

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

APRIL 10, 2006

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

Zoning Board Members Present: Leonard Ciuffredo, Chair
Jerry Horton, Vice-Chair
Matthew Armendo
Thomas Hannigan
Morris Bergman
David George

Staff Present: David Holden, Division of Code Enforcement
Robin Bartness, Division of Planning & Regulatory Services
Lara Bold, Division of Planning & Regulatory Services
Wendy Quinn, Law Department

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

REQUESTS FOR WITHDRAWAL/CONTINUANCE

- 1. 29 East Mountain Street (Z-06-10) Special Permits:** Samuel DeSimone, representative for Bruce Taylor, petitioner, requested a continuance to allow the applicant sufficient time to review the design of the private drive and other site design issues. Mr. DeSimone indicated that the applicant may seek to redesign the site in such a way that no relief from the Zoning Board of Appeals would be necessary. Mr. DeSimone said he would notify the abutters of the continued hearing and that he would seek to have a neighborhood meeting to discuss concerns. Upon a motion by Matthew Armendo and seconded by Jerry Horton, it was voted by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan and David George (5-0) to continue the hearing until the April 24, 2006 meeting to allow the applicant time to submit revised plans.

EXECUTIVE SESSION

Upon a motion by Thomas Hannigan and seconded by Matthew Armendo, it was voted by Leonard Ciuffredo, Jerry Horton, Thomas Hannian, Matthew Armendo, and Morris Bergman to convene in Executive Session at 5:40 pm to discuss pending litigation regarding a previously denied Special Permit for 210 Southwest Cutoff.

At 6:05 pm, the Board members returned from Executive Session and reconvened the regular meeting.

CONTINUATIONS

1. **15 Mars Street (Z-06-05):** Roger Wykes, petitioner, presented a rendering of the proposed duplex. Upon a motion by Jerry Horton and seconded by Matthew Armendo, the Board voted 5-0 to close the public hearing. Upon a motion by Matthew Armendo and seconded by David George, it was voted by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and David George (5-0) to approve the requested Variances for: 1,000 square feet of relief from the gross dimensional requirement and 10 feet of relief from the frontage requirement to allow for the construction of a duplex.

2. **12 May Street (Z-06-42) Variances:** David Sadowski, representative for Keith Raymond, petitioner, presented the petition. Mr. Sadowski indicated that Keith Raymond was an optionee on the property and that the deed records showed the same lot area for the proposed Kingsbury address going back to 1974. He also indicated that the front doors of the proposed townhouses would face Kingsbury Street. Upon a motion by Matthew Armendo and seconded by Jerry Horton, the Board voted 5-0 to close the public hearing. Upon a motion by Jerry Horton and seconded by Matthew Armendo, it was voted by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan and David George (4-1, David George voting against) to approve the requested Variances for: 2,035 square feet of relief from the gross dimensional requirement, 5 feet of relief from the front yard setback requirement, and 14 feet of relief from the side yard setback requirement for the construction of three single-family attached dwelling units (townhouses) with the following condition:
 - **The townhouses should be built in accordance with the submitted plot plan and the submitted rendering.**

3. **65 Wilson Street (Z-06-46) Special Permit:** Ed Massei, Jr., owner and petitioner, presented the petition. Daniel Souza, pastor for the church, explained that the congregation is made up of 25 members and that the reason for the move is because their current location at 126 Main Street is too small. Mr. Souza indicated that the congregation will meet two times a week, Sunday and Wednesday at nights and sometimes on Saturday for youth programs. Upon a motion by Jerry Horton and seconded by Matthew Armendo, the Board voted 5-0 to close the public hearing. Upon a motion by Jerry Horton and seconded by Matthew Armendo, it was voted by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan, and Morris Bergman (5-0) to approve the requested Special Permit for expansion or change of a pre-existing, non-conforming use/structure with the following conditions:
 - **The approved Special Permit is applicable only to the Christian Community Ministry Church.**
 - **The applicant must provide the Division of Planning and Regulatory Services with a copy of the articles of incorporation for the church by April 30, 2006.**

4. **265 Greenwood Street (Z-06-49) Variance:** Suzanne Benoit and Robert Smith, representatives for George and Evelyn Jresie, petitioners, presented the petition. Upon a motion by Matthew Armendo and seconded by Jerry Horton, it was voted by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and David George (5-0) to continue the public hearing until April 24, 2006 in order for the applicant to provide deed research showing the lots as two separately deeded lots through time.

NEW HEARINGS

5. **428 Lake Avenue (Z-06-51) Administrative Appeal:** Richard Biencoly, representative for Gina Fields, petitioner, presented the petition. Mr. Biencoly indicated that the following items were concerns that the abutters felt should have prevented the approval of the site plan: 1) The height of the building was not shown on the plan, 2) Insufficient space for vehicles in the garage, 3) Lack of off-street parking for the original building on 428 Lake Avenue, 4) The previously granted Special Permit for expansion or change of a pre-existing, non-conforming use created a hardship (parking) for 428 Lake Avenue, 5) Lack of frontage, 6) The retaining wall diagram specifications were not complete, and 7) The previously granted Special Permit was not recorded. Chief Planer Bartness stated that 1) the height of the structure is shown on the cover sheet of the plan, 2) The site plan shows sufficient space to accommodate two cars in the garage and the applicant may also have the opportunity to provide tandem parking within the footprint approved by the site plan, 3) It is not in the purview of the Planning Board to consider off-site parking issues, 4) It does appear the applicant may have created a greater nonconformity, but the Special Permit was approved by the Board, 5) The driveway is included in the frontage calculation and is not a shared driveway, 6) The exact specifications for the retaining wall are not required to be included on the site plan, 7) the question of recordation of the Special Permit must be addressed by the Law Department. David Holden, Director of Code Enforcement, expressed concerns with the parking capacity of the garage and stated there may be setback issues. He also stated that Mr. Monopoli had agreed that the use would revert to a single-family dwelling. Mr. Biencoly also argued that the Special Permit may be void given that the original application for the Special Permit indicated that the structure at 428 Lake Avenue was a single-family, but later it was found to be a two-family. Upon a motion by Matthew Armendo and seconded by Jerry Horton, it was voted by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan, and Morris Bergman (5-0) to continue the public hearing until the April 24, 2006 meeting in order to request the Law Department's opinion on the following: 1) Did the granting of said Special Permit create nonconformities for the lot (parking and setback issues)? 2) And if so, does that affect the approved ANR and consequently the Site Plan? 3) Additionally, what are the consequences of not having recorded the Special Permit with the Registry of Deeds? The Board also requested that the arguments in the petitioner's appeal be addressed by staff and that the Mr. Monopoli provide an exhibit to show how tandem parking could be provided.
6. **87 Newton Avenue North (Z-06-52) Variance:** Nanette Locke, petitioner, presented the petition. Upon a motion by Matthew Armendo and seconded by David George, the Board voted 5-0 to close the public hearing. Upon a motion by Matthew Armendo and seconded by David George, it was voted by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas

Hannigan, and David George (5-0) to approve the requested Variance for two feet of relief from the rear yard setback requirement to allow for a 10 foot by 21 foot single floor addition to the existing single-family house.

Morris Bergman left the meeting at 7:14 p.m.

7. **133 Eastern Avenue (Z-06-53) Special Permit/Variance:** Tri Bui presented on behalf of his father Banh Than Bui, owner and petitioner. Tri Bui indicated that the proposed laundromat would be staffed at all times of operation. Upon a motion by and seconded by the Board voted 5-0 to close the public hearing. Upon a motion by Jerry Horton and seconded by Matthew Armendo, it was voted by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan, and David George (5-0) to approve the requested Special Permit for expansion or change of a pre-existing, nonconforming structure/use and the requested Variance for relief of two parking spaces from the off-street parking requirement for the proposed Laundromat with the following condition:

- **The Special Permit and Variance is valid only for the proposed laundromat use.**

8. **20 Sears Island Drive (Z-06-56) Special Permit:** Bob Butler, representative for Randy and Nancy Sprinkle, petitioners, presented the petition. Mr. Butler indicated that there would be no increase in footprint of the building and stated that the building would be flood proof as required by building code. Upon a motion by Jerry Horton and seconded by Matthew Armendo, the Board voted 5-0 to close the public hearing. Upon a motion by Jerry Horton and seconded by David George, it was voted by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, and David George (4-1, Matthew Armendo voting against) to approve the Special Permit for the expansion or change of a pre-existing, nonconforming use/structure to allow for the construction of a second floor addition to the existing single-family dwelling with the following condition:

- **The addition should be built in accordance with the rendering submitted with this petition.**

9. **779-781 Pleasant Street (Z-06-57) Special Permit:** Mei Yee Higgins and Seth Welkom, petitioners, presented the petition. Mr. Welkom indicated that the garage would be rehabilitated to provide the required parking for the site. David Holden, Director of Code Enforcement, confirmed that the parking requirement would be satisfied by the current proposal. Chief Planner Bartness asked how many total parking spaces there were for the site. The petitioner stated eight. The petitioner also stated that a sign showing parking in the rear would be installed and indicated that most of the business for the proposed mortgage and real estate office would take place via phone and would not generate many walk-in clients. Upon a motion by Matthew Armendo and seconded by Jerry Horton, the Board voted 5-0 to close the public hearing. Upon a motion by Thomas Hannigan and seconded by Jerry Horton, it was voted by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan, and David George (5-0) to approve the requested Special Permit for expansion or change of a pre-existing, non-conforming use with the following condition:

- **The Special Permit is valid only for the proposed mortgage/real estate office use**

10. 24-26 Everard Street (Z-06-58) Variances: Don O’Neil, representative for Gary and Marilou Krause, petitioners, presented the petition. Mr. O’Neil indicated that the lots have been separate lots originating on a subdivision plan from 1894. Matthew Armendo expressed concern with the messy state of the property. The applicant stated that he has been working to renovate and update the interior on all floors of the existing three-family. The applicant also indicated that the new property will be for sale, not for rent. Upon a motion by Matthew Armendo and seconded by Jerry Horton, the Board voted 5-0 to close the public hearing. Upon a motion by Matthew Armendo and seconded by David George, it was voted by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan, and David George (5-0) to approve the requested Variance for: 2,252 square feet of relief from the gross dimensional requirement for Lot 15, 4.9 feet of relief from the side yard setback requirement for Lot 15 and 9.8 feet of relief from the frontage requirement for Lot 15.

11. 538 Park Avenue (Z-06-59) Special Permit: Tammi Arakelian, petitioner, presented the petition. Mr. Holden indicated that Animal Control Inspectors had found no signs of pets outside of the home. Upon a motion by Matthew Armendo and seconded by David George, the Board voted 5-0 to close the public hearing. Upon a motion by Jerry Horton and seconded by Matthew Armendo, it was voted by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan and David George (5-0) to approve the requested Special Permit to operate a kennel in a BG-2.0 zone with the following conditions:

- **The Special Permit to operate a kennel will be valid only for current owner, Tammi Arakelian.**
- **No new pets may be added to the current collection of 13 cats and the cats may not be replaced.**
- **The Special Permit will expire on April 10, 2026.**

12. 65 Water Street (Z-06-60): Special Permit/Variance: David Lemanger, petitioner, presented the petition stating that the restaurant at 86 Winter Street was looking for a larger space. Mr. Lemanger stated that there would be a proposed \$200,000 - \$250,000 worth of renovations in the first floor of 65 Water Street. Mr. Lemanger discussed the shared parking scheme for the mixed use building and also indicated that it was one of the few parcels on the street with off-street parking. Robin Bartness indicated that the City Administration was in favor of the petition. Upon a motion by Matthew Armendo and seconded by David George, the Board voted 5-0 to close the public hearing. Upon a motion by Matthew Armendo and seconded by David George, it was voted by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan, and David George (5-0) to approve the requested Special Permit for expansion or change of a pre-existing, nonconforming use and structure and the requested Variance for relief of 20 parking spaces from the off-street parking requirement.

OTHER BUSINESS

David George requested the following information from staff:

- 1) Relative to the following features in the city's RG-5 zones:
 - A count of the total number of parcels.
 - A count of the total number of single ownership nonconforming vacant parcels.
 - A count of the number of buildings by type.
 - A count for parcel area divided into meaningful ranges.
 - A count for parcel frontage lengths divided into meaningful ranges.
- 2) Legal research relative to granting variances for non-conforming single ownership lots created pre-zoning in RG-5 zones:
 - a) Is there a legal basis for granting variances that specifically accounts for such nonconforming lots, one that is less restrictive than the basis which appears in the ordinance as written?

ADJOURNMENT

Chair Leonard Ciuffredo adjourned the meeting at 8:15 PM.