

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

NOVEMBER 26, 2007

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

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

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Judy Stolberg, Division of Planning & Regulatory Services
John Kelley, Division of Code Enforcement

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

EXECUTIVE SESSION

Upon a motion by David George and seconded by Andrew Freilich, the Board voted 5-0 to recess to Executive Session. The Board returned at 5:55 P.M. and upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, the Board voted 5-0 to adjourn the Executive Session and resume the regular meeting.

APPROVAL OF MINTUES

Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve the minutes from the October 29, 2007 meeting. The minutes from the October 15, 2007 meeting were held.

UNFINISHED BUSINESS

- 1. 2 Nutall Lane (Z-07-94) – Variance:** Paula Hebert, petitioner, presented the petition. She stated she is seeking a Variance for 366 square feet of relief from the gross dimensional requirement to subdivide the lot into two lots and construct a single-family semi-detached dwelling. At the October 29, 2007, meeting Mr. Kelly said that when the new lots are created, the existing three-family dwelling will not meet the side yard setback requirement because of an existing enclosed porch. He said that the petitioner has now said the porch will be an open porch and it can encroach into the side yard without creating a nonconformity. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 to

close the hearing. Upon a motion by David George and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Variance: 366 square feet of relief from the gross dimensional requirement**

The Variance was approved with the following conditions:

- **Two car garages with side by side parking must be shown on the plan for the proposed single-family semi-detached dwellings.**
- **The enclosed porch on the existing three-family dwelling must be altered so that it will be an open porch.**

2. **5 Almont Avenue (Z-07-105) – Variance:** Mr. Bergman made reference to a letter from Deborah Vincequere to the Board members dated November 2, 2007 that stated her belief that she had been treated unfairly at the October 29, 2007 hearing, particularly by Mr. Bergman. For that reason, Mr. Bergman believed that he needed to recuse himself from participating in the hearing. Chair Ciuffredo advised the petitioner, John Simarano that if he decided to proceed, all four of the remaining members would need to vote in the affirmative in order for the variance to be approved. Since there are no alternate members, Mr. Simarano opted to go forward with the hearing. Chair Ciuffredo then addressed Ms. Vincequere saying that he believed Mr. Bergman's comments and questions at the October 29, 2007 hearing were meant to try to resolve the situation and his intentions were good. As for her request for a transcript of the previous hearing, Mr. Fontane stated that there is not a transcript, just minutes which can be accessed through the City website once they are approved by the Board. He said that it had been determined that the requested Variance was a dimensional variance involving the size of the truck in question and not a use variance. Mr. George noted that he did not think it was necessary to hear any more testimony and that the issue of whether or not it was a use variance had been addressed. Upon a motion by David George and seconded by Lawrence Abramoff, the Board voted 4-0 to close the hearing. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Variance: to allow commercial vehicle in excess of ¾ ton to be parked on the property at 5 Almont Avenue**

The Variance was approved with the following conditions:

- **Variance is for the one ton truck (VIN # LGDHG31U341230550) currently owned by the petitioner and ends when the vehicle is no longer owned by the petitioner.**

NEW BUSINESS

3. **101 Barry Road (Z-07-112) – Administrative Appeal:** Andrew Freilich recused himself from the hearing. Mohammed Nabulsi, petitioner, was not present. Attorney Samuel

DeSimone, attorney for the developer, requested the petition be dismissed for lack of prosecution. Upon a motion by David George and seconded by Morris Bergman, it was voted 4-0 by Leonard Ciuffredo, Morris Bergman, David George and Lawrence Abramoff to table the item until later in the meeting to allow Mr. Nabulsi more time to appear. After several other hearings were concluded, the hearing was called again. Mr. Nabulsi was still not present. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 4-0 by Leonard Ciuffredo, Morris Bergman, David George and Lawrence Abramoff to remove the item from the table. Attorney DeSimone stated he wanted to rescind his request for dismissal and instead request a continuance to allow Mr. Nabulsi the opportunity to appear at the December 10, 2007 meeting. The Board concurred, noting that it has been the practice of the Board to continue a hearing as a courtesy when a petitioner fails to appear at the first hearing. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 4-0 by Leonard Ciuffredo, Morris Bergman, David George and Lawrence Abramoff to continue the hearing to December 10, 2007. Staff will renotify Mr. Nabulsi of the new hearing date.

4. **133-135 Uncatena Avenue (Z-07-113) – Variances:** Robert Daw, representative for the petitioner, and John Gleason, petitioner, presented the petition. Mr. Daw stated the Gleasons are seeking a Variance for 450 square feet of relief from the gross dimensional requirement and a Variance for 4 feet of relief from the front yard setback requirement for Lot 1 and a Variance for 550 square feet of relief from the gross dimensional requirement and a Variance for 4 feet of relief from the front yard setback requirement for Lot 2 to subdivide the premises into two single-family semi-detached dwelling units. Mr. George said it appeared that the neighborhood had been laid out as a subdivision consisting of two-family dwellings. Mr. George asked if there have been other conversions of this type in the area. Mr. Fontane said there were only a couple and they were not on Uncatena Avenue. The following neighbors expressed opposition: Charles Alafberg, Diane Kirkorian, Craig Semon, Rose Marie Semon, Robert Semon, Sr., Robert Gallagher and Cynthia Zakarian. Mr. Bergman said dividing the dwellings for separate ownership raises issues relating to maintenance and conformity of the two sides. Mr. Fontane said the petition is not intensifying the use but just separating the ownership. Mr. Abramoff asked if there were a fire wall that meets the requirements of the Division of Code Enforcement for single-family semi-detached dwellings. Mr. Gleason responded there was a firewall from the basement to the attic. Chair Ciuffredo asked the petitioner what the hardship was. Mr. Daw replied that selling the premises as a two-family would fetch less than selling the units as two single-family dwellings. Mr. Bergman said the petitioner has not demonstrated a hardship related to shape, topography or soil conditions of the lot. Upon a motion by David George and seconded by Andrew Freilich, it was voted 5-0 to close the hearing. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 0-5 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve a Variance for 450 square feet of relief from the gross dimensional requirement and a Variance for 4 feet of relief from the front yard setback requirement for Lot 1 and a Variance for 550 square feet of relief from the gross dimensional requirement and a Variance for 4 feet of relief from the front yard setback requirement for Lot 2. The motion failed and the Variances were denied.

5. **136-142 Green Street (Z-07-114) – Variance:** Attorney Michael Revelli, representing the petitioners, and Gaurav Sharma and Amit Sharma, petitioners, presented the petition. Mr. Revelli said the petitioners are seeking a Variance for relief of 80 parking spaces from the off-street parking requirement to operate a 160-seat Indian/American restaurant. He said the area consists of mixed uses, including restaurants, which are unable to meet the off-street parking requirement. Mr. Fontane said staff supports the requested relief to encourage the ongoing revitalization of the Canal District. He also said the City is in the process of developing a policy for parking requirements in the Canal District, including the possible reduction or elimination of parking requirements. Mr. Sharma said the restaurant would be open for lunch and dinner and there would be ten employees. He also said the opening is slated for March, 2008. Mr. Revelli explained they had contacted two businesses in the area regarding renting parking spaces, however, no response had been received. He provided copies of the letters and certified return receipts for the file. Chair Ciuffredo asked if there were a preliminary plan for signage for the restaurant. Mr. Revelli responded that no plans have been put forward at this time but signage would meet the requirements of the Division of Code Enforcement. He also said the signage has to be approved by the owner of the building as well to ensure it is tasteful. Upon a motion by Morris Bergman and seconded by David George, the Board voted 5-0 to close the hearing. Upon a motion by Morris Bergman and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Variance: Relief of 80 parking spaces from the off street parking requirement**

6. **11 Sears Island Drive (Z-07-123) – Variance:** Richard Tedesco, petitioner, presented the petition. He said he is seeking a Variance for 14 feet of relief from the rear yard setback requirement to bring the rear balcony and steps into compliance with the Zoning Ordinance. He said an error by the engineer had resulted in the need for the Variance. The balcony and stairs cannot be removed because of the necessity for a second means of egress and there is no way to construct them to comply with zoning. Mr. Bergman said it did not appear that there was any intent to deceive the Board. Mr. George said the engineer and Mr. Tedesco should have done their due diligence so this type of mistake doesn't happen. Upon a motion by Morris Bergman and seconded by Andrew Freilich, it was voted 5-0 to close the hearing. Upon a motion by Morris Bergman and seconded by Lawrence Abramoff, it was voted 4-1 by Leonard Ciuffredo, Morris Bergman, Andrew Freilich and Lawrence Abramoff (David George voted no) to approve the following:

- **Variance: 14 feet of relief from the rear yard setback requirement**

7. **117 Lake Avenue (Z-07-124) – Special Permit:** Kevin Quinn, representative for the petitioner, and Paul McCrohon, petitioner, presented the petition. Mr. Quinn stated Mr. McCrohon was seeking a Special Permit for expansion or change of a pre-existing use/structure to demolish the existing structure that was damaged by fire and to construct a single-family detached dwelling on the same footprint. He explained the new structure will be of greater height necessitating the need for a Special Permit for the 2½ story structure. Maryann Fitzsimmons, while not opposed to rebuilding the house, was concerned about parking on the right-of-way next to her house during construction because it is the only

access to the site. Chair Ciuffredo said he wanted to see the south facing elevations as well as evidence on the plan that the house faces the street not the lake. Mr. George also wanted to see the south facing elevations. Upon a motion by Andrew Freilich and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to continue the hearing to December 10, 2007.

- 8. 20 Imperial Road (Z-07-125) – Variances and Special Permit:** David Sadowski, representative for the petitioner, Gerald Gallo, presented the plan. Mr. Sadowski stated the petitioner is requesting a Special Permit for expansion or change of a pre-existing nonconforming use/structure, a Variance for 4 feet of relief from the side yard setback requirement and a Variance for 11 feet of relief from the rear yard setback requirement to add an attached two-car garage with a second story to be used as a recreational area. Chair Ciuffredo said it was not clear from the application that there would be a second story recreational room and asked if there was a rendering available. Mr. Sadowski responded there was not. Mr. Fontane asked if access to the second story of the garage would be from the second story of the house and Mr. Sadowski said access would be from stairs within the garage and there would be no direct access from the house. Mr. Freilich said he would like to see a rendering, elevations and a floor plan before making a decision. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to continue the hearing to January 14, 2008.

OTHER BUSINESS

Election of Officers: Chair Ciuffredo said that, in keeping with rules and regulations of the Board, it was time to reorganize the Board by the election of officers. Upon a motion by Andrew Freilich and seconded by Morris Bergman, it was voted 4-0 by Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to elect Leonard Ciuffredo to serve as Chair. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Lawrence Abramoff to elect Morris Bergman to serve as Vice Chair for the remainder of his term on the Board and David George to succeed him at that time.

Service of Law Suit: Mr. Fontane said the Law Department had requested that he ask the Board members how they had been served for the pending suit of Brendan Robichaud v. City of Worcester, et. al. relative to Adult Entertainment in the City. Chair Ciuffredo said his subpoena was handed to his daughter at his home. Mr. George said the Sheriff's office had brought the subpoena to his home and gave it to his girlfriend. Mr. Bergman said he found his subpoena on his doorstep at home. Mr. Freilich said his subpoena was stuck in his door at home. Mr. Abramoff said his subpoena was in his mailbox at home.

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 8:50 PM.