

**MINUTES OF THE PROCEEDINGS OF THE
PLANNING BOARD OF THE CITY OF WORCESTER**

**OCTOBER 15, 2008
WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM**

Planning Board Members Present: John Shea, Chair
Anne O'Connor, Clerk
Margaret Guzman
Nicole Xifaras Parella

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Lara Bold, Division of Planning & Regulatory Services
Judy Stolberg, Division of Planning & Regulatory Services
Luba Zhaurova, Division of Planning & Regulatory Services
K. Russell Adams, Department of Public Works
Jody Kennedy-Valade, Department of Inspectional Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Chair Shea called the meeting to order at 5:50 PM.

APPROVAL OF MINUTES

Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 4-0 to approve the minutes from the October 1, 2008 meeting.

REQUESTS FOR WITHDRAWALS OR CONTINUANCES

1. **Katie Circle (PB-2008-033) – Definitive Subdivision Plan:** Attorney Donald O'Neil requested a continuance to January 21, 2009 and an extension of the deadline for constructive grant to February 18, 2009 due to continuing negotiations with the Greater Worcester Land Trust for the sale of two abutting tracts of land along with a portion of the area comprising the proposed subdivision. In a letter to the Board dated October 10, 2008, he indicated that his client would pay for re-notification. Upon a motion by Nicole Xifaras Parella and seconded by Margaret Guzman, the Board voted 4-0 to extend the deadline for constructive grant to February 18, 2009 and to continue the hearing to January 21, 2009.
2. **22 Dean Street/53 Wachusett Street (PB-2008-066) – Parking Plan:** Michael Andrews, representing the applicant, requested that the deadline for constructive grant be extended to December 11, 2008 and the item be continued to November 12, 2008. Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted

4-0 to extend the deadline for constructive grant to December 11, 2008 and to continue the item to November 12, 2008.

3. **35 Modoc Street (PB-2008-070) – Definitive Subdivision Plan:** The Definitive Site Plan was taken contemporaneously. Kevin Quinn, representing the applicant, explained that they are proposing a five-lot subdivision to construct five single-family semi-detached dwellings (10 dwelling units) on property that is zoned RL-7 (Residence, Limited). Mr. Quinn stated the only extension of Modoc Street would be the cul-de-sac bulb. At this point, Chair Shea realized he had a client who was an abutter and he had to recuse himself. Anne O'Connor assumed the chair. Chair O'Connor informed Mr. Quinn that in order to receive approval, the three members present would have to vote affirmatively. Mr. Quinn conferred with his client and asked that the matter be continued to November 12, 2008 so that Mr. Cashman could participate. Ms. Healey opined that Mr. Cashman would have to decide at that time if he wanted to participate but she would have to look into that and report back to the Board. Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 3-0 to continue the Definitive Subdivision Approval and Definitive Site Plan Approval to November 12, 2008.
4. **35 Modoc Street (PB-2008-071) – Definitive Site Plan:** See #3.
5. **10 & 12 Boyden Street (PB-2008-072) – Definitive Site Plan Approval:** Jeffrey Howland, representing the applicant, Paul Giorgio, informed the Board that he had revised the plan to add an enclosed common ingress/egress in order to meet the definition of multi-family dwellings in order to construct a six unit multi-family low-rise on property with 15 % slope or more. Mr. Howland said, at the Board's suggestion, Mr. Giorgio had attended a meeting with residents, hosted by Councilor Barbara Haller, and that he had been told the meeting was productive. Ms. Haller agreed saying the relationship between the developer and the residents had been enhanced through this meeting. Mr. Adams reported to the Board that a catch basin at the intersection of Glade Street and Southbridge Street was not a city catch basin and the city had no rights to its maintenance. Chair Shea asked that a note be added to the plan for the enclosed walkway so that it was perfectly clear where it was located. Ms. Kennedy-Valade said she had just received the rendering and needed time to consider it and determine if it meets the intent of the definition of multi-family dwellings in the Zoning Ordinance. Mr. Howland stated he had seen Lara Bold's memo dated October 10, 2008 and would make any necessary changes to the plan. Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 4-0 to extend the constructive approval deadline to December 11, 2008 and continued the item to November 12, 2008.
6. **Aurilla Street – Add Portion to Official Map:** City Councilor Paul Clancy, who filed the petition on behalf of Debra Carmody, Betty & Roy Segermark and Roy Segermark, explained that the portion of Aurilla Street he is requesting be put back on the Official Map was removed on March 19, 2008 by the Planning Board. However, Ms. Carmody and the Segermarks maintain they were not notified of the public hearing held by the Planning Board so they could not voice their objections. Councilor Clancy referenced Massachusetts General Laws, Chapter 41, Section 81F which states, if there is an objection by one party of interest, the Planning Board cannot vote to approve removal of a private way from the Official Map. Attorney Robert Christo, representing Peter

Christo, the petitioner who requested the portion of Aurilla Street be removed from the Official Map, opined that the Board should not reverse its decision. He further stated there was no proof the abutters had not been notified and added that there was a legal notice in the Telegram and Gazette. He advised the Board that since March, 2008, his client has expended time and money in the property based on the Planning Board's action removing it from the Official Map. Peter Christo said Ms. Carmody had seen him doing site work and knew of his intention to develop the property. Ms. Carmody said she had not received notice of the Planning Board hearing and only learned about the removal when she was notified by the City Clerk's Office regarding a hearing before the Public Works Committee. This public hearing was held in error, however, Ms. Carmody and the Segermarks' objections were raised at that time. Councilor Clancy said in order to rectify the situation, he felt it prudent to request the portion of Aurilla Street be returned to the Official Map and indicated that subsequently Mr. Christo could again petition to have it removed and proper notification could occur. Mr. Fontane noted that the protocol for private street removal hearings calls for advertising in the Telegram & Gazette and mail notification of abutters that appear on the Certified List of Abutters from the Assessor's Office. He said that in this particular case, there is no copy of the Certified List of Abutters in the file. He indicated that because of the number of notifications processed by staff on a weekly basis for three regulatory boards, staff cannot say with certainty that such notification took place in this case. He said a new protocol of sending notices for private street removals by certified, return receipt requested mail, has been established. Chair Shea stated that there was no actual proof in the file indicating that abutter notification had occurred and suggested, as an alternative to certified mail, that for future petitions an affidavit signed by whomever mails the notices should suffice. He indicated that certified mailings can be quite costly if there are a large number of abutters, as is the case when abutters include a large number of condominium units. Betty and Roy Segermark stated their objections to the removal and said they had not received notice. Mark Small, who lives at 9 Aurilla Street, and James Curnin, who lives on Foxboro Street said they got no notification for the private street removal. Mr. Curnin said he was concerned about a water easement as was Ms. Carmody. Mr. Fontane again explained that only direct abutters on the portion to be removed from the Official Map are notified and that in the case of putting the portion back on the Official Map, abutters to abutters within 300 feet had been notified. Ms. Guzman said, in her opinion, the question was not whether it was prudent to remove the portion of Aurilla Street from the Official Map but rather should the Board, nine months after its decision and absent any proof that abutters were not properly notified, reverse its action by adding the same portion back on the Official Map. She expressed her concern with the process being undertaken and said the Board had dealt with the private street removal based on policies and procedures that have served it well over the years. She advised those with objections to go to court and obtain an injunction. Chair Shea said no one has actually proved that notices did not get mailed. He added that no matter which way the Board chooses to act, it is not fair to someone. Ms. Carmody informed the Board that she had been advised by an attorney to use this process and indicated that she would take legal action against the City. Peter Fennucio, brother-in-law to Ms. Carmody, asked if staff had been asked directly whether the mailing had been done. Mr. Fontane reiterated that staff could not state with certainty that it had. Chair Shea informed Mr. Fennucio that the Board was going to make a recommendation to City Council which is the body that puts streets on the Official Map. He said a public hearing will be held at the Council level. Ms. Xifaras Parella indicated

that although she can see both sides of the issue, she is uncomfortable going back and changing the Board's vote. Ms. O'Connor said her question is whether the Board can decide if proper notice was given. Chair Shea said the Board's vote was made in good faith and based on the best information at the time and on established policies and procedures. Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 4-0 to recommend denial of the petition to the City Council.

7. **9 Regent Street (PB-2008-072) – Definitive Site Plan:** Attorney Robert Longden, representing the American Antiquarian Society, presented the plan to renovate the existing building to restore the majority of the structure to its original architecture, provide a residence for 6-8 scholars and provide three parking spaces. Mr. Longden said all of the comments in Ruth Gentile's memo dated October 10, 2008 would be addressed with the exception of the comment regarding the location of the dumpster because there will be no dumpster. Upon a motion by Anne O'Connor and seconded by Margaret Guzman, the Board voted 4-0 to approve the Definitive Site Plan with the following conditions:

- **That abutting properties with owners' names be labeled on the plan.**
- **That the square footage of existing and proposed building be labeled on the plan.**
- **That the height in feet of existing and proposed building be labeled on the plan.**
- **That the floor to area ratio of existing and proposed building be labeled on the plan.**
- **That the total floor area of existing and proposed building be labeled on the plan.**
- **That the total square feet of ground area coverage of existing and proposed building be labeled on the plan.**
- **That dimensions of the driveway entrance be labeled on the plan.**
- **That the Historical Commission approval be noted on the plan.**
- **All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.**
- **Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.**
- **The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.**
- **Six copies of the revised plan must be submitted to the Planning and Regulatory Services Division prior to release of the decision.**

8. **71-75 Madison Street (PB-2008-073) – Amendment to Parking Plan:** Kathryn Tsandikos, representing T Realty, LLC, owner of the property, stated an amendment to a previously approved parking plan is being sought to relocate three trees currently abutting Union Music. She said Union Music is having difficulty with rear deliveries because of

the location of three trees along the side property line. Ms. Bold advised the Board that staff has no problem with the relocation of the three trees providing it is conditioned upon the trees being replaced with a minimum 3" caliper tree if they are harmed during the relocation. Upon a motion by Anne O'Connor and seconded by Margaret Guzman, the Board voted 4-0 to approve the Amendment to Parking Plan with the following condition:

- **That the trees be replaced with minimum 3" caliper trees of a similar species should they be harmed during the relocation and so noted on the plan.**
- **All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.**
- **Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.**
- **The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.**

9. **70 Circuit Avenue (PB-2008-074) – Parking Plan Approval:** Lloyd Bristol, Cullinan Engineering, explained that a new driveway is being constructed for the existing parking lot associated with the Knights of Columbus building. He indicated that the existing driveway provides access from Englewood Street but is proposed to be abandoned. Cesar Valiente, from the Department of Public Works and Parks, said the City had agreed, as part of a land acquisition agreement for the purposes of establishing additional park land, to create the new driveway for the Knights of Columbus from Circuit Avenue. Mr. Bristol said they were also requesting a fee waiver and a waiver of the interior tree requirement. Ms. Kennedy-Valade indicated that landscape screening as not required where the existing parking will abut the proposed park's parking area since technically the area is not yet a public park. Ms. Bold said it is staff's preference, however, to have landscape screening in that space, if possible. Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 4-0 to waive the interior tree requirement. Upon a motion by Anne O'Connor and seconded by Margaret Guzman, the Board voted 4-0 to waive the fee. Upon a motion by Anne O'Connor and seconded by Margaret Guzman, the Board voted 4-0 to approve the Parking Plan with the following conditions:

- **That Circuit Avenue West be labeled as private on the plan.**
- **That the zoning table be corrected on the plan to reflect that required frontage for this use is 65 feet and required floor to area ratio is 0.4:1.**
- **That the percentage of the lot covered by principal and accessory buildings be labeled on the plan.**
- **That the parking space in the northwest corner of the site that encroaches on the City's property be removed from the plan to avoid future confusion.**

- **That three snow storage areas be labeled on the plan and the snow storage area shown in the proposed driveway be removed from the plan.**
- **That a five foot landscape buffer be shown where the parking area abuts property lines.**
- **That a legend be provided for the plan.**
- **All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.**
- **Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.**
- **The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.**
- **Six copies of the revised plan must be submitted to the Planning and Regulatory Services Division prior to release of the decision.**

OTHER BUSINESS

APPROVAL NOT REQUIRED (ANR) PLANS:

1. **AN-2008-069:** Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 4-0 to endorse ANR #2008-069, Sophia Drive.
2. **AN-2008-072:** Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 4-0 to endorse ANR #2008-072, Lot 33L & 33R Pearlbus Path.
3. **AN-2008-073:** Upon a motion by Margaret Guzman and seconded by Anne O'Connor, the Board voted 4-0 to endorse ANR #2008-073, Main Street.
4. **AN-2008-074:** Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 4-0 to endorse ANR #2008-074, Deepdale Road.
5. **AN-2008-075:** Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 4-0 to endorse ANR #2008-075, Salisbury Street.

Danvers Street – To Make Public: Upon a motion by Anne O'Connor and seconded by Nicole Xifaras Parella, the Board voted 4-0 to recommend a Priority 1 based on a recommendation from the Department of Public Works and Parks.

Chicopee Street – To Make Public: Upon a motion by Anne O'Connor and seconded by Nicole Xifaras Parella, the Board voted 4-0 to recommend a Priority 1 based on a recommendation from the Department of Public Works and Parks.

Good Harbor Drive – To Make Public: Upon a motion by Margaret Guzman and seconded by Anne O'Connor, the Board voted 4-0 to recommend a Priority 1 based on a recommendation from the Department of Public Works and Parks.

ADJOURNMENT

Chair Shea adjourned the meeting at 6:35 PM.