



**MINUTES OF THE PROCEEDINGS OF THE  
ZONING BOARD OF APPEALS OF THE CITY OF WORCESTER  
November 27, 2023**

Worcester City Hall – Levi Lincoln Chamber,  
with remote participation options available via Webex online at:  
<https://cityofworchester.webex.com/meet/zoningboardofappealswebex> and  
call-in number 1-844-621-3956 (Access Code: 2630 362 4924).

Zoning Board Members Present:        Russell Karlstad, Chair  
George Cortes  
Anthony Dell'Aera – *Participated Remotely*  
Nathan Sabo  
Shannon Campaniello

Zoning Board Members Absent:        Jordan Berg Powers, Vice-Chair  
Eric Torkornoo

Staff Participating:                        Michelle Smith, *Division of Planning & Regulatory Services*  
Victor Panak, *Division of Planning & Regulatory Services*  
David Horne, *Inspectional Services Department – Participated Remotely*

**Call to Order:**

Mr. Karlstad called the meeting to order at 5:35PM.

**Requests for Continuances, Extensions, Postponements, and Withdrawals**

- Item 1.                    11 (aka 8) Earle Terrace (ZB-2023-005) Special Permit Application**  
Request to Continue the Public Meeting to December 18, 2023  
Extend the Constructive Grant Deadline to January 23, 2024
- Item 3:                    2 Milton Street (ZB-2023-009) Special Permit & Variance Application**  
Request to Continue the Public Meeting to December 18, 2023  
Extend the Constructive Grant Deadline to January 23, 2024
- Item 4.                    2 Northboro Street (aka 298 Plantation Street) (ZB-2023-036) Special Permit & Variance Application**  
Request to Continue the Public Meeting to December 18, 2023  
Extend the Constructive Grant Deadline to January 23, 2024
- Item 5:                    77 Amherst Street (ZB-2023-071) Variance Application**  
Request to Continue the Public Meeting to December 18, 2023  
Extend the Constructive Grant Deadline to January 23, 2024

**Item 7: 119 Rodney Street (ZB-2023-071) Special Permit & Variance Application**

Request to Continue the Public Meeting to December 18, 2023  
Extend the Constructive Grant Deadline to January 23, 2024

**Item 8. 20 Boyden Street (ZB-2023-081) Special Permit Application**

Request to Postpone the Public Meeting to December 18, 2023  
Extend the Constructive Grant Deadline to January 23, 2024

**Item 9. 49 Upland Street (ZB-2023-088) Special Permit Application**

Request to Postpone the Public Meeting to December 18, 2023  
Extend the Constructive Grant Deadline to January 23, 2024

**Item 10. 98 Whitmarsh Avenue (ZB-2023-093) Administrative Appeal Application**

Request to Postpone the Public Meeting to December 18, 2023  
Extend the Constructive Grant Deadline to January 23, 2024

**Item 12. 17 Montclair Drive (ZB-2023-095) Special Permit Application**

Request to Postpone the Public Meeting to December 18, 2023  
Extend the Constructive Grant Deadline to January 23, 2024

**On a motion by Mr. Cortes, seconded by Mr. Sabo, the Board voted 5-0 to grant the postponements.**

Ed Burns, resident of Worcester, MA approached the Board and asked why item 12 postponed; Ms. Smith stated that staff asked the applicant to postpone to allow city staff additional time to review and comment on the proposal and advised that the item is currently scheduled to be heard at the next meeting on December 18, 2023. Ms. Smith added that there was also a quorum issue with the board so many applicants elected to postpone this evening.

Mr. Burns stated he understands the staffing issues, however, rescheduling meetings around the holidays makes it difficult for community members to plan for participation; Ms. Smith stated folks are encouraged to submit comments in writing if unable to attend a meeting in-person or virtually.

**New Business – Public Hearings**

**13. 267 Lincoln Street (ZB-2023-096) (MBL 09-013-00002)**

*Amendment*

**Special Permit:** To allow a food-service use (including consumption/sale of alcoholic beverages) and/or providing dancing and/or entertaining in a BL-1.0 and IN-H zone (Article IV, Section 2, Table 4.2, Business Use #8)

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

**Petitioner:** Saif Handhal

**Present Use:** Presently on the premises is an commercial building with two units including a retail (smoke shop) use in one unit and a proposed hookah bar currently under renovation, previously approved for a Special Permit to allow a food-service use with alcohol/entertainment.

Zone Designation: BL-1.0 (Business, Limited) and an IN-H (Institutional, Medical) zoning district

Petition Purpose: The applicant seeks to amend the previously approved relief in order to increase the proposed occupancy of the establishment without providing additional parking.

Public Hearing Deadline: 12/31/2023 Constructive Grant Deadline 02/4/2024

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Mr. Karlstad stated item 13 will be taken out of order for administrative reasons.

Mr. Handhal, the applicant, and Adnan Al-Maliki, Arabic interpreter for the applicant, went before the Board and stated that during the weekends, the venue holds larger parties with more people in the venue; Mr. Karlstad asked what Mr. Handhal is asking for; Mr. Hanhal stated he would like to increase the occupancy count from 65 people to 150 people.

Ms. Smith of the city's Division of Planning & Regulatory Services (DPRS) provided a summary of the proposal to the Board stating the application involves a request to amend a special permit for use and a variance for parking. Ms. Smith noted that the Board had approved the original special permit application earlier in the year which was to allow food service use, including the consumption and sale of alcohol, to operate a hookah bar. Ms. Smith described what is currently on the premises, which is an existing retail smoke shop and a hookah bar, subsequent to the Board's original approval and obtainment of a liquor license via the Worcester License Commission. The variance for relief in parking that was previously granted limits the number of occupants and the applicant is now seeking to increase the number of occupants from 65 to 138 occupants with no other changes proposed. The applicant would like to amend the previously granted special permit and variance to increase the parking relief to a total of 59 parking spaces. Ms. Smith described staff comments to the applicant.

Mr. Karlstad asked what the petitioner will do to provide adequate parking; Mr. Handhal stated he has a lease agreement in place to lease parking from three other locations in the neighborhood.

Mr. Karlstad asked if there are written agreements in place with the locations mentioned; Mr. Handhal stated he has an agreement in place with the Genesis Club, the church, and the neighboring liquor store.

Mr. Karlstad asked staff if they have seen affidavits for the leased parking; Ms. Smith stated that when this initially came to the Board, they had evaluated that these spaces would not be permissible to count from a zoning perspective.

### **Public Comment**

Nafis Quaye of World Youth Opportunity Inc. stated he has used the facility at 267 Lincoln Street outside of regular operating hours for outreach training for his non-profit organization and when he was recently told he could not use the space because they would exceed the occupancy limit. Mr. Quaye encouraged the Board to approve the requests so his organization can continue to use the space in the future.

### **Board Discussion**

Mr. Sabo asked the applicant to confirm the hours of operation are until 2:00am; Mr. Handhal stated the hookah lounge operating hours are until 1:30am on Fridays and Saturdays only.

Mr. Sabo asked staff to clarify why the applicant can't use the proposed leased parking; Ms. Smith explained that parking relies on a surplus for "other uses" and based on the requirements for "other uses", there is no surplus to allocate for an alternate use.

Mr. Sabo stated his concerns are around cars being parked in residential neighborhoods that already lack parking during the late hours on the weekend; Mr. Handhal stated they have security on site and if the residents of the neighborhood complain they will come back.

Mr. Karlstad stated they need to work with the city to come up with a parking plan; Mr. Handhal stated he has come up with a plan for parking and he is asking the Board to allow what they have proposed.

Mr. Sabo stated he is not opposed to the use or the business but he recommends the applicant continues the item so they can clarify the parking situation to an extent that the Board can support it.

Ms. Smith elucidated; the applicant is seeking for the Board to relieve the zoning requirements due to hardship because of the existing characteristics of the lot. In this case, they need relief for 59 parking spaces to allow the proposed occupancy and the applicant is stating there is a surplus of parking in the area and this relief is the only regulatory path forward that they have due to the way the zoning ordinance is written.

Mr. Sabo stated he would like to see a lease that shows they have close to the number of required parking spaces and would then be comfortable approving the requested relief.

Mr. Dell'Area asked staff if the lease were to expire, would the variance also expire or would it carry on in perpetuity; Ms. Smith stated the terms of the lease are independent of the variance but if the Board were to condition that they provide the lease, they would be in violation of the approval if they were to lose the lease.

Mr. Cortes stated this is a huge request urged the applicant to provide an acceptable plan for parking; Mr. Handhal reiterated that he has leased parking from 3 neighboring locations on Lincoln Street.

Ms. Smith stated she was able to locate a copy of a lease agreement that was provided with the initial application which indicates 15 spaces were leased from the Genesis Club across the street at 274 Lincoln Street which has a crosswalk providing pedestrian connection to the sidewalk. There is also an agreement with the package store at 267 Lincoln Street but this location also has residential units above the retail space with 15 spaces in its entirety.

Mr. Karlstad stated he is for the increase in occupancy but they need assurances that the parking will be managed well in the neighborhood.

Ms. Smith clarified to the applicant that he'll need to provide a narrative plan that describes the parking facilities they've entered a lease with, where there is public parking available, and any bike facilities they have proposed.

Mr. Handhal stated they worked with Captain Bull of the Fire Department to get the building to code and both the Building Department and the Fire Department stated the building could hold 150 people.

Mr. Horn of the city's Inspectional Services Division (ISD) stated he is unsure of the current occupant load but the certificate of inspection will ultimately need to be changed. If they recently received a liquor license from Inspectional Services, they need to go back to the building department to revise the occupant load.

Mr. Karlstad asked if the applicant has an occupancy certificate for 140 people; Ms. Smith stated it should be limited at 65 people based on the Board's previous decision, but the applicant is stating the architect has provided certification that they have the ability based off building and fire code that they can provide the increased occupancy.

Mr. Karlstad referenced the floorplans and asked why the men's restroom has more stalls than the women's restroom; Mr. Handhal stated the restrooms are the same size, but the men's room has two urinals.

Mr. Karlstad stated they need to provide affidavits to increase the parking to make the numbers work.

Mr. Sabo state the applicant needs to ask for a continuance or allow the Board to close the hearing.

Ms. Smith asked the Board is there is a specific percentage of numbers the Board would like to see for the lease agreement; Mr. Karlstad stated as close to the previously approved percentage as possible.

**On a motion by Mr. Cortes, seconded by Mr. Sabo, the Board voted 5-0 to continue the public hearing to the December 18, 2023 meeting.**

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## **Old Business – Public Hearings**

### **2. 103 Alvarado Avenue (ZB-2023-084) (MBL 17-020-38+40)**

<b>Special Permit:</b>	To allow the extension, alteration or change of a privileged pre-existing, nonconforming structure (Article XVI, Section 4).
<b>Special Permit:</b>	To allow a multifamily low-rise dwelling in an RL-7 zone (Article IV, Section 2, Table 4.1).
<b>Special Permit:</b>	To modify parking, loading requirements, dimensional requirements, layout, and/or the number of required spaces and/or landscaping requirements (Article IV, Section 7, A, 2).
<b>Variance:</b>	For relief from the minimum lot area requirement for a multifamily low-rise dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2).
<b>Petitioner:</b>	Rodrigo M. Salgado
<b>Present Use:</b>	A nonconforming two-family detached dwelling with associated site improvements.
<b>Zone Designation:</b>	RL-7 (Residence, Limited) zoning district
<b>Petition Purpose:</b>	The petitioner seeks to construct a ± 6,124 square foot addition to the existing structure in order to provide four (4) additional dwelling units, converting the structure to a multifamily dwelling with a total of six (6) dwelling units, to install a surface parking lot with ±11 parking spaces, and to conduct associated site improvements.
<b>Testimony Date:</b>	11/06/2023
<b>Constructive Grant Deadline:</b>	12/19/2023

Mark Borenstein, attorney on behalf of the property owner/applicant, Rodrigo M. Salgado, stated this application is for 3 special permits and a variance. As a follow up to the previous meeting and the questions raised regarding capacity for sewer and water in the neighborhood, Mr. Borenstein stated the project team has worked with city staff in the Department of Public Works (DPW) to confirm that there is adequate capacity for sewer and water in the neighborhood and DPW should have sent written confirmation of the same to DPRS staff. Mr. Borenstein discussed the updated staff memo and the additional conditions of approval that were added, stating the conditions of approval are acceptable to the applicant but they are requesting additional clarification in relation to the Department of Transportation and Mobility's (DTM) request for the extension of a sidewalk from the easterly corner of Alvarado Avenue along Anna Street to the proposed driveway. Mr. Borenstein continued to say that the applicant's engineer pointed out an existing utility pole that is at the corner of the proposed driveway that will be difficult to relocate, in addition to the limited amount of land available beyond the property line adjacent to the right of way making it problematic to install a sidewalk without being in the right of way.

Mr. Karlstad asked city staff for response to Mr. Borenstein's questions about the sidewalk; Ms. Smith of DPRS stated she had emailed DTM to specifically confirm the location of the utility pole but clarified that the sidewalk would be located in the public right of way layout of Anna Street, not on the applicant's private property. Ms. Smith added there's generally allowances in the ADA requirements to get around things like streetlamps, tree pits, and utility poles but it will have to be worked out based on actual site conditions.

Mr. Borenstein stated that the applicant would be amenable to the sidewalk with respect to Ms. Smith's comments but asked for language to be worked into the decision so this condition can be determined in the field in the event there is not enough clearance meet the requirements to extend the sidewalk.

**Public Comment**

Mike Chesna, abutter to the project, stated the street is already congested with traffic and a lack of on-street parking and expressed concern toward parking and the welfare of the neighborhood. Mr. Chesna also stated the trash build up is out of control.

Frank Chesna, abutter to the project, stated drainage will be an issue if the development is allowed to go through. Additionally, large trees continue to be wiped out for development and parking and there are two maple trees existing on the property that assist with drainage in the neighborhood and they're proposed to be removed. Mr. Chesna also stated the area does not have enough water pressure to support the project.

Mr. Karlstad stated DPW already provided confirmation that drainage for the proposal is sufficient.

Ms. Smith discussed additional conditions included in the revised memo and confirmation from DPW and Water stating they do not have any issues with the scale of the proposal and the area has more than sufficient pressure and volume to support the project as proposed.

**Board Discussion**

Mr. Karlstad asked city staff how they write the language for DTM’s sidewalk condition; Ms. Smith stated she is not a transportation planner but provided a recommendation for how the language could be written so the condition can ultimately be determined in the field based on actual site conditions.

Mr. Karlstad asked if the applicant has accepted all the waivers; Mr. Borenstein confirmed yes.

**On a motion by Mr. Cortes, seconded by Mr. Sabo, the Board voted 5-0 to close the public hearing.**

**On a motion by Cortes, seconded by Mr. Sabo, the Board voted 5-0 to approve the application with all waivers and conditions.**

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**Old Business – Public Hearings**

**6. 114 Austin Street (ZB-2023-077) (MBL 03-024-00002)**

**Special Permit:** To modify parking, loading requirements, dimensional requirements, layout, and/or the number of required spaces and/or landscaping requirements (Article IV, Section 7, A, 2).

**Variance:** For relief from the minimum front-yard setback dimensional requirement for a multifamily low-rise dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2).

**Variance:** For relief from the minimum side-yard setback dimensional requirement for a multifamily low-rise dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2).

**Variance:** For relief from the minimum exterior side-yard setback dimensional requirement for a multifamily low-rise dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2).

**Variance:** For relief from the minimum rear-yard setback dimensional requirement for a multifamily low-rise dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2).

**Variance:** For relief from the minimum lot area dimensional requirement for a multifamily low-rise dwelling in an RG-5 Zone (Article IV, Section 4, Table 4.2).

**Variance:** For relief from the minimum parking requirements for a residential use (Article IV, Section 7, Table 4.4).

**Petitioner:** Polar Views, LLC

**Present Use:** Presently on the premises is a low-rise multifamily dwelling, with 4 units, and an accessory structure.

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

**Petition Purpose:** The applicant seeks to demolish the existing multifamily dwelling and a portion of the accessory structure, to construct a new single family attached (townhouse style) structure with associated parking, to renovate and connect the carriage house to the new structure (for a total of 5 dwelling units), and to conduct associated site work.

**Public Hearing Deadline:** 12/17/2023      **Public Hearing Deadline:** 12/17/2023

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Ms. Smith of DPRS stated the applicant just sent an email requesting to postpone the item to the December 18, 2023 meeting.

**On a motion by Mr. Cortes, seconded by Mr. Sabo, the Board voted 5-0 to grant the postponement**

**11. 1180 Millbury Street (ZB-2023-094) (MBL 31-023-00001)**

**Special Permit:** To allow accessory storage of flammable liquids/gases/ explosives (Article IV, Section 2, Table 4.1, Manufacturing Use #1)

**Petitioner:** Paul Dileo

**Present Use:** Presently on the premises is an existing self-storage facility with 5 underground propane tanks

**Zone Designation:** MG-0.5 (Manufacturing, Limited) zoning district and within the Floodplain and Blackstone Sign Overlay Districts (BSOD).

**Petition Purpose:** The applicant seeks to replace the existing propane tanks

**Public Hearing Deadline:** 1/07/2024      **Constructive Grant Deadline**      TBD

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Paul Dileo of Dileo Gas, on behalf of the applicant, Extra Space Storage, stated there are existing underground propane tanks on the site used for heating the facility's storage units. Mr. Dileo stated the applicant has elected to use Dileo Gas as their propane provider but the existing tanks were installed about 35 years ago and in order to move forward with the change in provider, Dileo Gas needs to remove the existing tanks and replace them with new ones of a similar size. The replacement will involve minimal excavation and they have worked with the Worcester Fire Department (WFD) to obtain the flammable storage license which has been approved contingent to getting special permit approval from the Board.

Ms. Smith of DPRS provided a summary of the project and context for the site location in relation to wetlands. Ms. Smith stated the establishment was not properly permitted in the past for an unknown reason but the applicant is simply looking to replace the existing tanks with four similarly sized 1,000 gallon tanks and one 500 gallon tank in the same location they are today. Ms. Smith also discussed staff comments which include a condition for planting 13 trees to combat heat island effect and asked the applicant to speak of any potential needs to remove existing vegetation.

Mr. Dileo stated the tanks are located in mostly grass islands which will be reseeded after the excavation and installation but does not believe any trees are to be removed. Mr. Dileo asked the Board to reconsider the addition of 13 trees because of the costs it will add to the project.

Mr. Karlstad asked city staff for the reasoning behind the addition of 13 trees; Ms. Smith stated that staff came up with this number based on the limit of disturbance and determined there was enough space to plant 13 trees about 25'-40' apart but the Board is able to reduce the number at their discretion.

Mr. Karlstad stated he does not have a problem with the city's rationale for the number of trees and it's a small price to pay to add more green space.

Mr. Karlstad asked if the applicant has accepted all the waivers; Mr. Dileo confirmed yes but in terms of the secondary leak detection, they don't have standard practices like an oil tank would because if there is a leak, it's non-hazardous to the environment.

Mr. Karlstad asked the applicant if there is any leak detection system in place; Mr. Dileo stated there is not, but they do have a gage monitor on all of the tanks so if there's a drastic drop, they will get an alarm that the tank significantly dropped which could indicate a leak.

Mr. Sabo stated he does not know enough about underground storage to feel comfortable removing a staff recommended waiver.

Mr. Dileo stated he will work with ISD to reach a resolution; Mr. Horn of ISD stated he assumes CMR780 and NFPA requirements will be followed for the installation of the tanks but does not know off the top of his head if there are any code requirements for natural gas being buried so he will have to communicate with Captain Bull of the WFD.

Mr. Dileo stated all the plans started with the WFD and they have been issued the flammable storage license with no other requirements aside from obtaining special permit approval with the Board.

Mr. Sabo stated there are other issues at hand and asked if other alternative heating sources were considered for this project; Mr. Dileo stated the client elected to stick with propane as the heating source for this location.

Mr. Sabo asked about the function of the solar panels on the property; Mr. Dileo stated he does not believe there are any solar panels on this portion of the property and he does not know the function of the ones Mr. Sabo is referring to.

Mr. Sabo stated he will be voting no on this without clarification on the issues brought forth this evening and no consideration for alternative heating.

Ms. Campaniello asked for the life duration of these tanks; Mr. Dileo stated they can last up to 60 years if maintained correctly.

Mr. Dell'Area stated there may be more environmentally friendly heating sources to explore.

Mr. Cortes stated they need additional verification to ensure the tanks will be safe.

Mr. Karlstad asked if the existing tanks are functional; Mr. Dileo stated they are.

Mr. Cortes stated he would prefer this item to continue and comeback at a later time to work out some of the questions brought forth this evening relating to safety and leakage.

*No public comment.*

**On a motion by Mr. Cortes, seconded by Mr. Sabo, the Board voted 5-0 to continue the public hearing to the December 18, 2023 meeting.**

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**14. Communications** – Mass Office of the Inspector General training on the responsibilities of serving on or staffing a board, commission, or committee.

Ms. Smith stated this is a state-wide training opportunity and encourage all of the Board members to attend the training.

**13. Approval of Minutes** – 9/18/2023; 10/16/2023; 11/6/2023

*No discussion.*

**14. Discussion of Board Policies and Procedures**

*No discussion.*

**Adjournment:**

**On a motion by Mr. Sabo, seconded by Mr. Karlstad, the Board voted unanimously to adjourn at 7:30pm.**