

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

December 17, 2018

WORCESTER CITY HALL, 455 MAIN STREET, ESTHER HOWLAND CHAMBERS

Zoning Board Members Present: Vadim Michajlow, Chair
Joseph Wanat, Vice-Chair
George Cortes
Robert Haddon, Alternate Member
Russell Karlstad, Alternate Member

Absent: Andrew Freilich
Jordan Berg Powers

Staff Present:
Stephen R. Rolle, Division of Planning & Regulatory Services
Deborah Steele, Division of Planning & Regulatory Services
John Kelly, Department of Inspectional Services
David Horne, Department of Inspectional Services

Call to Order – 5:30 pm

Approval of the Minutes – 11/26/18-Minutes were held to January 14, 2019 Zoning Board of Appeals meeting.

Requests for Continuances, Extensions, Postponements, and Withdrawals

Old Business

1. 3 Newton Avenue (ZB-2018-081)

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; At proposed Lot 2 Newton Avenue is a detached garage.

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

Petition Purpose: To convert the existing garage on Lot 2 into a single-family dwelling and to conduct related site work.

Public Hearing Opened on 11/26/18; Constructive Grant Deadline: 1/31/19

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to continue the Variance requests to the February 25, 2019 Zoning Board of Appeals meeting and to Extend the Constructive Grant Deadline to March 19, 2019.

2. **Elliot Street (ZB-2018-072)**

Variance: For relief from the minimum required front yard setback (Article IV, Section 7, Table 4.2)

Variance: For relief from the minimum parking requirements (Article IV, Section 7, Table 4.4)

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

Petitioner: Reinardele Chaveiro

Present Use: A three-family dwelling, along with associated site improvements.

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

Petition Purpose: To convert a portion of the existing structure into a fourth dwelling unit and to conduct related site improvements.

Public Hearing Deadline: 12/17/18; Constructive Grant Deadline – Variance: 1/31/19

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to allow for Leave to Withdraw without Prejudice for the Variance and Special Permit requests.

3. **128 Elm Street (ZB-2018-076)**

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

Variance: For relief from the minimum parking requirements (Article IV, Section 7, Table 4.4)

Petitioner: Jamila Aroush
Present Use: A three-family dwelling.
Zone Designation: RG-5 (Residence, General) zoning district
Petition Purpose: To convert the existing structure into a 5-dwelling unit structure.
Public Hearing Deadline: 12/17/18; Constructive Grant Deadline: 1/10/19

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to Postpone the Special Permit and Variance requests to the January 14, 2019 Zoning Board of Appeals Meeting and to extend the Constructive Grant Deadline to February 4, 2019.

4. 57 Highland Street and 33 & 35 Wachusett Street (MBL 02-035-00020; -00019; & -00062) (ZB-2018-088) -

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

Petitioner: Plaka Realty LLC

Present Use: At 33 Wachusett Street is a vacant lot;
At 57 Highland Street is a food service establishment (with alcohol); &
At 35 Wachusett Street is a parking lot.

Zone Designation: 33 Wachusett Street is located within the RG-5 (Residence, General) and BL-1.0 (Business, Limited) zoning districts and partially within the Commercial Corridor Overlay District – Elsewhere (CCOD-E) overlay district; &
57 Highland Street and 35 Wachusett Street are both located within the BL-1.0 (Business, Limited) zoning district and the Commercial Corridor Overlay District – Elsewhere (CCOD-E) overlay district.

Petition Purpose: To construct a parking lot and conduct related site work.

Mr. Rolle stated that this application was not properly before the Board so has been Administratively Withdrawn and no action by the Board is necessary.

Old Business

5. 26 (aka 32) Cambridge Street (ZB-2018-071) –

Variance: For relief from the minimum parking requirements (Article IV, Section 7, Table 4.4)

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

Petitioner: Ellen Coffie

Present Use: A commercial warehouse with associated site improvements.

Zone Designation: ML-2.0 (Manufacturing, Limited) & MG-2.0 (Manufacturing, General) zoning districts

Petition Purpose: To convert a portion of the structure into a grocery store.

Public Hearing Deadline: 12/17/18; Constructive Grant Deadline – Variance: 1/30/19

Attorney Donald O’Neil along with the applicant, Ellen Coffie, appeared upon behalf of the application.

The applicant seeks to convert a portion of the existing structure into a grocery store. Presently on the premises is an existing commercial warehouse.

The scope of the project is as follows:

Currently on site is a two-story commercial structure with a brewery/pub use on the ground floor. The applicant proposes to establish a retail sales (food) use in the empty tenant space on the upper floor.

There are two existing parking lots which serve the property. The front (upper) lot is conveniently located to service the proposed grocery store, while the rear (lower) lot serves the brewery. The lots are largely undefined in terms of lane and parking space striping today.

The applicant states that hours of operation for the proposed new retail use will be 9am-6pm, Mon-Sat.

The listed hours of operation for the existing brewery/pub are:

- Monday & Tuesday – Closed
- Wednesday & Thursday – 5pm-9pm
- Friday & Saturday – 12pm – 10pm
- Sunday - 12pm – 6pm

Under current/proposed operations, both uses would be open simultaneously during the following times:

- Wed-Thurs, 5pm-6pm and
- Fri-Sat, 12pm-6pm

Mr. O’Neil stated that this is an old warehouse space that has been empty for a number of years and the applicant would like to open a grocery store with specialty African food and clothes and stated that this store would be an improvement over what is currently there.

Mr. O’Neil stated that they have been working with planning staff on the parking and they believe the parking should not be a problem. The space is shared with a microbrewery which is open primarily during evening hours and this store will be primarily open during day time hours.

Mr. Rolle stated that he believed that only one ADA accessible space is required on the lower parking lot and if that is the case then the applicant could use one of the two identified ADA spaces just as general parking. Mr. Kelly stated that he would agree with that. Mr. Rolle stated that

the applicant then could amend the plans then to show one van accessible space in the lower lot and one in the upper lot.

Mr. Rolle stated that staff would recommend that excess snow be removed off site.

Mr. Rolle stated that the amount of relief being requested is quite large, but that is largely driven by the presence of an existing brewery with accessory taproom on site. The current zoning ordinance does not have a parking category that corresponds closely to this use, and therefore under the current zoning ordinance the parking requirement is quite high.

Mr. Rolle stated that staff has recommended the hours for the proposed store be limited and that if the downstairs use was to change to something different than a brewery with a taproom then the Variance would revert to a lower requirement of relief necessary.

Mr. Haddon asked where the access from the rear parking would be located. Mr. O'Neil stated that they would have to park on the street or walk around. Mr. Haddon stated that might prevent customers from shopping in the store. Mr. O'Neil stated that the store is a destination so customers may be willing to walk more to access it.

Mr. Karlstad asked if the door in the rear was an egress to the building in case of emergency and if so you can't have a parking space in front of it.

Mr. Rolle stated that is not an enclosed area. Mr. Kelly stated that is correct and there is another entrance in the brew pub but he will check into further to make sure the egresses meet code requirements.

Mr. Rolle stated that he would suggest another condition would be that the plan be changed to show that area is not an enclosed space.

Mr. Cortes asked if the proposal was being treated as one business or are they combined into two businesses for the parking requirements. Mr. Rolle explained that the relief goes with the land so it treated as all one property even though it will be two businesses.

Mr. Rolle stated that is why staff has recommended the conditions on the limit of hours and that if there is a change in use the Variance would revert back.

Mr. Wanat asked what do they want to call the open area and suggested "Open fenced area" so that it meets the egress requirements.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to approve the waiver of the application requirement to label abutters and abutters thereto within 300 ft. on the plan.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 4-1 (Mr. Karlstad voting no) to accept the petitioner's finding of fact as modified by staff and approved the Variance

for relief of 50 parking spaces and Special Permit requests with conditions outlined in staff's memo with modification to condition #8 to state "open fenced area" on the plan.

List of Exhibits:

Exhibit A: Variance Application; received August 14, 2018; prepared by applicant.

Exhibit B: Plan of Land; dated August 13, 2018; revised November 30, 2018; prepared by Robert O'Neil & Joseph Graham.

New Business

6. 13 Woodcliffe Avenue (MBL 45-024-0000Z) (ZB-2018-083)

Variance: For relief from the minimum frontage dimensional requirement (Article IV, Section 4, Table 4.2)

Petitioner: Suzanne and Edward DesRosiers

Present Use: A vacant lot.

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

Petition Purpose: To construct a single-family detached dwelling and conduct related site work.

Public Hearing Deadline: 12/27/18; **Constructive Grant Deadline:** 1/31/19

Attorney James Vevone appeared upon behalf of the applicant, Suzanne and Edward DesRosiers.

The applicant proposes to construct a single family detached dwelling in a location outside of the private ways to ensure any possible rights of others to pass and repass will remain unobstructed. Currently located at 13 Woodcliffe Avenue is a vacant, mostly wooded, lot. The property is encumbered by two paper-streets, private ways not shown on the official map, known now or formerly as Julien Avenue and Woodcliffe Avenue. This unique convergence of ways leaves only 17 feet of frontage (on the public portion of Woodcliffe Avenue) that can be used for zoning compliance purposes. The existing lot lacks sufficient frontage, based on the minimum dimensional requirements of the Zoning Ordinance and thus the applicant has applied for relief from the frontage dimensional

Mr. Vevone stated that planning staff had recommended that they request for 48 feet of relief and that is what they are requesting tonight.

Mr Rolle described the presence of two private ways not appearing on the Official Map, which complicates the calculation of frontage. Mr. Rolle confirmed that the previous variance approval had lapsed and that the current petition was a new petition.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to accept the petitioner's findings of fact as modified by staff, approve the Variance request with conditions outlined in staff's memo, and approve the waiver of the application requirement to label abutters and abutters within 300 feet on the plan.

List of Exhibits:

- Exhibit A: Variance Application; received 10/23/18; prepared by James A. Vevone, Esq.
Exhibit B: Existing Conditions Proposed Definitive Subdivision; dated 1/24/12; prepared by Robert D. O'Neil, Jr., PLS.

7. 120 & 126 Chandler Street (MBL 06-17A-00024 & -0026A) (ZB-2018-084)

- Variance - EOT:** For relief from the minimum parking requirements (Article IV, Section 7, Table 4.4)
- Petitioner:** Worcester Common Ground, Inc.
- Present Use:** At 120 Chandler Street is a vacant two-story office building; At 126 Chandler Street is a vacant commercial warehouse and attached garage.
- Zone Designation:** 126 Chandler Street is located within a BG-3.0 (Business, General) zoning district and principally within the Commercial Corridors Overlay District (CCOD-E); & 120 Chandler Street is split zoned, between a BG-3.0 (Business, General) and a RG-5 (Residence, General) zoning district and is principally within the Commercial Corridors Overlay District (CCOD-E)
- Petition Purpose:** To seek a six month extension of time of the previously approved Variance in order to demolish the existing structure at 120 Chandler Street and the attached garage at 126 Chandler street, to renovate the existing structure at 126 Chandler Street, and to construct an addition, to be used as a mixed-use structure comprised of a multi-family high-rise residence use (for a total of 31 dwelling units) and a commercial use, along with associated site work.

Public Hearing Deadline: 1/4/19; **Date Permit Otherwise Expires:** 1/26/19

Yvette Dyson from Worcester Common Ground, Inc. appeared upon behalf of the application.

Worcester Common Ground, Inc. has applied to the Zoning Board of Appeals seeking a six month extension of time to July 26, 2019 on the approved Variance (ZB-2018-084) previously approved by the Board, with their final action on January 26, 2018.

Ms. Dyson stated that they are looking for the Extension of Time as they did not receive funding for first round they applied for with the state but they are now applying again for the funding and the project has been well received by the state but they need the additional time for the Variance in order to secure the funding.

Mr. Michajlow stated that the Board had received a letter of opposition from the Chandler Business Association about the length of time the project is taking. Ms. Dyson stated that it is a funding issue but they did board up the windows and that is being taken care of. Mr. Haddon requested that the applicant keep the build secured until the funding is completed and work can commenced.

Mr. Michajlow asked if there was any public comment, which there was not.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to approve the Extension of Time with all existing conditions on existing Variance to remain in place.

List of Exhibits:

Exhibit A: Special Permit & Variance Extension of Time Application; received October 31, 2018; prepared by Joel Feinberg of Worcester Common Ground, Inc.

Exhibit B: Site Plan; dated October 31, 2017; prepared by Davis Square Architects

8. 26 Cedar Street (MBL 02-033-00041) (ZB-2018-085)

Special Permit: To modify dimensional standards for a Residential Conversion (Article IV, Section 9)
Petitioner: Daniel Rizika
Present Use: A mixed-use structure with associated site improvements.
Zone Designation: BO-1.0 (Business, Office) zoning district
Petition Purpose: To convert the existing structure into a fully residential structure (for a total of 7 dwelling units) and construct off-street parking and conduct related site work.

Public Hearing Deadline: 1/17/19; **Constructive Grant Deadline:** TBD

Attorney Jonathan Finkelstein along with Daniel Rizika appeared upon behalf of the application. The applicant seeks to convert the existing structure into a fully residential structure for a total of 7 dwelling units.

The applicant is seeking retroactive relief to lawfully convert the structure into 7 studio apartments, eliminating any historic commercial uses.

Staff has concluded that a total of 6 parking spaces (4 surface and 2 garage) were historically on-site. The applicant proposes to construct off-street parking in a new 10 space gravel parking lot to be located to the rear of the structure. The proposed parking complies with the requirements of the ordinance after applying credits for the historic parking available on site

Mr. Finkelstein reviewed the plans for the site and stated that the plans being presented tonight shows a reducing of parking spaces from 15 spaces to 10 spaces and shows an enclosed dumpster in the corner of the yard.

Mr. Michajlow asked if the vegetation had to be taken down. Mr. Finkelstein stated no. That vegetation is remaining and the six trees in the buffer zone will remain.

Mr. Rolle asked Mr. Finkelstein to confirm that the apartments would be one bedroom units. Mr. Finkelstein stated that was correct.

Mr. Rolle asked if there would be any impact on neighboring property from car headlights. Mr. Finkelstein stated that the direction of the headlights that would effect a neighboring property there will be a dumpster and a fence and they could extend the fence if they had to.

Mr. Cortes asked if asked if accessible parking needed to be provided. Mr. Finkelstein stated that the application does not meet the threshold for that and Mr. Kelly confirmed that.

Upon a motion by Mr. Karlstad and seconded by Mr. Wanat the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to accept the petitioner's findings of fact, approve the Special Permit with conditions outlined in staff's memo, and approve the requested waiver from labeling abutters and abutters thereto within 300 feet on the plan.

List of Exhibits:

Exhibit A: Special Permit Application; received 10/31/18; prepared by Jonathan Finkelstein, Esq.

Exhibit B: Plan for Special Permit; dated 11/12/18; prepared by B&R Survey, Inc.

Exhibit C: Worcester Fire Department Comments; dated 11/19/18.

9. 92 Grand Street (MBL 07-004-00012) (ZB-2018-086)

| | |
|------------------------|--|
| Variance - EOT: | For relief from the minimum parking requirements (Article IV, Section 7, Table 4.4) |
| Petitioner: | Main South Community Development Corporation |
| Present Use: | A vacant, partially paved, lot. |
| Zone Designation: | RG-5 (Residence, General) zoning district and within the Adaptive Re-use Overlay District (AROD) |
| Petition Purpose: | To seek a six month extension of time of the previously approved Variance in order to construct a mixed use development, consisting of 48 residential dwelling units and commercial/retail space, along with associated grading, paving drainage, and site work. |
| Decision Deadline: | 12/28/18; Date Permit Otherwise Expires: 12/8/18 |

Attorney Todd Rodman appeared upon behalf of the applicant, Main South Community Development Corporation. The applicant is seeking a six month extension of time to June 8, 2019 for the previously approved Variance by the Board.

Mr. Rodman stated that the Main South Community Development is a non-profit and they have been seeking funding for the project but funding takes longer to obtain and the Variance winds up expiring prior to the funding being in place and that is why they are seeking additional time on the Variance request.

William Raymond, a tenant abutting the property, asked if tenants are required to be notified of hearings. Mr. Rolle confirmed that property owners only are notified.

Mr. Raymond expressed concern over the design property and stated that he didn't think that enough community involvement had taken place prior to the Variance being approved.

Mr. Cortes suggested that Mr. Raymond speak with Mr. Rodman after the meeting and maybe Mr. Rodman could arrange for Mr. Raymond to speak with a representative from Main South Community Development and they could review the project with him.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to approve the Extension of Time with all previously approved conditions on the Variance remaining in place.

List of Exhibits:

Exhibit A: Variance Extension of Time Application; received November 13, 2017; prepared by Main South CDC.

Exhibit B: Site Plan; dated October 5, 2017; prepared by Samiotes Consultants, Inc.

Exhibit C: Variance Findings of Fact & Decision; 92 Grand Street; stamped by City Clerk on December 8, 2017.

Other Business

Mr. Rolle presented Mr. Michajlow with a certificate of appreciation for his years of volunteer service to the Zoning Board of Appeals.

10. Communications

11. Signing of Decisions from prior meetings

Adjournment

Upon a motion the Commission voted 5-0 to adjourn the meeting at 6:40 p.m.