

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

August 31, 2009

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM

Zoning Board Members Present: David George, Chair
Leonard Ciuffredo
Lawrence Abramoff
Andrew Freilich
William Bilotta

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Ruth Gentile, 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.

- 1. 52 High Street (ZB-2009-044) – Special Permit – Extension of Time:** Kathleen O'Connor, representative for the applicant, Abby's House, requested an Extension of Time for a previously approved Special Permit to modify parking layout. She stated that the extension of time was required to secure the funding for the project and that construction was planned for 2011. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the hearing. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to grant the extension of time for Special Permit to modify parking layout for two years.

- 2. 58 Suffolk Street (ZB-2009-052) – Variances – Extension of Time:** Don O'Neil, representative for Pandian Arumugan, presented the plan for the extension of time for six months for variances for 1) relief of 8.8 feet from frontage requirement (existing 3-family), 2) relief of 4 feet from side yard setback requirement (existing 3-family), 3) relief of 9.49 feet from the frontage requirement (Lot A), and 4) relief of 9.49 feet from the frontage requirement (Lot B). He stated that the six months was needed so that the work could begin. Mr. Bilotta stated that the area needed a maintenance program and requested that the property be cleaned up. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and Willima Bilotta to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-1 by David George, Lawrence Abramoff, Andrew Freilich, Brian Murphy and Leonard Ciuffredo (voting no), to approve the requested Extension of time for variances for 1) relief of 8.8 feet from frontage requirement (existing 3-family), 2) relief of 4 feet from side yard setback requirement (existing 3-family), 3) relief

of 9.49 feet from the frontage requirement (Lot A), and 4) relief of 9.49 feet from the frontage requirement (Lot B).for six months with the condition that copies of a regular maintenance plan be submitted to the Division of Planning and Regulatory Services.

3. **15 John Street (ZB-2009-050) Special Permits:** Joshua Smith Lee, representative for Porras Realty Corp., stated that the city needed more time to research and determine the non-conforming aspects of the lot. Mr. Fontane stated for clarification that it was the responsibility of the applicant to provide evidence of the privileged non-conforming aspects of the lot and that staff would then verify. Mr. Lee submitted a letter that requested a continuance to September 21, 2009 as they needed more time to research the existing non-conforming use on the site.. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and Brian Murphy to grant the applicant's request to continue the hearing to September 21, 2009.
4. **87 Pocasset Avenue (ZB-2009-042) – Variance:** The item was postponed to the end of the meeting as the applicant was not present. At the end of the meeting upon a motion by Andrew Freilich and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to continue the hearing to September 21, 2009 as the applicant was not present.
5. **30 Angelo Street (ZB-2009-043 & ZB-2009-044) – Variances:** Charles and Anna Donaghy, applicants, presented the plan for variances for relief of 792 square feet from the gross dimensional requirement, relief of two parking spaces from the off-street parking requirement and to allow parking in the front yard setback, to alter the use from a single-family detached dwelling to a two-family dwelling. Mr. Donaghy stated that the driveway can park four cars but that two would be in the front yard setback. He stated that there was ledge in the yard that would prevent the driveway from being expanded. Upon a motion by Leonard Ciuffredo and seconded by Lawrence Abramoff, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the variances for relief of 792 square feet from the gross dimensional requirement, relief of two parking spaces from the off-street parking requirement and to allow parking in the front yard setback with the following conditions: a revised plan be submitted showing the current driveway space and no additional area be paved for the driveway.
6. **130 Elm Street (ZB-2009-045) – Special Permit:** Brian Low, applicant, presented the plan seeking a Special Permit for a personal services shop in an RG-5 zone. Mr. Low is proposing an appointment only tattoo shop. He stated that he has invested in the business and that all work will be performed indoors. The Board asked if there would be any walk-in customers. Mr. Low stated that he was proposing an appointment-only business. Mr. Abramoff questioned whether the 7:00 PM closing time would be too early and Mr. Fontane reminded the Board that staff's recommendation was based on the petitioner's application and that the business would be located in a residential zone. Mr. Low said that he would prefer to be open until 9:00 PM. Councilor Haller stated that she had met with Mr. Low and that she was in support of the project and that there were no negative comments from the

neighborhood. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the Special Permit for personal services shop in an RG-5 zone with the following conditions: That all services provided be by appointment only and that no work related to the business is to be conducted outside.

7. **1230 Pleasant Street (ZB-2009-046) – Variance:** Priscilla Sweeney, owner and petitioner, presented the plan for a variance to allow off-street parking in the exterior side yard. She stated that the parking is needed and will not be increased any more. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the variance to allow off-street parking in the exterior side yard with the following conditions: 1) driveway is not to be extended beyond the 15'x23' dimensions, 2) driveway to be crushed stone, 3) the area surrounding the driveway is to remain open space, and 4) a plan to scale showing lot, house, dimensions of driveway and parking spaces be submitted to the Division of Planning and Regulatory Services.
8. **79 Calumet Avenue (ZB-2009-047) – Special Permit:** Wade Bergeron and Joe Pettinger, representative and owner, presented the plan for a Special Permit for expansion or change of a pre-existing non-conforming use/structure. Mr. Bergeron stated that the project was to construct a second-story on an existing ranch style home, to be used for additional living space. He further stated that they were not sure if the two trees in the front of the structure would have to be removed. Mr. George had concerns about the large truck that was parked on the property and noted that it was a zoning violation to park that size truck in a residential zone. Mr. Kelly stated that his department would follow up with an enforcement action if it was not removed promptly. Upon a motion by Andrew Freilich and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich 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, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the special permit for expansion or change of a pre-existing non-conforming use/structure with the following conditions: 1) that pallets be removed from the property and 2) that the commercial vehicle not be parked in a residential zone.
9. **36 Willard Avenue (ZB-2009-048) – Variance:** Wade Bergeron, representative for Louis Krueger, presented the plan for a variance for relief of 6 feet, 9 inches from the side yard setback requirement. He stated that the applicant is proposing to construct an addition for another car to the existing one-car detached garage. Upon a motion by Andrew Freilich and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the hearing. Upon a motion by Andrew Freilich and seconded by David George, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the variance for relief of 6 feet, 9 inches from the side yard setback requirement.

10. 5 Freeland Terrace (ZB-2009-051) – Variance: Vincent Gallani, owner, presented the plan for a variance to allow parking in the front yard setback. He stated that parking is limited in the area and that it is a problem for renting the apartments. Mr. Bilotta was concerned with snow removal. Councillor Haller stated that she has a concern regarding front yard parking and the creation of an asphalt jungle and offered her help in contacting the Worcester tree initiative project for the applicant. Upon a motion by Leonard Ciuffredo and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Andrew Freilich to close the hearing. Upon a motion by Leonard Ciuffredo, and seconded by Lawrence Abramoff it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the requested Variance to allow parking in the front yard setback with the following conditions: 1) 3” caliper asian longhorned beetle resistant shade tree be planted on each side of driveway, 2) additional shrubs be planted on each side of driveway, 3) green space to remain on each side of driveway, 4) driveway to be constructed with impervious surface or crushed stone, and 5) a revised plan showing where cars will be parking must be submitted to the Division of Planning and Regulatory Services.

11. 573 Chandler Street (PB-2009-054) – Variance: Robert O’Neil and William McCullough, representative and owner, presented the plan for a variance for relief of 8 feet, 6 inches from the height requirement. Mr. O’Neil stated that the applicant is proposing to construct a garage for storage of a vehicle and tractor and that it will not be used on a daily basis. He further stated that the structure meets the setback requirements is in an elevated area in the rear of the property and will be accessed through a grassy slope. The garage also will have solar panels installed. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Andrew Freilich to close the hearing. Upon a motion by Lawrence Abramoff, and seconded by William Bilotta it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the requested Variance for relief of 8 feet, 6 inches from the height requirement with the following conditions: 1) The west side of the driveway remain as green space and not be paved; 2) That additional landscape screening be placed on site to provide a visible buffer from the street with at least four (4) asian longhorned beetle resistant trees, 3) The proposed accessory structure is not to be inhabited and so noted on the plan, 4) A rain barrel is used on site to collect and use roof runoff water.5) The structure be constructed in substantial accordance with the final approved plot plan and with the rendering submitted with the original application, 6) Six copies of the final revised plan are submitted with the following changes:

- Three parking spaces (minimum dimensional requirements are 9 by 18 feet) are labeled
- A curb cut and its dimension is indicated
- A note is added stating that the side deck is elevated
- A note is added labeling the stairs in the front of the lot
- Notes are added labeling non-paved areas of the lot (e.g. open green space in the front of the lot and wooded area in the rear of the lot)
- Areas to be cleared of vegetation for the construction of the proposed structure be noted
- All new landscaping be noted on the plan

- Label structure as a garage and not storage shed
- Label height of the garage on the plan.

12. 39&39A Westwood Drive (PB-2009-061) – Special Permit –Peter Yablonski, John Grenier and William Whelan, representatives and owner, presented the plan for a Special Permit for the placement of fill/earth excavation. Mr. Yablonski stated that Mr. Whelan had received a cease and desist order after he cut down trees damaged by last winter’s ice storm. He further stated that approximately 3,000 yards of material has been installed as fill and that 2,000 yards more will be needed. He said that the area has been secured with haybales and silt fences for erosion control and that the terracing of the land has slowed down the runoff. Mr. Ciuffredo inquired about the timeline of the project. The applicant stated that there is a three week window for the hydroseeding part of the project. Mr. Bilotta was concerned with the quality of the fill. Mr. Yablonski said that the project in addition to hydroseed, included 21 evergreen trees and 7-10 deciduous trees and that the area will be used for passive recreation. Chris Palatucci stated that he was in support of the project. Irene Whelan, an abutter, stated that she did not have any runoff from the project. Mr. Kelly stated that the Building and Zoning Department will abate the cease and desist order on approval and then require a compliance form on completion of the project. Upon a motion by Leonard Ciuffredo and seconded by Lawrence Abramoff, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Andrew Freilich to close the hearing. Upon a motion by Lawrence Abramoff, and seconded by Leonard Ciuffredo it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the requested Special Permit for the placement of fill/earth excavation with the following conditions: 1) documentation of the quality and quantity of the fill for what has been brought in and the future fill through bills of lading, 2) compliance affidavit upon completion, 3) Workplan showing the schedule of what is being planted and timeframe of plantings submitted to Department of Planning and Regulatory Services, 4) A plan for dust control.

13. 2-14 Kansas Street (PB-2009-049) – Special Permit: Dennis O’Connor, applicant, presented the plan for a Special Permit to allow a recycling operation in an MG-2 zone. Mr. O’Connor stated that the recycling will be for plastic, paper, glass, cardboard and electronics. He said that indoor air quality will be maintained and that most items will be stored for less than one week. He said there will be no hazardous materials as there will be no melting, chemical use, stripping or reclaiming. He further stated that he was going to demanufacture and then send parts to other locations. Mr. Bilotta questioned if there would be computer monitors. Mr. Low answered that he would have monitors, but would not be melting and that the only tool used would be a screwdriver. He stated that the trucks have tarps and that a trash compactor will be used for food waste. He said that all the work will be done inside and that truck noise is the only outside noise. He said that the building will have double locks for security and that he would not be providing any parking or landscaping improvements as the DEP will not allow any disturbance of the earth in front of the building. He stated that the hours of operation are those allowed by the ordinance and that he is expecting 5 tons of trash a month with an increase of up to 50,000 tons by 2011. He stated that the trucks will not idle as the EPA only allows 5 minute idling and is placing fines. Mr. George inquired about the personal qualifications needed to run the business. Mr. O’Connor stated that only a Commercial Drivers’ License (CDL) was needed. Councillor Haller stated that she was in favor of the project and that Mr. O’Connor has been involved

with neighborhood clean ups. Michael Lanava of the Chamber of Commerce stated that they are in support of the business. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Andrew Freilich to close the hearing. Upon a motion by Lawrence Abramoff, and seconded by Leonard Ciuffredo it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the requested Special Permit to allow a recycling operation in an MG-2 zone with the following conditions: 1) trucks must operate from Cambridge Street to Kansas Street, 2) list of items for recycling must be provided to Department of Planning and Regulatory Services, 3) Provide proof of license of haulers, 4) Hours of operation are allowed from 7:00 AM to 10:00 PM, 5) Final revised plans submitted to Department of Planning and Regulatory Services showing the location of permanent signage.

14. 1279-1283 Pleasant Street (PB-2009-055) - Special Permit – Amendment: Todd Rodman and Robert Stake, representative and owner, presented the plan for an Amendment to a previously approved Special Permit to allow food service with alcohol by increasing the occupancy from 24 to 48 and increasing the number of leased parking spaces from 4 to 10 parking spaces. Item # 15 was heard contemporaneously. Mr. Rodman stated that the Stake Pub is at maximum occupancy a lot of the time and that 25% of the business is walking traffic. Theresa Cherry stated that she lives next door and that the original promise was for the pub to be kept small and she is concerned about the increase in occupancy and the proximity to a school bus stop. Fawn Iapinitalli is concerned that the pub will be hosting dart leagues and pool leagues and is concerned with snow removal. Greg Anderson, Alexander Russo and Steven Vattes were in support of the pub and are walk-in customers. Mr. Freilich stated that he had personally witnessed Mr. Stake turning customers away because he was at maximum occupancy and that the parking lot was almost empty and further stated that he was in support of an increase in the occupancy. Mr. Ciuffredo stated that he did not think this was a good location for a pub when the application was presented the first time and he still does support this location. Mr. Rodman said that there is parking available across the street, but that Mr. Stake wants all of the parking on the same side of the street as his business and that the building can hold many more patrons. Upon a motion by Leonard Ciuffredo and seconded by Lawrence Abramoff, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the hearing. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the Amendment for Special Permit with the condition that the maximum occupancy is 36 patrons and increase the number of leased parking spaces from 4 to 10 parking spaces.

15. 1279-1283 Pleasant Street (PB-2009-056) – Special Permit and Variance: Todd Rodman and Robert Stake, representative and owner, presented the plan for a Special Permit to modify parking/loading requirements for relief of up to 10% parking spaces for a total of 2 parking spaces and a variance for relief of 4 parking spaces from the off-street parking requirement.. Item # 14 was heard contemporaneously. Upon a motion by Leonard Ciuffredo and seconded by Lawrence Abramoff, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to grant the applicant’s request for Leave to Withdraw without Prejudice.

16. 463 Lincoln Street (PB-2009-053) – Special Permit: Steve Decourcy and Dan Benson, representative and owner presented the plan for a Special Permit for expansion or change of a pre-existing non-conforming use/structure. Mr. Decourcy stated that the parcel is currently a Taco Bell with a drive-through and 50 parking spaces. He said they are constructing an 800 square foot addition, relocating the dumpster, eliminating four (4) parking spaces and changing the utilities. They are also changing from Taco Bell to Taco Bell and KFC. Mr. Ciuffredo was concerned with the traffic in the area. Mr. Fontane stated that the DPW&P had reviewed the parking plan for this parcel and they did not have any comments. Regina Leavitt questioned the width of the curb cuts on the property and stated that she did not think the property was able to support two stores. Mr. Benson stated that the increase in vehicle traffic was estimated to be 20 more cars. Upon a motion by Leonard Ciuffredo, and seconded by William Bilotta it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Andrew Freilich to close the hearing. Upon a motion by Leonard Ciuffredo, and seconded by William Bilotta it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the requested Special Permit for expansion or change of a pre-existing non-conforming use/structure. with the following conditions: 1) increase plantings on Lincoln Street, specifically on the northeast portion of the site with drought resistant seasonal plantings and 2) Final revised plans submitted to Department of Planning and Regulatory Services showing the modifications.

17. 00, 15, 35 Tobias Boland Way (PB-2009-058) Special Permits and Variance: Matt Smith, Kevin Feeney and Denis Dowdle, representatives and applicant, presented the plan for two Special Permits for drive-throughs for food service and a variance of 12 feet, 11 inches from the height requirement for a free-standing pylon sign. Mr. Smith stated that the signs are positioned for the Rte. 146 traffic. Mr. Ciuffredo stated that he did not have any problems with the Special Permits for the drive-throughs, but that he considers signage important and would like to see a comprehensive sign package. Mr. George, Mr. Abramoff and Mr. Freilich stated that they want the applicant to submit photo sims. Mr. Freilich and Mr. George also wanted a comprehensive sign package. Mr. Smith stated that plan has been worked on for five years and that WalMart is on a separate parcel and a sign package will be submitted soon, but the mix of the other buildings is not known at this time. The Board was concerned that the first tenants in will be able to have signage by-right and the other tenants will be at a disadvantage. Mr. Fontane stated that the size of the requested sign was allowed by-right in the ordinance, but that the height is what requires a variance. Upon a motion by William Bilotta, and seconded by Leonard Ciuffredo it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Andrew Freilich to continue the hearing for the Variance to September 21, 2009 to allow the applicant time to provide the Board with more information.

Upon a motion by Andrew Freilich, and seconded by Lawrence Abramoff it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Andrew Freilich to close the hearing for Special Permits. Upon a motion by Lawrence Abramoff, and seconded by Leonard Ciuffredo it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to approve the requested Special Permits to allow a drive-through for a fast food service restaurant, noted as Restaurant “A” on the plan and to allow a drive-through for a proposed restaurant, noted as Restaurant “C” on the plan.

OTHER BUSINESS

Recruitment Session: Mr. Fontane stated that the Citizen's Advisory Board conducted a strategic planning initiative and forwarded its recommendations to the City Manager. The strategy is to recruit new board members by inviting them to a recruitment meeting on 9/30/09 where they will be encouraged to apply for board vacancies. He informed the Board that staff liaisons will be attending the session and invited them to the session also.

Other: Mr. Fontane stated that he wanted to have a discussion item on the September 21, 2009 agenda to discuss the Board's Rules and Regulations.

Board reviewed and signed decisions.

ADJOURNMENT

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