



February 7th, 2025

Todd Miller
Zoning & Land Use Coordinator
Inspectional Services Department
25 Meade Street
Worcester, Massachusetts 01610

RE: 640 Franklin Street, Worcester, Massachusetts (the “Property”)

Dear members of the Zoning Board of Appeals:

On December 23, 2024, an application to the Zoning Board of Appeals for a Special Permit for 640 Franklin Street requesting the Board’s approval to modify a privileged nonconforming use to allow a use of a similar nature was filed with the City Clerk.

Having reviewed the submitted description of the proposed use and plans for the site, the history of the site (provided by the applicant and evidenced by available aerial imagery), and reviewed available permits and other documentation, the following determinations have been made by the Department of Inspectional Services, acting as the Zoning Enforcement Officer, pursuant to the City of Worcester Zoning Ordinance:

- The proposed use of the site for a landscaping business, as described in the submitted application materials, is categorized by the City Ordinance as both “Open lot storage, underground storage, salvage recycling operations, refuse transfer station facility: includes flammable liquids/gas”, Manufacturing Use #8 and “Storage of materials and equipment not enclosed in a building (excluding flammable liquids, gas and/or explosives)”, Manufacturing Use #13.
- The subject property is presently split zoned, located within a BL-1.0 district (north) and RS-7 zoning district (south).
- Neither Manufacturing Use #8 or Manufacturing Use #13 are allowed in the BL-1.0 and RS-7 zoning districts.
- The proposed landscaping business cannot be permitted pursuant to Article XVI, Section 4.C.2 of the City of Worcester Zoning Ordinance as there is no privileged nonconforming use of a similar nature that lawfully exists at the site to change or expand.
- A history of uses at this site as far back as 1916 were provided by the applicant, pre-dating Worcester’s adoption of zoning in 1923. While most, or all, of the uses conducted at this location were not permitted uses within the applicable zoning districts for this site, there has been no evidence of continuous use or recorded evidence or land-use permit records suggesting the lawful establishment of nonconforming uses.

- The applicant indicates that there were several changes in use at the subject site in the last few decades. During that time any expansion, alteration, or change of a nonconforming use was required to obtain a Special Permit. No such records exist and therefore any privileges that may have once been applicable to this site were either abandoned or were never legally established.
- In the history of uses at this site, there are several instances where Abandonment (as defined under the Zoning Ordinance) may have occurred through a conversion to a less intensive use or via abandonment. Abandonment is the *“visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premises; including, but not limited to the removal of characteristic equipment or furnishings, or the replacement of the nonconforming use with a conforming use.”* Per Article XVI, Section 2. E. of the Zoning Ordinance, any privileged nonconforming use loses such privileges if it is abandoned and *“a use or structure shall be presumed abandoned if over a period of two (2) years the use and/or use of the structure has discontinued.”*
 - Prior to 1963, the property was split zoned Business District A (front) and Residence District B (rear).
 - The applicant asserts that a manufacturer of flux and solder was established at this site in 1968, but it is unclear what activities were conducted at the site and where or for how long this use was at the site. The applicant has not demonstrated that the use was continuous or established privilege.
 - By 1971 the property was split zoned RL-7 (front) and RS-7 (rear).
 - The applicant asserts that a landscaping company was established at this site in 1979, but it is unclear what activities were conducted where at the site and where or for how long this use was at the site. The applicant has not demonstrated that the use was continuous, established privilege, was not abandoned between 1968 and 1979, or that such a change did not require a Special Permit to lawfully commence.
 - In 1991 the property’s split zoning changed, the property became zoned BL-1.0 in the front (north) and remained RS-7 in the rear (south) as it exists today.
 - The applicant asserts that storage of unregistered motor vehicles was established at the site in 1997, but it is unclear what activities were conducted at the site and where or for how long this use was at the site. The applicant has not demonstrated that the use was continuous, established privilege, was not abandoned between 1979 and 1997 or that such a change did not require a Special Permit to lawfully commence.
 - A building, known as 638 Franklin Street, existed on the northwestern portion of the site in April 2017, from which the applicant presumes a privileged non-conforming use operated. Any potential privilege that may have been associated with use of this portion of the site was abandoned when the building was intentionally demolished by the owner in 2017. Aerial and Streetview imagery during this time evidence that any use of this area ceases between demolition until the applicant’s landscaping business unlawfully commenced. The demolition of the garage and cessation of the related use of this portion of the site constitute an intentional abandonment of any potential privilege that may have been associated with the use of that building and the area to its rear in the western portion of the site.
 - The applicant’s landscaping business appears to have commenced at the site without any permits between September 19, 2020 and April 3, 2021. Only after April 3, 2021 and before June 28, 2021 did activity on the western portion of the site commence. This landscaping business continues to be conducted at the subject property without approval, despite the order to cease and desist issued on July 1, 2024.

- The applicant asserts a lawfully established business – an antiques dealer - existed at the site at the time of commencement of their use. Even if such a use were lawfully established - which has not been evidenced – the antique dealer use would be considered “Wholesale business or storage conducted entirely within an enclosed structure, excluding self-storage (with noise, dust, fumes, gases and odors confined to the premises)” Business Use #29, which is not considered to be a use of a similar nature to the proposed landscaping use.

Because (1) the existence of a privileged nonconforming use has not adequately been evidenced to have been established at this location, the proposed use cannot be permitted pursuant to Article XVI, Section 4.C.2 of the Ordinance (change to a use of a similar nature) and (2) Manufacturing Use #8 and Manufacturing Use #13 are not allowed uses in the BL-1.0 and RS-7 zoning districts, whether by-right or by special permit, the proposed use of the site cannot be permitted in any way under the City’s Zoning Ordinance at this location.

Please advise, should you need any additional assistance with this item, or further help from this department.

Very truly yours,



Todd Miller
Zoning & Land Use Coordinator
City of Worcester, MA

cc: Michelle Smith, Division of Planning & Regulatory Services
Victor Panak, Division of Planning & Regulatory Services+