

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

October 6, 2008

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

Zoning Board Members Present: Leonard Ciuffredo, Chair
David George, Vice-Chair
Andrew Freilich
Brian Murphy

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Judy Stolberg, Division of Planning & Regulatory Services
Luba Zhaurova, Division of Planning & Regulatory Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

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

1. **344 Franklin Street (ZB-2008-071) – Special Permit:** Dominic Martinelli, representative for Friends of Art and Music, Inc., petitioner, requested Leave to Withdraw without prejudice the petition for a Special Permit to operate a nonprofit social club for artists and musicians. Upon a motion by David George and seconded by Andrew Freilich, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Brian Murphy to allow the petitioner Leave to Withdraw without prejudice for the following:
 - **SPECIAL PERMIT: To operate a nonprofit social club for artists and musicians**

2. **344 Franklin Street (ZB-2008-0086) – Special Permit and Variance:** Dominic Martinelli, representative for Friends of Art and Music, Inc., petitioner, requested Leave to Withdraw without prejudice the petition for a Special Permit for expansion or change of a pre-existing nonconforming use or structure and Variance for relief of 106 parking spaces from the off-street parking requirement. Upon a motion by David George and seconded by Andrew Freilich, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Brian Murphy to allow the petitioner Leave to Withdraw without prejudice for the following:
 - **SPECIAL PERMIT: Expansion or change of a pre-existing nonconforming use/structure**
 - **VARIANCE: Relief of 106 spaces from the off-street parking requirement**

3. **425 Salisbury Street (ZB-2008-079) – Administrative Appeal:** Attorney Gary Brackett, representative for Frank Fiorillo, Nick Fiorillo and Tracy Krowel, petitioners, who submitted an Administrative Appeal to appeal the issuance of a building permit and the decision of the

Planning Board granting Site Plan Approval to Notre Dame Academy for expansion of the existing brick building, addition of a terrace, accessible ramps and ten parking space as well as upgrades to the drainage system at 425 Salisbury Street, requested a continuance to November 3, 2008. Chair Ciuffredo reminded the Board that he had recused himself and there were not four members present to conduct a hearing. Upon a motion by Andrew Freilich and seconded by David George, it was voted 3-0 by David George, Andrew Freilich and Brian Murphy to continue the hearing to November 3, 2008 at the request of the petitioner.

4. **425 Salisbury Street (ZB-2008-080) – Administrative Appeal:** Attorney Gary Brackett, representative for Frank Fiorillo, Nick Fiorillo and Tracy Krowel, who submitted an Administrative Appeal to appeal the response of the Acting Building Commissioner relative to a request for zoning enforcement for expansion of the existing brick building, addition of a terrace, accessible ramps and ten parking space as well as upgrades to the drainage system at 425 Salisbury Street, requested a continuance to November 3, 2008. Chair Ciuffredo reminded the Board that he had recused himself and there were not four members present to conduct a hearing. Upon a motion by Andrew Freilich and seconded by David George, it was voted 3-0 by David George, Andrew Freilich and Brian Murphy to continue the hearing to November 3, 2008 at the request of the petitioner.
5. **1 Liscomb Street (ZB-2008-083) – Variances:** David Sadowski, representative for the petitioner, M.J. Mann, Inc., who is requesting a Variance for 505 square feet of relief from the gross dimensional requirement and a Variance for 5 feet of relief from the frontage requirement, asked for a postponement to October 20, 2008 because only four members were present. Upon a motion by David George and seconded by Brian Murphy, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Brian Murphy to grant the request of the petitioner for a postponement to October 20, 2008.
6. **20 Imperial Road (ZB-2008-084) – Variances:** David Sadowski, representative for the petitioner, Gerald Gallo, who is requesting a Variance for 4 feet of relief from the side yard setback requirement and a Variance for 4 feet of relief from the rear yard setback requirement, asked for a postponement to November 17, 2008 because only four members were present. Upon a motion by David George and seconded by Andrew Freilich, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Brian Murphy to grant the request of the petitioner for a postponement to November 17, 2008.
7. **8 Boynton Street (ZB-2008-085) – Special Permit and Variances:** Attorney Jeffrey Turco, representative for the petitioner, Delta Sigma Phi Building Association of Alpha Chi Rho, Inc., who is requesting a Variance for relief of 6 parking spaces from the off-street parking requirement, a Variance for 3.7 feet of relief from the rear yard setback requirement, a Variance for 9.08 feet of relief from the side yard setback requirement and a Special Permit for expansion or change of a pre-existing nonconforming use/structure, asked for a postponement to October 20, 2008 because only four members were present. Upon a motion by David George and seconded by Brian Murphy, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Brian Murphy to grant the request of the petitioner for a postponement to October 20, 2008.

8. **24A Maplewood Road (ZB-2008-088) – Variance:** Paul Bergevin, who is seeking a Variance for 5 feet of relief from the frontage requirement, requested a postponement to October 20, 2008 because only four members were present. Upon a motion by David George and seconded by Brian Murphy, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Brian Murphy to postpone the hearing to October 20, 2008.

UNFINISHED BUSINESS

9. **10 New Bond Street Lot A (ZB-2008-077) – Variances:** Attorney Patricia Gates, representative for Liberty MA Portfolio, who is seeking a Variance for 15 feet of relief from the rear yard setback requirement and a Variance for .21 of relief from the Floor to Area Ratio (FAR) to separate the large building by creating Lots A& B by dividing the building along a common wall between the two-story front building and one-story rear building, requested a continuance to October 20, 2008 because there were only four members present and there were five members present when the hearing was continued at the September 8, 2008 meeting. The hearing had been continued so that it could be re-advertised as “.21 of relief” rather than “.21 feet of relief” to avoid any confusion as to what is requested. Ms. Gates expressed her displeasure that she had to request a continuance in order to have a full board. Mr. Freilich apologized that this situation keep recurring, but added that it was neither the choice or the fault of the Board, and indicated that the city needed to conduct the appointment process more often. Upon a motion by David George and seconded by Brian Murphy, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Brian Murphy to continue the hearing to October 20, 2008.

NEW BUSINESS

10. **22 Ridgewood Road (ZB-2008-087) – Variances:** George McMillen, petitioner, is seeking a Variance for 1.7 feet of relief from the side yard setback requirement and a Variance for 2 feet of relief from the height requirement for accessory structures to construct a one-car garage. He stated he wanted to use the garage for an antique car and use the second story for storage. Mr. George asked how construction had started without a Building Permit. Mr. McMillen accepted responsibility for not obtaining a permit. Mr. George asked Mr. Kelly how it was discovered that the work was proceeding without proper permitting. Mr. Kelly said he would have to check but thought an inspector must have seen it while driving by. He indicated that the homeowner may have to dig up a couple of areas to allow the inspector to verify whether the footings are adequate and to check the depth. He added that if approved, the “as built” plan would be certified as part of the process. Mr. Freilich asked Mr. McMillen if Dig Safe had been contacted prior to construction. Mr. McMillen responded that Dig Safe had been contacted and a number had been issued and the street had been marked. Stephen Celona, an abutter, advised the Board that he had no problem with the construction. Mr. George asked if Mr. McMillen had talked to his neighbors. Mr. McMillen said he had and that none had expressed any opposition. Mr. George asked what the hardship was relating to soil conditions or topography. Mr. McMillen noted that the topography was the hardship and that the garage would be built into the hillside. Mr. Freilich said it puts the Board in an awkward position when someone comes before it and requests relief for a project

that has been partially constructed and has been issued a Cease and Desist Order. Mr. Murphy and Mr. Freilich said they would vote in favor. Chair Ciuffredo said he found it distasteful but he would vote in favor as well. Mr. George said he would vote in favor but that he would do so very reluctantly. Upon a motion by David George and seconded by Andrew Freilich, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Brian Murphy to close the hearing. Upon a motion by Brian Murphy and seconded by Andrew Freilich, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Brian Murphy to approve the following:

- **VARIANCE: 1.7 feet of relief from the side yard setback requirement**
- **VARIANCE: 2 feet of relief from the height requirement for accessory structures**

The Variances were approved with the following conditions:

- **That the building not be used as a dwelling.**
- **That there is to be no plumbing in the structure.**
- **That construction be in accordance with the rendering submitted.**

OTHER BUSINESS

Approval of Minutes: Upon a motion by Andrew Freilich and seconded by David George, it was voted 4-0 by Leonard Ciuffredo, David George, Andrew Freilich and Brian Murphy to approve the minutes from the September 22, 2008 meeting.

Application Requirements: There was a brief discussion regarding application requirements and the proper method for making changes. The Board is seeking to have renderings required as part of the application. There was also mention about plans that are certified by a Registered Land Surveyor as part of the application. Mr. Kelly did remind the Board that as part of the Building Permit process, “as built” plans upon completion of construction are required. Mr. Fontane indicated that he would propose Rules and Regulations changes and would bring them to the Board for review before making a formal proposal.

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 6:50 P.M.