

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

November 6, 2017

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

Zoning Board Members Present: Lawrence Abramoff, Chair
Vadim Michajlow, Vice-Chair
Joseph Wanat, Member
Robert Haddon, Alternate Member
Andrew Freilich, Alternate Member

Staff Present: Stephen S. Rolle, Division of Planning & Regulatory Services
Domenica Tatasciore, Division of Planning & Regulatory Services
Michael Antonellis, Division of Planning & Regulatory Services
John Kelley, Department of Inspectional Services
David Horne, Department of Inspectional Services

Approval of the Minutes – Upon a motion by Mr. Freilich and seconded by Mr. Michajlow the Board voted 5-0 to approve the October 16, 2017 meeting minutes.

Requests for Continuances, Extensions of Time, Postponements, Withdrawals

1. 185 Sunderland Road (ZB-2017-041)

Variance: For relief from the minimum frontage dimensional requirement in a RL-7 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Ahmad Shishesaz

Present Use: Presently on the premises is a vacant lot.

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

Petition Purpose: The applicant seeks to construct a single-family detached dwelling along with associated site work.

Upon a motion by Mr. Freilich and seconded by Mr. Michajlow the Board voted 5-0 to continue the Variance application the November 27, 2017 meeting and to extend the constructive grant deadline until December 30, 2017.

2. Lot 2 – 36 Mountain Street West (ZB-2017-054)

Variance: For relief from the minimum frontage dimensional requirement in a BL-1.0 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Lorne Johnson

Present Use: Presently on the premises is a partially paved lot.

Zone Designation: BL-1.0 (Business, Limited)

Petition Purpose: The applicant seeks to construct a two-family detached dwelling along with related site work.

Upon a motion by Mr. Freilich and seconded by Mr. Michajlow the Board voted 5-0 to postpone the Variance Application to the November 27, 2017 meeting and to extend the constructive grant deadline until December 30, 2017.

3. 249, 261 & 265 Lake Avenue (ZB-2017-058)

Special Permit: To allow single-family attached dwellings in a RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #12)

Petitioner: Cherele Gentile, Trustee of Manor Real Estate Trust

Present Use: Presently on the premises at 249 Lake Avenue is a restaurant and at 261 & 265 Lake Avenue are residential structures with related site improvements.

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

Petition Purpose: The applicant seeks demolish the existing structures and construct 2 single-family attached structures, for a total of 7 dwelling units, along with associated parking and related site work.

Upon a motion by Mr. Freilich and seconded by Mr. Michajlow the Board voted 5-0 to postpone the Special Permit Application to the November 27, 2017 Zoning Board of Appeals meeting and to extend the constructive grant deadline until December 30, 2017.

New Business

4. 287 Grove Street & 35 Park Avenue (ZB-2017-046)

Special Permit: To allow a food-service drive-thru (Business Use #6) in a BG-3.0 District (Article IV, Section 2, Table 4.1)

Petitioner: Galaxy Grove, LLC

Present Use: Presently on the premises is a partially paved vacant lot.

Zone Designation: BG-3.0 (Business, General) zoning district

Petition Purpose: The applicant seeks to construct four commercial structures, one of which will be for a food-service use with a proposed drive-thru, along with associated parking areas and related site work.

Attorney Todd Brodeur along with Pat Doherty from Mid-Point Engineering appeared upon behalf of the applicant, Galaxy Grove, LLC. Attorney Brodeur stated that the applicant seeks to construct four commercial structures, one of which will be for a food service use with a proposed drive-thru which requires a Special Permit.

Attorney Brodeur stated that the item had been continued at the last meeting so the applicant could meet with neighbors and that meeting did take place and as a result the applicant has made some changes to the plan.

Mr. Doherty presented updated plan options, identified as Exhibit D, for the site and reviewed the changes to the site concentrating on the changes to the drive thru.

Mr. Rolle stated that the drive thru under the new plans has been moved away from the residential uses in the area.

Mr. Freilich stated that he likes the project but expressed concern about increased traffic in the area and questioned whether a traffic study had been done.

Attorney Brodeur stated that a traffic study had been submitted and reviewed by the Traffic Department.

Mr. Wanat asked if a full access driveway could be installed to help with dispersing traffic. Mr. Doherty stated that they would not be averse to doing that.

Jim Crowley provided a petition, identified as Exhibit E, from the neighborhood asking that drive thru be placed on Grove Street side of building and stated that a primary concern of neighbors is increase in traffic in the area.

Joe Toomey, abutter to the property, stated that his concern was with regards to the proposed landscaping and whether it would be too high and reduce visibility of people pulling out of the parking lot.

Jeanice Sherman expressed concern about increased traffic and noise in the area due to this project.

Jo Hart and Jon Provost expressed concern about lack of pedestrian access on site.

Stu Loosemore, Chamber of Commerce, spoke in favor of the project, and submitted a letter of support from the Chamber, identified as Exhibit F.

Mr. Freilich expressed concern about the noise level from the drive-thru speaker box.

Upon a motion Mr. Haddon 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. Haddon the Board voted 5-0 to approve the Special Permit subject to the conditions outlined in staff's memo as well as additional conditions such as substituting the seven juniper shrubs for seven hydrangeas at the northwest corner of the property, near the location of the drive-thru, and that the curb cut on Grove Street be bi-directional with no restricting turns into or from this location.

Upon a motion by Mr. Michajlow and seconded by Mr. Haddon the Board voted 5-0 to approve the waiver request to not show abutters to abutters on the plan.

List of Exhibits

Exhibit A: Special Permit Application; received July 26, 2017; prepared by Galaxy Grove, LLC

Exhibit B: Site Plan; dated July 17, 2017 and revised on September 18, 2017; prepared by MidPoint Engineering + Consulting.

- Exhibit C: Renderings with elevations; dated July 7, 2017; prepared by Phase Zero Design (located at rear of plan set).
- Exhibit D: Site Layout Options – Figures 1, 2 & 3; dated November 6, 2017; prepared by MidPoint Engineering + Consulting.
- Exhibit E: Neighborhood Petition for Special Permit Drive-Thru at 287 Grove Street; received November 6, 2017.
- Exhibit F: Letter of Support from the Worcester Regional Chamber of Commerce; dated November 6, 2017.

5. 37 North Ashland Street (ZB-2017-051)

- Variance:** For relief from the minimum lot area dimensional requirement in a RG-5 Zone (Article IV, Section 4, Table 4.2)
- Variance:** For relief from the minimum front-yard setback dimensional requirement in a RG-5 Zone (Article IV, Section 4, Table 4.2)
- Variance:** For relief from the minimum rear-yard setback dimensional requirement in a RG-5 Zone (Article IV, Section 4, Table 4.2)
- Petitioner:** Michael T. Madulka
- Present Use:** Presently on the premises is a pre-existing non-conforming single-family detached dwelling, along with related site improvements.
- Zone Designation:** RG-5 (Residence, General) zoning district
- Petition Purpose:** The applicant seeks to demolish the existing structure and to construct a new single-family attached dwelling, with a total of three dwelling units, along with related site work.

David Sadowski and Michael Raniko as well as the applicant, Mike Madulka appeared upon behalf of the application.

Mr. Sadowski stated that Mr. Madulka seeks to demolish the existing single-family detached structure and to construct a new single-family attached dwelling, for a total of 3 dwelling units.

Mr. Sadowski passed out an updated rendering of the proposed building, identified as Exhibit D, and reviewed the proposed plans for the site.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Freilich the Board voted 5-0 to approve the three Variances, specifically 2,575 SF for lot area, 12.5 feet from the front-yard setback and 14 feet from the rear-yard setback with conditions outlined in staff’s memo.

Upon a motion by Mr. Michajlow, and seconded by Mr. Freilich, the Board voted 5-0 to approve the waiver to not show abutters to abutters on the plan.

List of Exhibits

- Exhibit A: Variance Application; received September 8, 2017; prepared by Michael Madulka.
- Exhibit B: Plan of Land; dated September 5, 2017 and revised through to October 30, 2017; prepared by Sadowski Engineering.
- Exhibit C: Rendering with elevations and floorplans; dated October 29, 2017; preparer unknown.
- Exhibit D: Updated Rendering; undated; preparer unknown.

6. 21 Ayrshire Road (ZB-2017-055)

- Variance:** For relief from the minimum frontage dimensional requirement in a RL-7 Zone (Article IV, Section 4, Table 4.2)
- Petitioner:** Ling Yi Ju
- Present Use:** Presently on the premises is a pre-existing non-conforming single-family detached dwelling, with associated site improvements.
- Zone Designation:** RL-7 (Residence, Limited) zoning district
- Petition Purpose:** The applicant seeks to subdivide the land and construct a second single-family detached dwelling to the northeast of the existing structure.

Attorney Don O’Neil appeared upon behalf of the applicant, Ling Yi Ju. Attorney O’Neil stated that Ms. Ju seeks to subdivide the land and construct a second single-family detached dwelling to the northeast of the existing structure and reviewed the plans for the site.

Mr. Wanat asked Attorney O’Neil to review the proposed driveway location and width.

Abutters Ray Tomiello and Karen Joseph spoke in opposition to the project.

A brief discussion was held about the bordering fence that is in disrepair and whether it is owned by the applicant or the abutting property owner.

Abutter Paul (last name unknown) spoke in opposition to the project due to the elevation of the proposed home and expressed concern that the project is in a wetland area and that needs to be looked at.

Mr. Rolle stated that he believed that the proposal would need to go through the Conservation Commission.

Angela Caputo spoke in opposition to the project as it would impact the privacy of her home.

Frank Caputo spoke in opposition to the project and stated that work is being done now on the house without permits.

Attorney O’Neil stated that they will look into whether the property has the proper building permits.

Mr. Abramoff stated that, if approved, some of the recommendations he would suggest is that the driveway width be reviewed, that the pool on site be filled in or removed, that new stockade fences be erected on the east and west side of the lot subject to wetlands approval and additional tree planting on either side of the proposed house.

Attorney O’Neil stated that he would no problem with those conditions.

Mr. Freilich asked if there something that could be done to alleviate neighbor concerns.

The Board discussed with both Attorney O’Neil and the applicant options for the property.

Roslyn Roseland spoke in opposition to the proposal.

Mr. Abramoff suggested that the applicant and neighbors meet and discuss some of the concerns.

Upon a motion by Mr. Wanat and seconded by Mr. Freilich the Board 5-0 to continue the application to the November 27, 2017 meeting.

List of Exhibits

Exhibit A: Variance Application; received September 26, 2017; prepared by Attorney Donald O’Neil.

Exhibit B: Definitive Subdivision Plan; dated August 22, 2017; prepared by Jarvis Land Survey, Inc.

Mr. Freilich recused himself for item #7 and left the meeting room.

7. 2A & 2B Hilton Avenue (ZB-2017-056)

2A Hilton Avenue:

Variance: For relief from the minimum lot area dimensional requirement in a BL-1.0 Zone (Article IV, Section 4, Table 4.2)

2B Hilton Avenue:

Variance: For relief from the minimum lot area dimensional requirement in a BL-1.0 Zone (Article IV, Section 4, Table 4.2)

Petitioner: Roy A. Gabriele & Joseph P. Hearn

Present Use: Presently on the premises is a two-family detached dwelling, with associated site improvements.

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

Petition Purpose: The applicant seeks to divide the lot and convert the structure to a single-family semi-detached dwelling (a duplex).

Attorney Don O’Neil appeared upon behalf of the applicants, Roy Gabriele & Joseph Hearn.

Attorney O’Neil stated that the applicant seeks to divide the lot and convert the structure to a single-family semi-detached dwelling (a duplex) and he proceeded to give an overview of the plan.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat the Board voted 4-0 to approve the two Variance requests, both for relief of 1,000 SF from the lot area requirement, with conditions outlined in staff’s memo.

Upon a motion by Mr. Michajlow and seconded by Mr. Haddon the Board voted 4-0 to approve the waiver request to not show abutters to abutters on the plan.

List of Exhibits:

Exhibit A: Variance Application; received September 26, 2017; prepared by Attorney Donald O’Neil.

Exhibit B: Variance Plan; dated September 25, 2017; prepared by HS&T, Inc.

Exhibit C: ANR Plan; endorsed March 16, 2016.

8. 454 Burncoat Street (ZB-2017-060)

- Variance:** For relief from the maximum height dimensional requirement for an accessory structure in a RS-7 Zone (Article IV, Section 8.B.10)
- Petitioner:** Peter M. and Gloria M. Derry, Jr.
- Present Use:** Presently on the premises is a single-family detached dwelling, along with related site improvements.
- Zone Designation:** RS-7 (Residence, Single-Family) zoning district
- Petition Purpose:** The applicant seeks construct a detached garage, along with related site work.

Scott Derry along with Jake Olin, architect for the project, appeared upon behalf of the application.

Mr. Derry stated that he is looking for a Variance to construct a detached garage.

Mr. Olin reviewed the plans and stated that the garage will match the existing home.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat the Board voted 4-0 to approve the Variance for relief in the amount of 8 feet, 2 inches from the maximum height requirement for an accessory structure with conditions outlined in staff's memo.

Upon a motion by Mr. Michajlow, and seconded by Mr. Wanat, the Board voted 4-0 to approve the waiver to not show abutters to abutters on the plan.

List of Exhibits:

- Exhibit A:** Variance Application; received September 27, 2017; prepared by Gloria & Peter Derry, Jr.
- Exhibit B:** Certified Plot Plan; Survey; dated August 18, 2017; prepared by New England Land Survey.
- Exhibit C:** Garage Elevations & Rendering; date illegible; prepared by Gallant Architecture.

Mr. Freilich returned to the meeting room.

9. 67 June Street (ZB-2017-061)

- Variance:** For relief from the minimum frontage dimensional requirement in a RL-7 Zone (Article IV, Section 4, Table 4.2)
- Special Permit:** To allow a three-family detached dwelling in a RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #16)
- Petitioner:** Joseph Charpentier
- Present Use:** Presently on the premises is a two-family detached dwelling, and associated site improvements.
- Zone Designation:** RL-7 (Residence, Limited) and partially within an RS-7 (Residence, Single Family) zoning district
- Petition Purpose:** The applicant seeks to convert the structure into a three-family dwelling, along with related site work and parking area improvements.

Attorney Don O’Neil along with Bob O’Neil and the applicant, Joseph Charpentier appeared upon behalf of the application.

Attorney O’Neil stated that the applicant seeks to convert the structure into a three-family dwelling and reviewed the plans for the site.

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

Upon a motion by Mr. Michajlow and second by Mr. Freilich the Board voted 5-0 to approve the Variance for relief of 15 feet from the frontage requirement and the Special Permit with conditions outlined in staff’s memo.

Upon a motion by Mr. Michajlow and seconded by Mr. Freilich the Board voted 5-0 to approve a waiver from showing abutters to abutters on the plan.

List of Exhibits:

- Exhibit A: Variance & Special Permit Application; received September 27, 2017; prepared by Joseph Charpentier
- Exhibit B: Plan of Land; Received September 27, 2017 dated September 24, 2017; prepared by Robert O’Neil, Jr.

10. 192 Lincoln Street (ZB-2017-059)

- Special permit:** To modify the dimensional requirements for a freestanding sign (Article IV, Section 6)
- Petitioner:** New England Chiropractic Health Clinic, Inc.
- Present Use:** Presently on the premises is an existing office building, along with related site improvements.
- Zone Designation:** BL-1.0 (Business, Limited) & RG-5 (Residence, General) zoning districts
- Petition Purpose:** The applicant seeks install a permanent accessory freestanding pole sign with digital display, along with related site work.

The petitioner appeared upon behalf of the application and stated that he is looking to install a permanent accessory freestanding pole sign with digital display. He stated that the sign will be exact same size as existing sign that they are replacing. The reason for the Special Permit is to modify the dimensional requirements of a permanent accessory freestanding pole sign with digital display. Per Article IV, Section 6, Table 4.3.1. Note 28 of the Zoning Ordinance, accessory signs with digital display shall be set back a minimum of 75 feet from residential districts. The location of the sign on the subject property is located approximately 38 feet from the RG-5 residential zoning district that is located at the Lincoln Street centerline.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Freilich the Board voted 5-0 to approve the Special Permit with conditions outlined in staff’s memo including the waivers to not provide a to scale plan and from showing abutters to abutters on the plan.

List of Exhibits:

- Exhibit A: Special Permit Application for Signs; received September 26, 2017; prepared by Gabriel Orduz of GJG Signs.
- Exhibit B: Signage Design Plan; undated; preparer unknown.

Other Business

11. Partial Fee Refund Request for 206 May Street

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat the Board voted 5-0 to approve the partial fee refund request.

12. Approval of the Revised Meeting Schedule for 2018

Upon a motion by Mr. Michajlow and seconded by Mr. Freilich the Board voted 5-0 to approve the 2018 meeting schedule.

13. Communications

14. Signing of Decisions from prior meetings

Adjournment

Upon a motion the Board voted 5-0 to adjourn the meeting at 8:45 p.m.