

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

October 28, 2019

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBERS

Zoning Board Members Present:

Andrew Freilich, Vice-Chair
Jordan Berg Powers
George Cortes
Russell Karlstad, Alternate Member
Robert Haddon, Alternate Member

Absent: Joseph Wanat, Chair

Staff Present:

Michelle M. Smith, Division of Planning & Regulatory Services
Amanda Molina Dumas, Division of Planning & Regulatory Services
John Kelly, Department of Inspectional Services
David Horne, Department of Inspectional Services

Approval of the Minutes - 1/14/19, 2/25/19, 3/18/19, 4/8/19, 4/29/19, 5/20/19, 6/10/19, 7/1/19, 7/22/19, 8/12/19, 9/9/19 & 10/7/19

Requests for Continuances, Extensions, Postponements, & Withdrawals

Old Business

1. 33 Dominion Road (MBL 46-006-00180) (ZB-2019-017)

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

Petitioner: Silver Tree Realty, LLC

Present Use: A vacant lot

Zone Designation: RL-7 (Residence, Limited)

Petition Purpose: The applicant seeks to construct a multi-family low-rise dwelling with 7 dwelling units and associated parking.

Hearing Opened: 4/29/19; Constructive Grant Deadline: TBD

Upon a motion by Mr. Berg Powers and seconded by Mr. Cortes, the Board voted 5-0 to continue the Special Permit application to the November 18, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant deadline to December 10, 2019

2. 3 Newton Avenue (MBL 11-013-00004) (ZB-2019-021)

3 (aka Lot 1) Newton Avenue (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)

Lot 2 Newton Avenue (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)
- Variance: For relief from the minimum side-yard setback 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)
- Petitioner: Guri Dura and Marjeta Skenderi
- Present Use: At 3 Newton Avenue (aka Lot 1) is a two-family dwelling & on proposed Lot 2 is a detached garage.

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

Petition Purpose: To convert the garage into a single-family dwelling.

Hearing Opened: 6/10/19 & 10/9/19; Constructive Grant Deadline: 11/18/19

Upon a motion by Mr. Cortes and seconded by Mr. Berg Powers, the Board voted 5-0 to continue the Variance applications to the November 18, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant deadline to December 10, 2019.

3. 757 Salisbury Street (MBL 50-023-00001) (ZB-2019-041)

- Variance:** For relief from the maximum height (stories & feet) dimensional requirements (Article IV, Section 4, Table 4.2)
- Petitioner:** HP Acquisitions, LLC
- Present Use:** Presently on the premises are vacant residential buildings.
- Zone Designation:** RS-10 (Residence, Single-Family) & RS-7 (Residence, Single-Family) zoning district
- Petition Purpose:** The applicant seeks to construct a Continuing Care Retirement Community consisting of three multi-family, low-rise buildings with a total of +/- 123 dwelling units, an associated driveway network, and related site work on approximately 17 acres of land (located off Salisbury Street).

Public Hearing Deadline: 10/28/19; Constructive Grant Deadline: 11/19/19

Upon a motion by Mr. Berg Powers and seconded by Mr. Haddon, the Board voted 5-0 to postpone the Variance application to the November 18, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to December 10, 2019.

4. 533 (aka 535-537) Cambridge Street (MBL 07-042-00044) (ZB-2019-045)

Special Permit: To allow the extension, alteration or change of a privileged pre-existing, nonconforming structure and/or use (Article XVI, Section 4)

Petitioner: Van K. Nguyen

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

Zone Designation: RG-5 (Residence, General) zoning district and partially within the Floodplain Overlay District

Petition Purpose: The applicant seeks to construct an addition, adding 2 new dwelling units, in order to convert the existing single-family detached dwelling into a single-family attached dwelling, with a total of 3 dwelling units, and to conduct associated site work.

Public Hearing Deadline: 10/12/19; **Constructive Grant Deadline:** TBD

Upon a motion by Mr. Berg Powers and seconded by Mr. Karlstad, the Board voted 5-0 to allow for Leave to Withdraw for the Special Permit.

5. 539 Cambridge Street (MBL 07-042-00026) (ZB-2019-048)

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

Petitioner: Efran Candelaria

Present Use: Presently on the premises is a pre-existing non-conforming two-family detached dwelling.

Zone Designation: RG-5 (Residence, General) zoning district and partially within the Floodplain Overlay District

Petition Purpose: The applicant seeks to convert the existing two-family detached dwelling into a three-family detached dwelling and to construct associated parking.

Public Hearing Deadline: 11/7/19; **Constructive Grant Deadline:** TBD

Upon a motion by Mr. Powers and seconded by Mr. Karlstad the Board, voted 5-0 to postpone the Special Permit application to the November 18, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to December 10, 2019.

New Business

6. 234 Southwest Cutoff (MBL 34-033-00092) (ZB-2019-046)

Special Permit: To allow retail greater than 50% display space outdoors in a MG-2.0 District (Article IV, Section 2, Table 4.1, Business Use #25)

Petitioner: Kasbana Properties, LLC

Present Use: Presently on the premises is a vacant commercial structure and a surface parking lot used in part for motor vehicle sales.

Zone Designation: MG-2.0 (Manufacturing, General) zoning district
Petition Purpose: The applicant seeks to store and display storage sheds for sale on the property, in addition to the existing licensed motor vehicle sales use.

Public Hearing Deadline: 10/31/19; Constructive Grant Deadline: TBD

Dave Obramo from Kasbana Properties LLC appeared upon behalf of the applicant. The applicant seeks to store and display storage sheds for sale on the property, in addition to the existing licensed motor vehicle sales use. Mr. Obramo gave an overview of the layout of the property and the landscaping proposed.

The Board and staff discussed what would be the requirements for bathrooms on site.

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

Upon a motion by Mr. Haddon and seconded by Mr. Karlstad, the Board voted 5-0 to include the Special Permit with conditions outlined in staff's memo with amendment to condition #1 that it will say prior to certificate of occupancy and that the following waivers were approved by the Board;

1. The requirement to provide the percentage of the lot covered by the principal and accessory structures.
2. To provide the distances to adjacent buildings on the plan.
3. To provide a plan with property lines verified in the field.

List of Exhibits:

Exhibit A: Special Permit Application; received 8/27/19; prepared by Kasbana Properties, LLC.
Exhibit B: Proposed Site Plan; dated 8/27/19; revised 10/4/19; 10/11/19; received 8/27/19; prepared by Kasbana Properties, LLC.

New Business

7. 385 (aka 385A & 387) Cambridge Street (MBL 07-022-00024) (ZB-2019-049)

Special Permit: To allow motor vehicle service, repair, garage, display (Article IV, Section 2, Table 4.1, Business Use #16)
Petitioner: GB Global LLC
Present Use: Presently on the premises are two pre-existing non-conforming, multi-tenant commercial buildings (+/- 40,000 SF) with associated surface parking.
Zone Designation: The property is split zoned, located within a BL-1.0 (Business, Limited) & RG-5 (Residence, General) zoning district
Petition Purpose: The applicant seeks to use a portion of the property including a +/- 4,000 SF of the existing building for motor-vehicle repairs, and conduct associated site work.

Public Hearing Deadline: 11/7/19; **Constructive Grant Deadline:** TBD

Attorney Donald O’Neil appeared upon behalf of the applicant, GB Global LLC.

The applicant seeks to use a portion of the property, including +/- 3,600 SF of the existing building for motor-vehicle repairs. Mr. O’Neil gave a brief overview of the business operation.

The Board and the applicant discussed how waste oil would be handled at the location.

Upon a motion by Mr. Berg Powers 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. Berg Powers, the Board voted 5-0 to approve the Special Permit with conditions outlined in staff’s memo as well as the following waivers;

1. The requirement to provide the percentage of the lot covered by the principal and accessory structures.
2. To provide the distances to adjacent buildings on the plan.
3. To provide a plan with field verified property lines.

List of Exhibits:

Exhibit A: Special Permit Application; received 9/3/19; revised 10/23/19; prepared by Attorney Donald J. O’Neil.

8. 287 & 301 Grove Street and 41 & 49 Park Avenue (MBL 01-01F-00004) (ZB-2019-050)

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

**Amendment to:
Special Permit:** To allow a Bank/Credit Union with Drive-thru use (Article IV, Section 2, Table 4.1, Business Use #4)

Petitioner: Galaxy Grove, LLC

Present Use: Presently on the premises are four multi-tenant commercial buildings used for a variety of purposes including but not limited to retail, office, and food-service with drive-thru, along with associated surface parking.

Zone Designation: BG-3.0 (Business, General) zoning district

Petition Purpose: The applicant seeks to amend the previous approval to allow a drive-thru bank/credit union (ZB-2019-029) in order to add a second, freestanding, drive-up ATM associated with a bank/credit union and to re-configure the parking and site layout accordingly.

Public Hearing Deadline: 11/9/19; **Constructive Grant Deadline:** TBD

Attorney Todd Brodeur and Pat Doherty appeared upon behalf of the applicant, Galaxy Grove, LLC.

The applicant seeks to amend the previous approval to allow a drive-thru bank/credit union (ZB-2019-029) in order to add a second, freestanding, drive-up ATM associated with a bank/credit union and to re-

configure the parking and site layout accordingly. Mr. Brodeur stated that the applicant has been before the Board before for other items and tonight they are before the Board regarding the ATM.

Mr. Doherty reviewed the physical plan layout for the site.

Upon a motion by Mr. 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. Berg Powers, the Board voted 5-0 to approve the Special Permit and the Amendment to Special Permit with conditions outlined in staff's memo with additional condition that signage be posted that no walk up traffic to ATM is allowed and the Board approved the following waivers;

1. The requirement to provide the percentage of the lot covered by the principal and accessory structures.
2. To provide the distances to adjacent buildings on the plan.

List of Exhibits:

Exhibit A: Special Permit Application; received 9/5/19; prepared by MidPoint Engineering + Consulting.

Exhibit B: Proposed Site Plan; dated 8/28/19; received 9/5/19; prepared by MidPoint Engineering + Consulting.

Exhibit C: Proposed Renderings; dated 6/25/19; received 9/5/19; prepared by Heritage Industries.

Mr. Haddon recused himself from item #9 and left the meeting room.

9. 34 Wrentham Road (MBL 25-054-00014) (ZB-2019-051)

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

Petitioner: James Spahiu

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

Zone Designation: RS-10 (Residence, Single Family) zoning district

Petition Purpose: The applicant seeks to construct an addition and to conduct associated site work.

Public Hearing Deadline: 11/13/19; **Constructive Grant Deadline:** 12/18/19

James Spahiu appeared upon behalf of the application.

The applicant seeks to construct an addition and to conduct associated site work. Mr. Spahiu gave an overview of the proposal.

The Board, staff and the applicant discussed the erosion controls, landscaping and the stairs proposed for the property.

David Bolivar stated that he represents property owners adjacent to the property and they want to make sure that this property is built correctly.

The Board told Mr. Spahiu stated that they didn't feel they had enough information and asked Mr. Spahiu if he like to continue the item so can provide more information to the Board. Mr. Spahiu stated that he would like to continue the item.

Upon a motion by Mr. Berg Powers and seconded by Mr. Karlstad the Board, voted 5-0 to continue the Variance application to the December 9, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to January 4, 2020.

Mr. Haddon returned to the meeting room.

Board took a five minute recess

New Business

10. 20 (aka Lot A & B) Valley View Lane (MBL 34-014-00013) (ZB-2019-054)

Lot A Valley View Lane (Proposed):

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

Petitioner: Luigi DiGioia

Present Use: Presently on the premises at 20 Valley View Lane (aka Lot B) is an existing, nonconforming single-family detached dwelling, and on proposed Lot A is an existing garage.

Zone Designation: RS-7 (Residence, Single Family) zoning district

Petition Purpose: The applicant seeks to divide the existing lot into two, with the existing dwelling at 20 Valley View Lane to remain, and demolish the existing garage located on proposed Lot A, and construct a single-family detached dwelling on proposed Lot A, along with related site work.

Public Hearing Deadline: 11/28/19; Constructive Grant Deadline: 1/2/20

Luigi DiGioia appeared upon behalf of the application.

The applicant seeks to divide the existing lot into two, demolish the existing garage and construct a single-family detached dwelling on proposed Lot A, along with related site work, with the existing dwelling at 20 (aka Lot B) Valley View Lane to remain. Mr. DiGioia reviewed what the proposed work he is requesting.

Staff requested Mr. DiGioia review what trees would be removed from the property.

James Girardi along with Paula Girardi stated that they had a concern about the pine trees on this parcel and with construction on the property it might cause trees to topple and they would like the trees removed.

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

Upon a motion by Mr. Haddon and seconded by Mr. Cortes, the Board voted 5-0 to approve the Variance application with conditions outlined in staff's memo as well as condition that the applicant remove the two pine trees closest to the garage being demolished and the following waivers were approved;

1. The requirement to provide the percentage of the lot covered by the principal and accessory structures.
2. To provide the distances to adjacent buildings on the plan.

List of Exhibits:

Exhibit A: Variance Application; received 9/24/19; prepared by Luigi DiGiola.

Exhibit B: Proposed Variance Plan; dated 9/13/19; last revised 10/25/19; prepared by New England Land Survey Inc.

11. 162 & 166 Lincoln Street (MBL 09-005-00019 & 09-005-00018) (ZB-2019-055)

Special Permit: To allow the extension, alteration or change of a privileged pre-existing, nonconforming structure and/or use (Article XVI, Section 4)

Special Permit: To allow motor vehicle sales (Article XVI, Section 2, Table 4.1, Business Use #15)

Petitioner: Arthur Arakelian

Present Use: Presently on the premises is an accessory surface parking lot at 162 Lincoln Street and a mixed use structure (used as 3 residential units, a dry-cleaner, and check cashing business) at 166 Lincoln Street.

Zone Designation: The property is split zoned, the subject portion of which is located within a BL-1.0 (Business Limited), with the rear portion of the lot located within an RG-5 (Residence, General) zoning district

Petition Purpose: The applicant seeks to use a portion of the existing parking lot for motor vehicle sales, and to conduct associated site work.

Public Hearing Deadline: 12/4/19; **Constructive Grant Deadline:** TBD

Attorney John Murphy appeared upon behalf of the applicant, Arthur Arakelian.

The applicant seeks to use a portion of the existing parking lot for motor vehicle sales. Mr. Murphy reviewed the plans for the site and where the parking on the site would be located.

Upon a motion by Mr. Berg Powers 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. Berg Powers, the Board voted 5-0 to approve the Special Permit applications with conditions proposed in staff's memo as well as the following waivers;

1. The requirement to provide the percentage of the lot covered by the principal and accessory structures.
2. To provide the distances to adjacent buildings on the plan.
3. To provide a plan with property lines that have been field verified.

List of Exhibits:

Exhibit A: Special Permit Application; received 9/30/19; prepared by Attorney John Murphy.

Exhibit B: Proposed Special Permit Plan; undated; revised 10/24/19; received 9/30/19; prepared by Attorney John Murphy.

Other Business

12. **Communications**
13. **Discussion of Board Policies and Procedures**
14. **Signing of Decisions (from prior meetings)**

Adjournment

Upon a motion the Commission voted 5-0 to adjourn the meeting at 7:53 p.m.