

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

**October 1, 2018**

**WORCESTER CITY HALL, 455 MAIN STREET, ESTHER HOWLAND CHAMBERS**

**Zoning Board Members Present:** Vadim Michajlow, Chair  
Joseph Wanat, Vice-Chair  
Andrew Freilich  
Robert Haddon, Alternate Member  
Russell Karlstad, Alternate Member

**Staff Present:** Domenica Tatasciore, Division of Planning & Regulatory Services  
Michael Antonellis, Division of Planning & Regulatory Services  
David Horne, 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 27, 2018.

**Requests for Continuances, Extensions of Time, Postponements, Withdrawals**

**1. 37 Fruit Street & 59 William Street (ZB-2018-003)**

**Special Permit:** To allow a multi-family residence in an RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #5)

**Special Permit:** To allow a lodging house in an BO-1.0 Zone (Article IV, Section 2, Table 4.1, Residential Use #8)

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

**Special Permit:** To allow the extension, alteration, or change to a privileged non-conforming structure/use (Article XVI, Section 4)

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

**Variance:** For relief from the minimum frontage dimensional requirements (Article IV, Section 4, Table 4.2)

**Variance:** For relief from the minimum front-yard setback dimensional requirements (Article IV, Section 4, Table 4.2)

- Variance:** For relief from the minimum side-yard setback dimensional requirements (Article IV, Section 4, Table 4.2)
- Variance:** For relief from the minimum rear-yard setback dimensional requirements (Article IV, Section 4, Table 4.2)
- Variance:** For relief from the minimum exterior side-yard setback dimensional requirements (Article IV, Section 4, Table 4.2)
- Variance:** For relief from the minimum lot area dimensional requirements (Article IV, Section 4, Table 4.2)
- Petitioner:** Hampton Properties, LLC
- Present Use:** Presently on the premises at 37 Fruit Street & 59 William Street are two residential/professional office structures.
- Zone Designation:** 37 Fruit Street - BO-1.0 (Business, Office) zoning district & 59 William Street - RL-7 (Residence, Limited) zoning district
- Petition Purpose:** The applicant seeks to convert the existing structure at 37 Fruit Street into a lodging house with a total of 12 dwelling units along with office space and to convert the existing structure at 59 William Street into a multi-family low-rise dwelling, with a total of 6 dwelling units, along with related exterior changes for egress, and to re-configure and expand the parking areas to be used in association therewith, along with related site work.

Upon a motion by Mr. Karlstad and seconded by Mr. Wanat the Board voted 5-0 to allow for Leave to Withdraw without Prejudice for the Special Permit and Variance applications.

## **2. 210 Southwest Cutoff (ZB-2018-068)**

- Variance:** For relief from the minimum parking requirements (Article IV, Section 7, Table 4.4)
- Petitioner:** St. James Realty, LLC
- Present Use:** Presently on the property is a partially paved lot with an existing structure, along with associated site improvements.
- Zone Designation:** MG-2.0 (Manufacturing, General) zoning district
- Petition Purpose:** The applicant seeks to construct a 177,000 SF self-storage facility, with related surface parking areas, and conduct associated site work.

Upon a motion by Mr. Wanat and seconded by Mr. Karlstad the Board voted 5-0 to postpone the Variance application to the October 15, 2018 Zoning Board of Appeals meeting and extend the decision deadline to October 30, 2018.

## New Business

### 3. 617 Mill Street (ZB-2018-055)

**Special Permit:** To allow a school (vocational, professional, other for profit) in a BL-1.0 Zone (Article IV, Section 2, Table 4.1, General Use #21)

**Petitioner:** Doris Kissi

**Present Use:** Presently on the premises is a multi-tenant commercial structure with associated parking.

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

**Petition Purpose:** The applicant seeks to use a portion of the premises as a vocational school.

Doris Kissi appeared upon behalf of the application and stated that she is seeking to use a portion of the premises as a vocational school and reviewed the proposal for the school.

Ms. Tatasciore stated that staff had some outstanding questions relative to the application. Ms. Tatasciore asked the applicant to confirm the number of existing parking spaces on the property. Ms. Kissi stated that there is about 40 parking spaces. Ms. Tatasciore asked about the proposed hours and days of operation. Ms. Kissi stated that the hours would be Monday thru Friday and will be day and evening classes. Morning classes 8:00 a.m. to 5:00 p.m. and evening would be 5:00 p.m. to 9:00 p.m.

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. Haddon the Board voted 5-0 to approve the 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.

#### *List of Exhibits:*

Exhibit A: Special Permit Application; received July 13, 2018; prepared by the applicant.

Exhibit B: Floor Plan & Curriculum Schedule; received August 23, 2018; submitted by applicant.

### 4. 9 (aka 19) & 37 Piedmont Street (ZB-2018-061)

**Variance:** For relief from the minimum front-yard setback dimensional requirements in a RG-5 zoning district (Article IV, Section 4, Table 4.2)

**Petitioner:** Centro de Adoracion Vida Nueva (fka Igelesia Evangelica de Worcester)

**Present Use:** Presently on the premises at 9 (aka 19) Piedmont Street are two commercial structures and at 37 Piedmont Street is a commercial structure

**Zone Designation:** RG-5 (Residence, General) and BG-3.0 (Business, General) zoning districts and 9 (aka 19) Piedmont Street is partially within the Commercial Corridors Overlay District (CCOD-E)

**Petition Purpose:** The applicant seeks to add an addition, including a second story, to expand the existing structure known as #19 Piedmont Street and conduct associated site improvements.

The applicant appeared upon behalf of the application and said that he seeks to add an addition, including a second story, to expand the existing structure known as #19 Piedmont Street. The application had been approved previously by the Board but the time period had expired as a Variance was only good for one year.

The congregation will hold 450 people and the petitioner has proposed a total of 86 parking spaces; 56 spaces would be located on the premises and 30 spaces would be provided via a parking lease with the nearby YMCA.

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 and abutters to abutters within 300 feet of the property.

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 August 7, 2018; prepared by the applicant.

Exhibit B: Definitive Site Plan; dated 4/5/16 and revised through to January 6, 2017; prepared by Tetra Tech.

Exhibit C: ZBA decision; approved on May 23, 2016.

**5. 25 Southgate Street (ZB-2018-062)**

**Variance:** For relief from the minimum rear-yard setback dimensional requirements in a MG-2.0 zoning district (Article IV, Section 4, Table 4.2)

**Petitioner:** Southgate Street Realty Trust, LLC

**Present Use:** Presently on the property is a manufacturing building, along with associated site improvements.

**Zone Designation:** MG-2.0 (Manufacturing, General) zoning district

**Petition Purpose:** The applicant seeks to construct a freezer, refrigeration & storage facility, to re-configure parking/loading and to conduct related site work.

Attorney Patricia Gates appeared upon behalf of the applicant, Southgate Street Realty Trust, LLC along with representatives from Southgate Street Realty Trust, LLC and Table Talk Pies. Attorney Gates stated that the applicant seeks to construct a freezer, refrigeration & storage facility, to re-configure parking/loading.

Currently located at 25 Southgate Street is a 57,200 SF manufacturing building for Table Talk Pies. The applicant is seeking to construct a 27,600 SF freezer refrigeration and storage facility to the southwest of the existing manufacturing building; this facility is allowed by right in the MG-2 zoning district. Table Talk Pies is increasing its capacity and is adding a second line for additional production. The addition of the refrigeration/freezer building is required in order to accommodate a minimum of 3,700 pallets for production purposes.

Ms. Tatasciore had some outstanding questions relative to the application such as what is the height of the proposed retaining wall located perpendicular to the proposed facility. Patrick Healey from Thompson & Liston stated that the height of the wall would be five feet. Ms. Tatasciore also asked about the type of

proposed fencing adjacent to the parking spaces. Attorney Gates stated they plan to use chain link fencing as that is what is used in the neighborhood.

Mr. Freilich asked if trucks would go through the Southgate Street bridge as he thought it was too low for trucks. Harry Kokkinis from Table Talk Pies stated that they can get under the bridge.

Mr. Freilich what would be the use. Mr. Kokkinis stated that it would be cold storage.

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. Freilich the Board voted 5-0 to approve the waiver of the application requirement to label abutters and abutters thereto within 300 ft.

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

*List of Exhibits:*

Exhibit A: Variance Application; received August 14, 2018; prepared by Attorney Patricia Finnegan Gates.

Exhibit B: Definitive Site Plan; dated July 31, 2018 and revised through to September 19, 2018; prepared by Thompson-Liston Associates, Inc.

**6. 57 & 59 Granville Street (ZB-2018-063)**

**Variance:** For relief from the minimum frontage dimensional requirements in a RL-7 zoning district (Article IV, Section 4, Table 4.2)

**Variance:** For relief from the minimum lot area dimensional requirements in a RL-7 zoning district (Article IV, Section 4, Table 4.2)

**Petitioner:** Edward Rodriguez

**Present Use:** Presently on the property is a single-family detached dwelling, along with associated site improvements.

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

**Petition Purpose:** The applicant seeks to divide the property into two lots and construct a single-family detached dwelling on the second lot.

Zac Couture from H.S.&T. Group appeared upon behalf of the applicant, Edward Rodriguez and stated that the applicant seeks to divide the property into two lots and construct a single-family detached dwelling on the second lot.

Currently on the premises is a single-family detached dwelling with parking. The applicant seeks to divide the existing property into 2 separate lots and to construct a single-family detached dwelling with a 2-car garage on the new lot; the existing structure will remain as a single family detached dwelling.

Mr. Michajlow stated that based on the proposal the applicant is creating the difficulty. Mr. Couture stated that he understood that but what they are creating is consistent with how the original neighborhood was created and it will be more consistent with what is in neighborhood now.

Mr. Antonellis asked for the reasoning for providing an angled driveway. Mr. Couture stated the original goal was to modify the curb cut.

Mr. Antonellis noted that an email was sent from an abutter to the Board relative to the application.

Mr. Antonellis stated that a similar proposal came before the Board two years ago and was denied and now the applicant is back with another application that is a little different from original proposal.

Mr. Couture stated that the applicant did receive a building permit from the Department of Inspectional Services that would allow for the building of a duplex but the applicant wants to keep the site as single family as it would be consistent with the other homes in the neighborhood.

Abutters Christopher Basker and Maya Elifsyi stated that they were abutters to the property stated they would object to this proposal.

Mr. Freilich stated that this was a tough decision when it came before Board the first time and it remains a tough decision today.

Mr. Michajlow & Mr. Wanat both stated that they did not think they could support the petition as this is too much in a small space.

Mr. Freilich stated that the applicant does have a building permit to expand the existing home and that could be worse than what is being proposed so they Board should consider what would look better in the neighborhood.

Mr. Michajlow stated that he understood Mr. Freilich's concerns but still has problems with the proposal presented today.

Mr. Karlstad stated that he could not support the application.

Mr. Couture asked for Leave to Withdraw of the application.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to allow for Leave to Withdraw without Prejudice for the Variance application.

*List of Exhibits:*

Exhibit A: Variance Application; received August 14, 2018; prepared by the applicant.

Exhibit B: Variance Plan of Land; prepared by H. S. & T Group, Inc.; dated August 14, 2018.

Exhibit C: ZBA Decision – 2012.

Exhibit D: Letter from Abutter M. Carlson; dated September 12, 2018.

**7. 24 Northboro Street (ZB-2018-064)**

**Variance:** For relief from the minimum frontage dimensional requirements in a RL-7 zoning district (Article IV, Section 4, Table 4.2)

**Variance:** For relief from the minimum lot area dimensional requirements in a RL-7 zoning district (Article IV, Section 4, Table 4.2)

**Special Permit:** To modify dimensional standards for Residential Conversion (Article IV, Section 9)

**Petitioner:** Richard Black

**Present Use:** Presently on the premises is an existing single-family dwelling with associated site improvements.

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

**Petition Purpose:** The applicant seeks to convert the existing structure into a two-family dwelling.

Zac Couture from H.S.&T Group appeared upon behalf of the applicant, Richard Black, and stated that the applicant seeks to convert the existing structure into a two-family dwelling by adding a second dwelling unit.

Mr. Couture stated that they are requesting Leave to Withdraw for the Variance requests, as this type of relief is not required.

Mr. Couture stated that applicant would like to convert the dwelling back to a two family to make it more marketable and the only changes would be interior modifications.

Mr. Haddon stated that he does not feel comfortable supporting this application.

Abutters Henry Martin, Marilyn Martin and Antonio Chianto spoke in opposition to the proposal.

Mr. Freilich & Mr. Wanat stated that they could not support the application.

Mr. Couture asked for Leave to Withdraw without Prejudice for the Special Permit application.

Upon a motion by Mr. Karlstad and seconded by Mr. Wanat the Board voted 5-0 to allow for Leave to Withdraw without Prejudice for the Variances and Special Permit application.

*List of Exhibits:*

Exhibit A: Variance Application; received August 14, 2018; prepared by Richard Black.

Exhibit B: Variance Plan; dated August 13, 2018; preparer by HS&T, Inc.

Exhibit C: ZBA Decision and Conditions of Approval – 2016.

**8. 766 & 774 West Boylston Street (ZB-2018-065)**

**Special Permit:** To allow a food service drive-thru in a BL-1.0 Zone (Article IV, Section 2, Table 4.1, Business Use #6)

**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:** McDonalds, c/o Bohler Engineering

**Present Use:** Presently on the property is an existing food-service establishment with drive-thru, along with associated site improvements

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

**Petition Purpose:** The applicant seeks to demolish the existing structure, to construct a new food-service establishment with drive-thru and conduct associated site work.

Brendan Barry from Bohler Engineering appeared upon behalf of the applicant, McDonald's. He stated that McDonald's is seeking to demolish the existing structures, to construct a new food-service establishment with drive-thru. The new establishment will be 4,457 SF, have an 80-seat occupancy and have drive-thru which includes two ordering points and Mr. Barry gave an overview of the plan.

Ms. Tatasciore asked the applicant to address the functionality of the 2 parking spaces located closest to the drive-thru window. Mr. Barry stated that those are for larger orders where people need to pull in to wait for an order.

Ms. Tatasciore asked the reason why the trash enclosure concrete apron overlaps with the location of the proposed parking spaces. Mr. Barry stated that that the trash enclosure is located there to maximize the space as they are trying to use the space as efficiently as possible.

The Board and the applicant discussed the snow storage space and whether it would be needed.

Patrick Flynn asked of the construction would move back the retaining wall. Mr. Barry stated that it will remain as is as part of this project.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to approve the 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 Permits with conditions outlined in staff's memo with the exception of condition 1 a. and that the proposed designated snow storage area, at the front entrance, be removed and not used as snow storage.

*List of Exhibits:*

Exhibit A: Special Permit Application; received August 14, 2018; prepared by John Kucich of Bohler Engineering.

Exhibit B: Site Plan; dated June 8, 2018 and revised on September 26, 2018; prepared by Bohler Engineering.

*The Board took a five minute recess.*

**9. 642 (aka 638) Chandler Street (ZB-2018-066)**

**Special Permit:** To allow the extension, alteration, or change to a privileged non-conforming structure/use (Article XVI, Section 4)

**Petitioner:** Scruffy Murphy's

**Present Use:** Presently on the premises are two commercial structures, used for a mix of business purposes including a food service use with the consumption/sales of alcohol, along with associated site improvements and surface parking.

**Zone Designation:** RS-7 (Residence, Single Family) zoning district and a BL-1.0 (Business, Limited) Zoning District

**Petition Purpose:** The applicant seeks to construct an addition for storage to the existing structure known as 642 Chandler Street.

Desmond McKane and David Sadowski appeared upon behalf of the petition. Mr. McKane stated that he is seeking to construct an addition for storage to the existing structure.

Mr. Karlstad asked if something can be placed next to the generator to reduce the noise to the abutter. Mr. McKane stated that proposed location of the unit will not generate noise.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 the requested a waiver of the application requirement to provide a to-scale plan of land and from labelling all 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 close the public hearing.

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.

*List of Exhibits:*

- Exhibit A: Special Permit Application; received August 14, 2018; prepared by Desmond McKane.  
Exhibit B: Plan of Land; dated August 10, 2018; prepared by Sadowski Engineering.  
Exhibit C: Special Permit – Findings of Fact and Decision; approved March 5, 2018.

**10. 4 (aka Lot 1) Julien Avenue (ZB-2018-067)**

- Variance:** For relief from the minimum lot area requirements in a RS-7 zoning district (Article IV, Section 4, Table 4.2)  
**Petitioner:** John D. & Ann M. Chandler  
**Present Use:** Presently on the premises is an existing residential dwelling with associated site improvements.  
**Zone Designation:** RS-7 (Residence, Single-Family) zoning district  
**Petition Purpose:** The applicant seeks to divide the lot and to construct a single-family detached dwelling.

Attorney Donald O’Neil appeared upon behalf of the applicant, John & Ann Chandler. Attorney O’Neil stated that the applicant seeks to divide the lot, to construct a single-family detached dwelling and reviewed the plans for the site.

Mr. Antonellis stated that staff had a few outstanding questions, such as will the applicant be creating a driveway easement for the benefit of both properties as it straddles the lot line and has the applicant considered providing a grass strip along the easterly side of the driveway on Lot 1?

Mr. O’Neil stated that the intent was to work those issues out when the house built.

Mr. Freilich asked what the hardship for this Variance application was. Attorney O’Neil stated that the applicant’s intent is to build for their daughter and what they are asking for is minor relief.

Mr. Freilich asked staff is there was anything in the zoning ordinance that defines what de minimis relief is. Mr. Tatatasciore stated there is nothing in the Zoning Ordinance that is quantifiable that addresses this.

Mr. Karlstad stated that perhaps the Board could stipulate conditions on the size of the house to keep the size in keeping with the character of the neighborhood.

Abutter Michael Slacka stated that if the applicant wants to build an addition to the existing house to create an additional dwelling unit, he doesn’t have a problem with that but doesn’t see where another home could be built on the site as he believes it would depreciate his property value.

Mr. Antonellis stated that a residential conversion is not allowed in this zone.

Mr. Freilich stated that he did believe the home proposed would fit in the neighborhood but suggested that maybe some arborvitae could be planted between the homes.

Upon a motion by Mr. Karlstad 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 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 Variance with conditions outlined in staff’s memo as well as additional conditions to limit the size of the proposed

dwelling to 24 foot x 26 foot configuration and that the petitioner would plant a row of arborvitae, spaced 3 feet apart, as a buffer on the westerly lot line.

*List of Exhibits:*

- Exhibit A: Variance Application; received August 14, 2018; prepared by Attorney Donald O’Neil.
- Exhibit B: Variance Plan of Land; dated July 25, 2018; prepared by B&R Survey, Inc.

**11. 71 Dana Avenue (ZB-2018-069)**

- Variance:** For relief from the minimum rear-yard setback requirements in a RG-5 zoning district (Article IV, Section 4, Table 4.2)
  - Petitioner:** Danielle Gallivan
  - Present Use:** Presently on the property is an existing single-family attached dwelling, along with associated site improvements.
  - Zone Designation:** RG-5 (Residence, General) zoning district
  - Petition Purpose:** The applicant seeks approval for the construction of a deck.
- The applicant did not appear for the item.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon the Board voted 5-0 to postpone the hearing to the October 15, 2018 Zoning Board of Appeals meeting.

**Other Business**

**12. Communications**

- a. MassDEP - Termination of Notice of Activity and Use Limitation – Former Getty Station, 77 Highland Street – No comment.
- b. MassDEP – Chapter 91 Draft Waterways License – Maintenance of Existing Recreational Docks & Seawall, 10 Lake Ave North- No comment.

**13. Signing of Decisions from prior meetings**

**Adjournment**

Upon a motion the Board voted 5-0 to adjourn the meeting at 7:48 p.m.