



# City of Westfield

## PLANNING BOARD

William Carellas, Chair  
Cheryl Crowe, Vice Chair  
Robert Goyette  
Jane Magarian  
Philip McEwan  
Raymond St. Hilaire  
John Bowen  
Bernard Puza, Associate  
Richard Salois, Associate

February 15, 2022

City Council Chambers 7:00 PM

**PB MEMBER PARTICIPANTS**  
 **MEMBERS ABSENT**

**STAFF**

- William Carellas, Chair
- Cheryl Crowe, Vice-Chair
- Robert Goyette, Jr.
- Jane Magarian
- Philip McEwan
- Raymond St. Hilaire
- John Bowen
- Bernard Puza (Associate)
- Richard Salois (Associate)

- Jay Vinskey, Principal Planner
- Christine Fedora, Secretary

- A. Public Participation (on any matter not subject to a public hearing)  
Chair Carellas asked if anyone would like to address the Board. None.
- B. Review and approval of previous meeting minutes (2/1/22)  
None available.
- C. Review of plans not requiring approval under Subdivision Control Law
  - North Rd., Falcon Dr. /Target Corp. (continued)

Planner Vinskey stated this plan is consolidating separate lots into one big property, it also does not technically require an ANR endorsement. The required notation regarding zoning compliance is not on the Mylar, but the Board can add it. Agreed.

Member Magarian MOTIONED, seconded by Member Puza to approve the ANR. All in favor.

- 1067 Western Ave./Gogal

Planner Vinskey stated they are carving out parcel A, the lot is sizable in area and frontage, and it appears to be compliant. Member Crowe MOTIONED, seconded by Member Salois to approve the ANR. All in favor.

#### D. Public Hearings (and possible deliberation and decision)

- Continuation – Site Plan/Stormwater Permit – accessory oil truck garage – 470 Southampton Rd.

Representing the petitioner was Robert Levesque of R. Levesque, also attending Chris Chase of Chase Realty Trust. The Board-requested letter received from the Law Department was paraphrased. Mr. Levesque's opinion was that it should be decided by the Planning Board. He also reviewed the zoning ordinance under Business A District, lists as a by-right a business or professional office building is an allowed use as is a business office. He further noted that also under by-right use are accessory uses on the same lot that are customary and incidental to any of the permitted uses; business or office building would be the primary use and the accessory use for this business is for the storage of its trucks. It is not a transportation facility, they will be serviced in their South Hadley facility.

Mr. Levesque showed other uses that are similar to this. Westfield Fuel, zoned Business A with the same use, same function, their office building is located in front and out back have stored delivery trucks with canopies.

Member Magarian asked how many trucks are stored at night at the Westfield Fuel site. Mr. Levesque replied Mr. Chase was familiar with the Westfield Fuel site and asked Mr. Chase to address the Board. Mr. Chase believed there was the potential for 4 trucks and there may have been an underground tank.

Planner Vinskey stated he had done some research and found there are other Business A garaging facilities associated with the business use (distributed examples); he cited Heritage Homes which is a few doors down that has a sizable garage building out back.

Member Crowe voiced concerns regarding the size of the building and being in front along the Southampton Road corridor, also mentioned was Collier Fence which has a bigger building in the back. She further noted the Heritage accessory building is located in the back, felt this site would have enough room if they were to put the building in the back, condense the building to make it a little smaller. Mr. Levesque asked if the Collier Fence property could be shown on the GIS. He noted he understands the idea of keeping them off the front of Southampton Road but added Collier Fence may be zoned differently than the current application before the Board.

Member Crowe suggested moving the building to the back and reducing the size of the building by reducing the number of bays that would enable it to fit in the back.

Mr. Levesque stated the plan meets all the zoning requirements, setbacks, coverage, and it's a by right use, in his opinion this plan is permit table and meets all requirements of BA. Mr. Levesque referred to his client as to whether this would be palatable and could it function with a reduction?

Mr. Chase stated his goal was to get 6 bays, and have some sort of configurations at this property. 5 could possibly be done, 4 would not work.

Planner Vinskey briefly suggested the Board review the site plan findings specifically number 9 regarding the location and size of the proposed buildings. Will they be in harmony with the surrounding neighborhood? Would the Board prefer the trucks be parked outside or prefer the

trucks be garaged inside. Member Magarian would rather have the trucks park in the inside rather than outside. Member Crowe felt there was enough room in the back with the concrete pad and fencing.

Member Bowen asked if the 6 bay was pushed back at all? Mr. Levesque stated it is 1.5 feet from the setback. Member Bowen asked if that is as far as they can go? Yes.

Member Salois asked if they would try to salvage the trees on the south side and make a tree buffer?

Chair Carellas noted he was not sure about the accessory building compared to other cities, there is nothing in Westfield's Zoning Ordinance that addresses accessory buildings. The law department has made it clear they can't find it. He noted he did a quick search of various towns and a 2200 s.f. main building with a 3000 s.f. accessory building would not be allowed in many other towns.

Mr. Levesque added the ordinance does define accessory use and buildings 2-10, 20 under accessory uses and buildings, he further noted it doesn't say anything about size and also defined under BA under item 10. Chair Carellas noted the point is the accessory structure is larger than the main structure in theory if had land could put parking garage in there. Would the Board be setting a precedent?

Planner Vinskey read section 4-30 accessory building use, ordinance does recognize accessory can exceed the principal structure and shall comply with the yard requirements applicable to a principal building. This is something the Board might want to take a look at in the future, currently there is nothing in the ordinance that addresses that.

Member Magarian noted the accessory is approximately 1200 s.f. larger than the building.

Member Bowen asked about the height of the garage? It is a single story structure, probably a Morton building and will be under 25 foot height limit.

Planner Vinskey suggested there should be some kind of screening as mitigation, he felt the parking could be pushed back a bit which would allow for some evergreens in the front. Mr. Levesque agreed that was possible.

Questions from the public?

Member McEwan noted at the previous meeting Mr. Chase had mentioned the trucks in the garage are empty, and further asked him if this is the case? Mr. Chase replied in a perfect world they would be, he noted they are generally not full, but may have some amount left over. Member McEwan asked him what time they start? Mr. Chase replied during the summer it's usually between 7:30 - 4:00, sometimes they start are 6 or 7:30. Member McEwan further asked about the amount of oil being stored in the buildings overnight. Mr. Chase replied they currently have over 1150 customers in Westfield, they need more than one truck for this amount of customers. Further discussion regarding the amount of oil that might be left in the trucks at the end of the day.

Mr. Chase informed them they might a couple hundred gallons in the tank at the end of the day, but generally they fill up in the morning, and fill up in South Hadley.

Mr. Levesque stated each truck could be full there are no restrictions. The trucks meet the MA D.O.T. standards.

Questions of fact?

Nick Morganelli - 34 Prospect Street - addressing the Board as a city councilor, inquired about the buffer zone towards the back of the building referencing 29 Hawkins what will it look like after? Mr. Levesque answered most of the buffer would remain 20.5 feet to the rear of the property. Councilor Morganelli asked if they would agree to maintain or supplement the buffer is necessary.

Planner Vinsky further noted it abuts residential property and there is a 20' landscape buffer requirement, the Board can decide how suitable it is for those residents.

Chair Carellas asked if there was any further questions from the public?

There being none, the Board reviewed the draft decision. Chair Carellas noted they have the standard Stormwater and standard draft findings.

The Board reviewed the possible conditions.

#### **DRAFT Conditions**

1. *The site shall be developed and maintained in accordance with the approved site plan, entitled "\_\_\_\_" (as may be amended herein).*

#### **Plan Modifications**

- a. *Shade trees?*
- b. *More side/rear buffer plantings?*
- c. *?*

*After expiration of the appeal period, a paper and a digital (PDF) copy of the site plans, incorporating any modifications herein conditioned, shall be submitted to the Planning office prior to making application for a building permit or commencing the subject site construction.*

#### **Standard Stormwater Permit Conditions**

2. *(Pre-construction) No work shall commence until a pre-construction conference has been held between the applicant/owner, the contractor, City Stormwater Coordinator (DPW) and other appropriate city officials and project personnel. Where applicable, a copy of the Notice of Intent to comply with the EPA's NPDES Construction General Permit and evidence of the EPA's receipt/authorization shall be provided at that conference.*
3. *(Post-construction) Upon completion of construction, and prior to applying for or being issued a final Certificate of Occupancy from the Building Inspector, the applicant shall provide the Board with an "as-built" record plan and a written statement from the project engineer, with his/her professional seal affixed, certifying that all work has been done in accordance with the approved plans and applicable conditions of this approval, or otherwise noted, and that stormwater management system is functioning as designed, including any supporting evidence. The Board reserves the right to require a performance bond to ensure that outstanding issues are suitably addressed. Occupation permits will not be granted until corrections to all stormwater practices have been made and accepted.*
4. *(Maintenance & Inspections) Maintenance of the stormwater management system shall be in compliance with the submitted "Long Term Operation & Maintenance Plan" \_\_\_ Inspection reports, completed not less than once annually, shall be submitted to the City Stormwater Coordinator (DPW).*

5. (Administration) This Stormwater Management Permit approval grants no relief from any other requirements of the City of Westfield stormwater ordinance, including performance standards, operation, maintenance, inspections and enforcement. The City Stormwater Coordinator is hereby authorized to serve as an agent of the Board in the administration of this component of this permit.

The Board agreed that evergreens out front were preferable to shade trees. The plan should be changes to allow 6-8' evergreen planting area at the frontage south of the entrance. Mr. Leveque stated they could install 6' arborvitae, probably 10. The Board also discussed adding a condition that more plantings be added to the required buffers. Mr. Lévesque stated it was hard to propose before the site is cleared and it is known what trees can be retained. The Board agreed to allow a plan to be submitted after clearing, but before a CO. (Vinsky to add the proper plan references)

ember Magarian MOTIONED, seconded by Member Puza to close the hearing.

Member Bowen stated he had complied with the Mullin Rule and completed his affidavit paperwork.

Member Magarian MOTIONED, seconded by Member Bowen to approve the conditions as discussed and the site plan approval/Stormwater management permit for 470 Southampton Road.

Roll call

Member Salois	-	yes
Member Crowe	-	no
Member Magarian	-	yes
Member Puza	-	no
Member McEwan	-	yes
Member Carellas	-	yes
Member Bowen	-	yes

- Continuation – Site Plan/Stormwater Permit –restaurant building – 231 E Main St. (Westgate Plaza)

Chair Carellas informed the Board the applicant has requested a continuance until the Board's next meeting. Member Crowe MOTIONED, seconded by Member Salois to continue until the Board's meeting on March 1, 2022. All in favor.

- Zoning Map Amendment – 54 Washington St. (Res C.) & 45 Washington Street/59 Arnold Street (Comm. A) rezoning to all Business A

Presenting the proposal was Cornelius Phillips, for Snail's LLC. Mr. Phillips stated currently the property is zoned Residence C and Commercial A. He is hoping to change it all to Business A which would allow him to expand and use the building for office space on the first floor, he would also like it for the flexibility it would allow him to get a high end tenant which would give stability to the area. He also mentioned he currently owns the building Emma's is located in, he has kept the area clean and updated, and his hope is to be able to bring the same atmosphere to the Moose Lodge building.

Mr. Phillips further explained the changes he would like to make to the building such as putting windows in the basement. He felt changes such as these would help the neighborhood. His hope is that businesses would lease other space on the first floor and basement. He would like to update the building by putting in new windows, fixing up the entry way to the basement.

Member Salois stated it is a good neighborhood, but questioned the proposed zoning district projecting as proposed.

Planner Vinskey noted the Board should remember the zone change is a recommendation only, regardless of what a petitioner may say they are going to do, the Board has to look at what is allowed. He stated the applicant can knock down what is there and build new, you have to think about what is allowed in the proposed district.

Chair Carellas asked if this would be spot zoning? Mr. Phillips did not think it was spot zoning. He further reviewed the parcels next door: The Elks Lodge, to the left of Washington Street there are 3 or 4 houses, optometrist. Planner Vinskey noted the current uses are non-conforming.

Member Salois felt this would make downtown a better place, he felt this would help, the pieces are already there he felt this would make it more conforming.

Public comments?

Bridget Matthews Kane – Ward Councilor Asked if they own both properties? Yes.

Councilor Kane asked if the zone change does not get approved can they still have offices? If the rezoning doesn't happen will the status quo continue? Yes, they can still have offices per ZBA. She further read definitions of spot zoning into the record. Is this a fair definition of spot zoning?

Planner Vinskey stated that would need to be determined by a court. Councilor Kane further noted if this zone change is made it will allow whatever is allowed in that district to be put there, they don't have to do what they said they are doing, whatever is allowed in the district would be allowed. Will it lower the property value of the surrounding property? She further asked if the city was following a plan the city developed? Planner Vinskey responded the city is currently in the process of working on a Master Plan, the goal is to have it completed by June 2023. She further read the zoning determination application into the record that referenced possible uses of the property which included law office, offices, retail, restaurant, dispensary, education use, and salon.

Planner Vinskey stated a change of use is allowed by the Zoning Board of Appeals if the ZBA finds that the new use is not more detrimental than the previous use, it's open to the ZBA to allow the change as long as it is not more detrimental.

Councilor Matthews Kane stated she is opposed to the potential change, she feels this is spot zoning, the city is about to develop a Master Plan and felt this should be put off until the Master Plan is completed. She is asking for time to advocate for the Master Plan, the community feels that by sticking a business in the middle of the neighborhood makes it less livable.

Merritt Andrews - 14 Spring Street - informed the Board he lives 350 feet away from the Moose Lodge and has lived there 50 years. The area is primarily residential consisting of the Police station as well as Emma's Restaurant. He further noted he has counted up wards to 100 children in the neighborhood, this is a residential neighborhood and he would hate to see it turned to a commercial area where cars come in and get cigarettes, there are children walking around. He felt there has to be a safe place for children, wonderful neighborhood, enjoy neighborhood and neighbors.

Junior Delgado- Voiced concerns that if at some point the ownership is changed it can be sold he does not want to see a dispensary come in, he would want to be sure to maintain continuity, it is a family friendly neighborhood.

Joyce Andrews - 14 Spring Street - agree with everything set. Family neighborhood.

Wayne Peereboom-Attorney at Dunn & Philips - stated any implication that they would want to do anything to damage the neighborhood is disheartening, they moved here because Westfield has a lot to offer. Mr. Peereboom further stated that Neil is a solid person, he is in this for the long haul, he wants to improve the neighborhood and grow his law practice there, committed to this area don't want to hurt anyone, he further noted the different types of structures that are there, houses, lodges, commercial, all kinds of businesses, this will not just benefit Mr. Phillips but will also benefit the neighborhood, he further noted this is a mixed neighborhood and felt it is not spot zoning.

Steve Thomas - Alexander Place -Works at Dun & Philips and love working there, seen kids in the neighborhood feel comfortable bringing his kids to work and they enjoy that.

Mr. Phillips stated the dispensary was in the file for the ZBA it was not on the actual application. He further stated he only wants what is best for the community, he is not a fly by night. He does live in Wilbraham, but he pays taxes in Westfield and he knows a lot of people, he further noted he was taken back by the comments, he has not heard anything from the neighbors; he was hoping the Board could see a way to approve this. He doesn't want to wreck the name of Dunn and Phillips. They will not be a danger to the children in the neighborhood, they don't want to sell lottery, or cigarettes.

Councilor Matthews Kane asked if he can have offices in the rest of the building if it stays the way it is now? Planner Vinskey informed her it can per a special permit for professional office use. Planner Vinskey noted a few items, the dispensary issue was not a part of the Zoning Board Application, if it were zoned BA it would prohibit a dispensary, he further noted that zone changes aren't usually done just to change things they are usually driven by someone who wants to do some type of project, referencing the prior zone submitted for the Southampton Rd. Dunkin Donuts.

Chair Carellas asked if the Board were to send a negative recommendation could they still continue? Planner Vinskey the Planning Board is making a recommendation only, the Council can do whatever they want.

Member Salois asked they already have a special permit so they are allowed to convert to professional offices? Planner Vinskey replied yes.

Member Salois further noted if this were approved, he felt this would be spot zoning, they can still do what they want to do with the special permit they were issued from the Zoning Board.

McEwan MOTIONED, seconded by Magarian to send a positive recommendation

By Roll call vote;

Member Salois	-	No
Member Puza	-	No
Member McEwan	-	Yes
Member Magarian	-	Yes
Member Bowen	-	Yes
Member Crowe	-	No
Chair Carellas	-	No

It was noted the Board's vote was 4 opposed and 3 in favor of a positive recommendation. Motion fails.

#### E. Other Business

- Request for waiver of Site Plan Approval – change of use to gym – 264 Union St.

Chair Carellas stated he was waiving the site plan requirement and asked for the Board's ratification. Planner Vinsky noted the applicant was present: Steve Czerniejewski – Sackett Rd.

Member McEwan when the project first came before the Board, there were wetlands and asked if they are still there and asked about the traffic flow? Mr. Czerniejewski stated there are gullies behind there, he further noted it would not affect the traffic flow as it is a private training program probably 10 cars on a busy evening, no need to expand parking area or site work.

It was noted the parking area is not paved. Further discussion regarding parking spaces, after discussion the Board felt the applicant should put some free standing signs for parking spaces or concrete wheel stops to demarcate parking layout.

Member Salois felt this is a good use of the property. Mr. Czerniejewski stated he is currently located at 66 South Broad Street, next to commercial disturbing. All were recorded in favor of the waiver.

- Discussion of potential changes to Home-Based Business and Home Occupation regulations (Section 5-100)

Planner Vinsky stated this change was initiated at the Board's working meeting held in December. Councilor Morganelli also recently suggested looking into a zoning amendment for this. This proposed change would allow more flexibility with home based business. Currently the Home Occupation does not allow any customers, one customer is considered a Home Based Business which requires a special permit. He suggested maybe there could be a threshold of possible 3 customers a day without requiring a special permit, with hours set from 10 -5, no more than 2 vehicles on site - which could be a by right. The general idea of this change stems from COVID with more people doing things from home, few people coming and going won't interrupt the residential neighborhood feel.

Discussion regarding holidays being included in the ordinance and whether they could be open during the holidays and on Sundays. Planner Vinskey stated this is added just for a point of discussion. Some of the discussion among members were that there are businesses downtown that are paying taxes and someone operating a business out of their home and felt the store fronts should be occupied. Member Salois felt that a home occupation similar to the type of business he had in his home only generated 1 or 2 people a week which does not generate a lot of traffic. This type of a business deals in ideas rather than material goods. He further felt most home based businesses are out there and nobody knows about it. He further felt if they are selling materials it should have a different set of regulations.

Councilor Morganelli - The original reason this is being proposed is because during the pandemic residents want to run businesses out of their home, barber wasn't able to cut hair out of his home. Health regulations are more involved in that business, looked at regulations make sure weren't restrictive to do things out of their home, keep in mind not people working out of their homes, people out of a job and needed to work out of their home. Nothing major just wanted to make sure it is as lenient as reasonable. Understand if still it requires a special permit in some cases.

Salois stated an example - if you're doing photography, occupational one person working for themselves vs. lots of clients coming. Need to separate the 2. More people more traffic, deliveries.

Planner Vinskey noted they aren't separated by type of use but rather by amount of traffic generated, parking, and hours as to whether what scale it would fit in.

Member Puza felt every business is different and he feels every business should be looked at closely. Member McEwan voiced concerns regarding open store fronts and if this would take away from the commercial areas.

Chair Carellas agreed with member McEwan the store fronts need to be filled. Also recognize other people see clients a day. Liked the wording, no Holidays, Sundays should be closed, if city hall closed see valid to that.

The Board endorsed the drafted changes. Planner Vinskey stated this has not formally gone anywhere; it will be discussed in ZPD.

#### F. Announcements/Future agenda items

- Truck uses moratorium -Planner Vinskey stated the Council did not approve moving forward with a truck moratorium; the Board could still formally propose one, but sufficient support in Council is unlikely.
- Master Plan update - Planner Vinskey stated there is not much to report; 2 proposals have been received and they are currently being reviewed.

Chair Carellas felt the accessory buildings should be size-restricted and the Board should explore changing the ordinance. It was agreed to put the topic on the next meeting's agenda

The meeting was adjourned at 9:38.