

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

February 29, 2016

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

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

Staff Present: Stephen Rolle, Division of Planning and Regulatory Services
Domenica Tatasciore, Division of Planning and Regulatory Services
Michael Antonellis, Division of Planning and Regulatory Services
David Horne, Inspectional Services
John Kelly, Building Commissioner

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

**REQUESTS FOR CONTINUANCES, EXTENSIONS OF TIME, POSTPONEMENTS,
WITHDRAWALS**

1. 256 Webster Street (ZB-2015-063)

Special Permit: To allow for food-service drive-through in a BL-1.0 Zone (Article IV, Section 2, Table 4.1, Business Use #6)

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

Petitioner: 256 Webster Street, LLC

Present Use: Presently located on the premises is an existing ~3,460 SF commercial structure, used as a convenience store.

Zone Designation: BL-1.0 (Business, Limited)

Petition Purpose: The petitioner seeks to demolish a portion of the structure and add a food-service drive-through to the existing store along with associated site-work and re-configuration of the parking area.

Attorney Donald O’Neil requested a Leave to Withdraw without prejudice for the application.

Upon a motion by Mr. Michajlow and seconded by Mr. Dillon, the Board voted 5-0 to approve the request for a Leave to Withdraw without prejudice.

List of Exhibits:

- Exhibit A: ZBA – Special Permit Application; received November 9, 2015; prepared by Attorney Donald O’Neil.
- Exhibit B: Proposed Drive-Thru Location Plan – 256 Webster Street; dated November 3, 2015; prepared by Robert D. O’Neil, Jr.
- Exhibit C: Planning Board Approved Minutes for May 12, 1993.
- Exhibit D: ZBA Variance Decision; approved November 6, 1995.
- Exhibit E: Letter of Opposition from Hui Zheng; received December 8, 2015.
- Exhibit F: Letter of Opposition from Bill Kasper; received December 8, 2015.
- Exhibit G: Letter from DPW; dated December 11, 2015.
- Exhibit H: Letter of Opposition from Joan Crowell; received January 4, 2016.

2. 828 Pleasant Street (ZB-2015-062)

- Special Permit: To allow a Service Shop/Personal Service in a RL-7 Zone (Article IV, Section 2, Table 4.1, Business Use #27)
- Special Permit: To modify parking, loading requirements, dimensional requirements, layout, or the number of required parking spaces (Article IV, Section 7)
- Variance: For relief from the minimum side-yard setback dimensional requirement (Article IV, Section 4, Table 4.2.)
- Petitioner: Lona Realty, LLC
- Present Use: Presently located on the premises is an existing ~5,295 SF residential structure.
- Zone Designation: RL-7 (Residence, Limited)
- Petition Purpose: The petitioner seeks to construct a ~270 SF addition to the southeast of the existing structure to allow for a cell phone/computer repair business to operate out of the structure and to create a customer parking area along with associated grading, paving, and site-work.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the request for a Leave to Withdraw without prejudice.

List of Exhibits:

- Exhibit A: ZBA – Variance & Special Permit Application; received November 9, 2015 and revised on December 1, 2015; prepared by Attorney Todd Brodeur.
- Exhibit B: Memorandum in Support of Variance; prepared by Attorney Todd Brodeur.
- Exhibit C: Site Plan for Personal Service; dated November 9, 2015 and revised December 1, 2015; prepared by Land Planning, Inc.
- Exhibit D: Letter of Opposition from Nicholas & Kathleen Kanaracus; received January 4, 2016.

UNFINISHED BUSINESS

3. 800 Grafton Street (ZB-2015-060)

- Special Permit: To allow a Multi-family low-rise dwelling in a RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #11)
- Petitioner: Dominic Paldino
- Present Use: Presently located on the premises is an existing ~1,345 SF single-family detached dwelling
- Zone Designation: RL-7 (Residence, Limited)
- Petition Purpose: The petitioner seeks to demolish the existing structure and construct a multi-family low-rise dwelling with a total of 12 dwelling units along with off-street parking and associated grading, paving, and site work.

Public Hearing Deadline: 3/31/16

Mr. Haghanizadeh, from HS&T Group, described that the new plan revision shows 236 feet of sight distance at the entrance. The dumpster has been moved to a new location and they will be providing landscaping around the dumpster.

Mr. Couture, from HS&T Group, stated that the slopes have been reconfigured which increased sight distance on Grafton Street. The building has been reduced by 1,200 square feet from the originally proposed footprint. The right-hand-turn only restriction has been eliminated.

Mr. Rolle stated that if approved, the board members should consider the conditions of approval listed on the staff memo.

Mr. Michajlow stated that there have been big improvements to the plan since the last time the project was heard.

Mr. Abramoff asks if there is anyone from the public who wishes to speak. No one in the public was present to speak on this item.

Upon a motion by Mr. Michajlow, and seconded by Mr. Loew, the board voted 5-0 to close the public hearing.

Upon a motion by Mr. Michajlow, and seconded by Mr. Valeri, the board voted 5-0 to approve the Special Permit with the suggested conditions from the staff memo.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew the board voted 5-0 to waive the requirement to show abutters and abutters to abutters within 300 feet of the subject property on the plans.

NEW BUSINESS

4. 13 Cambridge Street (ZB-2016-001)

Special Permit: To allow a kennel in a BG-2.0 Zone (Article IV, Section 2, Table 4.1, Business Use #12)

Petitioner: Sean P. Stanton

Present Use: Presently located on the premises on property is an unoccupied 2,440 SF industrial warehouse building.

Zone Designation: BG-2.0 (Business, General) zone and CCOD-E (Commercial Corridor Overlay District)

Petition Purpose: The petitioner seeks to establish a dog training facility on the premise.

Public Hearing Deadline: ~~2/21/16~~, 3/31/16

Applicant Sean P. Stanton and Amy Egeland were present for the application. Ms. Egeland stated that they intend to establish a dog training facility on the premises. Some dogs will come in for day training and the go home and some dogs will stay overnight. All dogs will be seen by appointment and it is typically one dog at a time.

Ms. Egeland stated that 10 am would be the first available time and the last class will start at 7:30 pm, likely ending by 9 pm.

Ms. Egeland addressed staff's questions and comments from the review memo. They will use bark collars to minimize sounds affecting neighboring areas. There is a concrete pad, located outside in the back yard that will be used by the animals. There are some dogs that will stay overnight and they will be housed in airliner-proofed crates. Waste removal will be managed via dumpster. The landlord will address snow storage as a part of the service that the land lord provides. The snow is stored up the hill and the tenants are responsible for the sidewalks.

Ms Egeland stated that they typically meet the client in the parking lot and walk together to the building. With regards to parking, Ms. Egeland stated that they have been assigned 5 spaces on the side lot on the other side of 17 Cambridge Street.

Ms. Tatasciore asked if the outside area is contained. Mr. Stanton stated that yes the area is fenced.

Ms. Tatasciore asked where the dumpster will be located. Ms. Egeland stated that it is located between the two building down the alley way.

Mr. Abramoff asked which side the premises the parking is located on. Mr. Stanton stated that the parking is to the right of 17 Cambridge Street.

Mr. Michajlow asked how long the applicants were operating before receiving the Cease and Desist Order. Ms. Egeland stated they were operating for a few weeks to a month.

Mr. Lowe asked if there are any additional licenses they will need? Ms. Egeland stated they will need a Kennel License.

Mr. Abramoff opens the hearing to audience.

Patrick Cherry from the Animal Control Unit was present. Mr. Cherry stated that they were made aware that the animals were being walked through the streets around the property. Mr. Cherry also stated that there was concern that the dogs were contained overnight and emergency service responders may not be aware that there were animals in the building if there was ever a problem.

Ms. Egeland stated that the dogs will be walked one dog per person. All dogs that are not attended to are kenneled.

Mr. Rolle asked if dogs are unattended overnight. Mr. Stanton stated that the dogs are not left unattended overnight. Mr. Rolle stated suggested additional conditions as such: 1- dogs not be left unattended outside, 2- dogs be walked on a leash and walked one per person, and 3- dogs not be left unattended overnight.

Ms. Egeland clarified that dogs are crated separately.

Scott Ricker, local accessibility advocate, asked if there will be ADA compliant parking and will there be training for assistance dogs or companion dogs. Mr. Abramoff stated that the conditions suggested address ADA requirements. Ms. Egeland stated they will not train service dogs or therapy dogs.

Mr. Ricker asked if the building was handicap accessible. Mr. Kelly stated that a change of use is required through a building permit and all applicable laws and regulations will be reviewed.

Upon a motion by Mr. Valeri and seconded by Mr. Michajlow, the board voted 5-0 to close the public hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the board voted 5-0 to approve the special permit subject to suggested conditions noted in the staff memo and additional conditions as stated by Mr. Rolle and to waive the requirements to show abutters and abutters to abutters within 300 of the property on the plan.

5. 6 Salisbury Crag (ZB-2016-002)

Special Permit: To allow for Expansion, Alteration, or Change of a Pre-existing, Non-conforming Structure/Use (Article XVI, Section 4)

Petitioner: Donald & Leona Ricklin

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

Zone Designation: RS-10 (Residence, Single-family).

Petition Purpose: The petitioner seeks to construct a ~35 SF double entry/mud room with associated exterior and site work. The structure is currently non-conforming with regard to the front-yard and side-yard setbacks.

Public Hearing Deadline: 3/31/16

Applicants Donald and Leona Ricklin stated that they would like to build a small mudroom on the front of the home to mimic the aesthetic of the current home.

Mr. Abramoff asked if the petitioner was aware of the suggested conditions. Mr. Ricklin stated that he is aware and he requested the waiver to list abutters.

Upon a motion by Mr. Michajlow, seconded by Mr. Loew, the board voted 5-0 to close the public hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Valeri, the board voted 5-0 to approve the requested Special Permit for an Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Structure having found that said extension is an intensification of an existing non-conformity and will not be substantially more detrimental to the neighborhood; along with approval of the waiver to show abutters an abutters to abutters within the plan of the property.

6. 222 Brooks Street (ZB-2016-003)

Special Permit: To allow a Clinic in a MG-0.5 Zone (Article IV, Section 2, Table 4.1, General Use #3)

Petitioner: Tore Services, Inc.

Present Use: Presently located on the premises is an existing ~5,295 SF residential structure.

Zone Designation: MG-0.5 (Manufacturing, General)

Petition Purpose: The petitioner seeks to construct a ~48,000 SF structure for the Department of Veteran's Affairs to provide out-patient medical and dental care with associated parking and site improvements.

Public Hearing Deadline: 3/03/16

Attorney Todd Rodman who represents the petitioner and Jim Madigan, Fran Madigan, and Mike Andrade from Graves Engineering presented the application.

Attorney Rodman stated that final design has not been finalized and will not until it can be proved that the site is compatible with the use. Also, that Site Plan Approval is also required through the Planning Board and that some of staff's questions will not be able to be addressed until then.

Proposed hours of operation will generally be from 7 am-7 pm, until 1pm on Saturdays and closed on Sundays. The applicant is anticipating 1 delivery per week per vendor and approximately 8 vendors are anticipated. Approximately 208 parking spaces are provided. The clinic will provide approximately 60 jobs.

Mr. Abramoff clarifies that access will only be via Brooks Street.

Attorney Rodman stated that suggested landscaping is agreeable and more information will be provided at the Planning Board review.

Mr. Andrade discussed access to parking and emergency drop-off relative to topography. Mr. Andrade stated that there is a 40 foot elevation change from the street to the top of the property and

that there is restricted access to the property without doing substantial earthwork. The lower driveway is only for deliveries and drop-offs.

Mr. Loew asked if there are bus routes accessible to the new location. Attorney Rodman did not know.

Mr. Abramoff opened the hearing to the public.

John Paige, 67 Mount Ave., stated that his concern is mostly about the buffer that will be between the existing residential area. Mr. Paige also asked about any possible grade change.

Mr. Andrade state that the VA needs the entire property fenced and that there will be a retaining wall at the end of the street, lowering the VA property 10 feet and building a 6 foot tall fence which is proposed 20-25 feet from the property line.

Anne Blodgett, 68 Mount Ave., stated that there is already a fence and she has concerns about the size of the building and also the proximity to existing residential neighborhood. Ms. Blodgett also had concerns that there are better locations for the VA hospital other than the application before the board.

Mr. Abramoff states that many of these concerns can be addressed through the Planning Board regarding design.

Mr. Scott Ricker, local advocate, also spoke in regards to accessibility concerns. Mr. Ricker asked about handicap parking. Mr. Andrade stated that the proposed amount of handicap spaces exceeds what is required. Mr. Kelly stated that 7 spaces are required.

Upon a motion by Mr. Valeri, and seconded by Mr. Michajlow, the board voted 5-0 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 facts as modified by staff and the Special Permit with suggested conditions from the staff memo striking items 1.e, 1.f., 1.g., 5 and 6 along with approval of the requested waiver to show abutters and abutters to abutters within 300 feet of the property.

7. 180 Grove Street (ZB-2016-004)

Special Permit: To allow for Expansion, Alteration, or Change of a Pre-existing, Non-conforming Structure/Use (Article XVI, Section 4)

Petitioner: Proprietors of the Rural Cemetery

Present Use: Presently the property is a cemetery with associated structures.

Zone Designation: RG-5 (Residence, General)

Petition Purpose: The petitioner seeks to construct a ~3,785 SF stand-alone crematory building with associated parking and site improvements.

Public Hearing Deadline: 3/24/16

Ms. Tatasciore left the meeting.

Anthony Cleaves from Whitman and Bingham associates, civil engineers for the project, stated that the petitioner wishes to add a new building for a crematorium. Currently there are 4 facilities within the existing crematorium and 2 would be replaced by 2 new facilities within the new building. There will be handicap parking associated with the building but that there is no requirement to provide parking with the proposed use.

Mr. Cleaves stated that the new building is intended to fit with the existing aesthetic of current buildings on the property.

Mr. Rolle asked for clarification regarding the existing crematorium. Mr. Cleaves stated that the existing crematorium will stay in use with the reduction of 2 facilities which will be transferred to the new building resulting in no net increase in crematory facilities.

Grant Angelo, RP Massiello, project manager stated that they are currently undergoing the state DEP approval process.

Mr. Rolle asked what the hours of operation will be. Mr. Angelo stated that there will be no change in the hours of operation as they are currently 7 am-5 pm. The new building will also contain a visiting area and an office area.

Mr. Rolle asked if there were any other sites considered for the building. Mr. Angelo stated that they considered making an addition to the current building however, the cost would have been higher than building a new structure and they would have had to move 70 graves. In the proposed location the cost is significantly less and only 9 graves will have to be relocated.

Mr. Rolle asked the board to consider the landscape screening requirement. Mr. Angelo stated that the cemetery is protective of the trees on the property and would like to see as many saved as possible.

Mr. Abramoff opens the hearing for public comment.

Scott Ricker, local access advocate, asked if the building is fully handicap accessible. Mr. Angelo stated that everything in the building is on grade and accessible.

Upon a motion by Mr. Valeri, and seconded by Mr. Michajlow, the board voted 5-0 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 special permit with conditions noted in staff memo striking item 1.f., also to find that the extension, alteration or change itself complies with the current requirements of this Ordinance; and the use, as extended, altered or changed will not be substantially more detrimental to the neighborhood than the existing nonconforming use; and in residential districts, the use as extended, altered or changed shall meet the off-street parking requirements of this Ordinance.

APPROVAL OF THE MINUTES

Upon a motion by Mr. Loew and seconded by Mr. Haddon, the Board voted 5-0 to approve the following minutes: December 14, 2015 and January 11, 2016.

OTHER BUSINESS

8. **Board Elections of Officers** – The Board shall, by a majority vote, elect both a chairperson and a vice chairperson. Alternates may not participate in this annual election (ZBA Rules & Regulations, Section 3 - as amended 6-29-2009)

Upon a motion by Mr. Valeri and seconded by Mr. Michajlow, the board voted 5-0 to appoint Larry Abramoff to the position of Chair.

Upon a motion by Mr. Valeri and seconded by Mr. Loew, the board voted 5-0 to appoint Vadim Michajlow to the position of Vice-Chair.

9. **Communications** – None

10. **Signing of Decisions from prior meetings** – the decisions for the prior meeting were signed.

ADJOURNMENT

Upon a motion by Mr. Loew, seconded by Mr. Michajlow, the Board voted 5-0 to adjourn the meeting at 7:16 p.m.