

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

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBERS

**November 18, 2019**

Zoning Board Members Present: Joseph Wanat, Chair  
Andrew Freilich, Vice Chair  
Jordan Berg Powers (arrived at 6:15 PM)  
George Cortes  
Russell Karlstad, Alternate Member

Zoning Board Members Absent: Robert Haddon, Alternate Member

Staff Present: Stephen S. Rolle, Division of Planning & Regulatory Services  
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

**Call to Order – 5:30 PM**

**Approval of 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; 10/28/19 – Held to December 9, 2019**

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

**Continuations**

Item #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:                           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 low-rise dwelling with 7 dwelling units and associated parking.

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

Upon a motion made by Mr. Freilich and seconded by Mr. Karlstad, the Board voted 4-0 to continue the Special Permit application to the December 9, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to January 14, 2020.

Item #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 & 10/7/19 Constructive Grant Deadline: 12/10/19

Upon a motion made by Mr. Freilich and seconded by Mr. Karlstad, the Board voted 4-0 to continue the Variance application to the December 9, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to January 14, 2020.

**Postponements**

**Item #4 757 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: 12/9/19 Constructive Grant Deadline: 1/14/20

Upon a motion made by Mr. Freilich and seconded by Mr. Cortes, the Board voted 4-0 to postpone the Variance application to the December 9, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to January 14, 2020.

**Item #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: 12/9/19 Constructive Grant Deadline: TBD

Upon a motion made by Mr. Freilich and seconded by Mr. Karlstad, the Board voted 4-0 to postpone the Special Permit application to the December 9, 2019 Zoning Board of Appeals meeting and to extend the Constructive Grant Deadline to January 14, 2020.





commercial building, with associated surface parking, and at 219 James Street is a vacant lot.

Zone Designation: RG-5 (Residence, General) zoning district and partially within the floodplain overlay district

Petition Purpose: The applicant seeks to demolish the existing site improvements and construct 11 multi-family low-rise buildings (with a total of 90 dwelling units) with associated parking (+/-131 spaces) and conduct related site work.

Public Hearing Deadline: 12/15/19 Constructive Grant Deadline: 1/19/20

Carl Hultgren of Quinn Engineering, appeared on behalf of the applicant, Botany Bay Construction Co., Inc., presented testimony on behalf of the application.

The applicant seeks to demolish the existing site improvements and construct 11 multi-family low-rise buildings (with a total of 90 dwelling units) with associated parking (+/- 131 spaces), and conduct associated site work. The applicant seeks a Variance for relief of 49 spaces from the minimum parking requirements for a multi-family low-rise in an RG-5 zone.

Mr. Hultgren stated that the property is owned by the City of Worcester. The Board asked that Mr. Hultgren review the pedestrian access, parking and lighting plan.

Craig Hayward of 18 Westward Drive, Auburn, MA asked if a traffic study had been done for this project. Mr. Hultgren stated that the City did not require a traffic study to be done.

Patty Murphy, 170 James Street, comments that proposed improvements for Clover Street will be great, but it may result in others using it as a cut-through street.

Esther Mwangi, 172 James Street, expressed concern that the proposed number of parking spaces would not be enough for the residential use.

Mr. Berg Powers commented that the City should work to create more affordable housing for the City's residents.

Upon a motion made by Mr. Berg Power and seconded by Mr. Karlstad, the Board voted 5-0 to close the public hearing.

**Upon a motion made by Mr. Freilich and seconded by Mr. Berg Powers, the Board voted 5-0 to approve the Variance application for relief of 49 spaces from the minimum parking requirements for a multi-family low-rise in an RG-5 zone; approved requested waivers (percentage of lot covered, distance to adjacent buildings and filing fee waiver); approved Conditions of Approval from staff memo.**

*List of Exhibits:*

Exhibit A: Variance Application; received 10/11/19; prepared by Quinn Engineering, Inc.

Exhibit B: Proposed Variance Plan; dated 9/5/17; received 9/20/19; revised 10/11/19; prepared by Quinn Engineering, Inc.

Item #9 **18 Robin Road (MBL 19-026-00007) (ZB-2019-061)**

Variance: For relief from the minimum setback dimensional requirement for an accessory structure (Article IV, Section 8)

Petitioner: David & Frances Brown

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

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

Petition Purpose: The applicant seeks to construct a one-car, detached garage and conduct associated

site work.

Public Hearing Deadline: 12/22/19

Constructive Grant Deadline: 1/26/20

Frances and David Brown, owners and applicants, presented testimony on behalf of the application.

The applicant seeks to construct a one-car detached garage and conduct associated site work.

Mrs. Brown stated that the existing shed on the property would be removed.

Upon a motion made by Mr. Berg Power and seconded by Mr. Karlstad, the Board voted 5-0 to close the public hearing.

**Upon a motion made by Mr. Freilich and seconded by Mr. Cortes, the Board voted 5-0 to approve the Variance application for relief of 2.1 feet from the 5 foot minimum setback dimensional requirement for accessory structures; approved requested waivers (percentage of lot covered, distance to adjacent buildings); approved Conditions of Approval from staff memo.**

*List of Exhibits:*

Exhibit A: Variance Application; received 10/18/19; prepared by David & Frances Brown.

Exhibit B: Proposed Variance Plan; dated 9/25/19; received 10/8/19; prepared by Jarvis Land Survey, Inc.

Item #10 **20 Alvarado Avenue (MBL 17-014-43+45) (ZB-2019-062)**

*Amendment to:*

Special Permit: To allow a single-family attached dwelling in an RL-7 Zone (Article IV, Section 2, Table 4.1, Residential Use #12)

Petitioner: Federal Square Properties, Inc.

Present Use: Presently located on the premises is a single-family attached dwelling (with a total of 4 dwelling units) under construction.

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

Petition Purpose: The applicant seeks to amend the previous approval (ZB-2018-018) in order to modify the site plans and architectural plans for the proposed structure.

Public Hearing Deadline: 12/29/19

Constructive Grant Deadline: TBD

Attorney Dale Kiley appeared upon behalf of the applicant, Federal Square Properties, Inc., James Soffan.

The applicant seeks to amend the previous approval (ZB-2018-018) in order to modify the site plans and architectural plans for the proposed structure.

Mr. Kiley gave a brief history of the ownership of the property and stated that a meeting was held with the abutters to review the scope of the plan.

Mr. Karlstad noted that the previously approved plans were for a staggered building façade, with the as-built foundation reflecting a straight façade.

Mr. Kelly stated that foundation permit was issued but an area inspector upon an inspection notices the foundation was different from the approved plans, so a cease and desist order was issued for the property.

Mr. Soffan stated his opinion that the changes were not substantial. Mr. Freilich asked if there was a way to modify the existing structure to meet the approved plan. Mr. Kelly stated that all the existing plumbing would have to be removed and other items may need to be changed.

Mr. Kiley stated that when Mr. Soffan took over ownership of the property, he did not review video from original ZBA hearings, and did not realize setbacks were an issue. Mr. Freilich pointed out that the approved building plans would have shown what was expected to be built.

Jess Andrews read a prepared statement from Paul Lano, an abutter to the property, expressing concern that the current structure will change the neighborhood as what is being built is not what was originally proposed and this structure will affect the privacy and the value of his property.

Mr. Andrews stated that he is also an abutter to the property, and what is being proposed does not fit in with the character of the neighborhood.

Rena Florenzo expressed concern that the windows of the structure will face her home and she will have no privacy. She understands something has to be built there but does not want something so massive.

Michael Carmello stated that esthetically what is being proposed is not the original proposal and expressed concern about visitor parking.

Gary Marvin expressed concern about parking on the street.

Valerie McDonald stated that the roof proposed is vastly different from what was originally proposed, and stated she had concerns about the proposed windows and lack of parking in the winter.

Susan Anderson expressed concern about privacy of the neighbors if the proposed changes are allowed.

Ken Cassavant expressed concerns about the proposed esthetic of the building.

City Councilor Candy Mero-Carlson expressed concern that the developer of the property ignored all the regulations and original approved plans, and believes the developer should be required to build what was originally approved.

All the Board members expressed concern that what is being proposed is more of an intrusion into the neighborhood from what was originally planned.

Mr. Freilich discussed whether the applicant could come back with revised plans.

Mr. Kiley stated that they may consider withdrawing the application or continuing the item so they can revise the plans to closer reflect the original approved plans.

David Morrone stated that if the structure is going to remain as is who is going to be responsible for the plowing of the site. Mr. Kelly stated that would be the responsibility of the property owner.

Mr. Karlstad made motion to close the public hearing and stated that the Board should close the public hearing and vote that the applicant should build what was originally proposed. No one seconded the motion.

Mr. Cortes stated that he would not be in favor of a continuance.

Mr. Kelly suggested that the applicant meet with him and Inspectional Services staff to review the plans to see if they can come up with a way to have the plans meet what was originally proposed.

**Upon a motion by Mr. Berg Powers and seconded by Mr. Freilich, the Board voted 4-1 (with Mr. Karlstad voting against) to continue the Special Permit Amendment Application to the January 13, 2020 Zoning Board of Appeals meeting, and to extend the Constructive Grant Deadline to February 4, 2020.**

*List of Exhibits:*

Exhibit A: Special Permit Application; received 10/25/19; prepared by James Soffan of Cashmere, LLC.

Exhibit B: Revised Layout Plan; dated 10/25/19; received 10/25/19; prepared by B & R Survey, Inc.

- Exhibit C: Certified Foundation Plan; dated 7/6/19; received 10/25/19; prepared by B & R Survey, Inc.  
Exhibit D: Proposed Renderings; dated 4/10/19; received 10/15/19; prepared by J.R. Associates.  
Exhibit E: Zoning Board of Appeals Decision (ZB-2018-018), 20 Alvarado Avenue, Special Permit to allow a single-family attached dwelling in an RL-7 Zone.  
Exhibit F: Existing Conditions and layout Plan (previously approved); dated 1/30/18; prepared by H.S. & T. Group, Inc.  
Exhibit H: Proposed Elevations (previously approved); dated 5/2/18; prepared by J.R. Associates.

### **Other Business**

14. Communications
  - a. Worcester Community Choice Electricity Aggregation Program Flyer.
  - b. Worcester Open Space and Recreation Plan (2020 Update) Flyer.
15. Discussion of Board Policies and Procedures
16. Signing of Decisions (from prior meetings)

### **Adjournment**

Upon a motion by Mr. Freilich and seconded by Mr. Berg Powers, the Board voted 5-0 to adjourn the meeting at 8:39 PM.