

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

**June 24, 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
John Kelly, Department of Inspectional Services
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 5:37 PM.

APPROVAL OF MINUTES

Upon a motion by Margaret Guzman and seconded by Anne O'Connor, the Board voted 5-0 to approve the minutes from the June 3, 2009 Planning Board meeting.

UNFINISHED BUSINESS

Public Meetings:

- 1. 5A & 5B Wigwam Hill Drive – Amendment to Definitive Site Plan (PB-2009-015):** Kevin Parvin, owner and petitioner, presented the plan. Mr. Parvin informed the Board that he had submitted a set of large-size plans of the previously approved Definitive Site Plan as well as a set of plans depicting the changes to the previously approved Definitive Site Plans to the Division of Inspectional Services, as requested by the Planning Board. Ms. Bold stated that the Building and Zoning Division had submitted a letter dated June 17, 2009, confirming that the retaining wall was constructed according to Building Code; therefore, it is structurally sound. Mr. Kelly acknowledged that Mr. Parvin had submitted the required information and confirmed that the retaining wall had been constructed in accordance with applicable Building Code. Mr. Adams stated that staff at the Department of Public Works and Parks had reviewed the application, and requested that, if approved, the petitioner be required to provide a connection from the storm sewer main. Steve Quinn, an abutter, expressed support for the project indicating that since the retaining wall was

constructed, stormwater management has improved significantly. Upon a motion by Anne O'Connor and seconded by Margaret Guzman, the Board voted 5-0 to approve the Amendment to Definitive Site Plan with the following conditions:

- **Provide a connection from the storm sewer main.**
 - **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.**
 - **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 the release of the Decision.**
2. **137 Greenwood Street – Parking Plan (PB-2009-016):** Lara Bold informed the Board that the Division of Planning and Regulatory Services received a letter from Robert G. Murphy, representative of the petitioner, requesting Leave to Withdraw without Prejudice because the proposed site is not large enough to accommodate the storm water management system, snow storage and landscaped buffers. Upon a motion by Nicole Xifaras Parella and seconded by Margaret Guzman the Board voted 5-0 to approve the request for Leave to Withdraw without Prejudice.

Mr. Kelly left the meeting after this item.

NEW BUSINESS:

Public Hearing:

3. **Assumption Avenue – Remove Portion of a Private Way:** Russell Oliver, petitioner, presented the petition. Mr. Russell stated he was seeking to remove from the Official City map the section of Assumption Avenue between Hyde Street and Emerson Road. Mr. Oliver indicated that such portion of Assumption Avenue has not been used by pedestrians and vehicles since approximately 1953 and is currently covered with grown/mature trees and high brush. He further indicated that, in his opinion, closing that portion of the road would not have a negative impact on the surrounding homes and the neighborhood in general. In addition, he stated that Quinsigamond Community College (QCC), the other party of interest and petitioner, plans to build a new road in the immediate vicinity to access their parking lot. This new road will include curbing and landscaping, and will close off access to the campus from Assumption Avenue. Mr. Russell further indicated that if his petition was approved, he would commit himself to planting additional trees in the area in an effort to compensate for the loss of trees in the neighborhood due to the removal of trees infested with Asian longhorn beetles (ALB). Ms. Bold indicated that staff also felt the road is currently impassible due to its steep terrain and the number of mature trees on site, and stated that the proposed removal would not hinder the vehicular connectivity between adjacent streets, and would not have a negative impact regarding the future development potential of abutting properties as all abutting properties would retain frontage on other ways. Ms. Bold concurred with the applicant's statement that it is staff's understanding that QCC plans to construct a loop road around the campus that will direct traffic

through this area and then away from the residential neighborhood and out of the campus. Maureen Brennan, a neighborhood resident, expressed concern regarding how the proposed change would affect abutters' rights to pass, emergency access to the area, and utility lines that may be located on said portion of the road including gas lines. Mr. Adams stated that the proposed project would not impinge on the rights of the area residents to access any municipal utilities such as sewer and water that may or may not exist in such portion of land. Atty. Beaton informed the Board that the act of removing a private way from the Official City map in and of itself would not alter any existing utility easements in Assumption Avenue. Chair Shea stated that, in his opinion, the Board would benefit from knowing what private utilities, including gas, may be located on the portion of the land to be removed from the official map, prior to rendering a vote. In addition, he indicated that he was concerned with the lack of clarity regarding easement rights. Mr. Cashman stated that the Board has not considered or requested such information from previous applicants and was concerned about potential inconsistency. He further stated that the question regarding gas line easements appeared to be a private legal matter beyond the Board's jurisdiction. Ms. Guzman stated that while Mr. Cashman was correct in asserting that the Board had not considered such matters before rendering a vote in previous petitions, in her opinion, identifying what utilities may be located in a section of a road that will be removed permanently from the official City map, was good planning practice; therefore, she requested that the petitioner provide such information prior to rendering a vote. Ms. O'Connor also expressed concern regarding any possible gas lines that may be located on site. Chair Shea asked Ms. Beaton to clarify if the immediate neighbors had any legal rights to object the proposed project. Ms. Beaton stated that persons of interest are the abutters or individuals whom by nature of the proposed removal have rights that are affected by the removal of said portion of the road. She also stated that as it pertained to this petition, the only parties of interest, as defined by state law, were Quinsigamond Community College and Russell and Lynn Oliver. In addition, Ms. Beaton clarified that the removal of a way from the Official City map would not affect any of the existing rights to pass or re-pass such way. Ms. Guzman stated that while the neighborhood residents are not parties of interest, in her opinion, they would be affected by the decision rendered by the Board. Mr. Oliver requested a continuation of the hearing to August 5, 2009 to allow him time to address the concerns of the Board. Upon a motion by Margaret Guzman and seconded by Anne O'Connor, the Board voted 5-0 to continue the hearing to August 5, 2009 to allow the petitioner additional time to research and provide the Board with information regarding private utilities, such as a gas line or existing easements from the gas company that may be located on the portion of the road to be removed from the City map.

- 4. Proposed Changes to the Planning Board Rules and Regulations – Fees:** Mr. Fontane stated that as part of the Fiscal Year 2010 budget process, the City Manager requested that all City Departments review their current fees and, where appropriate, revise fees to capture additional revenue. Mr. Fontane stated that based on his review of the Planning Board's fees, he is proposing changes that will aim to generate enough revenue to cover, in an average year, 50% of the cost of services provided including costs associated with customer service, clerical support, interdivisional plan review, board support, and advertising. This revised fee schedule increases base fees by approximately 20%, introduces a new fee for substantial site plan amendments, and increases application fees for ANR plans and extension of time applications by \$50.00, in an effort to capture a greater portion of the costs associated with customer service, application processing and review. In addition, Mr. Fontane stated that in order to keep pace with inflation, he recommends that the Board approve a periodic adjustment of the Board's fees. In order to clarify the fee changes proposed, Mr. Fontane handed out a revised fee schedule to Board members which included the following information:

a) Site Plan Amendments.

- Increase uniform fee of \$250 (or filing fee, whichever is lower) for all amendments to \$300 (or filing fee, whichever is lower) for minor site plan amendments and \$600 for significant amendments while maintaining the caveat that amendments shall not cost more than the initial fee. This proposal introduces a dual fee structure for amendments that differentiates amendments based on the significance of the change(s) proposed. This will ensure that the adequate revenue is captured for the work involved in reviewing significant plan changes.

b) Extension of Time.

- Increase the flat fee of \$100 to \$150 for Extensions of Time for all types of applications to account for the costs associated with maintaining customer service hours, processing and advertising these applications.

c) Parking Plans.

- Adjust the Parking Plan base fee from \$185 to \$225, and increase the pre-space increment from \$5 to \$6 per parking space to capture a greater portion of the costs associated with application processing and review.

d) Preliminary Fees and Maximum Fee.

- Maintain the Board's current policy regarding maximum fee of \$5,000, and deduct the preliminary fees, if any, from the definitive fee total.

e) Site Plans.

- Adjust the base fee from \$185 to \$225.
- Increase increment fee from 25 cents per SF over 10,000 SF GFA, to 30 cents per SF.
- Increase the dwelling unit (du)charge from \$60 per du to \$70 per du.
- Continue to charge the greater of two or more fees, if more than one trigger for Site Plan is met.
- In cases where the flat fee also includes changes that would otherwise trigger a Parking Plan, the greater of the two fees shall apply.

f) Special Permits.

- Increase the flat fee of \$250 to \$300 for Special Permits.
- Increase the flat fee from \$500 to \$600 for Special Permits related to Wind Energy Conversion Facilities (WECF). WECF Special Permits, similar to Wireless Communication Facilities, require a detailed review and do not require Site Plan Approval, thus the greater fee.

g) Subdivision -Approval Not Required (ANR).

- Increase the ANR application fee from \$100 per plan to \$150 per plan to generate enough revenue to fully cover the cost of providing customer service, review, and processing.

h) Subdivisions.

- Increase the Definitive Subdivision base fee from \$1,250 to \$1,500, and the per lot increment charge from \$60 to \$70 per lot.
- Increase the Preliminary Subdivision base fee from \$625 to \$750 and the per lot increment charge from \$30 to \$35 per lot.
- Consolidate the More-Than-One-Building on a Lot fee with Site Plan to avoid duplication and recognize the similarity of these application types.
- Increase the \$100 fee for Frontage Subdivisions (an ANR that has received frontage relief from the ZBA) to \$150 per plan to generate enough revenue to fully cover the cost of providing customer service, review and processing.

i) Fee Adjustments.

- Adjust base fees, at a minimum, for inflation (rounding up to the nearest \$5), every two years, using the Bureau of Labor Statistics Consumer Price Index – Urban Consumers.
- Periodically adjust increment fees to account for inflation using the BLS Consumer Price Index – Urban Consumers.

Chair Shea stated that, in his opinion, the Board should consider raising the application fee cap of \$5,000 which has not changed since, at least, 1991 to keep up with inflation. He asked Mr. Fontane to explain his reasons for not recommending an increase to the fee cap. Mr. Fontane stated that based on the recent fee review, he determined that the \$5,000 fee cap was adequate based on the fact that the goal is to cover 50% of costs of services, recognizing the balance of the division's service to both the developers and the community at large and also considering that overall development fees have increased across the Board through permitting increases at the Department of Public Works and Parks, and the Division of Inspectional Services. Mr. Cashman suggested that a maximum permitting fee be considered at City Council level. Chair Shea indicated that the minor site plan amendments and the substantial site plan amendments should be revised to indicate that these plans shall include, but not be limited to the examples provided in the text of the attachment "A". Mr. Cashman asked if periodic adjustments would occur automatically. Mr. Fontane indicated that any future fee schedule amendments would require a vote of the Planning Board; however, he indicated that the recommendation to increase periodically would be included in the Planning Board's rules and regulations. Ms. Guzman expressed support for periodic increases because it would give applicants adequate forewarning regarding future fee increases. Upon a motion by Anne O'Connor and seconded by Margaret Guzman, the Board voted 5-0 to close the hearing. Upon a motion by Anne O'Connor and seconded by Margaret Guzman, the Board voted 5-0 to approve the proposed changes to the Planning Board's Rules and Regulations regarding fee changes.

Public Meetings:

5. 19 Hemans Street – Extension of Time, Definitive Site Plan (PB-2009-026): Patrick Healy, representative for John Murdock, petitioner, presented the plan. Mr. Healy indicated that the petitioner was seeking an Extension of Time to the Definitive Site Plan approved by the Board on June 21, 2006 for the construction of a seventy eight (78) dwelling unit, multi-family high rise and one hundred and sixty (160) parking spaces, on property with 15% or more slope. He indicated that the petitioner has not been able to commence work on site as planned due to current national economic recession. Mr. Healy further indicated that the petitioner has made efforts to sell the property as an alternative; however, the real estate market is currently very slow. Therefore, neither option is viable at the present time. Ms. Bold noted that staff's memo indicates that a change to the

ordinance with respect to the number of allowable compact parking spaces by right affects the previous approval of this site plan and that the applicant must seek and be granted a Special Permit to allow additional compact spaces or amend the Definitive Site Plan. Upon a motion by Margaret Guzman and seconded by Anne O'Connor, the Board voted 5-0 to approve the Extension of Time for twelve (12) months with the following conditions:

- **All trees planted on site should be at least three (3) inch caliper size.**
- **A Special Permit will be necessary in order to allow more than 25% of the off-street parking spaces to be compact per Article IV, Section 7, Notes to Table 4.4, #3.**
- **All excess snow is to be removed from site, and so noted on the site plan.**
- **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.**
- **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.**

5. **25 Tobias Boland Way – Amendment to Definitive Site Plan (PB-2009-027):** Andrew Platt and Matthew Smith, representatives for Madison Worcester Holdings, LLC, petitioner, presented the plan. Mr. Smith stated that the petitioner was seeking approval to implement the following changes: (a) Relocate the bale and pallet enclosure, previously located on the opposite side of the driveway, to prevent a possible blockage of a portion of the view of the proposed mural, (b) Reduce the proposed bale and pallet enclosure to ten (10) feet shorter than previously proposed, (c) The proposed bale and pallet enclosure will include a gated chain link fence opening with privacy slats and will be partially buffered by the proposed landscaping, (d) Revise the architectural drawings that substantially incorporate the Board's previous conditions of approval with respect to the rendering. Ms. Bold stated that the proposed changes meet the minimum requirements of the Zoning Ordinance and improve the visibility of the proposed mural. Upon a motion by Margaret Guzman and seconded by Anne O'Connor, the Board voted 5-0 to approve the Amendment to Definitive Site Plan with the following conditions:

- **All original conditions of approval, as well as the amended conditions of approval from the previously approved Definitive Site Plan, and Amendment to Definitive Site Plan (dated February 18, 2009) respectively, apply to this latest amendment, with the following modifications:**
 - a) **“Definitive Site Plan of Worcester Crossing”, prepared by Bohler Engineering, P.C. dated January 5, 2007, as revised to January 10, 2008, sheets 1 through 34, inclusive (“the Bohler Plan”), be changed to the following: “Definitive Site Plan for Worcester Crossing, prepared by Bohler Engineering, P.C. dated January 5, 2007, as revised on January 10, 2008, and further revised May 10, 2009 sheets 1 through 34, inclusive (“the Bohler Plan”).”**
 - b) **“Wal-Mart, Worcester MA – Store no. 4387” prepared by Cross River Architects, dated February 9, 2009 (the “Cross River Architects Plan”) be changed to the**

following: “Wal-Mart, Worcester MA – Store no. 4387” prepared by Cross River Architects, dated May 6, 2009 (the “Cross River Architects Plan”).

OTHER BUSINESS

6. Everett Street – Public Street – Remove from the Official City Map: Mr. Fontane requested that that this petition be continued to August 5, 2009 to allow additional time to discuss the petition with the Worcester Redevelopment Authority, one of the abutters. Upon a motion by Margaret Guzman and seconded by Scott Cashman, the Board voted 5-0 to continue this petition to August 5, 2009.

7. APPROVAL NOT REQUIRED (ANR) PLANS:

- **AN-2009-027, 5A & 5B Wigwam Hill Drive:** Upon a motion by Anne O’Connor and seconded by Margaret Guzman, the Board voted 5-0 endorse ANR Plan AN-2009-027.
- **AN-2009-028, 23 Bangor Street:** Upon a motion by Anne O’Connor and seconded by Margaret Guzman, the Board voted 5-0 to endorse ANR Plan AN-2009-028.
- **AN-2009-029, 7 Argyle Street:** Upon a motion by Anne O’Connor and seconded by Margaret Guzman, the Board voted 5-0 to deny ANR Plan AN-2009-025 due to insufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land.
- **AN-2009-030, 9 Nathaniel Court:** Upon a motion by Scott Cashman and seconded by Margaret Guzman, the Board voted 5-0 to deny ANR Plan AN-2009-030 due to insufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land.
- **AN-2009-031, Outlook Drive:** Upon a motion by Anne O’Connor and seconded by Margaret Guzman, the Board voted 4-0 to endorse ANR Plan AN-2009-031.
- **AN-2009-032, Michigan Road:** Upon a motion by Scott Cashman and seconded by Margaret Guzman, the Board voted 5-0 to endorse ANR Plan AN-2009-032.

ADJOURNMENT

Chair Shea adjourned the meeting at 6:55 pm.