



The City of WORCESTER

Zoning Board of Appeals

Russell Karlstad, Chair
Jordan Berg Powers, Vice Chair
Anthony Dell'Aera
George Cortes
Eric Torkornoo
Nathan Sabo, Alternate Member
Shannon Campaniello, Alternate Member

SPECIAL PERMIT & VARIANCE – FINDINGS OF FACT AND DECISION

119 RODNEY STREET (MBL 16-003-00008)

(ZB-2023-078)

The Zoning Board of Appeals scheduled a hybrid public hearing on November 27, 2023, at 5:30 PM in the Worcester City Hall, 455 Main Street, Levi Lincoln Chamber, on the petition of K+S Realty Investors, INC, seeking a Special Permit and Variances for property located at 119 Rodney Street, Worcester, Massachusetts.

Due notice of the public hearing to be held on November 27, 2023, was sent to the individuals listed on the City of Worcester Certified Abutter's list for the subject property.

On November 13 & 20, 2023, notice of the hearing was duly advertised in the Worcester Telegram & Gazette.

On November 27, 2023, December 18, 2023, and January 22, 2024, the application was postponed to the next regularly scheduled meeting of the Zoning Board of Appeals' meeting with the petitioner's consent.

On January 29 & February 5, 2024, notice of the hearing was duly readvertised in the Worcester Telegram & Gazette and notices were sent to individuals listed on the City of Worcester Certified Abutter's list for the subject property.

On February 12, 2024, the hybrid meeting was called to order by Jordan Berg Powers, Vice Chair. Board members physically present for the hearing at Worcester City Hall, 455 Main Street, Levi Lincoln Chamber were Jordan Berg Powers, George Cortes, and Shannon Campaniello. Board members Anthony Dell'Aera and Eric Torkornoo participated remotely. Board members Russell Karlstad and Nathan Sabo were absent. Remote participation was facilitated for attendees via phone at call-in number, 844-621-3956 (Access Code: 2630 362 4924) and via WebEx link (<https://cityofworchester.webex.com/meet/zoningboardofappealswebex>).

FINDINGS

The Worcester Zoning Board of Appeals (ZBA), having conducted a public hearing and reviewed all the submitted evidence, finds that:

1. K+S Realty Investors, INC, whose address is 394 Massasoit Road, Worcester, MA 01604, is the owner and petitioner of certain land situated at 119 Rodney Street in the City of Worcester, Massachusetts, and is more particularly described in a deed recorded with the Worcester District Registry of Deeds Book 69164 Page 69.
2. Said land is located in a zoning district classified under the City of Worcester Zoning Ordinance as an RG-5 (Residence, General) zoning district.
3. Presently on the premises of 119 (aka Lot 1) Rodney Street is a three-family detached dwelling currently under renovation and on proposed Lot 2 is a 3-space gravel parking area.
4. The applicant seeks to divide the existing lot into two, with the three-family detached dwelling to remain on Lot 1, to construct a single-family detached dwelling on Lot 2, and to conduct associated site work.
5. The following zoning relief is required and is being sought by the petitioner:

- Special Permit** to modify parking/loading requirements and/or landscaping and layout requirements for parking/loading (Article IV, Section 7.A.2). The applicant seeks a special permit to allow > 50% impervious surface in the front-yard on Lot 2, without the required 3' pervious setback, to provide a curb cut >22' (currently privileged), and to enable three parking spaces in the front-yard (currently privileged).
- Variance** for relief of **10 FT (17%)** from the minimum frontage requirement for a three-family attached dwelling in an RG-5 zone (Article IV, Section 4, Table 4.2). A frontage length of 50 FT is proposed for Lot 1 where 60 FT is required.
- Variance** for relief of **3 parking spaces (100%)** from the minimum parking requirements for a residential use (Article IV, Section 7, Table 4.4). The applicant proposes zero parking spaces where 3 spaces are required for the three-family dwelling on Lot 1.

Findings of Fact – Variance:

6. Pursuant to Article II, Section 6.A.3. of the City of Worcester Zoning Ordinance:
- a. Describe how a literal enforcement of the provisions of the City of Worcester Zoning Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant:
- A large lot is being unused and could be created to help with the dearth of housing in the city.*
- a. Describe how the hardship is owing to circumstances relating to the soil conditions, shape, and/or topography of the land or structures and how the hardship especially affects said land or structures, but does not affect generally the zoning district in which it is located:
- Lot 2 needs 10 more feet of frontage, and if the property is subdivided it will be missing a miniscule amount of frontage to be able to have a buildable lot.*
- b. Describe how desirable relief may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the City of Worcester Zoning Ordinance:
- The City of Worcester needs more housing, and this lot only needs a few more feet of frontage and parking relief to be compliant with the bylaws.*
- c. Describe how the dimensional variance as it relates to floor space, bulk, number of occupants or other relevant measures, if granted, shall be no greater than the minimum necessary to provide relief from the statutory hardship:
- Only 10 feet of frontage is being proposed, which is a small amount.*

Findings of Fact – Special Permit:

7. Per Article II, Section 6 (A)(2), the adverse effects of the proposed use will not outweigh its beneficial impacts to the City with respect to each of the following considerations:
- a. Social, economic or community needs that are served by the proposal:
- Dearth of housing in Worcester.*
- b. Traffic flow and safety, including access, parking, and loading areas:
- Existing lot was subdivided, no additional parking is proposed on the new lot.*
- c. Adequacy of utilities and other public services:
- Serviced by city.*

d. Neighborhood character and social structure:

A single-family home is proposed adjacent to a three-family home.

e. Impacts on the natural environment:

Only as to the building of the new house.

f. Potential fiscal impact, including city services needed, tax base, and employment:

Could be helpful to provide another home in a city that needs more housing.

DECISION

At a meeting of the Board on February 12, 2024, and on a motion duly made and seconded, it was voted 5-0, with Board members Jordan Berg Powers, George Cortes, Shannon Campaniello, Anthony Dell'Aera, and Eric Torkornoo to **approve** the following requested relief:

- Special Permit** to modify parking/loading requirements and/or landscaping and layout requirements for parking/loading (Article IV, Section 7.A.2).
- Variance** for relief of **10 FT** from the minimum frontage requirement for a three-family attached dwelling in an RG-5 zone (Article IV, Section 4, Table 4.2).
- Variance** for relief of **3 parking spaces** from the minimum parking requirements for a residential use (Article IV, Section 7, Table 4.4).

With the following **conditions of approval**:

Prior to issuance of a building permit:

1. Provide one (1) to-scale, stamped/sealed original of a final revised site plan-set, and a PDF file of the same, to the Division of Planning & Regulatory Services reflecting the following changes:
 - a. Reconcile civil and architectural plans to reflect stairs/walkways and walls.
 - b. Reflect the pedestrian access to the proposed dwelling to be built on lot #2, including the front stairs.
 - c. Reflect dimensions for all parking spaces and the curb width, demonstrating compliance with the 2 regular size space minimum requirement for Lot 2.
 - d. Reflect one minimum 3" caliper shade tree of an Asian Longhorned Beetle (ALB) and Emerald Ash Borer (EAB) resistant species shall be planted in the front-yard of Lot 2.
 - e. The existing shade tree in the southern corner of Lot 2 shall be replaced with 3 new minimum 3" caliper shade trees of a non- ALB or EAB susceptible species in the rear yard.
 - f. Narrow the curb cut (closing the northern section) to provide no wider than a 20-foot driveway/parking area on Lot 2 (with 5-foot walkway), to expand available on-street parking, and convert gravel areas adjacent to the new maximum 20-foot driveway to permeable landscape areas, including a 3' setback landscaped buffer from the proposed lot line between Lots 1 & 2 to the parking area.
 - g. Reflect use of pervious pavement in the driveway on Lot 2 to prevent erosion into Rodney Street and facilitate recharge.
 - h. Reflect a mixture of shade trees and evergreen plantings on Lot 1 along the lot line between Lots 1 & 2 to provide screening and delineate the lot line.
 - i. Reflect bike storage for 6 bikes in the basement of the three-family with level access to the western door.
 - j. Reflect in-unit laundry facilities for the three-family.
 - k. Reflect restoration of the front porches to each of the 3 units on Lot 1 and reflect a new gable dormer or similar architectural element above including a fixed-sash diamond light set centrally in the dormer to mimic the original architectural design features the structure provided.
 - l. Demonstrate compliance with the height dimensional requirements of the Zoning Ordinance for the proposed structure on Lot 1.
 - m. On Lot 2, add variation in siding type (e.g., shake style siding) for the upper portion of the front façade in the attic area (at or above the roofline) and for the side dormer.

Perpetual:

2. Provided that the project shall be constructed in substantial accordance with the findings of fact and all final revised definitive site plans on file with the City of Worcester and in accordance with all applicable governmental codes.

The Board also voted unanimously to approve **waivers** of the following plan requirements:

1. Percentage of the lot covered by principal and accessory buildings.
2. Entrances and exits, existing and proposed, pertinent to granting of the V/SP.

The Special Permit & Variance shall not take effect until the petitioner records, at their own expense, a certified copy thereof with the Worcester District Registry of Deeds, pursuant to Massachusetts General Laws, Chapter 40A, Section 11, as amended.

Appeals of this decision shall be made pursuant to M.G.L. c. 40A § 17 and shall be filed within twenty days after the filing of this decision in the office of the City Clerk. If litigated, all time periods for recording and commencement shall toll and not commence until a final, favorable decision of the Honorable Court is rendered.

It was **ORDERED** by the Board that persons notified of the hearing be notified of the foregoing decision.

The names typed below represent the intent to sign the foregoing document in accordance with MGL Chapter 110G §9. Duly authorized by Ch. 110G and recorded at Worcester Registry of Deeds in Book 62537, Page 327.

ADJOURNED

DocuSigned by:
Jordan Berg Powers
9C08CFA7445845A

DATE 03/05/2024

JORDAN BERG POWERS

DocuSigned by:
George Cortes
E7A0281CC4AD415

DATE 03/05/2024

GEORGE CORTES

DocuSigned by:
Shannon Campaniello
C4D99270175F419

DATE 03/05/2024

SHANNON CAMPANIELLO

DATE _____

ERIC TORKORNOO

DocuSigned by:
Anthony Dell'Aera
U5AZF290974E452

DATE 03/05/2024

ANTHONY DELL'AERA

2024 MAR -5 PM 3:25
Worcester City Clerk

REMINDERS

Special Permit Time Limitations: If the activity authorized by a Special Permit granted by the ZBA is not initiated within one (1) year of the date of grant (one year from date Special Permit is received by the City Clerk) and/or the activity is not completed within two (2) years, then the Special Permit shall lapse unless the Director of Code Enforcement makes a determination that the failure to complete was for good cause. City of Worcester Zoning Ordinance, Article II, Section 9.D.5.

Variance Time Limitations: If the rights authorized by a Variance are not exercised within one (1) year of the date of grant of such Variance they shall lapse. City of Worcester Zoning Ordinance, Article II, Section 9.D.7.

Landscaping Requirements: Required landscaping shall be maintained in a healthy growing condition, free of refuse and debris, and any plantings that do not survive shall be replaced in kind by the applicant or the property owner within a reasonable period of time. All plant materials and fencing shall be arranged and maintained so as not to obscure the vision of traffic. There shall be no parking of vehicles or snow storage in areas used for screening and buffering. Per Article V, Section 5, C. iv of the City of Worcester Zoning Ordinance.

Construction Noise: No person shall operate any powered construction equipment or build, erect construct, demolish, alter, repair, excavate or engage in hoisting, grading, site work, including tree and brush removal, dredging or pneumatic hammering, or deliver construction equipment and/or supplies to the site on any building, road, tower, parking lot, machine, pipe, sewer, sidewalk, or any other construction project, except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and Saturday, and between the hours of 9:00 a.m. and 7:00 p.m. on Sundays. Per Chapter 9 Section 1A (e) (9) of the City of Worcester's Ordinance Relative to Excessive and Unreasonable Noise.