

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

March 21, 2016

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

Zoning Board Members Present: Timothy Loew
George Valeri
Joseph Wanat
Robert Haddon, Alternate Member
Thomas Dillon, Alternate Member

Zoning Board Members Absent: Lawrence Abramoff, Chair
Vadim Michajlow, Vice-Chair

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

Joseph Wanat called the meeting to order at 5:30 PM.

New Business

1. 70 Gold Star Boulevard & 32 (aka 36) Millbrook Street (ZB-2016-005)

Special Permit: To allow for food-service drive-through in a MG-2.0 (Manufacturing, General) 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 and also landscaping requirements (Article IV, Section 7)

Petitioner: Chick-fil-A, Inc.

Present Use: Presently the property contains a ~6,000 SF retail building with ancillary parking and automotive sales.

Zone Designation: MG-2.0 (Manufacturing, General) zone

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.

Public Hearing Deadline: 3/24/16

Attorney Robert Longden, Scott Goodson from Chick-Fil-A, Josh Swirling & Tony Donato of Bohler Engineering, and traffic engineer Don Dumais were present for the application.

Mr. Goodson addressed the board and shared information about the company and the brand.

Attorney Longden stated that restaurant use is allowed in the underlying zone, however a drive-through requires a Special Permit. He stated that the site is shared by Gallo Motors. There are 1.2 acres on the site which will be leased to Chick-Fil-A. There is an existing retail building which will be torn down for the new restaurant. Gallo operates the remainder of the property.

Attorney Longden stated that the Gold Star Boulevard is a major commercial artery. There are industrial type uses in the area and the proposed use is consistent with the character of the neighborhood. The nearest residential property is across Gold Star Boulevard which is adjacent to the CVS which has a drive-through. There is also a drive-through located at the Honey Dew Donuts, which is also on Gold Star Boulevard.

The proposed restaurant will have about 140 seats inside. The hours of operation will be 6:30 am to 10 pm Monday to Saturday. Approximately 2 to 3 large trucks for delivery will be expected each day during non-peak hours and smaller deliveries at other times of the day. Trash pick-up will occur during non-peak hours.

Attorney Longden stated that access will be through Gold Star Boulevard. Exiting vehicles onto Gold Star will be right turn only since the road is one-way. Two-way access will be available via Millbrook Road. The drive-through will comply with the zoning ordinance.

The applicant is asking for a reduction in required parking by 3 spaces by Special Permit.

Mr. Dumas stated that guidelines were vetted through the DPW. The study intersections consisted of Gold Star Blvd., Glennie Street, and Millbrook Street. Approximately 50% of trip generation will be "pass-by" on Gold Star Blvd. and will not result in new vehicle trips.

Mr. Dumas stated that lunch time will be highest peak times. The Gallo driveway will be operating at a class B or better and other intersections will operate at C or better. According to Chick-Fil-A operations, approximately 50% of trips go through the drive-through lane. There will be a 17-car maximum queue with room for 23 cars.

Attorney Longden stated that the taxes generated for the site is currently \$21,000. The expectation for the new use of the site is that it will generate significantly more tax revenue.

The applicant requested a waiver to list abutters and abutters to abutters within 300 feet of the property on the plan. Regarding landscaping, the applicant will increase trees for a total of 26 onsite. The applicant requests to place a barbed wire fence on the property line adjacent to the Gallo property for the benefit of the Gallo dealership to ensure security against vandalism and theft.

Attorney Longden stated that light spillover is requested and beneficial on the part of the Gallo property only. Again this is for safety and crime deterring reasons.

Mr. Loew asked if the vehicles will be parked adjacent to the shared driveway area. Attorney Longden stated that Gallo cannot park within the easement.

Ms. Tatasciore asked the applicant to address the Fire Chief's comments. Attorney Longden stated that since the building is brick there is no fire hazard for providing mulch near the building.

Mr. Rolle stated that item number 5 should be modified to state "Provide a copy of the lease pages relevant to the access agreement to DPRS".

Mr. Loew asked about the parking spaces adjacent to the entrance off of Gold Star Boulevard. Mr. Swirling stated that he will remove a tree from that location possibly creating conflict and move to a different location.

Mr. Wanat opened the meeting to public comment.

Jo Hart stated that the street is dangerous and asked which street will be used as a turnaround. Mr. Rolle stated that the vehicle would just circulate the parking lot and exit onto Millbrook Street.

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

Upon a motion to by Mr. Loew, and seconded by Valeri, the board voted 5-0 to approved the Special Permit to allow for food-service drive-through in a MG-2.0 (Manufacturing, General) zone and to approve the Special Permit to modify parking, loading requirements, dimensional requirements, layout, or the number of required parking spaces and also landscaping requirements with the conditions as noted by staff with modification to item #5 to include "Provide a copy of the lease pages relevant to the access agreement to DPRS" and to add condition that the tree on the west side by the 8 parking spots, be relocated elsewhere onsite and to include a black vinyl coated chain-link fence and also to approve the petitioner's request to label abutters and abutters to abutters within 300 feet.

List of Exhibits:

- Exhibit A: Special Permit Application; received January 19, 2016 and revised on March 4, 2016; prepared by Attorney Robert Longden.
- Exhibit B: Site Development Plan; dated January 14, 2016 and revised on March 7, 2016; prepared by Bohler Engineering.
- Exhibit C: Exterior Perspectives & Elevations; dated March 7, 2016.

- Exhibit D: Traffic Impact Assessment; dated January 19, 2016 and updated on February 24, 2016; prepared by MDM Transportation Consultants, Inc.
- Exhibit E: Fire Department Comments; received March 10, 2016.
- Exhibit F: E-Mail Letter of Opposition from Bobbie Chase; received March 15, 2016.

2. 34 Trahan Avenue (ZB-2016-006)

- 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.)
- Variance: To modify the parking requirements of the zoning ordinance to allow a reduction of 2 required parking spaces (Article IV, Section 7)
- Petitioner: Todd Baril & Cynthia Bryant-Baril
- Present Use: Presently on the property is a single-family dwelling.
- Zone Designation: RL-7 (Residence, Limited) zone
- Petition Purpose: The petitioner seeks to convert the existing structure into a detached two-family dwelling with associated site improvements.

Public Hearing Deadline: 3/30/16

Constructive Grant Deadline – Variance: 5/4/16

Property owners Cindy Bryant-Baril and Todd Baril presented their application. Ms. Bryant-Baril stated that the attic was changed into a bedroom for Mr. Baril’s uncle. The uncle still lives there and the petitioners seek to convert the dwelling into a 2-family.

Ms. Tatasciore stated the relief from dimensional requirements is 500 SF and a variance for 2 parking spaces. One parking space is in the garage and 1 is pre-existing non-conforming in the front-yard setback. The remaining 2 spaces are requested for the variance. Ms. Bryant-Baril requested waiver to list abutters and abutters to abutters within 300 of the property on plan provided.

Mr. Kelly stated that a building permit would have to be obtained to secure the change in use.

Upon a motion by Mr. Valeri and Seconded by Mr. Haddon the board voted 5-0 to close the hearing.

Upon a motion by Mr. Loew and seconded by Mr. Valeri the board voted 5-0 to approve 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 and to approve

Variance to modify the parking requirements of the zoning ordinance to allow a reduction of 2 required parking spaces with conditions as noted in the staff memo and to approve request waivers.

List of Exhibits:

- Exhibit A: Special Permit Application; received January 26, 2016 and updated on February 29, 2016; prepared by Todd Baril & Cynthia Bryant-Baril.
- Exhibit B: Plot Plan; dated January 14, 2016; prepared by HS&T Group, Inc.
- Exhibit C: Variance Application; received March 10, 2016 and updated on March 9, 2016; prepared by Todd Baril & Cynthia Bryant-Baril

3. 1117 Grafton Street (ZB-2016-007)

Variance: For relief of 3.4 feet from the minimum front-yard setback dimensional requirement for a structure in a BL-1.0 (Business, Limited) zoning district (Article IV, Section 4)

Petitioner: Anthony Bianco

Present Use: Presently at the property is a single-family home.

Zone Designation: BL-1.0 (Business, Limited) zoning district

Petition Purpose: The petitioner seeks to construct a deck attached to the structure which will project into the required front yard setback.

Public Hearing Deadline: 4/1/16

Constructive Grant Deadline – Variance: 5/6/16

Engineer Zac Couture from HS&T Group presented the application. He stated that on the site is a newly renovated single-family dwelling with a concrete deck. The green space from the lot was removed to eliminate lawn care needs. It is not the intention of the paved area to provide extra parking for the business uses adjacent to the site.

Mr. Antonellis asked if it is the intention of the applicant to maintain the property as a residential property. Mr. Couture stated that it is the intention of the applicant to maintain the residential use into the foreseeable future. The applicant has requested a waiver to label abutters and abutters to abutters within 300 feet of the site.

Mr. Wanat asked if the deck was constructed by accident into the front-yard setback.

Mr. Kelly stated that the deck was constructed without a permit and renovations were done inside the home without permits. Mr. Kelly suggested a fence be constructed between the property lines to limit overflow parking between sites.

Mr. Dillon asked about the location of the sign to the front of the property. Mr. Couture stated that the sign is located in the Grafton Street right-of-way.

Mr. Wanat opened the hearing to the public. There were no public comments.

Mr. Loew asked about the material of the proposed fence suggested by Mr. Kelly. Mr. Rolle suggested that the board make it so that the fence not be chain-link.

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

Upon a motion by Mr. Loew, and seconded by Mr. Valeri, the board voted 5-0 to approve the requested Variance with staff conditions as noted with amendments on item #2 to note that the variance only applies to the deck and adding #4 to install a fence at the property line between 117 and 1121 Grafton street which extends to the rear portion of the paved area of the adjacent lot and connect to the fence on the property line with the Shell gas station and that the fence be matching and that it not be chain-link and approval of requested waivers.

List of Exhibits:

- Exhibit A: Variance Application; received January 27, 2016; prepared by Anthony Bianco.
- Exhibit B: Variance Site Plan; dated January 26, 2016; prepared by HS&T Group, Inc.
- Exhibit C: Cease & Desist Order for working without a permit from Inspectional Services Department, dated August 4, 2015.

4. 475 Shrewsbury Street (ZB-2016-008)

Special Permit: Extension, alteration, or change of a privileged, nonconforming use with regard to required escape lane provision (Article XVI, Section 4)

Amendment to

Special Permit: To allow a drive-through use in a BG-3.0 zone (Article IV, Section 2, Table 4.1)

Petitioner: McDonald's USA, LLC

Present Use: Presently the property is a McDonald's restaurant.

Zone Designation: BG-3.0 (Business, General) zone, USOD (Union Station Overlay District) and CCOD-E (Commercial Corridor Overlay District)

Petition Purpose: The petitioner seeks to continue the existing use with the addition of a second drive-through ordering station which includes adding a portion of a drive-through escape lane and removing parking spaces

Public Hearing Deadline: 4/10/16

John Kusich from Bohler Engineering and Allison Bricket from McDonald's Corp. presented the application.

Mr. Kusich stated that the intention is to modify the drive-through and an amendment to the Special Permit is required. This application seeks to remedy the queuing of cars on the property and McDonald's has proposed to reconfigure some of the parking as a way to achieve this goal.

There will be a reduction of 11 parking spaces onsite. The remaining parking will suffice for the use.

Mr. Kusich stated that McDonald's will be adding part of a bypass lane where there was none before.

Mr. Kusich stated that the board received a letter from Fidelity Bank stating concerns over reduction of parking causing customers of the fast food chain to park at Fidelity Bank. McDonald's has proposed a fence to help alleviate this concern. Fidelity Bank has requested an aluminum fence instead of a vinyl.

The petitioner has requested a waiver from the requirement to list abutters and abutters to abutters with 300 feet of the site.

Mr. Rolle stated that the primary change aside from a second ordering window is the reduction of parking which is close to maximum of what is allowed in the ordinance. The new parking layout will reduce pedestrian conflict

Mr. Wanat opened the hearing to the public.

Dave McKay, representing Fidelity Bank stated that all of the incoming traffic goes through the easement in front of Fidelity Bank. Mr. McKay stated that the concern over McDonald's customers parking in the Fidelity parking lot is an all-day concern given the configuration of the 2 lots. Mr. McKay stated that Fidelity does not have an issue with the relief being sought from the Zoning Board but over the condition and material of the proposed fence.

Mr. Rolle asked about the price difference between fences. Mr. Kusich stated that he found an aluminum was almost double that of a vinyl fence. Mr. McKay stated that a reduction in size for the fence is acceptable while still keeping aluminum material. Al Collins, also representative for Fidelity, stated concerns over reduction in size of fence and non-aluminum type fences and the ability to maintain in good condition.

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

Upon a motion by Mr. Loew, and seconded by Mr. Haddon, the board voted 5-0 to approve the request for Special Permit for an Extension, alteration, or change of a privileged, nonconforming use with regard to required escape lane provision and amendment to Special Permit to allow a drive-through use in a BG-3.0 zone with conditions as noted by staff with addition of condition to install a fence between the parking areas of McDonald's and Fidelity bank to be between 42 inches and 6 feet in height and made of a material as chosen by the applicant and to be in good working condition and approval of the requested waiver.

OTHER BUSINESS

5. **Communications** – None

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

ADJOURNMENT

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