

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

APRIL 9, 2007

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

Zoning Board Members Present: Leonard Ciuffredo, Chair
Morris Bergman, Vice-Chair
Matthew Armendo
David George
Andrew Freilich
Lawrence Abramoff

Staff Present: John Kelly, Department of Code Enforcement
Joel Fontane, Division of Planning & Regulatory Services
Judith Stolberg, Division of Planning & Regulatory Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Chair Ciuffredo called the meeting to order at 5:30 PM.

APPROVAL OF THE MINUTES

Upon a motion by Matthew Armendo and seconded by Lawrence Abramoff, the Board voted 5-0 to approve the March 26, 2007 minutes.

UNFINISHED BUSINESS

- 1. 631-635 Lincoln Street (Z-07-22) – Special Permit and Variances:** Robert Longden, representative for the petitioner, presented the petition. He stated that the petitioner was requesting a Special Permit for expansion or change of a pre-existing nonconforming use/structure, a Special Permit to allow a professional office in an RG-5 zone and a Variance for relief of ten spaces from the off-street parking requirement. He also stated the petitioner was requesting Leave to Withdraw without prejudice the requested Special Permit for waiver of parking/loading requirement and Special Permit for waiver of landscaping or barrier requirement (interior landscaping and five-foot buffer) because they are considered part of the nonconforming nature of the site and are inclusive to the Special Permit for expansion or change of a pre-existing nonconforming use/structure. Mr. Longden said they were modifying the requested relief from the off-street parking requirement from ten spaces to one space because the Pentecostal Church, which is located within 1,000 feet, has agreed to let Great Brook Valley Health Center use nine spaces in their parking lot. Since it was unclear how many spaces the church requires for its own use, Mr. Fontane recommended not modifying the request and keeping the relief requested at ten spaces. Mr. Longden said there would be thirty-one employees but only eleven would be based at the site full time. Chair Ciuffredo asked what kind

of clinical services will provided on site. Zola Feldman responded that optometry services would be provided. Mr. Longden said that, at some point in the future, ophthalmology services may provided at the site. Mr. George asked if the claim that most patients would use public transportation could be substantiated. Ms. Feldman said currently most of the patients use public transportation and she doesn't expect that to change. She also said that patient scheduling will control the number of cars parking on the site. Lorraine Castell was concerned about people cutting across her property and Leonard Thibeault was concerned about littering in the area. Mr. Armendo asked Mr. Longden if the petitioner would be amenable to a condition requiring installation and maintenance of a fence along the rear property line and he responded that they would agree to it. Upon a motion by Matthew Armendo and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to close the hearing. Upon a motion by Morris Bergman and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to approve the following:

- **Special Permit: for expansion or change of a pre-existing nonconforming use/structure**
- **Special Permit: to allow professional office in an RG-5 district**
- **Variance: Relief of ten (10) parking spaces from the off-street parking requirement**

The Special Permits and Variance were approved with the following conditions:

- **Clinical service be limited to eye-related services only.**
- **Stockade fence to be installed and maintained along the rear property line.**

Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to grant the petitioner's request for Leave to Withdraw without prejudice the following:

- **Special Permit: waiver of off-street parking/loading requirement**
- **Special Permit: waiver of landscaping or barrier requirement (interior landscaping and five-foot buffer)**

NEW BUSINESS

2. **384 Massasoit Road (Z-07-26) - Variance:** Joseph Moody, petitioner, presented the petition. He stated he was requesting a Variance for 8 feet of relief from the height requirement for the purpose of increasing the height of the garage to 23 feet. He said he had purchased the trusses based on information he received from Code Enforcement staff and learned later that there had been a misunderstanding, which necessitated his request for a Variance. Chair Ciuffredo asked if the petitioner had any commercial plans for the garage and Mr. Moody said no. Mr. Armendo asked if there would be water service to the garage and Mr. Moody responded no. Mr. Fontane asked if there were any opportunity to reduce the size of the garage and whether the trusses purchased dictated the height. Mr. Moody said there was no opportunity. Mr. George asked if the petitioner had considered any other options for storage such as an addition to the house. Mr.

Moody said that he had not because he was using an insurance settlement received after a fire in the garage to pay for the work. Mr. Bergman asked if there would be any work-related storage in the garage and Mr. Moody said there would not be. Upon a motion by Morris Bergman and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to close the hearing. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to approve the following:

- **Variance: 8 feet of relief from the height requirement**

The Variance was approved with the following conditions:

- **There is to be no plumbing in the garage.**
- **There is to be no storage of commercial equipment or items to be sold in the garage.**
- **Garage is not to be used as a dwelling.**
- **Garage must be constructed according to rendering and site plan submitted.**

3. **126 Southwest Cutoff (Z-07-27) – Extension of Time - Special Permit:** Patricia Gates, representative for the petitioner, and Michael Cuomo, petitioner, presented the petition. Ms. Gates stated that the petitioner requested an extension of time for a previously approved Special Permit for motor vehicle sales, rental, service and repair. She informed the Board that an outstanding tax bill had been paid and was no longer an issue. Mr. George asked how confident the petitioner was that construction would proceed if another extension of time were granted. Ms. Gates and Mr. Cuomo both stated that a construction firm has been engaged and the project was ready to proceed to the Planning Board for site plan approval. Mr. Cuomo stated he was very confident construction would start soon. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to close the public hearing. Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George, and Andrew Freilich to approve the following:

- **Extension of Time - Special Permit for motor vehicle sales, rental, service and repair**

The Extension of Time - Special Permit was approved with the following conditions:

- **Extension of time is for one year.**
- **Garage must be constructed according to the rendering submitted and the site plan approved by the Planning Board.**

4. **90 East Central Street (Z-07-14A) – Special Permit and Variances:** Donald O’Neil, representative for the petitioner, and James Belletet, petitioner, presented the petition. Mr.

O'Neil stated that the petitioner requested a Special Permit for expansion or change of a pre-existing nonconforming use/structure, a Variance for 40 feet of relief from the frontage requirement, a Variance for 3,022 square feet of relief from gross dimensional requirement and a Variance of two spaces from the off-street parking requirement for the purpose of obtaining approval for a second dwelling unit. Mr. O'Neil explained that the petitioner purchased the premises with the understanding that it included an "in-law apartment". However, subsequent to his purchase, he discovered that "in-law apartments" are not allowed in the City and the second dwelling unit had never been approved. Mr. O'Neil said the structure has been used for twenty-five years as a two-family dwelling. Mr. Belletet said it would be a hardship to return the premises to a single-family dwelling. He stated his willingness to meet all building codes to make the dwelling safe. Mr. Bergman asked if the property would be owner-occupied and Mr. Belletet said no. Mr. Bergman asked if the petitioner had made any effort to find parking spaces nearby. Mr. O'Neil said no but they were willing to try. Chair Ciuffredo informed the petitioner that the Board generally wants to see a five year lease with option. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to continue the hearing to April 23, 2007 to see if the petitioner can secure two parking spaces off-site.

5. **1-3 Lodi Street (54 Lafayette Street) (Z-07-28) - Variances:** Donald O'Neil, representative for the petitioner, and Van K. Nguyen, petitioner, presented the petition. Mr. O'Neil stated the petitioner requested a Variance for 756 square feet of relief from the gross dimensional requirement for Lot 1, a Variance for 1,159 square feet of relief from the gross dimensional requirement for Lot 2, a Variance for 4.5 feet of relief from the rear yard setback requirement for Lot 1 and a Variance for 8.1 square feet of relief from the rear yard setback requirement for Lot 2 for the purpose of constructing a single-family semi-detached dwelling. Mr. O'Neil informed the Board that the neighborhood is comprised of multi-family dwellings. Mr. Armendo asked if the petitioner would consider changing the style to fit in better in the neighborhood. Mr. George thought a two-family up and down dwelling would better suit the neighborhood. Mr. Freilich asked how many bedrooms were in each unit and Mr. O'Neil responded that there would be three bedrooms. Mr. Fontane offered that the lot behind the site appeared to be underutilized and that possibly the petitioner could investigate the possibility of purchasing it. Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Matthew Armendo, David George, Lawrence Abramoff, and Andrew Freilich to continue the hearing to April 23, 2007 so the petitioner can consult with his architect.
6. **184 Dewey Street (Z-07-29) - Variances:** Gary Henrich, petitioner, presented the petition. He stated he was seeking a Variance for 9.8 feet of relief from the rear yard setback requirement and a Variance for .8 feet of relief from the side yard setback requirement for the purpose of converting the existing garage into a single-family detached dwelling. Chair Ciuffredo asked when the petitioner had purchased the property and Mr. Henrich said he had purchased the property in August, 2006. Mr. George asked Mr. Henrich if he intended to live in the house and he replied that he would not be living in the house. Mr. George asked why he chose not to tear down the garage and construct a new building. Mr. Henrich said the structure is sound and it would cost less to utilize the present structure. Mr. Freilich said that he thought the petitioner would be better off razing the building. Mr. Kelley said a one or two-family dwelling could be constructed on the lot by right and the foundation of the garage could be used for a new garage.

At this point it was clear to Mr. Henrich that the Board was not inclined to approve the Variances and he requested Leave to Withdraw without prejudice. Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to grant the petitioner's request for Leave to Withdraw without prejudice.

7. **299 Shrewsbury Street (Z-07-30) – Special Permits and Variance:** Raymond Lapolito, representative for the petitioner, and Roger Bachour, petitioner, presented the plan. Mr. Lapolito stated the petitioner requested a Variance for relief of four spaces from the off-street parking requirement, a Special Permit for expansion or change of a pre-existing nonconforming use/structure and a Special Permit to allow a personal services shop in an MG-2.0 district for the purpose of operating a tanning salon. Chair Ciuffredo asked if the petitioner had tried to find parking that could be leased. Mr. Bachour responded he had not done so. Mr. Bergman suggested that the hearing be continued so the petitioner could try to find parking and advised the petitioner that the Board would want to see a five-year lease with an option to renew. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to continue the hearing to May 14, 2007 to allow the petitioner time to seek off-site parking spaces.
8. **10 Midgely Lane (Z-07-31) – Variances:** Raymond Lapolito, representative for the petitioner, presented the plan. Mr. Lapolito said the petitioner requested a Variance for 1,124 square feet of relief from the gross dimensional requirement, a Variance for 8.4 feet of relief from the front yard setback requirement and a Variance for 10 feet of relief from the rear yard setback requirement for the purpose of constructing a single-family detached dwelling. Mr. George asked when the lots were configured and Mr. Lapolito responded it was in the 1980's and the area was zoned RL-7 at the time. Mr. Fontane informed the Board that the zoning was changed to RS-7 resulting from a neighborhood petition. Dorothy Miller was concerned about runoff because the lot consists mostly of ledge. Louise McGee agreed that the ledge rendered the lot unbuildable. Taze Barlow, Gene Palmer and Paul Falor expressed opposition to the petition. Mr. Falor stated that the lot is listed as unbuildable in the Assessor's office because it does not meet dimensional requirements. Mr. Armendo said the lot was too small for the structure proposed. Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 to close the hearing. Upon a motion by Matthew Armendo and seconded by David George, it was voted 0-5 by Matthew Armendo, Morris Bergman, Leonard Ciuffredo, David George and Andrew Freilich to approve the requested Variances. The motion failed, therefore the Variances were denied.

Mr. Bergman left the meeting.

9. **45 Arctic Street/14 Hygeia (formerly known as 10 Plastics Street) (Z-07-32) – Special Permits:** Stephen Parker and Jeffrey Howland, representatives for the petitioner, and Edwin Edsen, petitioner, presented the petition. Mr. Parker stated that the petitioner requested a Special Permit for expansion or change of a pre-existing nonconforming use/structure and a Special Permit to modify the parking requirements by reducing the aisle width on the second and third floors of the parking garage from 24 feet to 17 feet for the purpose of redeveloping the existing buildings into thirty-six dwelling units at 45 Arctic Street and commercial/retail units at 14

Hygeia Street. Mr. Howland explained that there are three rows of columns in the building with only 17 feet between the columns, thus the request to modify the parking requirements by reducing the aisle width. Mr. George asked if Hygeia Street and Plastics Street would be built to City standards at the developer's expense. Mr. Howland responded that the developer will meet City standards as they relate to paving and width but not curbing and sidewalks. Mr. Armendo was concerned about noise from the railroad because of the proximity of the property to the railroad tracks. Chair Ciuffredo asked how many of the units had been pre-sold. Mr. Parker responded that 10% had been pre-sold and that the units were being marketed in the Boston area. He indicated that proximity to Union Station was a desirable feature in this particular market. Mr. George asked when construction would commence and was told it would begin this summer. Mr. Edsen said the project should be completed in 12-14 months. Mr. Howland stated the residential component would be completed first followed by the retail component. Mr. Abramoff asked about outstanding tax bills owed to the City. Mr. Fontane informed the Board that the applicant had satisfied the Treasurer's office. Eric Zheng was concerned about traffic and safety. Upon a motion by Lawrence Abramoff and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Matthew Armendo, David George, Andrew Freilich and Lawrence Abramoff to close the public hearing. Upon a motion by Matthew Armendo and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Matthew Armendo, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Special Permit: for expansion or change of a pre-existing nonconforming use/structure**
- **Special Permit: to reduce the aisle width on the second and third floors of the parking garage from 24 feet to 17 feet**

10. 401 Hamilton Street (Z-07-33) – Variances: Guillermo Garcia, petitioner, presented the petition. He stated he requested a Variance for 3,242 square feet of relief from the gross dimensional requirement and a Variance for 5 feet of relief from the frontage requirement for the purpose of re-establishing the original lot lines in order to create a separate lot and construct a single-family detached dwelling. Mr. Fontane explained that the existing dwelling was constructed in 1900 and the present parcel was registered as two separate parcels in 1912 according to Worcester District Registry of Deeds records dated August 15, 1912. Upon a motion by Matthew Armendo and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Matthew Armendo, David George, Andrew Freilich and Lawrence Abramoff to close the public hearing. Upon a motion by Matthew Armendo and seconded by Lawrence Abramoff, it was voted 4-1 by Leonard Ciuffredo, Matthew Armendo, Andrew Freilich and Lawrence Abramoff (David George voted no) to approve the following:

- **Variance: for 3,242 square feet of relief from the gross dimensional requirement**
- **Variance: 5 feet of relief from the frontage requirement**

The Variances were approved with the following conditions:

- **Existing garage is to be removed.**
- **Dwelling to be constructed according to the rendering submitted.**

- **Trees are to be removed from the site and yard is to be cleaned up immediately.**
- **Roadway improvements must be done at owner's expense.**

OTHER BUSINESS:

Upon a motion by Matthew Armendo and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Matthew Armendo, David George, Andrew Freilich and Lawrence Abramoff to approve the following meeting schedule:

July 9
July 23
August 13
August 27
September 10
September 24
October 15
October 29
November 26
December 10
January 14
January 28

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 9:00 PM.