

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

July 6, 2015

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

Zoning Board Members Present: Lawrence Abramoff, Chair
Vadim Michajlow, Vice-Chair
Joseph Wanat
George Valeri
Timothy Loew
Robert Haddon

Zoning Board Members Absent: None

Staff Present: Domenica Tatasciore, Division of Planning and Regulatory Services
Michelle Smith, Division of Planning and Regulatory Services
David Horne, Inspectional Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Chair Lawrence Abramoff called the meeting to order at 5:30 PM.

NEW BUSINESS

1. 6 Gothic Avenue (ZB-2015-024)

Variance: For relief of the 65 ft. frontage dimensional requirement (Article IV, Section 4, Table 4.2)

Petitioner: Tallage Adams, LLC

Present Use: Presently located on the premises is an existing ~483 SF mobile home.

Zone Designation: RS-7 (Residence, Single-Family) & Water Resource WR-(GP3) Overlay District

Petition Purpose: The petitioner seeks to construct a single-family detached dwelling with two off-street parking spaces (garage), along with associated site work and grading.

Public Hearing Deadline: 7/24/15

Constructive Grant Deadline: 8/28/15

Carl Hultgren, Quinn Engineering, stated that they were before the Board on June 15, 2015. They are requesting a variance for 15' of frontage. At the last meeting they were working with the neighbor on the southeast, 7 Fatima Lane, to ensure the roof runoff from their

property does not impact the neighbor. They plan to tie the roof runoff to the drainage on Gothic Ave and leave the back 30' vegetated.

Ms. Tatasciore stated that was the only outstanding item and therefore staff recommends approval with the conditions of approval in the memo with the additional condition that the back 30' of the property is to remain in a vegetated state and not be developed or cleared.

Mr. Hultgren stated that one of the conditions is that each side of the driveway remains as green space and not be paved but the want permission to add a walkway from the driveway to the steps.

Ms. Tatasciore stated that the condition is meant to prevent the owner to pave their entire front lawn but it doesn't preclude them from having a walkway.

Attorney Wayne LeBlanc, representing the property owners of 7 Fatima Lane, Sharon & Russell Pichette, stated that given the 30 ft. vegetated buffer and the roof leaders draining to Gothic Ave they are in agreement with the project. He thanked Mr. Hultgren and the petitioner for working with his clients.

Upon a motion by Mr. Valeri and seconded by Mr. Michajlow, the Board voted 6-0 to close the public hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and approve the 15 ft. variance relief of frontage with the conditions in the memo and that the downspouts drain to Gothic Avenue and that the back 30' of the property from the easterly lot line is to remain in a vegetated state and not be developed or cleared.

List of Exhibits:

- Exhibit A: 6 Gothic Avenue Special Permit Application & rendering; received May 20, 2015; prepared by William Cowin of Tallage Adams, LLC.
- Exhibit B: Definitive Site Plan for 6 Gothic Avenue; dated December 8, 2014, revised through to May 18, 2015; prepared by Quinn Engineering, Inc.
- Exhibit C: E-mail from Mr. & Mrs. Russell Pichette; received May 9, 2015.
- Exhibit D: Letter from Carl Hultgren; dated and received May 27, 2015.

2. 21 Aetna Street (ZB-2015-021)

- Special Permit: To allow for an Expansion, Alteration, or Change to a Privileged Pre-existing Non-Conforming Structure (Article XVI, Section 4)
- Variance: For relief from the 55 ft. frontage dimensional requirement for a two-family detached dwelling structure in a RG-5 Zone (Article IV, Section 4, Table 4.2)
- Variance: For relief of 2,250 SF from the 6,000 SF minimum lot area dimensional requirement for a two-family detached dwelling in a RG-5 Zone (Article IV, Section 4, Table 4.2)
- Petitioner: Habitat for Humanity

Present Use: Presently located on the premises is an existing non-conforming single-family detached dwelling and garage.

Zone Designation: RG-5 (Residence, General)

Petition Purpose: The petitioner seeks to demolish the existing structure and reconstruct a two-family detached dwelling, with a smaller footprint, along with four associated off-street parking spaces. The property is existing non-conforming with regards to lot area and front-, side-, and rear-yard setbacks.

Public Hearing Deadline: 7/16/15

Constructive Grant Deadline: 8/20/15 (variance)

Tim Firment, Executive Director for Habitat for Humanity, stated that they want to develop 21 Aetna Street, which was donated to them by Worcester Academy. They want to build affordable housing in Union Hill, which is a depressed area they are looking to rehabilitate. He introduced the engineer Zac Couture, HS&T Group.

Mr. Couture stated that they are requesting a special permit to allow the expansion, alteration, or change to a privileged pre-existing non-conforming structure and a variance of 5 ft. from the 55 ft. frontage dimensional requirement. Existing on-site is a 1,242 SF single-family detached dwelling and ~214 SF accessory single car garage along with associated off-street parking. The structure is pre-existing non-conforming with regard to the rear-, front-, and side-yard setbacks as well as minimum lot area. The applicant seeks to demolish the existing structure and build a ~2,261 SF two-family detached dwelling with 4 associated off-street parking spaces.

The relief requested will cure the non-conformities with regards to the rear-, front-, and side-yard setbacks but increase the non-conformity with regards to area and frontage because they are going from a one-family to a two-family.

Ms. Smith stated that there are three forms of relief that were advertised. Staff has been waiting from a determination from the Law department on whether or not relief can be granted through a special permit when a Privileged Pre-existing Non-Conforming Structure gets demolished and the applicant wants to rebuild. With that in mind staff would ask the Board, if they approve the petition, to grant all the relief requested and at the time of the determination staff would issue a clarification if any of the relief granted is excessive. Ms. Smith asked the representative to elaborate what landscaping is proposed for the project, if the chain link fence is on the subject property, and if the first floor unit is handicapped accessible, and if signage is proposed.

Mr. Couture stated that the mature shade tree will be removed and they are proposing a honey locus to replace it. The chain-link fence to the east starts on the abutting property moves into theirs and then moves back to the abutting property. They have not yet determined whose fence it is. The chain-link fence to the west does not belong to them. During construction the fences will remain untouched. The first floor unit will be handicapped accessible. There will be signage during construction but not after.

Ms. Smith stated that the applicant requested a waiver from labeling abutters on the plans.

Mr. Abramoff asked if these are rental units.

Mr. Firment stated that the units are sold to individuals based upon their income. There will be a condo agreement between the two parties. The structure will be made as sustainable as possible and also energy star rated but they cannot use pervious pavers.

Upon a motion by Mr. Valeri and seconded by Mr. Wanat, the Board voted 6-0 to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Valeri, the Board voted 5-0 to approve the findings of fact as modified by staff and to approve the special permit having found that the lot area nonconformity is an intensification of an existing nonconformity and that it is not substantially more detrimental to the neighborhood, and the two variances subject to the law department's determination whether the variance for lot area is needed, and subject to the conditions of approval in the memo minus condition #3.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 5-0 to approve the waiver requested for labeling abutters on the plans.

List of Exhibits:

- Exhibit A: 21 Aetna Street Application; received 6/12/2015; prepared by Tim Firment.
- Exhibit B: 21 Aetna Street Plan; dated 5/12/2015; prepared by HS&T Group, Inc.
- Exhibit C: 21 Aetna Street Rendering; dated 3/4/2015 and revised 4/28/2015; prepared by Benjamin Nickerson.
- Exhibit D: Deed & Affordable Housing Deed Rider; Worcester Registry of Deeds Book 53343, Page 361.

3. 12 Victoria Avenue (ZB-2015-022)

Variance: For relief of the 15 ft. height dimensional requirement for an accessory structure in an RS-7 Zoning District (Article IV, Section 8.B.10)

Petitioner: Ndricim Hoxha

Present Use: Presently located on the premises is an existing ~4,500 SF single-family detached dwelling and associated off-street parking.

Zone Designation: RS-7 (Residence, Single-family) & RL-7 (Residence, Limited)

Petition Purpose: The petitioner seeks to construct a two-car detached garage with associated off-street parking, paving, and grading.

Public Hearing Deadline: 7/18/15

Constructive Grant Deadline: 8/22/15

Marge Bickeri, Mr. Hoxha's mother-in-law, stated that he is overseas due to a death in his family. She resides at 7 Victoria Avenue and has been in the neighborhood for 33 years. The petition is to rebuild a garage that used to be in the same location where they are proposing the new one. They are proposing to build a two-car garage, where only a one car garage existed in that spot. They are asking for an additional three feet in height for

storage. She stated that it was her daughter's wish to really leave a mark on the property and this was part of what she wanted to do before she passed away.

Ms. Tatasciore stated that the request was for 3.5 ft. of relief from the 15 ft. height requirement. The by right alternatives could be that they build a detached garage of 15 ft. or an attached garage of 35 ft. or less. Ms. Tatasciore reviewed the conditions of approval:

1. That the structure be constructed in substantial accordance with the final approved plot plan and garage elevations on file with the Division of Planning and Regulatory Services;
2. That each side of the driveway remains as green space and not be paved;
3. The proposed garage is not to be habitable; and
4. The garage roof overhang shall not protrude into the required side-yard setback more than the allowed 2 ft. nor the abutting property (Article XVI, Section 3.F.).

Ms. Bickeri stated that they are amenable to those conditions.

Mr. Haddon stated that there is a discrepancy where in one spot it states that the garage will be 18' 9.5" tall and they need clarification so they can provide the exact relief needed.

Ms. Bickeri stated that 3.5' is fine.

Elizabeth Howard, 12 Victoria Ave, asked for clarification on the side yard setback. They were concerned that if built on the old footprint of the garage it is right along the property line and they wanted to install a nursery on that side of their property. They were fine with the height relief requested.

Ms. Tatasciore stated that the side-yard setback for accessory structures is 5 feet from the property line and that is what's shown on the plot plan.

Mr. Horne stated that Inspectional Services will require an as-built plan once the foundation is poured to verify the location and that no encroachment occurs.

Upon a motion by Mr. Valeri and seconded by Mr. Michajlow, the Board voted 6-0 to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Valeri, the Board voted 5-0 to approve the findings of fact as modified by staff and to approve the variance for 3.5 ft. of relief from the 15 ft. height requirement subject to the conditions in the memo. The Board also approved the waiver to label abutters in the plans.

List of Exhibits

- Exhibit A: Variance Application; prepared by Ndricim Hoxha; received May 14, 2015.
- Exhibit B: Plot Plan; prepared by Cheney Engineering Co., Inc.; dated August 3, 2011; received May 14, 2015.
- Exhibit C: Garage Elevations; prepared by Exclusive Construction LLC; dated April 16, 2015; received May 14, 2015.
- Exhibit D: Tatman Street Lots from 1905.

4. 1 Taconic Road (ZB-2015-025)

- Special Permit: To allow for an Expansion, Alteration, or Change to a Privileged Pre-Existing Non-Conforming Structure/Use (Article XVI, Section 4)
- Variance: For relief from the 20 ft. front-yard setback dimensional requirement for a single-family detached dwelling in a RL-7 Zone (Article IV, Section 4, Table 4.2)
- Variance: For relief from the 20 ft. rear-yard setback dimensional requirement for a single-family detached dwelling in a RL-7 Zone (Article IV, Section 4, Table 4.2)
- Variance: For relief from the 7,000 SF minimum area dimensional requirement for a single-family detached dwelling in a RL-7 Zone (Article IV, Section 4, Table 4.2)
- Petitioner: Autism Behavioral Services, Inc.
- Present Use: Presently located on the premises is an existing ~1,944 SF single-family detached dwelling.
- Zone Designation: RL-7 (Residence, Limited) and within the Water Resource WR-(GP3) Overlay District
- Petition Purpose: The petitioner seeks to demolish the existing structure and re-construct a single-family detached dwelling with two off-street parking spaces, along with associated site work, grading, and paving at property located at 1 Taconic Road. The existing structure is non-conforming with regard to the required front- and rear-yard setbacks, lot area, and parking.

Public Hearing Deadline: 7/31/15

Constructive Grant Deadline: 9/4/15 (variance)

Patricia Masten submitted Exhibit F for the plot plan showing parking and Exhibit G for the revised rendering. Ms. Masten stated that they are requesting relief to build a new structure. The existing structure is decayed and has been vacant for 6 years. The new home will improve the neighborhood because the current home is affecting the surrounding homes' property values. The new home is being shifted over to make room for the parking spaces.

Ms. Smith stated that staff advertised for variances for the nonconformities, but have subsequently determined that they may be cured by Special Permit. Staff has been waiting for a determination from the Law department on whether or not relief can be granted through a special permit when a Privileged Pre-existing Non-Conforming Structure gets demolished and the applicant wants to rebuild. With that in mind staff would ask the Board, if they approve the petition, to grant all the relief requested and at the time of the determination staff would issue a clarification if any of the relief granted is excessive.

Ms. Smith stated that the proposed structure will be more non-conforming on the rear-yard setback, it will decrease the non-conformity for the front-yard setback and will remain the same in regards to the lot area. There is sufficient area shown on the submitted revised plans to accommodate the parking. She did ask the applicant if the existing driveway will be extended and Ms. Masten responded that it will be extended and since the driveway is already paved they would like to continue the pavement.

Ms. Smith stated that in the Water Resources Overlay District staff generally recommends that the driveways be pervious but it is up to the Board. She also stated that using rain barrels to manage roof runoff is another option. Ms. Smith asked if the vegetation will be removed.

Ms. Masten stated that they are amenable to the rain barrels and that they do not expect to replace or remove any vegetation but there is a tree in the front that if it gets damaged they are ready to replace it with a ALB-resistant tree.

Mr. Abramoff asked for clarification on the differences between the renderings. Ms. Masten stated that the original rendering is what the house will look like but they provided a revision to show the deck, the door, and window that will be added to the Plantation Street side.

Ms. Smith stated that the applicant should request a waiver of the application requirement to label abutters and abutters thereto within 300 ft. or label said abutters on a revised plan.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the Board voted 6-0 to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and to approve a Special Permit for an Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Structure having found that the nonconformity is an intensification of an existing nonconformity and will not be substantially more detrimental to the neighborhood and to approve the variances subject to the law department's determination whether or not these are needed subject to the following conditions:

- 1) That the structure be constructed in substantial accordance with the final approved plan prepared by Jarvis Land Survey, dated 1/14/2015, and with the submitted rendering with the addition of the deck and any means of egress needed;
- 2) That six (6) copies of revised plans be submitted to the Division of Planning and Regulatory Services showing the following changes:
 - a. Label the location of the two required parking spaces, outside of the required front-yard setback;
- 3) That the existing trees be protected within the drip-line, to the extent practicable, during construction and if damaged shall be replaced 1 for 1 with a minimum 3" caliper shade tree of a non-Asian Longhorned Beetle susceptible species.
- 4) That the driveway be replaced with pervious pavers,
- 5) Rain barrels be positioned to collect roof runoff.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the waiver.

List of Exhibits

- Exhibit A: 1 Taconic Road Application; received 5/27/2015; prepared by Autism Behavioral Services, Inc.
- Exhibit B: 1 Taconic Road Plan; dated 1/19/2015; prepared by Jarvis Land Survey, Inc.
- Exhibit C: 1 Taconic Road Rendering; undated; prepared by unknown.
- Exhibit D: Worcester Fire Department Comments; Undated.
- Exhibit E: 1 Taconic Road Photos; undated; prepared by Patricia Masten.
- Exhibit F: 1 Taconic Road Revised Plan; submitted July 6, 2015.
- Exhibit G: 1 Taconic Road revised Rendering; submitted July 6, 2015.

5. 16 Richmond Avenue (ZB-2015-027)

Special Permit: For relief of the dimensional requirements for a Residential Conversion of a Single-family detached dwelling to a two-family detached dwelling in a RL-7 Zoning District (Article IV, Section 9.A.)

Special Permit: For relief of the minimum off-street parking requirements for two-family detached dwelling in a RL-7 Zone (Article IV, Section 7.)

Petitioner: Kosma Cania

Present Use: Presently located on the premises is an existing single-family detached dwelling.

Zone Designation: RL-7 Zone (Article IV, Section 7.)

Petition Purpose: The petitioner seeks to convert the existing structure into a two-family detached dwelling along with off-street parking and associated paving & site-work, at property located at 16 Richmond Avenue. The property is existing non-conforming with regards to lot area, parking, frontage, and side-yard setbacks.

Public Hearing Deadline: 8/5/15

Attorney Edward O'Brien, representing Mr. Cania, stated that his client wants to convert the property from a single-family to a two-family and the respective parking needed. Mr. O'Brien stated that the applicant is amenable to the conditions of approval but he asked the Board if they preferred they continue the item to allow his client to submit revised plans.

Ms. Tatasciore stated that staff advertised the Special Permit for relief of the minimum off-street parking requirements for two-family detached dwelling in a RL-7 Zone (Article IV, Section 7.) to preserve the ability to consider parking relief as part of the proposal; the applicant's current proposal claims four parking spaces, though staff question where the proposed configuration could functionally operate with four spaces. The applicant is

proposing to extend the existing driveway into the backyard and to provide 4 parking spaces in a double tandem configuration but staff is concerned about maneuverability and the amount of additional impervious surface rendering the entire back yard to pavement.

Mr. O'Brien stated that his client agrees that there might be maneuverability issues and that proposing 3 spaces instead would be smarter. Therefore, they want to continue to revise the plans to show that.

Ms. Tatasciore recommended continuing the item to see different proposed configurations. The special permit for relief of the off-street parking is only for one parking space and if the applicant chooses to show less than 3 spaces then the item would need to be re-advertised, re-notified, and then reheard because it would also need a variance.

Elaine Fisher, owns a multi-family directly across the street, stated that parking on-street is very difficult and it's worse in the winter. She is for the petition but would suggest that they make the four parking spaces work onsite.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 5-0 to continue the item to August 17, 2015 to allow the revision of the plans to show a better parking configuration.

List of Exhibits:

- Exhibit A: Special Permit Application; received June 1, 2015; prepared by Kosma Cania.
- Exhibit B: Plot Plan; dated April 7, 2015; prepared by HS&T Group, Inc.
- Exhibit C: Renovation/floorplans; dated April 14, 2015; prepared by AA Design Services, LLC.

6. 5 Hemlock Street (ZB-2015-028)

Variance: For relief of the 15 ft. height dimensional requirement for an accessory structure in an RS-7 Zoning District (Article IV, Section 8,B.10)

Petitioner: Brian Colonna

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

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

Petition Purpose: The petitioner seeks to construct a detached two-car garage along with associated site-work, grading, and paving on property located at 5 Hemlock St.

Public Hearing Deadline: 8/5/15

Constructive Grant Deadline: 9/9/15

Attorney Robert Knapik, representing the owner, Brian Colonna, stated that the request is to construct a two-car garage with storage on top. The applicant proposes to construct a detached garage with a proposed height of 19 feet, thereby exceeding the height for an accessory structure by 4 feet in the zone for an accessory structure, while still lower than the maximum height for a dwelling in the zone (35 ft.). Mr. Knapik stated that staff noted

that the appearance of a taller, gable roof as proposed is an appropriate architectural treatment given the high visibility of the proposed garage at the front/exterior side of the lot near June Street. The applicant is amenable to the conditions of approval. Mr. Knapik submitted elevations for the structure (Exhibit E).

Ms. Tatasciore stated that the elevations show that there was a discrepancy and staff thought that the relief was for 5 ft. but the elevations show that the structure will be 19 ft. in height. The location of the proposed garage is near the June Street side of the lot, approximately 16 feet from the intersection of Hemlock Street and June Street, and 73 feet from the house. Staff recommends that the garage be moved closer to the house in order to promote safer vehicular movement at the intersection of June Street and avoid disturbing the large, established tree at the intersection.

Mr. Knapik stated that the applicant considered many locations for the garage but the location chosen was chosen to allow the most usable amount of yard space.

Mr. Michajlow asked if the drainage runoff was addressed. Ms. Tatasciore stated that if the applicant is using gutters the runoff can be collected by rain barrels.

Upon a motion by Mr. Valeri and seconded by Mr. Michajlow, the Board voted 6-0 to close the public hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Valeri, the Board voted 5-0 to approve the findings of fact as modified by staff and the petition for relief of 4 ft. from the 15 ft. height requirement with the conditions in the memo and that if gutters are used that rain barrels are utilized to collect runoff and to approve the waiver.

List of Exhibits

- Exhibit A: Variance Application; prepared by Applicant's Agent, W. Robert Knapik; received June 1, 2015
- Exhibit B: Plot Plan; prepared by Guerriere & Halnon, Inc.; dated June 16, 2014; received June 1, 2015.
- Exhibit C: Garage Elevations; prepared by Exclusive Construction LLC; dated April 16, 2015; received May 14, 2015.
- Exhibit D: Lincoln Square Hall Association subdivision from 19026
- Exhibit E: 5 Hemlock Street elevations; received July 6, 2015.

OTHER BUSINESS

7. Approval of the Proposed Draft Meeting Schedule for 2016

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 6-0 to adopt the 2016 board meeting schedule.

8. Communications - None

9. Signing of Decisions from prior meetings

The Board reviewed the decision for the Gun Parlor and Mr. Abramoff asked if the conditions noted covered transfer of any percentage of ownership. He was concerned that if the business is not owned solely by the applicant it might be run differently than what was presented to them.

Ms. Tatasciore asked if they wanted staff to confer with the law department on wording to ensure that if there is a change of ownership, partial or full, that the special permit shall lapse.

Mr. Michajlow stated that each individual has to be licensed through the federal and state government as well as the local License Commission. It is already difficult to try to transfer this type of business.

Mr. Loew stated that it should be clarified that the Board means a change in business ownership not property ownership. The other members agreed.

Ms. Tatasciore stated that a clarification will be issued for signature at the next meeting. The remaining decisions were signed.

ADJOURNMENT

Upon a motion the Board voted 6-0 to adjourn at 7:07 p.m.