

**MINUTES OF THE PROCEEDINGS OF THE  
PLANNING BOARD OF THE CITY OF WORCESTER**

**May 6, 2009  
WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, BANX ROOM**

**Planning Board Members Present:** John Shea, Chair  
Scott Cashman, Vice-Chair  
Anne O'Connor, Clerk  
Margaret Guzmán  
Nicole Xifaras Parella

**Staff Present:** Joel Fontane, Division of Planning & Regulatory Services  
Lara Bold, Division of Planning & Regulatory Services  
Edgar Luna, Division of Planning & Regulatory Services  
Jody Kennedy-Valade, Department of Inspectional Services  
Michael Traynor, Law Department  
Jennifer Beaton, Law Department  
Russ Adams, Department of Public Works & Parks

**REGULAR MEETING (5:30 PM)**

**CALL TO ORDER**

Chair Shea called the meeting to order at 5:40 PM.

**APPROVAL OF MINUTES**

Upon a motion by Anne O'Connor and seconded by Nicole Xifaras-Parella, the Board voted 5-0 to approve the minutes from the April 22, 2009 Planning Board meeting with the following correction: 71 Elm Street (PB-2008-083), was a Definitive Site Plan application, not a Site Plan Amendment as previously indicated.

**UNFINISHED BUSINESS:**

**Public Meetings:**

**1. 5A & 5B Wigwam Hill Drive (aka 5 Wigwam Hill Drive) – Amendment to Definitive Site Plan (PB-2009-015):** Anne O'Connor recused herself from the meeting and left the premises. Kevin Parvin, owner and petitioner, presented the plan. Mr. Parvin stated that the purpose for this application was to amend a previous Definitive Site Plan approved on September 19, 2007. He indicated that while constructing the retaining walls according to the approved site plan, he realized that given the steep topography of the parcel, building the wall at such location would only create a small usable flat area; therefore, he decided to build the retaining wall further back onto the property in order to increase the amount of usable flat surface, as well as to improve the water runoff drainage. However, he acknowledged that he neglected to verify with Inspectional Services Division if changing the location triggered an amendment to the Definitive Site Plan. Jane Logan, an abutter, expressed concern that the new retaining wall location would increase the water runoff onto her property, and that the petitioner

had submitted one set of plans for approval and built it according to a different set of plans. In addition, she expressed concern with the height of the retaining wall and questioned whether or not its construction was structurally sound. Mr. Adams stated that upon visiting the site, he did not see any runoff uncharacteristic for this type of slope, and also indicated that DPW&P did not have concerns regarding the height of retaining walls. Ms. Bold informed the Board that Mr. Parvin had petitioned relief from the Zoning Board of Appeals regarding sections of the walls that exceed the maximum height allowed by the Zoning Ordinance, and indicated that the petition was approved on April 29, 2009. Mr. Parvin stated that he was planning to install a six (6) foot fence on top of retaining walls that exceed four (4) feet in height. George Maringo, an abutter, expressed concern that the petitioner built the retaining walls without approval from Inspectional Services Division staff. He also asked the Board if a petitioner had the right to pave a private way. Chair Shea responded that a private way could be paved only if an 81-G application had been filed and approved by the Planning Board. Chair Shea stated that he was uncertain if the retaining walls had been built to code regulations and according to the plans submitted for the Amendment to Site Plan application. He requested the applicant to bring a copy of the structural drawings for the retaining walls to Inspectional Services for review of compliance with building code. Mr. Parvin requested a continuation of the hearing to the June 24, 2009 Planning Board meeting in order to comply with the request from Chair Shea. He also asked the Board to approve an extension of the Constructive Grant Deadline to July 15, 2009. Upon a motion by Scott Cashman and seconded by Margaret Guzmán, it was voted 4-0 to continue the hearing to June 24, 2009. Upon a motion by Scott Cashman and seconded by Margaret Guzmán, it was voted 4-0 to grant an extension of the Constructive Grant Deadline to July 15, 2009.

2. **137 Greenwood Street – Parking Plan (PB-2009-016):** Lara Bold requested a continuation of the hearing to June 24, 2009 on behalf of the applicant. Upon a motion by Margaret Guzmán and seconded by Nicole Xifaras Parella, the Board voted 5-0 to continue the hearing to June 24, 2009.
3. **200-206 Canterbury Street & 7 Crystal Street – Parking Plan (PB-2009-018):** Robert Longden and Robert O’Neil, representatives for the applicant, 200 Canterbury LLC, presented the project. Mr. Longden stated that the applicant was seeking to occupy the premises as the headquarters of the Worcester Yellow Cab Company, and indicated that the proposed project would include the following components: (a) office use, (b) motor vehicle repair, (c) service and display, (d) body shop with paint shop, (e) automobile sales, (f) accessory parking for 53 vehicles, and (g) installation of a radio tower approximately 100 feet in height. Mr. Longden also stated that the applicant was requesting a waiver of two (2) trees from the landscaping requirements of the Zoning Ordinance. In addition, he indicated that proposed project included the construction of an interior wall in the existing metal accessory structure along the RG-5 and ML-2.0 dividing zone line, to ensure that the proposed use is located only in the ML-2.0 Zone District. He further indicated that the use will be setback 100 feet from the side setback along the residential zone with added landscaping to enhance the area and buffer effectively the residential neighborhood from the proposed use. He also added that the proposed project will only have one access/egress on Canterbury Street; all lighting will be attached to the building and directed downward to prevent spillage into the residential neighborhood; and the dumpster will be screened by a six (6) stockade fence. Mr. O’Neil stated that the storm-water runoff will go to Canterbury Street, and any excess will be collected by the groundwater infiltration system which the applicant plans to enhance by adding more collectors. Kevin O’Connell, an abutter, expressed concern regarding snow storage during the winter months. Mr. O’Neil stated that the site has a designated snow storage area. In addition, Mr. O’Neil stated that the applicant would maintain the site organized, clean and free of debris. Mr. O’Connell stated that he welcomed the proposed landscaping plans and supported the efforts of the owners to maintain the site clean which ultimately will enhance the surrounding neighborhood as well.

Ms. Kennedy-Valade stated that the proposed wall inside the metal shed building separating the ML-2.0 from the RG-5 zone districts was satisfactory to ISD, and requested that it be shown on the final revised plan. In addition, Ms. Kennedy-Valade stated that there should be no access to the existing metal accessory structure from the RG-5 zone district. Upon a motion by Anne O'Connor and seconded by Margaret Guzmán it was voted 5-0 to approve the requested waiver of two (2) interior trees from the landscaping requirements. Upon a motion by Anne O'Connor and seconded by Margaret Guzmán it was voted 5-0 to approve the Parking Plan with the following conditions:

- **Construct an interior wall in the existing metal accessory structure along the dividing zone lines (ML-2.0 and RG-5).**
- **Add label to the site plan that there should be no access to the metal shed building from the Rg-5 Zone District.**
- **Label location, size and arrangement of any signs.**
- **Plant seven (7) arborvitaes (3 inch caliper minimum; 10 feet on Center), along the length of the fence directly across from the house at 194 Canterbury Street.**
- **Demarcate the property line clearly.**
- **Correct the Assessor's reference to 07-017-00009, 07-016-00037, 07-016-00057.**
- **Catchbasin to catchbasin connections are to be to a manhole structure.**
- **All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.**
- **Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.**
- **Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.**
- **The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.**
- **Six copies of the revised plan must be submitted to the Division of Planning and Regulatory Services prior to release of the decision.**

#### **NEW BUSINESS:**

##### **Public Hearings:**

**4. Zoning Map Amendment – Holt Avenue, RS-7 (Residence, Single Family) to RG-5 (Residence, General) (ZA-2009-003):** Karen Belrose, representative for William and Nancy Donahue, petitioners, presented the petition. Ms. Belrose stated that the petitioner was proposing to rezone the area bounded by Randolph Road, Cerie Avenue, Dodge Park Road and Holt Avenue currently zoned Residence – Single Family (RS-7) to Residence, General (RG-5). She also indicated that her parents, William and Nancy Donahue, planned on constructing additional dwelling units on their property. Mr. Fontane stated that the rezoning petition was signed by only two individuals: William and Nancy Donahue, owners of the parcels at Holt Avenue and 0 Cerie Avenue, although the proposed area to be rezoned includes seven (7) separate parcels, owned by four (4) different entities. Mr. Fontane also indicated that the petitioner was proposing to extend the existing RG-5 (Residence, General) zoning district from its current location at the centerline of Randolph Street southerly to Cerie Avenue to include the following parcels: 1, 3 and 7 Holt Avenue, 2

Dodge Park Road, 0 Cerie Ave. and 101 Randolph Road. He further indicated that the petition requests a change from one of the City's most restrictive residential zones, RS-7, to its least restrictive residential zone, RG-5, which would allow for multi-family development by-right at a higher density than all other residential zones, through a combination of by-right use permissions and less restrictive dimensional requirements. In addition, Mr. Fontane stated that if the proposed zone change was adopted, the full by-right build out potential of approximately 20-30 residential units could take place, assuming demolition of existing residential dwellings and land assembly, and provision of sufficient parking. Therefore, he stated that he was recommending that the Board recommend that the City Council deny the petition and request that the petitioners amend their petition to include 2 and 8 Cerie Avenue for the following reasons: (a) the zone amendment would create an oddly shaped zoning district with significant disparities in land use rights among property owners within this small residential area in a way that is not consistent with a more uniform land use planning approach; and (b), the petition does not include the parcels at 2 and 8 Cerie Avenue, currently zoned RS-7, which would have provided a logical transition of uses and density from the BG-3 zoning. Mr. Traynor stated that one individual does not have the right to petition to rezone someone else's land, and that the petition was deemed to be improperly before the Board. He also informed the Board that the zone change should include all land owners signatures; alternatively, he explained that the petition could be signed by 10 registered voters from anywhere in the City, or the Board itself could initiate the zone change. Mr. Traynor further indicated that the petitioners may consider requesting a leave to withdraw without prejudice regarding the present petition, and afterward consult with the remaining three (3) land owners in the proposed area to see if they supported such a petition. Mr. Fontane stated that it was uncertain if the remaining land owners had been consulted of the rezoning petition prior to its submittal. Chair Shea asked Ms. Belrose if she would consider requesting a leave to withdraw without prejudice and she responded that she would like the Board to vote on the petition. Henry Lindner, owner of the parcel at 3 Holt Avenue stated that he had not been consulted of the rezoning petition and indicated that he was opposed to it. Upon a motion by Margaret Guzmán and seconded by Nicole Xifaras Parella, the Board voted 5-0 to close the hearing. Upon a motion by Margaret Guzmán and seconded by Nicole Xifaras Parella, the Board voted 5-0 to recommend that the City Council deny the zone change petition.

**5. 1163 Main Street – Parking Plan (PB-2009-019):** Hossein Haghanizadeh, representative for Ron Abdow, applicant, presented the project. Mr. Haghanizadeh stated that the petitioner was seeking to obtain a Parking Plan approval to utilize the parcel as a motor vehicle display lot. He also indicated that part of the project included constructing a 528 SF office building and installation of a 320 SF trailer as accessory structures to the proposed use. Ms. Bold stated that the project was originally filed and advertised as a Definitive Site Plan because it was believed that the site abutted a National Registered Historic Property (NRHP), a trigger for a Definitive Site Plan. However, she indicated that during the review and analysis process, it was determined that the abutting property is not registered as a NRHP site only listed in the MACRIS list; therefore, the application was reviewed as a Parking Plan and not as a Definitive Site Plan. She also indicated that staff had conferred with the Law Department on this matter because a Site Plan subsumes a Parking Plan approval, and stated that the Law Department determined that the project had been properly noticed and was therefore, properly before the Board. Mr. Adams stated that following a review of the application, DPW&P determined that the proposed project should incorporate the following: (a) provide signage on the property to display one-way circulation, and (b) reconfigure the curb cuts to remain, on Stafford Street, to have an opening width no greater than 30', with 2 radius returns. Ms. Bold submitted a letter from Joseph Abbascia, an abutter, in support of the project. Chair Shea asked Mr. Haghanizadeh if the petitioner had received a copy of the Parking Plan review memo written by Mr. Luna, and he stated that he had, and was amenable to implement the recommendations of Mr. Luna. Upon a motion by Margaret Guzmán and seconded by Anne O'Connor, it was vote 5-0 to approve the Parking Plan with the following conditions:

- Provide signage on property to display one-way circulation.
- Reconfigure the curbcuts to remain, on Stafford Street, to have an opening width no greater than 30', with 2' radius returns.
- Correct the total square footage of the office building to 528 SF.
- Clarify ownership of the parcel. The Assessor's records do not match the ownership indicated on the Parking Plan and application.
- Install a six (6) foot stockade fence around the proposed dumpster.
- Install signage at the entrance of each existing curb cut on Stafford Street identifying them as "Entrance only" or "Exit only", accordingly.
- Show any additional proposed signage.
- Provide a note on the parking plan that the trailer will be used as an accessory storage facility.
- Indicate on the parking plan the proposed material to repave the site.
- Provide a note on the parking plan indicating lighting's proposed candle foot width, and that all lighting will be shielded and directed downward, away from the abutting nursing home.
- Add additional landscaping to the area located at the corner of Stafford and Main Streets.
- Eliminate three (3) vehicle display spaces located closest to the entrance.
- Add additional screening plantings along the westerly-side buffer area to improve screening of the adjacent parcel.
- All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.
- Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.
- Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.
- The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.
- Six copies of the revised plan must be submitted to the Division of Planning and Regulatory Services prior to release of the decision.

### **OTHER BUSINESS:**

6. **Myrick Street – To Make Public:** Upon a motion by Scott Cashman and seconded by Nicole Xifaras Parella, the Board voted 5-0 to recommend Priority level #3, based on the recommendation received from the Department of Public Works & Parks.
7. **Everett Street – Portion of Public Street to Abandon:** Upon a motion by Nicole Xifaras Parella and seconded by Margaret Guzmán, the Board voted 5-0 to continue the petition to June 3, 2009.
8. **Millbury Street – Portion of Public Street to Abandon:** Upon a motion by Nicole Xifaras Parella and seconded by Margaret Guzmán, the Board voted 5-0 to continue the petition to June 3, 2009.

**9. Olean Estates – Set Performance Bond:** Upon a motion by Margaret Guzmán and seconded by Scott Cashman, the Board voted 5-0 to set a performance bond in the amount of One Hundred and Seventy Five Thousand (\$175,000) Dollars, and to set the work completion date to March 15, 2010, based on the recommendation received from DPW&P.

**10. Arboretum III Subdivision – Set Performance Bond:** Upon a motion by Margaret Guzmán and seconded by Scott Cashman, the Board voted 5-0 to set a performance bond in the amount of Six Hundred and ten Thousand (\$610,000) Dollars, and to set the work completion date to June 1, 2010, based on the recommendation received from DPW&P.

#### **11. APPROVAL NOT REQUIRED (ANR) PLANS:**

**AN-2009-019 – Keach Avenue:** Scott Cashman made a motion to approve the plan and Margaret Guzmán seconded the motion; afterward, the Board voted 5-0 to approve the ANR although the plan itself was not signed at that time. Deborah Chad, an abutter to the property, requested an opportunity to address the Board on this matter prior to signing the ANR. Chair Shea asked Mr. Traynor if such request was appropriate given the fact that the Board had already voted to approve the ANR plan. Mr. Traynor responded that the request was appropriate because the plan had not yet been signed by members of the Board. Upon a motion by Margaret Guzmán and seconded by Scott Cashman, the Board voted 5-0 to reconsider the motion. Mr. Traynor advised the Board that the issue to consider was whether or not the petitioner had provided adequate access to the lot and that the legal standard, per M.G.L. c. 41, §81L, is whether the way has “sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land.” Chair Shea asked if the petitioner was present. Robert Case identified himself as the owner of the property and petitioner, and offered to answer any questions related to this matter. Ms. Chad expressed concern that the approval of the proposed plan would increase traffic on Keach Avenue, which in turn would exacerbate deterioration of the road. She also indicated that although the petitioner had recently improved the condition of the road by placing new gravel, such treatment was not permanent and would eventually be washed away during the rainy season and winter months due to the steepness of the road and constant use of it by area residents. Mr. Adams stated that in this case, the vehicular traffic triggered by one new buildable lot would not be sufficient to cause the deterioration of the road. He stated that the deterioration of the road was caused by the steep topography of the street and lack of an appropriate drainage system. He further indicated that an effective solution to the problem would be to submit an 81-G petition to pave the road with asphalt and provide the appropriate drainage system required. Mr. Case acknowledged that paving the road would be the best solution; however, he indicated that he was not financially able to do so at the present time. Nevertheless, he indicated that he had recently spent a significant amount of money to pay for a new coat of gravel in an effort to improve the conditions of the road, which in his opinion, would last for a long period of time. Ms. Guzmán stated that the approval of ANR plans hinges on the provision of appropriate dimensional frontage, and the appropriate and permanent adequacy of the road, and not on temporary improvements. She further stated that in her opinion, the recent improvements to the road did not meet such criteria. Mr. Cashman stated that based on the statements by Mr. Traynor and Mr. Adams, the recent placing of gravel on the road was a temporary improvement that would eventually be washed away; therefore, it was not acceptable as sustainable access to the lot. Ms. O’Connor asked Mr. Adams if there was an alternative material to pave the road other than the asphalt paving required by an 81-G petition. Mr. Adams stated that he was not aware of any other material available. Upon a motion by Margaret Guzmán and seconded by Scott Cashman, the Board voted 4-1 to deny ANR plan AN-2009-019 (Anne O’Connor voted no).

**AN-2009-020 – Christine Street:** Upon a motion by Margaret Guzmán and seconded by Scott Cashman, the Board voted 5-0 to endorse ANR plan AN-2009-020.

**AN-2009-021 – May Street:** Upon a motion by Margaret Guzmán and seconded by Scott Cashman, the Board voted 5-0 to endorse ANR plan AN-2009-021.

**ADJURNMENT**

Chair Shea adjourned the meeting at 7:00 pm.