

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

February 9, 2009

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

Zoning Board Members Present: David George, Chair
Leonard Ciuffredo
Andrew Freilich
Brian Murphy
William Bilotta

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Judy Stolberg, Division of Planning & Regulatory Services
John Kelly, Department of Inspectional Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

APPROVAL OF MINUTES

Upon a motion by Leonard Ciuffredo and seconded by William Bilotta, it was voted 3-0 by David George, Leonard Ciuffredo and William Bilotta to approve the minutes from the January 26, 2009 meeting.

UNFINISHED BUSINESS

- 1. 75 East Mountain Street (ZB-2008-101) – Special Permit:** A. Lorusso Development LLC, petitioner, who is requesting a Special Permit to allow placement of fill on the property, asked for Leave to Withdraw without prejudice. Mr. Lorusso was not present at the meeting. Mr. Ciuffredo reminded the Board that it had requested information from Mr. Lorusso concerning the fill he had placed on the property which had prompted the Cease and Desist Order for illegal placement of fill on October 28, 2008. He was particularly concerned that Mr. Lorusso had not been forthcoming as to where the fill came from and if it were clean fill. He stated his position that it was still a matter of concern for him and he could not vote to approve the request for Leave to Withdraw until he had the requested information. Mr. George concurred. Mr. Fontane indicated that the petitioner had applied for Definitive Site Plan Approval for construction of three single-family semi-detached dwellings as well as a Special Permit for a common driveway. Both have been approved by the Planning Board, however, with the condition that excess fill will be removed from the site by April 30, 2009. Mr. Kelly stated the since the site plan has been approved by the Planning Board, once the petitioner receives a building permit, the fill would be considered incidental to the construction of the permitted dwelling units provided it can be denoted as such and a Special Permit to allow placement of fill is no longer required. Mr. Ciuffredo still maintained his position that the Board should receive the information it requested before it took any further action. Mr. Murphy questioned the purpose of denying

the request for Leave to Withdraw if the Special Permit is no longer required. Mr. Kelly noted that there is still a Cease and Desist Order in place that needs to be satisfied. Mr. Ciuffredo asked if verification that the fill is clean can be accomplished through the building permit process. Mr. Kelly responded that the building permit issuance could be tied to the petitioner providing an affidavit or other such evidence. He said Mr. Lorusso had said the fill came from one of his building sites in the Town of Shrewsbury. In any case, he said the excess fill must be removed by April 30, 2009 in order to satisfy the condition of the approved site plan. Mr. Fontane said it is incumbent upon Mr. Lorusso to demonstrate the fill is incidental to construction as approved on the site plan by applying for and receiving a building permit for the project. Upon a motion by Leonard Ciuffredo and seconded by Brian Murphy, it was voted 1-3 by Brian Murphy (David George, Leonard Ciuffredo and William Bilotta voted no) to grant the request of the petitioner for Leave to Withdraw without prejudice. The motion failed and the request was denied. Upon a motion by Leonard Ciuffredo and seconded by Brian Murphy, it was voted 4-0 by David George, Leonard Ciuffredo, Brian Murphy and William Bilotta to continue the hearing to February 23, 2009 and asked staff to contact Mr. Lorusso regarding the requested information.

2. **142 West Street (ZB-2008-107) – Administrative Appeal:** The Board considered items #2 (142 West Street), #3 (26 Elbridge Street), #4 (24 Elbridge Street) and #5 (153 West Street) contemporaneously. Mr. Fontane said staff was requesting that all of the items be continued to February 23, 2009 in order to provide the administration additional time to respond to the Board's request for information. Attorney Heather Kingsbury, representative for the petitioners, agreed to the continuances. No testimony was heard. Upon a motion by Leonard Ciuffredo and seconded by Brian Murphy, it was voted 3-0 by David George, Leonard Ciuffredo and Brian Murphy to grant the request of staff for a continuance to February 23, 2009.
3. **26 Elbridge Street (ZB-2008-108) – Administrative Appeal:** Upon a motion by Leonard Ciuffredo and seconded by Brian Murphy, it was voted 3-0 by David George, Leonard Ciuffredo and Brian Murphy to grant the request of staff for a continuance to February 23, 2009.
4. **24 Elbridge Street (ZB-2008-109) – Administrative Appeal:** Upon a motion by Leonard Ciuffredo and seconded by Brian Murphy, it was voted 3-0 by David George, Leonard Ciuffredo and Brian Murphy to grant the request of staff for a continuance to February 23, 2009.
5. **153 West Street (ZB-2008-110) – Administrative Appeal:** Upon a motion by Leonard Ciuffredo and seconded by Brian Murphy, it was voted 3-0 by David George, Leonard Ciuffredo and Brian Murphy to grant the request of staff for a continuance to February 23, 2009.

NEW BUSINESS

6. **13 Rose Lane (ZB-2009-001) – Variances:** Michael Wilczynski, petitioner, is seeking a Variance for 5 feet of relief from the frontage requirement and Variance for 1,000 square feet of relief from the gross dimensional requirement in order to raze the existing structure and construct a larger single-family detached dwelling. He said the existing house on the

property is in an advanced state of disrepair and he wants to tear it down. He felt the proposed single-family detached dwelling would better suit the character of the neighborhood. Mr. Ciuffredo asked if he would sell the home when completed or rent it out. Mr. Wilczynski said his intention is to sell it, however, if market conditions are not conducive at that time, he would rent it. Mr. Ciuffredo expressed concerns about the way the house is situated on the lot and said the Board does not want a house to sit sideways on the lot. He asked Mr. Wilczynski if he could make the entrance more defined. Mr. Fontane suggested the deck area could be extended for the length of the house and the door centered. Mr. Wilczynski indicated that the entry was recessed and if extended, space would be lost on the interior. Mr. Bilotta suggested adding a farmer's porch in the shape of an "L". Chair George asked Mr. Kelly to sketch some changes to the rendering that could be incorporated making the entry more defined as the front of the house. Mr. Kelly complied and the petitioner agreed to incorporate the changes into a revised rendering to be submitted to the Division of Planning and Regulatory Services and marked as Exhibit A. It should also be submitted with any Building Permit application. Upon a motion by Andrew Freilich and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Andrew Freilich, Brian Murphy and William Bilotta to close the hearing. Upon a motion by Andrew Freilich and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Andrew Freilich, Brian Murphy and William Bilotta to approve the following:

VARIANCE: 5 feet of relief from the frontage requirement

VARIANCE: 1,000 square feet of relief from the gross dimensional requirement

The Variances were approved with the following conditions:

- **That the front entry door be centered as much as possible.**
- **That shutters next to each window be placed on the front façade of the house facing Rose Lane.**
- **That a revised rendering be submitted to the Division of Planning & Regulatory Services which more clearly defines the front of the house to include a full length porch and that construction be in accordance with the revised rendering which will be marked as "Exhibit A".**

OTHER BUSINESS

Recusal – Mr. Freilich indicated to the Board that he would not be participating in the hearings for the Administrative Appeals which were continued to February 23, 2009 because of a conflict of interest.

Administrative Appeals – It was requested by the Board that the John Nordberg, the Housing Inspector who initiated the Cease and Desist orders, be invited to attend the hearings on February 23, 2009 to answer any questions the Board may have relative to what transpired at the time of the inspections. It was also suggested that an organizational chart showing responsibilities and authorities for the Division of Inspectional Services be brought to the February 23, 2009 meeting.

ADJOURNMENT

Chair George adjourned the meeting at 6:10 P.M.