

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

November 19, 2012

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM

Zoning Board Members Present:

Andrew Freilich, Chair
William Bilotta
Timothy Loew
Kola A. Akindele

Staff Present:

Joel Fontane, Division of Planning & Regulatory Services
Marlyn Feliciano, Division of Planning & Regulatory Services
John Kelly, Department of Inspectional Services

Board Site Views

CALL TO ORDER:

Chair Freilich called the meeting to order at 5:34 PM.

APPROVAL OF THE MINUTES:

The minutes were not approved at this meeting.

REQUESTS FOR CONTINUANCES, POSTPONEMENTS, OR WITHDRAWALS:

1. 2 Northboro Street (ZB-2012-053)

Amendment to the Special Permit: Extension, Alteration or Change of a Privileged Pre-Existing, Nonconforming Use - Allow a Use of a Similar Nature (Article XVI, Section 4)
Special Permit: Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Structure (Article XVI, Section 4)
Variances: Relief of 10 feet from the front yard setback dimensional requirement of 20 feet
Variances: Relief of 15 feet from the exterior side yard setback dimensional requirement of 15 feet
Petitioner: Rodney Haddad
Present Use: A dry-cleaning business
Zone Designation: RL-7 (Residential, Limited)
Petition Purpose: To convert the existing dry-cleaning business use (Manufacturing Use #12, Table 4.1) to a food service use (Business Use #7, Table 4.1) with 20 seats on the 1st floor and to construct a new second story to be used for

food-service use related storage, with associated 10 off-street parking spaces

The petitioner, Rodney Haddad, submitted a Request for Continuance to the December 17, 2012 Zoning Board meeting prior to the meeting. Upon a motion by Mr. Loew, seconded by Mr. Bilotta, the Board voted 4-0 to approve the continuance to December 17, 2012.

List of Exhibits.

- Exhibit A: Variance & Special Permit Application; received August 14, 2012; prepared by Rodney Haddad.
- Exhibit B: Definitive Site Plan; dated August 13, 2012; prepared by HS&T Group, Inc..
- Exhibit C: Rendering; undated; received August 14, 2012, unknown preparer.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 2 Northboro Street (aka 298 Plantation Street); dated September 12, 2012, revised October 12, 2012, October 26, 2012, November 15, 2012.
- Exhibit E: Revised Zoning Determination Form; re: 2 Northboro Street; revised August 29, 2012.
- Exhibit F: Request for Continuation to October 29, 2012 from Kathryn Charron, HS&T Group, representative for Rodney Haddad, applicant to the Zoning Board of Appeals; dated October 11, 2012, received October 12, 2012.
- Exhibit G: Request for Continuation to November 19, 2012 from Kathryn Charron, HS&T Group, representative for Rodney Haddad, applicant to the Zoning Board of Appeals; dated October 23, 2012, received October 23, 2012.
- Exhibit H: Request for Continuation to December 17, 2012 from Kathryn Charron, HS&T Group, representative for Rodney Haddad, applicant to the Zoning Board of Appeals; dated November 7, 2012, received November 7, 2012.

2. 525 (aka 525-545) Lincoln Street (ZB-2012-049)

- Special Permit: To convert both faces of the non-accessory freestanding billboard sign to a digital sign.
- Petitioner: Clear Channel Outdoor
- Present Use: A commercial shopping center with a two-sided monopole non-accessory freestanding billboard sign (672 SF per side) in the rear of the property facing I-290 interstate highway
- Zone Designation: BG-4 (Business, General), RS-7 (Residential, Single-Family), and WR (GP-3) (Water Resource Protection Overlay District)
- Petition Purpose: To convert the existing sign to a digital sign with same dimensions

The petitioner, Clear Channel Outdoor, submitted a Request for Postponement to the December 17, 2012 Zoning Board meeting prior to the meeting. Upon a motion by Mr. Loew, seconded by Mr. Bilotta, the Board voted 4-0 to approve the continuance to December 17, 2012.

List of Exhibits.

- Exhibit A: Special Permit Application; received July 23, 2012; prepared by Clear Channel Outdoor, including the following attachments:
- i. Lease Agreement between the applicant and the owner; dated November 30, 1999
 - ii. Lincoln Plaza Building Key Plan; dated August 8, 2005
 - iii. Two photographs of the existing billboard sign
 - iv. Digital billboard structural plan; prepared by Yesco Electronics; undated; received July 23, 2012.
- Exhibit B: Digital Display Installation Plan; prepared by Dana F. Perkins, Inc. of Consulting Engineers & Land Surveyors; dated July 5, 2012.
- Exhibit C: Structural Plan; prepared by GRC Engineering, Inc. and Quantum Structure & Design; dated September 21, 2011.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 525 (aka 525-545) Lincoln Street (ZB-2012-049); dated August 24, 2012, revised September 14, 2012 and September 19, 2012 and November 16, 2012.
- Exhibit E: Request for Postponement to December 17, 2012 from Michael Maurello, representative for Clear Channel Outdoor, applicant to the Zoning Board of Appeals; dated October 26, 2012, received October 26, 2012.

3. 39 Belcourt Road (ZB-2012-061)

- Variance: Relief of 35 ft from the 70 ft frontage dimensional requirement for the proposed lot
- Petitioner: Worcester Affordable Housing, LLC
- Present Use: Existing single-family detached dwelling
- Zone Designation: RL-7 (Residential, Limited)
- Petition Purpose: Subdivide the lot and construct a two-family detached dwelling on the proposed lot. The petitioner is seeking relief from the 70 ft frontage dimensional requirement for the new lot proposed with 35 ft of frontage on Belcourt Road

Atty. Don O'Neil submitted a Request for Postponement to the December 17, 2012 Zoning Board meeting prior to the meeting. Upon a motion by Mr. Loew, seconded by Mr. Bilotta, the Board voted 4-0 to approve the continuance to December 17, 2012.

List of Exhibits.

- Exhibit A: Variance Application; received September 12, 2012; prepared by Worcester Affordable Housing, LLC.
- Exhibit B: Plan for Variance; dated September 11, 2012; prepared by B&R Survey, Inc.
- Exhibit C: Rendering; dated October 8, 2012; prepared by Acropolis Residential Design & Drafting; received October 25, 2012.

- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 39 Belcourt Road; dated October 26, 2012, revised November 16, 2012.
- Exhibit E: Request for Postponement and Extension of Constructive Approval Deadline from Atty. Don O’Neil, representative for Worcester Affordable Housing, LLC, applicant to the Zoning Board of Appeals; dated November 15, 2012, received November 16, 2012.

4. I-290 (near Route 146 and 45 McKeon Road) (ZB-2012-068)

- Special Permit: To convert both faces of the static non-accessory freestanding billboard sign to a digital sign (per Article IV, Section 6, L (2)(b) – Conversions from Static to Digital Display for Nonconforming Signs
- Petitioner: Lamar Advertising Company, Inc.
- Present Use: 1,200 SF two-sided non-accessory freestanding billboard sign facing I-290
- Zone Designation: MG-2.0 (Manufacturing, General) and BSOD (Blackstone River Parkway Sign Overlay District)
- Petition Purpose: Convert the existing sign to a 672 SF two-sided digital sign (proposed dimensions are 14’ x 48’)

The petitioner, Lamar Advertising, submitted a Request for Postponement to the December 17, 2012 Zoning Board meeting prior to the meeting. Upon a motion by Mr. Loew, seconded by Mr. Bilotta, the Board voted 4-0 to approve the continuance to December 17, 2012.

List of Exhibits.

- Exhibit A: Special Permit &/or Variance Application; received October 16, 2012; prepared by Lamar Advertising Company, Inc.
- Exhibit B: Aerial images entitled “Locus Map Interstate-290 in Worcester, Massachusetts”; dated October 12, 2012 (received on October 16, 2012), revised November 1, 2012 (received November 8, 2012); prepared by BSC Group.
- Exhibit C: Aerial images and information plan entitled “Collision Diagram for Interstate 290 for 2010 & 2011 Data”; dated November 1, 2012 received on November 8, 2012; prepared by BSC Group.
- Exhibit D: Plan entitled “Elevations, Plan, and Detail”; dated June 11, 2012; received on November 8, 2012; prepared by Redfern Engineering, LLC.
- Exhibit E: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: I-290 (near 146 and 45 Mckeon Road); dated December 14, 2012.
- Exhibit F: Memorandum from Bonnie Polin, Chief Safety Analyst of MassDOT to Edward Farley, Director MassDOT Office of Outdoor Advertising; Re: Digital Advertising Board – Pilot Program; dated November 22, 2011.
- Exhibit G: Request for Continuation/Postponement/Leave to Withdraw from Lamar Advertising Company, Inc. to the Zoning Board of Appeals; dated November 15, 2012.

NEW BUSINESS:

5. 545 Salisbury Street and 5, 7, & 9 Flower Hill Drive (ZB-2012-065)

Modification: The applicant is requesting a modification to an existing Comprehensive Permit.

Petitioner: Illyrian Gardens, Inc.

Present Use: A 72 unit low-rise building with 72 associated off-street parking spaces for low and moderate elderly residents allowed by a Comprehensive Permit granted in 1988.

Zone Designation: RS-10 (Residential, Single-Family)

Petition Purpose: The applicant seeks to modify the existing Comprehensive Permit to reconfigure the property boundaries to allow for the transfer of excess land to create two new parcels (Parcel B and Parcel C). The newly created parcels are to be combined with the abutting land for a future development proposal of three single-family dwellings on Parcel B and for six additional housing units on Parcel C.

Attorney Donald O’Neil, representing Illyrian Gardens, Inc., introduced Bill Johns and George Lasker, officers of Illyrian Gardens, and stated that the applicant is requesting a modification to their comprehensive permit by altering the lot boundary to remove excess land. This proposal is to reduce the property within the Illyrian Gardens Comprehensive Permit to 2.68 acres from the original size of 3.6 acres. Mr. O’Neil stated that a ~30,026 SF area labeled as Parcel B and a ~14,436 SF area labeled as Parcel C on the current plan is proposed to be removed. Parcel C would be combined with the abutting property owned by The Albanian Orthodox Church of St. Mary’s Assumption for the future development of 6 housing units and Parcel B is intended to be used for the future development of 3 single-family houses.

Mr. O’Neil stated that if the determination of the Board is that the change is insubstantial then they can proceed directly to the Planning Board. If the Board finds the change to be substantial then a public hearing will be held and abutters will have to be notified.

Mr. Fontane stated that staff recommends that the proposed modifications be considered substantial and will require a public hearing in accordance with the Massachusetts Department of Housing and Community development regulations 760 CMR 56. If the Board determines that the change is substantial, the Board must hold a public hearing on the request within 30 days of the determination (by December 19, 2012) and then issue a decision within 40 days of the close of the public hearing. Mr. Fontane stated that the reason staff deemed the modification as substantial is because CMR 760 CMR 56.07(4)(a) states that a reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed is substantial - a 28% reduction is proposed.

Mr. Freilich stated that he believed the change warranted another look and Mr. Bilotta stated he would prefer to err in the side of caution and hold a public hearing to further discuss the changes.

Upon a motion by Mr. Loew and seconded by Mr. Akindele, the Board vote 4-0 to find the modification to the comprehensive permit substantial and the public hearing will be scheduled for the December 17, 2012 meeting.

List of Exhibits.

- Exhibit A: Special Permit Amendment Application; received October 16, 2012; prepared by Illyrian Gardens, Inc.
- Exhibit B: Proposed Amendment Configuration Plan; dated July 10, 2012; prepared by Robert D. O’Neil, Jr.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: [subject heading]; dated November 16, 2012.
- Exhibit D: Memorandum from the City of Worcester Deputy City Solicitor, Michael E. Traynor, to Abigail McCabe; re: Illyrian Gardens Comprehensive Permit dated October 22, 2012.
- Exhibit E: Zoning Board of Appeals Comprehensive Permit Decision from 1986, dated September 29, 1986.

6. 47 Westminster Street (aka 45 Westminster Street, 12 Forbes Street, & 17 Perkins Street) (ZB-2012-062)

- Variance: Relief of 1228 SF from the 6000 SF gross dimensional area requirement for the proposed lot 2 (4772 SF proposed)
- Variance: Relief of 1265 SF from the 6000 SF gross dimensional area requirement for the proposed lot 3 (4735 SF proposed)
- Petitioner: Worcester East Side Community Development Corporation
- Present Use: Vacant land located in an area zoned RG-5.0 (Residential, General)
- Zone Designation: RG-5.0 (Residential, General)
- Petition Purpose: The petitioner seeks to construct a total of four (4) two-family detached dwellings and to subdivide the lot into four (4) separate lots. The petitioner seeks a variance from the minimum gross area dimensional requirement for the proposed lot 2 and lot 3. Lot 2 seeks relief of 1228 SF and Lot 3 seeks relief of 1265 SF.

Todd Rodman, representing Worcester East Side Community Development Corporation (WESCDC), introduced Donna Warshaw, executive director of WESCDC, and Steve Hart, housing director. Mr. Rodman stated that the applicant is proposing to subdivide 47 Westminster into four separate lots to construct a two-family detached dwelling on each of the parcels. The proposed lots 2 and 3 need relief from the dimensional requirement while the proposed lots 1 and 4 meet the dimensional zoning requirements and are by-right approvals. Presently, the lots are vacant. Mr. Rodman stated that these homes will not be built with affordable housing funds; it is a market rate project. They need the eight units for economic efficiency and to offset the site costs.

Mr. Rodman explained another reason why they need the relief is because of the topography of the site.

Steve Hart stated that WESCDC will own, manage, and rent these units. Each unit will have the required two off-street parking spaces.

Mr. Fontane stated that there was an interdepartmental review team meeting with the applicant regarding this project. He stated that staff analyzed the neighborhood and it would be within the context of the neighborhood. Mr. Fontane stated he believes it is a good project and it will bring market rate housing at an affordable price to the City.

Mr. Bilotta stated the plans show that the applicant plans to remove trees from the site and asked the Mr. Hart if any trees or shrubs will be planted. Mr. Hart stated they will be planting shrubs and dogwoods or apple trees, and stated he would be amenable to a condition on the number of trees that need to be planted. He stated they hadn't finalized the landscaping plan because they still need to obtain site plan approval.

Mr. Fontane stated that if approved, staff respectfully recommends the following conditions of approval: that an Approval Not Required plan be submitted to the Planning Board prior to the issuance of any building permits, that one 3.5" caliper (ALB resistant) shade tree be planted on each of the newly created lots, and that the dwellings are constructed in compliance with the final approved plans and elevations. He also stated that the Board should vote to accept the findings of fact as submitted by the applicant and as modified by staff. Mr. Bilotta stated he was in agreement with the conditions recommended by staff.

Mr. Akindele asked the applicant how long these lots have been vacant. Mr. Hart responded that 12 Forbes Street lot has been vacant for 13 years, 17 Perkins Street has been vacant for 3 years, 45 Westminster Street has been vacant for 8-9 years, and 47 Westminster Street was demolished 2 years ago.

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the Board voted 4-0 to close the hearing.

Upon a motion by Mr. Loew and seconded by Mr. Akindele, the Board voted 4-0 to approve the two variances requested subject to the conditions in the DPRS staff memo and accepting the findings of fact as modified by staff, except for the social economic finding of fact, where the applicant's findings will remain as submitted.

List of Exhibits.

Exhibit A: Zoning Board of Appeals Special Permit & Variance Application; received September 25, 2012; prepared by Stephen Hart, agent for Worcester East Side Community Development Corporation.

Exhibit B: Plan for Variance Plan; dated September 20, 2012; prepared by B & R Survey, Inc.

Exhibit C: Lower Lincoln Housing Development Project Model; Worcester East Side Community Development Corporation; prepared by Stephen Hart and dated September 25, 2012.

Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 47 Westminster Street (MBL 09-

7. 10-12-14 East Worcester Street & 49 Shrewsbury Street (ZB-2012-064)

Special Permit: To modify parking layout with respect to the number of parking spaces (Article IV, Section 7).
Special Permit: To allow retail sales in MG-2.0 (Table 4.1, Business Use # 26).
Special Permit: To allow personal service shop in MG-2.0 (Table 4.1, Business Use # 27)
Petitioner: Condron Worcester Realty, LLC
Present Use: ~58,200 SF three-story commercial building with associated off-street parking located on the adjacent lot at 49 Shrewsbury Street
Zone Designation: MG-2.0 (Manufacturing, General)
Petition Purpose: Renovate the interior of the existing building for retail sales use (allowed by a Special Permit), a personal service use (allowed by Special Permit), and create 141 off-street parking spaces to be located at 10-12-14 East Worcester Street and at 49 Shrewsbury Street instead of the required 156 off-street parking spaces (allowed by Special Permit)

Todd Rodman, representing Condron Worcester Realty, LLC and Kevin Condron, introduced Alan Height and Paul Gauvin, general contractor for the project. Mr. Rodman stated the petition purpose and relief requested. Mr. Rodman stated that special permits are needed because the plan is to renovate the interior of the building and reconfigure the parking lot to accommodate the office use and the other uses proposed. Mr. Rodman stated that the plan is to bring in retail sales, service shops, and personal service uses. They want to stay consistent with surrounding businesses and with the historical use of the building, which was at one time used for retail sales.

Mr. Rodman stated they are also seeking relief from 15 required parking spaces. The Ordinance requires 156 parking spaces for the combination of uses proposed. The proposed parking provided is 141.

Mr. Freilich asked if any of the uses will conflict with the VIA Italian Table restaurant parking. Mr. Rodman stated that VIA is not allowed to park on the 49 Shrewsbury Street parking lot during the day. He also stated that in 2006, the ZBA granted a special permit to VIA that allowed them to park 51 cars in that parking lot at night. They will honor that agreement with VIA and therefore the 141 spaces provided do not include the 51 parking spaces VIA patrons can use.

Mr. Fontane stated that staff recommends approval with no conditions of approval and there were no modifications to the applicant's findings of fact. The proposed project will serve a vibrant set of uses and makes sense in this district. He also stated that the abutting portion of East Worcester Street has been abandoned and it serves as parking and enables better circulation.

Mr. Bilotta asked if the reduction of parking spaces will affect the required number of handicapped spaces. Mr. Rodman stated that they will be ADA compliant. Mr. Loew asked how the applicant plans to deal with traffic at the intersection of East Worcester Street and South Hill. Mr. Fontane responded that the Planning Board required a stop sign be installed at that intersection.

Mr. Kelly stated that the project meets the intent of the Ordinance and gives the opportunity for new businesses.

Upon a motion by Mr. Loew and seconded by Mr. Bilotta, the Board voted 4-0 to close the hearing.

Upon a motion by Mr. Loew and seconded by Mr. Akindele, the Board voted 4-0 to approve the three special permits with no conditions and the findings of fact as submitted by the applicant.

List of Exhibits.

- Exhibit A: Special Permit Application; received September 25, 2012; prepared by Condron Worcester Realty LLC and P. Kevin Condron.
- Exhibit B: Layout Plan; dated September 13, 2012; prepared by Graves Engineering, Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 10-14 East Worcester Street & 49 Shrewsbury Street; dated October 26, 2012, revised November 16, 2012.

8. 101 Randolph Road (ZB-2012-066)

- Special Permit: Expansion, alteration or change of a privileged pre-existing nonconforming uses and structures (Article XVI, Section 4) with respect to the side yard setback.
- Variance: Relief of 16.3 ft from the 20 ft side yard setback requirement.
- Petitioner: HSM Investment, LLC
- Present Use: Nursing home
- Zone Designation: RS-7 (Residential, Single Family)
- Petition Purpose: Alter existing nonconforming structure by enclosing the building's existing deck on the east side to create a sunroom facing Dodge Park Road. The petitioner is also seeking relief from the 20 ft side yard setback requirement for the enclosed porch proposed with a 3.7 ft side yard setback

The petition was postponed to a special meeting on November 26, 2012 due to a lack of quorum.

List of Exhibits.

- Exhibit A: Special Permit and Variance Application; received October 16, 2012; prepared by HSM Investment, LLC.
- Exhibit B: Plot Plan of Proposed Deck Enclosure; dated October 15, 2012; prepared by Samiotes Consultants Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 101 Randolph Road; dated November 16, 2012.

9. 21 North Street (aka 23 North Street) and 3 Milton Street (ZB-2012-067)

Special Permit: Expansion, alteration or change of a privileged pre-existing nonconforming uses and structures (Article XVI, Section 4)
Variance: Relief of 4.1 ft from the 7.5 exterior side yard requirement (3.4 ft is proposed)
Petitioner: Greater Worcester Properties, LLC
Present Use: 1200 SF commercial warehouse building
Zone Designation: MG-2.0 (Manufacturing, General)
Petition Purpose: Construct a second story addition on the existing building. The petitioner is seeking relief to expand the existing nonconforming structure and a variance for 4.1 ft of relief from the exterior side yard setback. The Zoning Ordinance allows the exterior side yard setback for corner lots to be one half (.5) of the respective front yard requirements (15 ft front yard set back in MG-2.0 zone)

The petition was postponed to a special meeting on November 26, 2012 due to a lack of quorum.

List of Exhibits.

Exhibit A: Special Permit and Variance Application; received October 16, 2012; prepared by Greater Worcester Properties, LLC.
Exhibit B: Certified Plot Plan; dated October 15, 2012; prepared by O'Driscoll Land Surveying Co.
Exhibit C: Rendering; undated; unknown preparer.
Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 21 North St (aka 23 North St) & 3 Milton St; dated November 16, 2012.

OTHER BUSINESS:

10. Election of Officers

The election of officers was postponed to the December 17, 2012 meeting due to a lack of quorum.

11. Decisions from prior meetings

The decisions for 0 Millbury Street and 28 Garden Street were signed.

ADJOURNMENT:

The meeting was adjourned at 6:20 p.m. due to a lack of quorum.