

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

September 21, 2009

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM

Zoning Board Members Present: David George, Chair
Leonard Ciuffredo
Lawrence Abramoff, Vice Chair
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 5:40 PM.

- 1. 00, 15, 35 Tobias Boland Way (PB-2009-058) Variance:** John Kucich, representative, requested a continuance to October 19, 2009 for a variance of 12 feet, 11 inches from the height requirement for a free-standing pylon sign. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-1 by Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, William Bilotta and David George (voting no), to grant the applicant's request for a continuance to October 19, 2009 and extend the constructive grant deadline to November 4, 2009.
- 2. 8 Beckman Street (ZB-2009-066) – Variances:** Robert Longden, representative for Sebouh Mardirossian, requested a continuance to October 19, 2009 for the variances for relief of 1 foot of from the frontage requirement and relief of 930 square feet from the gross dimensional requirement to allow the applicant time to research the history of the site. 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 grant the applicant's request for a continuance to October 19, 2009 and extend the constructive grant deadline to November 2, 2009.
- 3. 15 John Street (ZB-2009-050) Special Permits:** Robert Longden, representative for Porras Realty Corp., requested a continuance to October 19, 2009 for a special permit to modify parking, loading and landscaping requirements and a special permit for expansion or change of a non-conforming structure and submitted a letter that requested a continuance to October 19, 2009 as they needed more time to research the existing non-conforming use on the site. 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 grant the applicant's request but continued the hearing to November 2, 2009.

4. **323 Bridle Path (ZB-2009-059) – Variance:** Glen Zona, owner, requested a continuance for the variance. He is applying for another a Special Permit for expansion or change of a non-conforming structure and to allow for both items to be taken up contemporaneously and to allow for readvertisement of a notification error. 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 grant the applicant’s request to continue the hearing to October 19, 2009.
5. **28 Garden Street (PB-2009-060) – Special Permit:** Mr. Fontane stated that staff is requesting a continuance to November 2, 2009 to allow further time for review of the special permit to allow a non-accessory sign (billboard). Mr. Longden, representative, stated that he did not object to the continuance. The Board stated that they want to see all specifications and capabilities of the digital billboard. 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 request to continue the hearing to November 2, 2009.
6. **87 Pocasset Avenue (ZB-2009-042) – Variance:** Patricia Azzarone, applicant and owner, presented the plan for a variance for relief of 8 feet from the side yard setback. She stated that she is constructing a carport on an existing driveway. She presented letters of support from neighbors and a plan of land. She further stated that the hardship is the size of the lot and that the carport is to protect her automobile. 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 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 for relief of 8 feet from the side yard setback with the following conditions: 1) No additional impervious surface be created on site, 2) Each side of the driveway remain as green space and not be paved, 3) The open space on either side of the driveway be labeled on the revised plans, 4) The carport is constructed in accordance with the rendering and final plan submitted to the Division of Planning and Regulatory Services.
7. **212 Summer Street (ZB-2009-057) – Special Permit:** Jonathan Finkelstein, representative, requested a continuance in order to allow him time to review staff’s memo on the special permit to allow a non-accessory sign (billboard). He also stated that an abutter, Mr. Foley, claimed he was not properly notified and then pointed out that Mr. Foley was in attendance at the meeting. Mr. Fontane confirmed that his office received a letter that there had been an error in the notification of Mr. Foley due to the use of an incorrect zip code. Mr. George asked Mr. Foley whether he would claim a defect in notice and noted that he was present at the meeting. Mr. Foley said no but wanted time to review the proposal. 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 grant the request to continue the hearing to November 2, 2009.

8. **11 Frank Street/Rena Street (ZB-2009-062) – Variances:** Mr. Fontane stated that staff requested additional information from the applicant. 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 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 continue the hearing to November 2, 2009 as the applicant was not present and to contact the applicant regarding the continuation.
9. **19 Hancock Hill Drive (ZB-2009-065) – Variance:** Robert Longden and Michael Pigano, representatives for David and Monica Gow, presented the plan for a variance for 12 feet, 4 inches of relief from the height requirement to construct a garage. He stated that the existing garage was to be demolished and a new garage constructed further back in the yard and in the same architectural style as the house. He stated that the slope of the property which is to the side and rear is the hardship and that if the garage were attached to the house, it could be 35 feet high. He also stated that the existing garage is in the setback and that this non-conformity will be eliminated with the new garage. The garage will be used for additional storage, a recreational space for the children and that there will be no plumbing. He further stated that by-right alternatives would require a larger footprint that was not acceptable. He said that the project had approvals from both the Conservation Commission and Planning Board. Mr. Ciuffredo asked if the applicant would accept as a condition of approval that the garage not be used for a commercial operation. Atty. Longden said that his client would be agreeable to that. 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 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 variance for relief of 12 feet, 4 inches from the height requirement with the following conditions: 1) the proposed structure is to be non-habitable, 2) no plumbing to be installed and 3) no commercial enterprise operated from the garage and provided it is in accordance with rendering and site plan submitted to the Division of Planning and Regulatory Services.
10. **1181 West Boylston Street (ZB-2009-064) – Special Permits:** Scott Young, representative for Drake Petroleum, presented the plan for a Special Permit to allow food service with a drive-through lane and a Special Permit to allow an automobile refueling station. He stated that there is currently an automotive dealer on the lot that will be demolished. The applicant is proposing a convenience store with an automobile refueling station and a drive-through that meets the requirements. He stated that there will be 4-6 staff and that the parking located at the rear of the building is intended for employees. He presented a new parking plan based on staff's memo. He stated that the lot beyond the parking would remain wooded. The plan shows pedestrian access that has been relocated based on the Planning Board review. Mr. Fontane confirmed that the Planning Board had made the recommendation. He further stated that staff recommended a crosswalk not necessarily a sidewalk. Mr. Kelly suggested that a sidewalk could be constructed from the rear parking spaces around the back of the side parking spaces to the proposed crosswalk. Mr. Freilich suggested that there be a pedestrian cross light installed to alert drivers in the drive-through that pedestrians are crossing the parking lot. Mr. Abramoff asked where the snow storage would be. The applicant indicated it would be at the rear of the lot. The dumpster has been relocated on

the revised plan and Mr. Fontane stated that it is recommended to have it placed out of view from the street. Mr. George stated that he would advocate for the best time for the dumpster to be emptied. The Board expressed concern with traffic congestion in the area and that site is busy by having a drive-through, convenience store and fuel pumps and questioned if a traffic study was provided. Mr. Young said that they had submitted their study to Mass Highway as the road is a state highway. He then presented the finding of that study to the board indicating the this use would primarily be capturing existing traffic as opposed to inducing traffic. Further, Mr. Young stated that the level of service at the nearest light would not change as a result of this use. The Board suggested that the number of gas pumps be reduced. Mr. Ciuffredo requested clarification of the reader board; that it be shaded out, non-scrolling 20 square foot sign with no advertising other than prices. He also clarified that the hours of operation are 24 hours a day. Mr. Freilich questioned whether making the drive-through go to the end of the rear of the lot and then come back down was a better design. The applicant stated that the grade prohibited that design, as fire regulations require a line of sight to the fueling positions. Mr. Fontane stated that the lighting in areas abutting residential neighborhoods is desired to be no more than 1 foot candle power spillage over the lot line. Mark Kooyomjian was concerned with the traffic at I-190 and the safety of the road. Vincent Pizotti is concerned that the dumpster pick up will be early and disruptive to the neighbors. He also stated that the traffic lanes go from two lanes down to one lane and with this new business, it will be more congested. Mr. Freilich expressed concern for the congestion in the area and requested to see the traffic study and to have a traffic engineer at the meeting. He also wants to see a comparison of the numbers for the Shell Station down the street. Mr. George requested that DPW&P comment on the traffic plan and that the applicant provide a visual representation of where vehicles will be when they are at the fuel pumps. Mr. Ciuffredo requested a traffic study report and that the applicant scale back the number of gas pumps. Mr. Abramoff and Mr. Bilotta also want a traffic study report and a landscaping plan for the rear of the lot. Jo Hart asked if anybody had contacted the abutting strip mall owner to get access to the site from their lot. The response was that the abutting owner had been contacted but that it was not financially feasible. 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 grant the applicant's request to continue the hearing to November 2, 2009 to allow time for the applicant to provide the requested information.

OTHER BUSINESS

Approval of Minutes: Upon a motion by Lawrence Abramoff and seconded by William Bilotta it was voted 4-0-1 by David George, Lawrence Abramoff, William Bilotta, Brian Murphy and Leonard Ciuffredo (abstaining) to approve the minutes from the Board's August 10, 2009 meeting.

Upon a motion by Lawrence Abramoff and seconded by William Bilotta it was voted 4-0-1 by David George, Lawrence Abramoff, William Bilotta, Brian Murphy and Leonard Ciuffredo (abstaining) to approve the minutes from the Board's August 31, 2009 meeting.

Board's Rules and Regulations: Mr. Fontane presented changes to the Board's Rules and Regulations regarding requiring a Plan of Land to accompany an application. He said that the proposal presented two options: 1) that a certified plot plan be an application requirement and

submitted at the time of application, or 2) that a certified plot plan be a standard condition of approval for the Board. Either way, the proposal includes a provision for application / standard condition waivers would require a simple majority vote. The Board agreed that a two tiered application requirements was not desirable. Mr. Fontane said that the key question for the Board is whether a certified plan is part of the minimum requirements or part of the standard conditions of approval. He opined that if it is part of the standard conditions of approval, the applicant runs the risk of having to come back to the Board for an amendment if they are wrong on measurements. If it is part of the application requirements then the applicant runs the risk of having to pay of the certified plan prior to knowing if their application is approved.

Mr. Fontane stated that currently a plan to scale is required. Mr. Freilich was concerned that a certified plan be required as it is expensive and could cost between \$500 and \$800 and some engineers take a lot of time to do plans. The Board asked Mr. Kelly if what was required for a building permit. Mr. Kelly stated that currently a certified plot plan is required by Inspectional Services. He further stated that staff could make recommendations to applicants on waiver requests and that he would provide the Board with staff comments regarding recommendations on when to allow waivers. Mr. Ciuffredo stated that he agrees with waivers but reminded the Board about the need for consistency in their grant of any such waivers.

Mr. Abramoff requested that staff present what is currently required along with each of the two proposals for the Board to review. Mr. Fontane inquired if the Board agreed that building elevations should be a standard condition. The Board unanimously agreed that they should be required. Mr. Fontane said that the wording has been changed to say "Determination of Petition Completeness" which is what we do in our review of the applications. Mr. George stated that Section 10 of the Board's Rules and Regulations is what they want. Mr. Fontane said that Section 12 is the waiver process. He stated that this is a waiver of application requirements and the waiver would be voted at a public hearing. Mr. George stated that the petitioner should demonstrate the need for a waiver and that all such requests should be in the board packets with the application for review. Mr. Fontane agreed and indicated that staff would create a waiver request letter template for inclusion in the application.

Recruitment Session: Mr. Fontane stated that the Citizen's Advisory Board recently conducted a strategic planning initiative. As part of that strategy, the CAC will host a board member recruitment event on September 30, 2009 to kick off the fall 2009 board appointment round. He informed the Board that staff liaisons will be attending the session and invited all members to attend.

Other: Mr. Fontane stated that City of Worcester's emergency planning includes the dissemination of information related to the prevention H1N1 flu. Based on a recent meeting with the City of Worcester emergency management, the Mr. Fontane encouraged Board members and staff to stay home if they contract the flu until all fever symptoms are gone for at least 24 hours without the use of fever reducing medication.

Board reviewed and signed decisions.

ADJOURNMENT

Chair George adjourned the meeting at 8:35 P.M.