

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

**June 23, 2008**

**WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM**

**Zoning Board Members Present:** David George, Vice-Chair  
Andrew Freilich  
Lawrence Abramoff  
Brian Murphy

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

**REGULAR MEETING (5:30 PM)**

**CALL TO ORDER**

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

**APPROVAL OF MINTUES**

Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 3-0 by David George, Andrew Freilich and Lawrence Abramoff to approve the minutes from the June 9, 2008 meeting (Brian Murphy was not present at the June 9, 2008 meeting).

Vice Chair George advised the petitioners that there were only four members present. Therefore, all Board members would have to vote affirmatively in order to approve petitions. He further advised them that they could seek a postponement if they wished to be heard by all five members.

**REQUESTS FOR WITHDRAWALS, CONTINUANCES, TIME EXTENSIONS**

1. **1279-1283 Pleasant Street (ZB-2008-049) – Special Permit:** The petitioner requested a postponement to July 21, 2008 in order to be heard by the entire Board. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the postponement to July 21, 2008.
  
2. **90 East Central Street (ZB-2008-051) – Amendment to Special Permit and Amendment to Variances:** The petitioner requested a postponement to July 21, 2008 in order to be heard by the entire Board. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the postponement to July 21, 2008.

3. **37 Pleasant Valley Drive (a.k.a 49 Pleasant Valley Drive) (ZB-2008-038A) – Special Permit:** The petitioner requested a postponement to July 21, 2008 in order to be heard by the entire Board. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the postponement to July 21, 2008.
4. **38 June Street (ZB-2008-053) – Special Permit and Variance:** The petitioners, Gerry and Katherine Blodgett, are seeking a Special Permit for expansion or change of a pre-existing nonconforming use/structure and a Variance for eight feet of relief from the height requirement for accessory structures in order to add a second floor to the garage. Mr. Fontane said the continuance was necessary because only the Variance had been advertised and not the Special Permit. He recommended the hearing be continued to July 21, 2008 so the Special Permit can be advertised properly. The petitioners requested a continuance to July 21, 2008. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to continue the hearing to July 21, 2008.
5. **65 & 70 James Street (ZB-2008-058) – Special Permit and Variance:** The petitioner, TASC Inc., requested a continuance to July 21, 2008 because more parking relief is required and the petition needs to be modified and re-advertised. Upon a motion by Andrew Freilich and seconded by Brian Murphy, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to continue the hearing to July 21, 2008.

### **UNFINISHED BUSINESS**

6. **620 West Boylston Street (ZB-2008-034) – Special Permit:** Attorney Simon Brighenti, representative for Omnipoint Communications, petitioner, said a Special Permit to allow a personal wireless service communication facility is being sought to install telecommunications devices and associated computer equipment on the rooftop. He said Omnipoint Communications likes to co-locate with other facilities rather than construct towers. Mr. Freilich said it struck him as odd that a high number of personal wireless service facilities are located on structures owned by nonprofit entities and asked if it were an anomaly. Mr. Fontane said the facilities are taxed as personal property even if they are on nonprofit institutions. He noted that the locations are generally larger buildings ideally suited for telecommunications facilities. Mr. Freilich asked Mr. Brighenti what percentages are located on nonprofit owned buildings. He responded that 20-25% are located on colleges (because of the large number of users on campus) or housing authority owned buildings. Vice Chair George noted that the Board has made an issue of the taxes captured and has been assured that taxes are being paid for the equipment itself. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following application requirement waivers requested by the petitioner:

1. Vicinity Plan.

- Vegetative Cover.
  - Proposed security barrier.
  - Distances at grade from the proposed PSWF to each building on the vicinity plan.
  - Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.
2. Sight Lines and Photographs
    - Security Barrier
  3. Design Filing Requirements
    - Landscape plan
    - Balloon Test

Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

- **Special Permit: to allow a personal wireless service communication facility**

The Special Permit was approved with the following conditions:

- **That the personal wireless service facility colors match as closely as possible the exterior color of the building and the antennas be painted gray.**
- **That a bond amount be established to the satisfaction of the Director of Planning & Regulatory Services, prior to operation, to ensure funds are available for the removal of the personal wireless service facility if abandoned. Said bond is to be for a period of at least two years and shall be renewable and adjusted for inflation upon renewal.**

7. **40 Belmont Street (ZB-2008-030) – Special Permit:** Attorney Fran Parisi, representative for MetroPCS, petitioner, presented the petition for a Special Permit for expansion or change of a pre-existing nonconforming use/structure to construct a Personal Services Wireless Facility consisting of 6 antennas three of which will be mounted at 184 feet on the side of an existing mechanical penthouse and three of which will be mounted at 181.5 feet on the side of the existing stairwell penthouse/façade of the building and to install a telecommunication cabinet on a steel frame in between and shielded by said penthouse. Mr. Parisi said the Intermodulation Study requested by David Clemmons, Director of the Communication Division, because of its proximity to the City’s passive microwave repeater location, had been submitted. Mr. Fontane said Mr. Clemmons has submitted a letter confirming that the City’s equipment can co-exist at the location without risk. Stephen Quist expressed his opposition. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following application requirement waivers requested by the petitioner:

1. Vicinity Plan
  - Vegetative cover
  - Proposed security barrier
  - Distances at grade from the proposed PWFC to each building on the vicinity plan
  - Contours at two feet AMSL for the subject property
2. City-wide Map
3. Design Filing Requirements
  - Landscape plan
  - Balloon Test
4. Environmental Assessment Report

Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

- **Special Permit: expansion or change of a pre-existing nonconforming use/structure**

The Special Permit was approved with the following conditions:

- **That the personal wireless service facility colors match as closely as possible the exterior color of the building and the antennas be painted gray.**
- **That a bond amount be established to the satisfaction of the Director of Planning & Regulatory Services, prior to operation, to ensure funds are available for the removal of the personal wireless service facility if abandoned. Said bond is to be for a period of at least two years and shall be renewable and adjusted for inflation upon renewal.**

## **NEW BUSINESS**

8. **1 Oxford Place (ZB-2008-057) – Special Permit and Variance:** Attorney Todd Brodeur, representative for the petitioner, Darlene Domian, said the petitioner is seeking a Special Permit for residential conversion into four dwelling units. He said a fourth unit that was not properly permitted had been added and the petitioner wants to bring the property into compliance. He said the fourth unit is not currently occupied. He also said there are no exterior changes to the original structure. He indicated that the fourth dwelling unit had been created by dividing the first floor apartment into two apartments. He also indicated that a Variance for relief of four spaces from the off-street parking requirement will be withdrawn and required off-street parking will be provided. Vice Chair George inquired how an occupancy permit was received for the four units. Ms. Domian said the entire building had been inspected but the occupancy permit was only for three units. Janet Merrill said she would like to see a condition of approval that the property be owner-occupied. City

Councilor Barbara Haller said a cause of concern for her was that one unit might be currently occupied by more than three unrelated occupants. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to continue the hearing to July 21, 2008.

9. **1-7 Piedmont Street (ZB-2008-052) – Extension of Time for Special Permit and Extension of Time for Variances:** Attorney Joe Boynton, representative for the petitioner, Worcester Common Ground, Inc., requested an extension of time for a Special Permit for expansion or change of a pre-existing nonconforming use/structure, an extension of time for a Variance for 115 feet of relief from the frontage requirement and an extension of time for a Variance for relief of 48 parking spaces from the off-street parking requirement to extend the time for construction commencement for twelve one-bedroom dwelling units and four retail establishments for a period of six months. Mr. Boynton said construction should begin within the next couple of months. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

- **Extension of Time for Special Permit for expansion or change of a pre-existing nonconforming use/structure**
- **Extension of Time for Variance for 115 feet of relief from the frontage requirement**
- **Extension of Time for Variance for relief of 48 parking spaces from the off-street parking requirement**

The Extensions of Time were approved with the following condition:

- **The extensions of time are for a period of six months.**

10. **60 Amherst Street (ZB-2008-050 and ZB-2008-050A) – Special Permit and Variances:** Stephen Gaspar, petitioner, is seeking a Special Permit for expansion or change of a pre-existing nonconforming use/structure, a Variance for 1,110 square feet of relief from the gross dimensional requirement, a Variance for 7 feet of relief from the frontage requirement and a Variance for 2 feet of relief from the side yard setback requirement to add an additional bay to the garage to be used for parking. Mr. Fontane said the Variance from the frontage requirement and the Variance from the gross dimensional requirement are not applicable because the dwelling is currently nonconforming necessitating a Special Permit for expansion or change of a pre-existing nonconforming use/structure. He indicated the Variance for 2.5 feet of relief from the side yard setback requirement is needed because the nonconformity of the structure will be increased by extending it further into the side yard setback. Mr. Gaspar requested Leave to Withdraw for the Variances that are not required. Sherry Goldman said she had fee ownership in the right of way that Mr. Gaspar wants to use as a driveway. Wayne LeBlanc stated that he would like to have a condition set that the right of way not be used for business vehicles. Mr. Gaspar noted that he is attempting to provide parking for his tenants not for his personal use. Mr. George asked if there were an easement to pass and repass and Mr. LeBlanc responded yes. He then asked what type of surface

existed and Mr. LeBlanc said it was stone and gravel. Upon a motion by Andrew Freilich and seconded by Brian Murphy, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice the Variance for 1,110 square feet of relief from the gross dimensional requirement. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice the Variance for 7 feet of relief from the frontage requirement. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 3-1 by Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve (David George voted no) to approve the Variance for 2.5 feet of relief from the side yard setback requirement. Since four affirmative votes are necessary for approval, the Variance was denied. Upon a motion by Andrew Freilich and seconded by Brian Murphy, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

- **Special Permit: Expansion or change of a pre-existing nonconforming use/structure**

11. **34 Lancaster Street (ZB-2008-054) – Special Permit:** Michael Andrade, representative for the petitioner, presented the petition for a Special Permit to modify parking layout requirements with respect to the required 5-foot landscape buffer in order to convert the building to a mixed-use of professional office space on the first and second floors and an apartment on the third floor to be used for short term stays by clients of the office. Mr. Kelly asked what type of office would utilize the office space. Mr. Andrade responded that it would be an insurance office use. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

- **Special Permit: To modify parking layout requirements with respect to the required 5-foot setback requirement**

The Special Permit was approved with the following conditions:

- **Exterior materials of existing building must be labeled on the plan.**
- **The height of the retaining wall at the boundary of Bluefin Realty Trust property must be labeled on the plan and any retaining walls 4 feet in height require a fence.**
- **Snow is to be removed from the site.**
- **A decorative fence, 4 feet in height is to be installed on the right side of the property facing Lancaster Street from the trees to the end of the property.**

12. **659 Southbridge Street (ZB-2008-055) – Special Permit and Variance:** Stephen Charamella presented the petition for a Special Permit to allow a professional office use in an

RG-5 district and a Variance for 3 feet of relief from the landscape buffer requirement to convert the property into professional offices on the basement, first floor and second floor levels and a residential use on the third floor. Mr. Charamella said the property would be used for an architectural office. City Councilor Barbara Haller said the property was part of the Southbridge Street Corridor and the South Worcester Neighborhood Strategy Area. She requested the hearing be continued to allow time for a meeting with neighbors. She indicated her willingness to facilitate the neighborhood meeting and encouraged everyone to work together in a cooperative manner. Mr. Charamella assured everyone that he would maintain the architectural integrity of the building and cited 51 William Street and 74 Elm Street as examples of buildings he has restored. Ms. Haller said that this would be the first business use on that side of Southbridge Street and she still felt a neighborhood meeting to discuss parking, landscaping and other issues would be prudent. Mr. Freilich asked why someone hadn't contacted Mr. Charamella prior to the meeting to discuss these issues. He said in the future he would like to see the neighborhood meetings take place prior to a hearing. Ms. Haller said she would endeavor to do that going forward. Mr. Fontane said staff encourages applicants to meet with neighborhood groups prior to filing or at minimum prior to the hearing. Mr. Charamella said it would be costly to delay the project now. Mr. Freilich asked if the item could be tabled until later in the meeting to allow the parties to discuss issues that need to be resolved. Brenda Geron noted that, while she has no problem relative to the use of the building, she is concerned about parking in the area. Vice Chair George urged the parties to try to reach a consensus so that conditions can be incorporated into the decision. Upon a motion by Lawrence Abramoff and seconded by Brian Murphy, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to table the item. Later in the meeting the item was removed from the table. Mr. Charamella said he had met with the neighbors present and with Councilor Haller and had committed to a community meeting, facilitated by Councilor Haller, prior to parking plan review by the Planning Board. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

- **Special Permit: To allow a professional office use in an RG-5 district**
- **Variance: 3 feet of relief from the landscape buffer requirement**

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

- **The one sign that is allowed must meet the requirements of the RG-5 zoning district and cannot exceed 15 square feet.**
- **Approval is subject to parking plan approval by the Planning Board.**

13. **342 Greenwood Street (ZB-2008-056) – Special Permit:** Gary Prime and Guy Webb, representatives for the petitioner, said the Builders Association of Central Mass. is seeking a Special Permit for expansion or change of a pre-existing nonconforming use/structure to divide the lot into two lots and construct a new 3,000 square foot office building on the second lot. Barbara Evans asked what will happen to the building currently on the lot. Mr.

Prime answered that it will remain on the site and the lot will be divided through the ANR process. She indicated that the landscaping presently consists of weeds and is unkempt. Mr. Freilich asked if Lot 1 can be the permanent access to Lot 2 and egress on Arnold Road be eliminated. Mr. Fontane asked how much traffic will be generated by the new building. Mr. Webb said BACM was a membership organization and some committee meetings will take place there, but most of the time only the two staff members will be in the building. Mr. Murphy asked if the purchase included an easement from Greenwood Street. Mr. Webb said yes. Mr. Fontane said the adequacy of the existing landscape buffers along Greenwood Street and Arnold Road, conditions of the original approval, should be considered because once the lot is divided, the parking plan review of the Planning Board will be limited to on-site conditions. He also said approval should be conditioned to parking plan approval by the Planning Board. Upon a motion by Andrew Freilich and seconded by Brian Murphy, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Andrew Freilich and seconded by Brian Murphy, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

- **Special Permit: Expansion or change of a pre-existing nonconforming use/structure**

The Special Permit was approved with the following conditions:

- **A permanent easement from Greenwood Street to Lot 2 must be shown on the plan and must be maintained by the owner of Lot 1 in perpetuity, regardless of who is the owner.**
- **Parking lot on Lot 2 from Arnold Road to Greenwood Street must meet City standards.**
- **A stockade fence be installed as a buffer to the residential uses with the appropriate landscaping buffer.**
- **Landscaping must meet the requirements of the original Special Permit approved on February 8, 1999 prior to issuance of a building permit.**
- **No truck traffic going to or from the site allowed on Arnold Road.**
- **That Arnold Road, the length of Lot 1 and Lot 2 to Greenwood Street, be paved to the standard used for the proposed parking lot.**
- **Approval is subject to parking plan approval with these items noted.**

14. **15 Caprera Road (ZB-2008-059) – Special Permit and Variance:** Andrea DiLeo presented her petition for a Special Permit for expansion or change of a pre-existing nonconforming use/structure and a Variance for 5 feet of relief from the frontage requirement to convert the second story of the existing single-family dwelling into an additional dwelling unit and to add a 30’x16’ rear addition and a 7’x28’ addition for the second apartment. She said the requested relief had previously been approved on June 14, 2007 and had since expired because of the death of her mother. She said the plan submitted is the same as was originally approved. Mr. Kelly confirmed it was the exact same plan. Ms. DiLeo also requested a waiver of the application fee. Upon a motion by Andrew Freilich and seconded by Brian Murphy, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Andrew Freilich and seconded by



Brian Murphy, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to waive the application fee. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

- **Special Permit: Expansion or change of a pre-existing nonconforming use/structure**
- **Variance: 5 feet of relief from the frontage requirement**

### **OTHER BUSINESS**

Mr. Freilich motioned that the Board request the Assessor provide a list of all the locations of wireless facilities, whether they are located on nonprofit owned or for profit owned buildings, the amount of tax payments are determined. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to request the spreadsheet from the Assessor.

**ADJOURNMENT:** Vice Chair George adjourned the meeting at 8:30 P.M.