

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

August 27, 2018

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBERS

Zoning Board Members Present: Vadim Michajlow, Chair
Joseph Wanat, Vice-Chair
Andrew Freilich, arrived at 5:40 pm
Robert Haddon, Alternate Member
Russell Karlstad, 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 Kelly, Department of Inspectional Services

Call to Order – 5:30 pm

Approval of the Minutes

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to approve the minutes of August 6, 2018.

Requests for Continuances, Extensions of Time, Postponements, Withdrawals

1. 33 Dominion Road (ZB-2018-035)

Special Permit: To allow a multi-family low-rise dwelling in an RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #11)

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

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

Petitioner: Silvertree Realty, LLC

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 multi-family dwelling (for a total of 12 dwelling units), along with associated site work and parking.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 4-0 to allow for Leave to Withdraw without Prejudice for the Special Permit and Variance requests.

New Business

2. 7 (aka Lot 7A & 7B) Glade Street (ZB-2018-054)

Lot 7A Glade Street:

Variance: For relief from the minimum frontage dimensional requirement in an RG-5 zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum side-yard setback dimensional requirement in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Lot 7B Glade Street:

Variance: For relief from the minimum frontage dimensional requirement in an RG-5 zone (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum side-yard setback dimensional requirement in an RG-5 Zone (Article IV, Section 4, Table 4.2)

Petitioner: KLA Holdings, LLC

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

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

Petition Purpose: The applicant seeks to construct a single-family semi-detached dwelling (i.e. a duplex) and to conduct associated site work.

Attorney Donald O’Neil appeared upon behalf of the applicant, KLA Holdings, LLC. Attorney O’Neil stated that the applicant seeks to construct a single-family semi-detached dwelling.

On August 6, 2018, the Zoning Board of Appeals opened the hearing on this matter and continued the hearing in order to allow the applicant additional time to address concerns pertaining to the trees near the retaining wall, screening and possibly decreasing the width of the driveways.

The revised plan, dated August 22, 2018, shows the following changes: the applicant has utilized the Zoning Ordinance’s front yard alignment provision (Article IV, § 4, Table 4.2, Note 6) - the properties at 3 & 5 Glade Street are both located within 15 feet of the front-yard setback, and the average of their minimum setback is 11.75 feet; the proposed width of the structure has been reduced from 40 feet to 36 feet in order to provide more space along the sides as well as steps the building down to improve the grading by pulling the building forward in order to provide two tandem parking spaces in the garage instead of having one of the spaces located in the front - the alteration in the building width minimizes the amount of side-yard setback relief requested from 3 feet to 1 foot.

Attorney O’Neil stated that they will try and keep some of the trees on the site and to plant some arborvitae bushes in order to provide screening for the neighbors.

Mr. Michajlow expressed concern that a lot was being squeezed on the site.

Abutter Jane (unknown last name) expressed concern that there was a cracked retaining wall on the site and stated that if trees are removed there will be drainage problems.

Abutter Jean Seller expressed concern that the plans have changed and the neighbors were not notified and that trees are being removed and this proposal will create a parking problem in the area.

Mr. Karlstad stated that he would like to make sure that there is pre-construction evaluation of the retaining wall. Attorney O’Neil stated that they have no objection to that.

Mr. Haddon stated that he like to have a condition on approval that the plans show the two bedrooms units as plans as submitted do not.

Mr. Freilich stated that he believed the proposal would change the make-up of the neighborhood as this is a lot to put on the site.

Upon a motion by Mr. Karlstad and seconded by Mr. Haddon the Board voted 4-0 to close the public hearing.

Upon a motion Mr. Wanat and seconded Mr. Mr. Karlstad the Board voted 4-0 to approve the waiver request to not label abutters and abutters thereto within 300 ft. on the plan.

Upon a motion by Mr. Haddon and seconded by Mr. Karlstad the Board voted 4-0 to approve the Variances with conditions outlined in staff's memo as well as additional conditions that only two bedrooms be allowed per unit, that driveway widths for each lot be only one car width wide and that a pre-construction evaluation/survey of the retaining wall be done prior to construction.

List of Exhibits:

Exhibit A: Variance Application; received June 27, 2018; prepared by Attorney Donald O'Neil.

Exhibit B: Proposed Variance Plan; dated June 25, 2018 and revised through to August 22, 2018; prepared by Robert O'Neil.

Mr. Freilich arrived at the meeting at 5:40 pm.

Unfinished Business

3. 1385 Main Street (ZB-2018-034)

Special Permit To allow a motor-vehicle/trailer/boat sales and/or rental use in a BL-1.0 Zone (Article IV, Section 2, Table 4.1, Business Use #15)

Special Permit To allow a motor-vehicle service, repair, garage, display use in a BL-1.0 Zone (Article IV, Section 2, Table 4.1, Business Use #16)

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

Petitioner: JNC, LLC

Present Use: Presently on the premises is a residential structure, with associated site improvements.

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

Petition Purpose: The applicant seeks to use portion of the premises for motor vehicle sales and display purposes, along with associated site work.

Attorney Robert Longden, Kevin Quinn from Quinn Engineering and Timothy Clark from JNC LLC appeared upon behalf of the application. Attorney Longden stated that the applicant seeks to use a portion of the premises for motor vehicle sales which will consist of a used car sales lot, consisting of 7 display spaces on the site.

Attorney Longden stated that at the last meeting the Board requested someone changes to the plan and the changes have been made. Mr. Quinn reviewed the changes to the plan.

Mr. Michajlow expressed concern about the amount of used car lots being put into this neighborhood.

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

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to approve the waiver requested to not label abutters to abutters within 300 ft on the plan.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 4-1 (Mr. Michalow voting against) to approve the Special Permits requested with conditions outlined in staff's memo.

List of Exhibits:

- Exhibit A: Special Permit Application; received April 10, 2018; prepared by the applicant.
- Exhibit B: Plan of Land; dated March 19, 2018 and revised through to August 15, 2018; prepared by Quinn Engineering, Inc.
- Exhibit C: Letter from Attorney Robert Longden with Petition of Abutters Supporting the Proposal; dated July 9, 2018.
- Exhibit D: Abutter email from Maureen Uryasz, dated June 25, 2018.

New Business

Mr. Haddon recused himself from item #4 – 4 Barnes Avenue and exited the room.

4. 4 Barnes Avenue (ZB-2018-053)

- Special Permit:** To allow a personal service shop in a RL-7 Zone (Article IV, Section 2, Table 4.1, Business Use #27)
- Variance:** For relief from the minimum parking requirements (Article IV, Section 7, Table 4.4)
- Petitioner:** John J. and Jeri J. Steele
- Present Use:** Presently on the premises is a two-family detached dwelling with associated site improvements.
- Zone Designation:** BG-3.0 (Business, General) and RL-7 (Residence, Limited) zoning districts
- Petition Purpose:** The applicant seeks to convert the first floor into an acupuncture practice with the second floor remaining as a residential dwelling unit.

Attorney Donald O'Neil appeared upon behalf of the applicant, John J. and Jeri J. Steele and stated that the applicant seeks to convert the first floor into an acupuncture practice with the second floor remaining as a residential dwelling unit. The applicant intends to convert 800 SF of the first floor unit into an office/treatment space for an acupuncture practice. Attorney O'Neil reviewed the parking requirements for the site.

The intended hours of operation will be Monday (8-11 am), Tuesday (8 am-7 pm), Wednesday (8 am-7 pm) and Friday (8 am-1 pm) with appointments ranging from 30 to 90 minutes with no more than 2 patients at the same time.

Mr. Michajlow asked if there would be any changes to the façade of the building. Attorney O'Neil stated no, except maybe a small sign put up for the business.

Mr. Kelly asked if there be any changes to accommodate handicap accessible patrons. Attorney O'Neil stated that they could make accommodations to the entrance, if necessary.

Upon a motion by Mr. Karlstad and second by Mr. Wanat the Board voted 4-0 to close the public hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 4-0 to approve the waiver request to not label all abutters and abutters thereto within 300 ft. on the plan.

Upon a motion Mr. Wanat and seconded Mr. Mr. Karlstad the Board voted 4-0 to approve the Variance and Special Permit requested with conditions outlined in staff's memo as well as condition that there be no changes to the exterior except for handicapped accommodations.

List of Exhibits:

Exhibit A: Special Permit & Variance Application; received June 27, 2018; prepared by Attorney Donald O'Neil.

Mr. Haddon returned to the meeting room.

5. 3 Greenleaf Terrace (ZB-2018-056)

Variance: For relief from the minimum setback requirements for an accessory structure in a residential zoning district (Article IV, Section 8)

Petitioner: Kimberlee A. McCarthy

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

Zone Designation: RS-7 (Residence, Single Family) & RL-7 (Residence, Limited) zoning districts

Petition Purpose: The applicant seeks retroactive approval for the construction of an accessory structure.

Attorney Natalia Biswa and Attorney Donna Truex appeared along with the applicant, Kimberly A. McCarthy. Attorney Biswas stated that the applicant is seeking retroactive approval for the construction of an accessory structure. Ms. Biswas stated that there is nowhere else on the site to put the shed but in the setback area. She stated that the carport is necessary due to the New England weather.

Mr. Michajlow stated that this is request for retroactive approval and asked why the applicant didn't obtain approval first from the Board before putting up the structure. Attorney Biswa stated that the carport was built approximately ten years ago by the applicant's ex-husband.

Abutter Thomas Shea stated that he has been in discussion with the neighbor as part of the structure is on his property and he just wants the Board to understand that the structure has to move.

Mr. Haddon stated that the plan submitted shows it one foot off the property line.

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

Upon a motion by Mr. Haddon and seconded by Mr. Wanat the Board voted 5-0 to approve the waiver of the application requirement to label abutters and abutters thereto within 300 ft. on the plan.

Upon a motion by Mr. Haddon and seconded by Mr. Wanat the Board voted 5-0 to approve the Variance requested with conditions outlined in staff's memo.

List of Exhibits:

- Exhibit A: Variance Application; received July 23, 2018; prepared by the applicant.
Exhibit B: Layout Plan; dated May 16, 2018; prepared by JH. S. & T. Group, Inc.

6. 315 Grove Street (ZB-2018-057)

- Special Permit:** To allow the extension, alteration, or change to a privileged non-conforming structure (Article XVI, Section 4)
- Petitioner:** 315 Grove Street, LLC
- Present Use:** Presently on the property is a pre-existing non-conforming commercial structure, along with associated site improvements
- Zone Designation:** BG-3.0 (Business, General) zoning district
- Petition Purpose:** The applicant seeks to demolish a portion of the existing structure, re-configure parking, and conduct related site work.

Attorney Todd Rodman, Michael Andrade from Graves Engineering and representatives from 315 Grove Street LLC appeared upon behalf of the applicant, 315 Grove Street, LLC. Attorney Rodman stated that the applicant seeks to demolish a portion of the existing structure, re-configure parking, and conduct related site work. The scope of the work consists of the following:

- The property at 315 Grove Street is currently a vacant commercial building previously used as Jillian's Billiards.
- The applicant proposes two new retail uses consisting of retail sales for an auto parts store and a personal service use as a laundromat.
- The applicant proposes to remove a portion of the building along the southerly portion of the structure in order to create additional parking for the personal service use; this reduces the gross area of the structure from 16,444 SF down to 12,510 SF. See Photo 2.
- The existing building is pre-existing non-conforming in regards to the required rear yard setback as 10 feet is required and 0 feet is provided; the proposed removal of a portion of this structure requires a Special Permit
- The applicant is proposing 2 separate and unconnected parking lots for a total of 43 parking spaces and 2 loading spaces on the premises.

Attorney Rodman stated that the proposal will be going before the Planning Board for parking lot approval.

There was some discussion regarding the functionality and removal of the middle curb cut.

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

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to approve the waiver request to not label abutters to abutters within 300 feet on the plan.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to approve the Special Permit with conditions outlined in staff's memo with the following changes: strike 1.a, 1.b, 1.d.; revise 1.c to remove the middle curb cut; and that approval is conditional upon Planning Board Parking Plan approval.

List of Exhibits:

- Exhibit A: Special Permit Application; received July 24, 2018; prepared by the applicant.
Exhibit B: Plan of Land; dated July 25, 2018; prepared Graves Engineering

7. 34 Bullard Avenue (ZB-2018-058)

- Variance:** For relief from the minimum setback requirements for an accessory structure in a residential zoning district (Article IV, Section 8)
Petitioner: Joseph and Lisa M. Apau
Present Use: Presently on the property is a single-family detached structure, along with associated site improvements
Zone Designation: RS-7 (Residence, General) zoning district and within the Water Resources Protection Overlay District (WR(GP-3))
Petition Purpose: The applicant seeks retroactive approval for the construction of an accessory structure.

Attorney Donald O’Neil appeared upon behalf of the applicant, Joseph and Lisa M. Apau and stated that the applicant seeks approval for the construction of an above ground swimming pool within the required 5-foot setback for an accessory structure and reviewed the proposal for the site.

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

Upon a motion by Mr. Haddon and seconded by Mr. Wanat the Board voted 5-0 to approve the waiver of the application requirement to label abutters and abutters thereto within 300 ft. on the plan.

Upon a motion by Mr. Haddon and seconded by Mr. Wanat the Board voted 5-0 to approve the Variance requested with conditions outlined in staff’s memo.

List of Exhibits:

- Exhibit A: Variance Application; received July 25, 2018; prepared by the applicant’s Attorney Donald O’Neil.
Exhibit B: Plan of Land; dated October 31, 2017; prepared by D. O’Brien, land Surveying.

The Board took a five minute recess.

8. 29 Genesee Street and 29, 33, 39 & 49 James Street (ZB-2018-059)

- Special Permit:** To allow retail sales (including retail with incidental fabrication assembly) in a MG-1.0 Zone (Article IV, Section 2, Table 4.1, Business Use #26)
Petitioner: Galaxy Development, LLC
Present Use: Presently on the properties at 49 James Street is a series of commercial structures, used as a nursery Presently on the properties at 29 Genesee Street and 29, 33, & 39 James Street are various single-family dwellings, along with associated site improvements.

Zone Designation: MG-1.0 (Manufacturing, General) zoning district.

Petition Purpose: The applicant seeks to demolish all existing structures, construct a 23,730SF multi-tenant commercial building with associated parking and conduct related site work

Patrick Doherty from Mid-Point Engineering appeared upon behalf of the applicant, Galaxy Development LLC and stated that the applicant seeks to demolish all existing structures and construct a 23,730SF multi-tenant commercial building with associated parking and reviewed the plans for the site.

Mr. Doherty reviewed where the wetlands were located on the site and stated that this proposal has been before the Conservation Commission.

The Board discussed with Mr. Doherty changes that they would like to see to the southerly portion of the lot to prevent traffic back up onto Grove Street.

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

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to approve the requested a waiver of the application requirement to label abutters and abutters thereto within 300 ft.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to approve the Special Permit with conditions outlined in staff's memo as well as condition to eliminate first three spaces on the southerly portion of the lot closest to James Street curb cut.

List of Exhibits:

Exhibit A: Special Permit Application; received July 25, 2018; prepared by the applicant.

Exhibit B: Plan of Land; dated July 25, 2018 and revised through to July 11, 2018; prepared MidPoint Engineering.

Exhibit C: Fire Department Comments; dated August 7, 2018.

9. 525 (aka 529) Pleasant Street (ZB-2018-060)

Variance: For relief from the minimum rear-yard setback requirements in a BG-3.0 zoning district (Article IV, Section 4, Table 4.2)

Petitioner: Leo J. DiGregorio, Jr

Present Use: Presently on the property is an existing non-conforming mixed-use structure, along with associated site improvements.

Zone Designation: MG-1.0 (Manufacturing, General) zoning district.

Petition Purpose: The applicant seeks to demolish the rear portion of the existing structure and to subdivide the land.

Attorney Jonathan Finkelstein appeared upon behalf of the applicant, Mr. DiGregorio and stated that the applicant proposes to demolish the existing attached residential portion of the building and create a new parcel with the remaining empty lot. The stated intent by the applicant is to convey the new lot to the abutting owners at 264-266 Park Avenue. The resulting lot line will be moved the remaining back portion of the business use (Leo's Vacuum center) thus requiring the Variance for 10 feet from the rear-yard setback dimensional requirement.

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

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to approve the waiver requirement to label abutters and abutters thereto within 300 ft. on the plan.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to approve the Variance with conditions outlined in staff's memo.

List of Exhibits:

Exhibit A: Variance Application; received July 27, 2018; prepared by the applicant.

Exhibit B: Variance Plan of Land; dated June 27, 2018; prepared by H. S. & T. Group, Inc.

Exhibit C: ZBA Special Permit & Variance Decision & Conditions of Approval; 2010.

Other Business

10. Communications

11. Signing of Decisions from prior meetings

Adjournment - Upon a motion the Board voted 5-0 to adjourn the meeting at 7:46 p.m.