

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

**January 14, 2019**

**WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBERS**

**Zoning Board Members Present:** Joseph Wanat, Vice-Chair  
Andrew Freilich  
Jordan Berg Powers (late arrival)  
George Cortes  
Robert Haddon, Alternate Member

**Absent:** Russell Karlstad, Alternate Member

**Staff Present:** Stephen R. Rolle, Division of Planning & Regulatory Services  
Michelle M. Smith, Division of Planning & Regulatory Services  
John Kelly, Department of Inspectional Services

**Call to Order – 5:30 PM**

**Approval of the Minutes – None**

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

**1. 188 Highland Street (aka 1 Einhorn Road) (MBL 11-002-00027) (ZB-2018-087)**

Variance: For relief from the minimum exterior side-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)

Variance: For relief from the minimum lot area dimensional requirement (Article IV, Section 4, Table 4.2)

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

Petitioner: Mohammad Djamshidi

Present Use: An existing non-conforming mixed use structure, formerly used as a lodging-house and office, with associated site improvements.

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

Petition Purpose: The applicant seeks to convert the structure into a mixed-use structure (with a total of 4 dwelling units and continued office use) and conduct related site work.

Public Hearing Deadline: 1/18/2019

Constructive Grant Deadline: 2/22/2019

Upon a motion by Mr. Freilich and seconded by Mr. Haddon, the Board voted 4-0 to postpone the applications to the February 4, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to February 26, 2019.

*Mr. Berg Powers arrived at the meeting.*

**2. 249, 261 & 265 Lake Avenue (MBL 17-029-00010, 17-030-0002A & -00002) (ZB-2019-002)**

*Proposed Lot 1*

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

*Proposed Lot 2*

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

Petitioner: Cherele Gentile, Trustee of Manor Real Estate Trust

Present Use: At 249 Lake Avenue is a former restaurant with associated surface parking; At 261 Lake Avenue is a single-family dwelling; and at 265 Lake Avenue is a single-family dwelling with associated surface parking and out-buildings.

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

Petition Purpose: The applicant seeks to demolish the existing structures and site improvements and construct four single-family detached dwellings and conduct related site work.

Public Hearing Deadline: 2/19/2019

Constructive Grant Deadline: 3/16/19

Upon a motion by Mr. Freilich and seconded by Mr. Haddon, the Board voted 5-0 to postpone the applications to the February 4, 2019 Zoning Board of Appeals meeting.

**New Business**

**3. 51 & 53 Windsor Street (MBL 09-011-00034 & -00041) (ZB-2018-082)**

Variance: For relief from the minimum lot area dimensional requirement (Article IV, Section 4, Table 4.2)

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

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

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

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: Kensington Management, LLC

Present Use: At 53 Windsor Street is a vacant lot and at 51 Windsor Avenue is a three-family dwelling.

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

Petition Purpose: The applicant seeks to construct a new multi-family dwelling (with a total of 8 units) with associated parking, to add an additional unit (for a total of 4 units) to the existing three-family structure, and to conduct related site work.

Public Hearing Deadline: 1/14/2019

Constructive Grant Deadline: 2/5/2019

Zac Couture appeared upon behalf of the applicant, Kensington Management, LLC, and reviewed the proposed project. Mr. Couture presented a revised plan of the new parking layout created in response to staff comments.

Nathan of Kensington Management, LLC stated that the proposal will clean up the existing vacant lot and provide 12 new housing units. He stated that the majority of tenants will not have cars and will be allowed one parking space per dwelling unit.

Mr. Rolle reviewed the comments outlined in the staff memo.

Mr. Cortes and Mr. Freilich expressed concern about the density of the proposal relative to the lot size. Mr. Couture stated that this number of units was necessary to make the financing and that the developer is striving provide as many affordable units as possible.

Mr. Haddon expressed concern about the parking lot design and snow removal.

Mr. Wanat expressed his concern regarding fire department access, as well as the possibility headlights might shine into neighboring properties. He stated that he would not be in support of this project as presented.

Mr. Berg Powers stated that he's not concerned with the number of spaces as he is familiar with this area and the low-income housing units usually are not rented by people who have cars. He believes there should be more units and less parking, and that, generally speaking, he would be in favor of the project. He expressed his concerns regarding plowing, headlights shining on neighboring properties, and the turning radius in the parking lot.

Mr. Freilich asked if the existing structure could be expanded which might allow for 6 units. He also asked if there have been any studies of how much low-income housing is needed in the City.

Nathan stated that his company takes about 60 calls a day looking for housing, and about 40 of the calls are for low income requests, asserting that low income tenants believe they are being pushed out of the City of Worcester due to the high rent costs.

Mr. Freilich asked if with the applicant has considered other designs. Mr. Couture stated that other options were considered, but they went with this one as they need to keep the existing building in order to obtain funding and if they try to add on there is not enough circulation in the lot.

Mr. Rolle suggested that the applicant meet with staff to develop alternative ideas.

Margaret Arsenal, abutter to the property, stated that she is concerned that too many units are being proposed on the lot, asserting that a fire truck cannot get down the street due to parked cars, and that the proposal will worsen the situation.

Mr. Couture stated that, under fire code, both buildings will be required to have sprinkler systems, which may alleviate some of the fire concerns.

Upon a motion by Mr. Freilich and seconded by Mr. Haddon, the Board voted 5-0 to continue the Variance and Special Permit applications to the February 4, 2019 Zoning Board of Appeals meeting.

#### List of Exhibits

Exhibit A: Special Permit & Variance Application; received October 23, 2018; prepared by Zac Couture, HS&T Associates, on behalf of Kensington Management LLC.

#### **New Business**

#### **4. 128-138 Elm Street (MBL 06-002-00001; -02+6B; -00009; -00008; -00010; -00042) (ZB-2018-076)**

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

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

Petitioner: Jamila Aroush

Present Use: At 132-138 Elm Street are five multi-family residential structures with associated surface parking; at 130 Elm Street is a commercial structure, used as office space, with associated surface parking; at 128 Elm Street is an existing three-family dwelling with associated surface parking.

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

Petition Purpose: To convert the existing structure at 128 Elm Street into a 5-dwelling unit structure.

Public Hearing Deadline: 1/14/2019

Constructive Grant Deadline: 2/4/2019

Jack and George Aroush appeared upon behalf of the applicant, Jamila Aroush, and reviewed the proposal.

Mr. Aroush stated that the building is presently a three-family structure, and that it may have been a five-unit building in the past. He stated that there would be no changes to the exterior other than maintenance, noting that the home is historical.

He stated that the number of bedrooms is not being changed and they will maintain the integrity of the building and that a parking space will be provided for each unit.

Mr. Rolle stated that there are no changes to parking and that this is simply a residential conversion to the existing building.

Mr. Aroush presented a plan of the present on-site parking, noting that the site will only be four spaces short of the minimum requirement. He stated that they intend to provide necessary parking and maintain green space on the property.

George Aroush presented photos from the previous week and showing times people were parking in the lots.

Mr. Rolle stated that staff would support the removal the chain link fence for aesthetic reasons and to improve access between the lots.

Mr. Freilich asked how long the owner has owned the property. Mr. Aroush stated that the applicant had only owned the property for two years.

Mr. Freilich asked if it would be assigned parking. Mr. Aroush confirmed that it is.

Mr. Freilich asked if the commercial building would ever be changed to a residential unit. Mr. Aroush stated that it would not be.

Mr. Berg Powers stated that he is one street over from this location and the owner does well in maintaining the property. He added that the commercial parking in the back is usually pretty empty, but taking down the chain link fence would be important to help with snow removal.

Mr. Cortes asked for clarification as to the classification of the building if the Variance were to be approved. Mr. Kelly stated that it would be considered a multi-family.

Mr. Haddon stated that the proposal works because the properties are held in common ownership, and asked how the city is protected if the properties start being sold off individually. Mr. Rolle stated that the relief being requested would remain the same regardless of whether the property was held individually, but that the Board could consider a condition that some of the parking be connected to 128 Elm Street.

Mr. Wanat stated that the Board could consider a condition that ties the Variance and the Special Permit to the common ownership of 128 and 130 Elm Street. Mr. Rolle suggested that the Board may want the condition to state that the Variance would lapse if the ownership of 128 or 130 Elm Street changed. Mr. Aroush stated that they would be acceptable.

Jim Connelly expressed a concern that in the winter the snow storage takes away several parking spaces.

Jack Aroush stated that snow will be hauled away if needed, but that snow storage will be available once the chain link fence is removed.

Norma Connelly expressed concern about the fence on Blossom Street and that traffic may go out on to Blossom Street. Mr. Aroush stated that fence will remain.

Mr. Wanat asked if it was a permanent fence. Mr. Aroush stated that it was.

Mr. Haddon asked if the applicant had any objection to a condition requiring him to keep the fence. Mr. Aroush stated that he did not.

Jim Bloris stated that he had concerns with potential overflow parking on Blossom Street.

Mr. Wanat stated that the Board could look at a condition of adding a note to the plan showing where the snow storage would be and the fencing placed.

Jaclyn Coppage and the pastor from Grace Christian Center expressed concern about the parking in the area and how it would impact their church.

Betsy Katsillis expressed her concerns regarding zone changes, change of existing residence into smaller apartments, and congestion and parking. Ms. Katsillis also expressed her concern that sidewalk debris has not been cleaned. Mr. Rolle stated that one may call the DPW&P customer service to file such complaints.

Bill Coleman suggested organizing a neighborhood cleanup, and noted that, in his experience, a call to file a complaint makes a big difference in resolving the issue.

Ted Kostas asserted that many commercial properties are being turned into lodging houses, and that complaints have not been addressed.

Mr. Wanat stated that he does have concerns regarding comments brought up about debris and would ask Inspectional Services do an inspection. Mr. Aroush stated the previous owners did not maintain the building and that they are trying to address the issues.

Mr. Wanat asked if the applicant is committed to addressing the sidewalk clearing on Blossom Street and all the debris on Elm and Russell Streets along their properties. Mr. Aroush affirmed that they are.

Mr. Freilich stated that the City should look at imposing an additional tax on units to help provide revenue that Inspectional Services could use to enforce the current codes.

Upon a motion by Mr. Freilich and seconded by Mr. Haddon, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Freilich and seconded by Mr. Haddon, the Board voted 5-0 to approve the requested the waiver from the application requirement to label abutters and abutters within 300 feet on the plan.

Upon a motion by Mr. Freilich and seconded by Mr. Haddon, the Board voted 5-0 to approve the Special Permit and the Variance requested with the following conditions:

List of Exhibits:

Exhibit A: Special Permit Application; received 10/2/18; prepared by Jamila Aroush.

Exhibit B: Special Permit Plan of Land; dated 10/2/18; prepared by B&R Survey, Inc.

Exhibit C: Photos provided by the applicant at the 1/14/19 meetings.

*The Board called a five-minute recess.*

**5. 6 (aka Lots 1 & 2) Rowena Street (MBL 36-009-00120) (ZB-2019-001)**

*Lot 1 (aka Rowena Street, existing):*

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

Variance: For relief from the minimum lot area dimensional requirement (Article IV, Section 4, Table 4.2)

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

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

*Lot 2 (aka 0 Housatonic Street, proposed):*

- Variance: For relief from the minimum frontage dimensional requirement (Article IV, Section 4, Table 4.2)
- Variance: For relief from the minimum lot area dimensional requirement (Article IV, Section 4, Table 4.2)
- Petitioner: S & P O'Connor Properties, LLC
- Present Use: At 6 Rowena Street (aka Lot 1) is an existing single-family detached dwelling; on proposed Lot 2 (aka 0 Housatonic Street) is a vacant lot.
- Zone Designation: RS-7 (Residence, Single-Family) zoning district and within the Water Resource Protection (WR(GP-3)) Overlay District
- Petition Purpose: To divide the lot into two and construct a single-family detached dwelling on Lot 2.
- Public Hearing Deadline: 2/19/2019
- Constructive Grant Deadline: 3/16/19

Patrick O'Connor, applicant, and Carl Hultgren of Quinn Engineering appeared upon behalf of the application. Mr. Hultgren reviewed the project and plans.

George Cortes asked if there would be any problems with reversing previous decisions based on what is being proposed now. Mr. Rolle stated that it is important that the Board take these on a case by case basis.

Mr. Wanat asked if a condition of approval requiring that existing trees remain could be added. Mr. Hultgren stated they intend to keep the existing trees.

Steve Mustakagus stated his opposition to the proposal, as when he purchased his house their realtor told them the lot was unbuildable.

David Sundstrom stated that he lived across the street and asked about the city tree, to which Mr. Rolle stated that would be addressed through the Parks Department. Mr. Sundstrom stated he is concerned about the water table and flooding that could occur with this project.

Mr. Hultgren stated that the trees are in the right of way and a permit would be required to remove them, and that there is no intent to remove them. Hr. Hultgren then gave an overview of the stormwater procedures planned for the site.

Staff and the Board discussed conditions that could be placed on the Variance to address the stormwater conditions for the site.

Mr. Wanat asked Mr. Hultgren for clarification on the property lines and setbacks. Mr. Hultgren stated that the proposed house will be 11.3 feet from the property lines on the side, where the requirement is eight feet. Mr. Rolle stated that, for reference, the building on the neighboring lot is three to four feet from this proposed lot.

Mr. Hultgren stated that this lot was created as a buildable lot in 1917, and there are several lots from that time that are 50 x 100 feet, which at that time was a buildable lot. He elaborated that they are proposing to reestablish the lot lines that existed before zoning rendered them as one lot.

Kathy Henshy stated that she understands neighbor concerns as it is a close property line.

Mr. Wanat expressed his reservations about the proposal and a rendering is usually provided. Mr. Hultgren stated that a rendering was submitted to the Board.

Mr. Freilich stated that it is the responsibility of the Zoning Board to review these situations and determine whether relief is appropriate, and that he does not think the relief being requested is unreasonable given what is present in the area.

Patrick O'Connor stated that he owns 6 Rowena Street and the property is buffered by bushes.

Cathy Sundstrom stated that she lives across the street from the property, and that when she purchased her home she checked the ordinance and did not think it was possible to build on the lot. Ms. Sundstrom also noted that there are several empty lots in the area and is concerned that people will make similar proposals.

Mr. O'Connor stated that he be willing to plant more bushes to provide more of a buffer.

Mr. Wanat asked if the applicant would object to a condition to require landscaping. Mr. O'Connor stated that he would be willing to plant something.

Upon a motion by Mr. Freilich and seconded by Mr. Haddon the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Freilich and seconded by Mr. Haddon the Board voted 4-1 (Mr. Berg Powers voting against) to approve the Variances with conditions outlined in the staff memo, as well as the following additional conditions:

- That the existing mature trees along Housatonic Street shall remain.
- That densely planted arborvitae shall be planted along the southern lot line of Lot 2 for the length of the abutting structure, located at 5 Housatonic Street.
- If soil conditions allow, based on field testing and evaluation of data in compliance with the Massachusetts Stormwater Management Standards and Policy, that 100% of roof-runoff from the proposed structure to be constructed on Lot 2 (fka Lot 129) aka 0 Housatonic Street shall be re-charged using a sub-surface infiltration system. An overflow connection from said system shall be provided into the City's surface drainage-system.
- That each side of the driveways shall remain landscaped and not be paved, except for walkways.

List of Exhibits:

Exhibit A: Variance Application; received 12/11/18; prepared by Quinn Engineering, Inc.

Exhibit B: Proposed Variance Plan; dated 12/10/18; prepared by Quinn Engineering, Inc.

**6. 24 & 26 Carver Street (MBL 17-010-00060) (ZB-2019-003)**

*26 (aka Lot 135) Carver Street (Existing):*

- Variance: For relief from the minimum frontage dimensional requirement (Article IV, Section 4, Table 4.2)
- Variance: For relief from the minimum lot area dimensional requirement (Article IV, Section 4, Table 4.2)
- Variance: For relief from the minimum side-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)
- Variance: For relief from the minimum front-yard setback dimensional requirement (Article IV, Section 4, Table 4.2)
- Special Permit: To modify parking, loading requirements, dimensional requirements, layout, and/or the number of required spaces and landscaping requirements (Article IV, Section 7)

*24 (aka Lot 134) Carver Street (Proposed):*

- Variance: For relief from the minimum frontage dimensional requirement (Article IV, Section 4, Table 4.2)
- Variance: For relief from the minimum lot area dimensional requirement (Article IV, Section 4, Table 4.2)
- Petitioner: Marco V. Charamella and Kelly J. Fitzgerald
- Present Use: At 26 (aka Lot 135) Carver Street is a two-family dwelling with associated site improvements; and at 24 (aka Lot 134) Carver Street is a vacant, partially paved, lot.

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

Petition Purpose: To construct a two-family detached dwelling at 24 (aka lot 134) Carver Street with associated site improvements and construct off-street parking at 26 (aka Lot 135) Carver Street.

Public Hearing Deadline: 2/14/2019

Constructive Grant Deadline: 3/21/19

Attorney Donald J. O'Neil appeared upon behalf of applicants, Marco V. Charamella and Kelly Fitzgerald. The application involves the construction of a two-family detached dwelling at 24 (aka lot 134) Carver Street with associated site improvements and the construction of off-street parking at 26 (aka Lot 135) Carver Street.

Staff recommends that the applicant request withdrawal of the Special Permit application, as relief is not required for the proposed configuration of parking spaces in the new driveway for 26 Carver Street.

Mr. O'Neil reviewed the proposal for the existing house and the proposed house.

Mr. Wanat stated that he wants to ensure that green space is on both sides of the driveway. Mr. O'Neil stated that the applicant would not object.

Mr. Freilich asked about the intention for the properties. Mr. O'Neil stated that the plan is for two-family buildings for rent. Marco Charamella stated that the proposal is for a two-family, side-by-side with a garage underneath to obtain the parking for the site.

Mr. Berg Powers stated that he would encourage plantings for the properties.

Mr. O'Neil requested to withdraw the Special Permit request and that the application fee be refunded.

Upon a motion by Jordan Berg Powers and seconded by Mr. Cortes, the Board voted 5-0 to close the Public Hearing.

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

Upon a motion by Mr. Haddon and seconded by Mr. Freilich, the Board voted 5-0 to approve the Variances with conditions outlined in the staff memo and accept the Findings of Facts provided by the petitioner, as well as withdrawal of the Special Permit application for 26 Carver Street and refunding of the application fee for the Special Permit.

List of Exhibits:

Exhibit A: Variance & Special Permit Application; received 12/11/18; prepared by Donald J. O'Neil.

Exhibit B: Plan for Variance & Special Permit; dated 12/10/18; prepared by B & R Survey, Inc.

## **Other Business**

### **7. Communications**

### **8. Elections of Officers**

Upon a motion by Mr. Freilich and seconded by Mr. Berg Powers, the Board voted 4-0 to elect Joseph Wanat as Chairman for the year 2019.

Upon a motion by Mr. Cortes and seconded by Mr. Wanat, the Board voted 4-0 to elect Andrew Freilich as Vice-Chairman for year 2019.

### **9. Discussion of Board Policies and Procedures**

Mr. Freilich asked that if the condition relative to labeling abutters to abutters and Findings of Fact could just be dropped or amended somehow so the Board does not have to vote them every meeting. Mr. Rolle stated that



staff will be changing the memos to reflect the condition of Finding of Facts, and that staff will review a change to omit the labeling of abutters to abutters requirement.

Mr. Rolle stated that a new procedure also has been implemented where applications are being uploaded to Dropbox for Board review and asked for feedback, noting that the intent is to eventually obtain tablets upon which to pre-load applications and plans for use at the meetings.

Mr. Wanat stated that the less paper the better.

#### **10. Signing of Decisions from prior meetings**

##### **Adjournment**

Upon a motion by Mr. Berg Powers and seconded by Mr. Freilich, the Board voted 5-0 to adjourn the meeting at 9:03 PM.