9.1)

Amendment to:

Special Permit: To allow a Food Service establishment (includes the consumption/sale of alcoholic beverages) and/or providing dancing or entertainment use in a BL-1.0 zone (Article IV, Section 2, Table 4.1, Business Use #8)

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

Petitioner: Chalita Youssef, of 15 Hamilton LLC

Present Use: Presently on the premises is an existing nonconforming structure, operating as a food service establishment with tobacco.

Zone Designation: BL-1.0 (Business, Limited) zoning district and within the Commercial Corridors Overlay District (CCOD-E)

Petition Purpose: The applicant seeks to amend the previous approvals (ZB-2016-065) in order to increase the occupancy, change the hours of operation, add an outdoor patio/entertainment, reconfigure the parking layout, and further modify the original conditions of approval.

Public Hearing Deadline: 10/11/19; **Constructive Grant Deadline:** 11/15/19

Chalita Youssef appeared. The applicant seeks to amend the previous approval (ZB-2016-065) in order to modify the original conditions of approval including, but not limited to, increasing the occupancy, expanding the hours of operation, adding an outdoor patio with entertainment, reconfiguring the parking layout, etc.

The Board and the applicant discussed the outdoor patio and how the sound of the music would be controlled.

Jose Santiago spoke relative to taxes in the city. The Board reminded Mr. Santaigo that comments are only regarding the application before the Board.

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

Upon a motion by Mr. Karlstad and seconded by Mr. Berg Powers, the Board voted 5-0 to approve the Variance and Special Permit applications with conditions outlined in staff's memo as well as the following waivers;

1. The requirement to provide a field verified plan.
2. The requirement to provide the percentage of the lot covered by the principal and accessory structures.
3. To provide the distances to adjacent buildings on the plan.

List of Exhibits:

Exhibit A: Special Permit & Variance Application; received 8/7/19; prepared by Chalita A. Youssef.

Exhibit B: Proposed Special Permit & Variance Plan; dated 5/28/19; received 8/7/19; revised 9/18/19; prepared by A.A. Design Services, LLC.

Mr. Freilich left the meeting.

New Business

11. 443 Park Avenue & 78 Charlotte Street (MBL 06-040-26+27 & 06-040-00040) (ZB-2019-047)

- Special Permit:** To allow the extension, alteration or change of a privileged pre-existing, nonconforming structure and/or use (Article XVI, Section 4)
- Petitioner:** Consulting and Design, LLC, on behalf of Montello Group, Corp.
- Present Use:** Presently on the premises is a pre-existing nonconforming convenience store with associated surface parking and walk-up ATM.
- Zone Designation:** BG-3.0 (Business, General) zoning district
- Petition Purpose:** The applicant seeks to construct an addition, reconfigure the store interior and use a portion of the building for a new food service use, along with associated site work.

Public Hearing Deadline: 11/2/19; Constructive Grant Deadline: TBD

Parker Finlay appeared upon behalf of the applicant, Consulting and Design, LLC, on behalf of Montello Group, Corp.

The applicant seeks to construct an addition, reconfigure the store interior and use a portion of the building for a new food service use which includes expanding the cooler and storage area and re-locating the dumpster on the site.

Mr. Wanat stated that he would like to see some type of roof re-charge for the entire roof structure. Mr. Finlay stated that they would have no problem with that.

Jo Hart asked if the use of the building was changing. Mr. Finlay stated that store will be adding a donut shop. Ms. Hart expressed concern about walkability of the site for pedestrians.

The Board and the applicant discussed ways to add a sidewalk to the site.

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 approve the Special Permit with conditions outlined in staff’s memo as well as amended condition that there will be a five foot sidewalk from Charlotte Street to the building, that there will be a connection of sidewalk next to the ATM On the site, and that condition # 3 in staff’s memo that additional language be added to condition that plans or documentation relative soil conditions demonstrating insufficient ability to meet Stormwater standards to be submitted for staff’s review prior to issuance the building permit as well as the following waivers;

1. The requirement to provide the percentage of the lot covered by the principal and accessory structures.
2. To provide the distances to adjacent buildings on the plan.

List of Exhibits:

- Exhibit A: Special Permit Application; received 8/29/19; prepared by Consulting and Design, LLC.
- Exhibit B: Proposed Special Permit Plan; dated 8/26/19; received 8/29/19; prepared by Consulting and Design, LLC.

Other Business

- 12. Communications**
- 13. Discussion of Board Policies and Procedures**
- 14. Signing of Decisions (from prior meetings)**

Adjournment

Upon a motion the Board voted 5-0 to adjourn the meeting at 8:23 p.m.