

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

SEPTEMBER 11, 2006

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

Zoning Board Members Present: Leonard Ciuffredo, Chair
Jerry Horton, Vice-Chair
Matthew Armendo
Thomas Hannigan
Morris Bergman
David George
Andrew Freilich

Staff Present: Richard Trifero, Division of Code Enforcement
Joel Fontane, Division of Planning & Regulatory Services
Edgar Luna, Division of Planning & Regulatory Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

MOMENT OF SILENCE

Chair Ciuffredo requested a moment of silence in remembrance of the victims of the terrorist attacks on September 11, 2001.

APPROVAL OF THE MINUTES

Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the August 28, 2006 minutes.

UNFINISHED BUSINESS

- 1. 9 Oakview Street (Z-06-101) – Special Permit:** Samuel Rosario, representative for Emanuel and Karen Tortorelli, petitioners, presented the petition. Mr. Rosario stated that he and the petitioners had met with staff from the Department of Public Works and Code Enforcement, as well as neighbors, to determine the most effective method to stabilize the filled area, and indicated that the following agreement had been reached by all interested parties to achieve this objective: (1) Install erosion controls at the top of the slope, (2) Clean up the slope and remove all construction-related debris, (3) Install new topsoil and hydroseed, (4) Maintain erosion control until the slope is stable, and (5) All work to be completed within 30 days of approval. Upon a motion by Matthew Armendo and seconded by Morris

Bergman, the Board voted 5-0 to close the public meeting. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan, and Morris Bergman to approve the following:

- **Special Permit: Placement of Fill.**

The approval vote carries the following conditions:

- **Install erosion controls at the top of the slope.**
- **Remove all construction-related debris from the slope.**
- **Install new top soil and hydro-seed.**
- **Maintain erosion control until slope has stabilized.**
- **All work to be completed within 30 days of approval of the Special Permit.**

NEW BUSINESS

2. **63 Kenberma Road (Z-06-137) – Special Permit:** Samuel DeSimone, representative for Mark and Michel Lapomardo, petitioners, presented the petition. Mr. DeSimone stated that the petitioners were seeking a Special Permit to allow single-family attached dwelling units (townhouse) in an RL-7 zone. Stanley Kozaiska expressed concern that the proposed project would exacerbate the on-street parking conditions in the neighborhood. Kathleen Scavone expressed concern that the proposed plan would not fit harmoniously in the mostly single-family neighborhood. Mr. Armendo stated that neighborhood does not have other three-unit single-family attached dwellings. Mr. Freilich stated that reducing the number of dwelling units, and improving the architectural details of the project would be more appropriate for the neighborhood. Mark Lapomardo stated that he was willing to redesign the project and reduce the number of dwelling units. Mr. DeSimone stated that he would like to have an opportunity to meet with the neighbors to address their concerns; therefore, he requested a continuation of the hearing until September 25, 2006. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to continue the hearing until September 25, 2006.
3. **44 Byron Street (Z-06-141) – Special Permit:** Jennifer Lougee, representative for Fiber Tower Corporation, petitioner, presented the petition. Ms. Lougee stated that the petitioner was seeking a Special Permit to allow a personal wireless service facility in an RG-5 zone. Mr. Armendo stated that the petitioner should consider painting the antenna with colors that blend well with its surroundings to camouflage its size and appearance. Mr. Ciuffredo stated that the application submitted was not comprehensive enough. Mr. Bergman stated that the petitioner should consider continuing the hearing until September 25, 2006 to allow her time to submit alternative plans to camouflage the proposed antenna, and provide the Board with a report regarding radiation emissions, in compliance with the Zoning Ordinance. Ms. Lougee requested a continuation of the hearing until September 25, 2006 to allow her time to address the concerns expressed by Board members. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas

Hannigan, Matthew Armendo, and Morris Bergman to continue the hearing until September 25, 2006.

4. **134 Sears Island Drive (Z-06-142) – Variance:** Thomas Gervais, petitioner, presented the petition. Mr. Gervais stated that he was seeking a Variance of 15 feet of relief from the frontage requirement to construct a single-family detached dwelling. Mr. Bergman asked the petitioner to inform the Board if the proposed dwelling would block the view of the lake for any neighbors. Mr. Gervais stated that the proposed dwelling would not affect the view of the lake for any of the neighbors. Upon a motion by Morris Bergman and seconded by Thomas Hannigan, the Board voted 5-0 to close the hearing. Upon a motion by Morris Bergman and seconded by Thomas Hannigan, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the following:

- **VARIANCE: Relief of 15 Feet from the Frontage Requirement.**

5. **15 Putnam Lane (Z-06-143) – Extension of Time-Special Permit:** Robert Longden, representative for Princeton Development, LLC, presented the petition. Mr. Longden stated that he was seeking an Extension of Time for the previously approved Special Permit to allow multi-family dwellings in an RL-7 zone. Mr. Longden stated that the requested permit had been approved by the Zoning Board of Appeals on July 28, 2003 and was also extended on February 13, 2006. Mr. Longden indicated that the Extension of Time was requested due to the fact that while constructing the project, they had identified soil contamination, which required further testing and evaluation. In addition, Mr. Longden stated that CSX Transportation was challenging Princeton Development, LLC in court regarding the installation of a storm drainage system in Putnam Lane underneath the railroad. Mr. Ciuffredo stated that the site was poorly secured by a defective chain-link fence at the entrance of the property, and also indicated that the fence by the existing structure was defective as well. The applicant's representative agreed to repair the fences to ensure the site would be secure. Upon a motion by Morris Bergman and seconded by Thomas Hannigan, the Board voted 5-0 to close the hearing. Upon a motion by Morris Bergman and seconded by Thomas Hannigan, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the following:

- **EXTENSION OF TIME-SPECIAL PERMIT: To allow multi-family dwellings in an RL-7 zone.**

The approval vote carries the following conditions:

- **The extension is for 1 year. The new expiration date is October 24, 2007**
 - **Repair and secure the fence at the entrance of the property on Putnam Lane.**
 - **Repair and secure the fence located by the structure on the left side of the property.**
6. **87 Vassar Street (Z-06-144) – Variances:** Todd Marrone, petitioner, presented the petition. Mr. Marrone stated that he was seeking a Variance of 13 feet of relief from the front yard setback requirement, and a Variance of 3 feet of relief from the side yard setback requirement

to allow an existing basketball hoop to remain in its current location. Mark Rubin, the immediate abutter, stated that the base of the basketball hoop was located 6 inches into his property. Brenda Rubin, an abutter, stated that while she supports her neighbor's decision to install a basketball hoop on his property, she does not approve of its present location, as it may be a detriment to the value of her property. She also stated that the petitioner should consider moving the basketball hoop to a different location on the property. Mr. Freilich stated that the petitioner should consider replacing the basketball hoop with one that has a retractable net on both sides to prevent the basketball from damaging his neighbor's property. Mr. Marrone stated that the basketball hoop selected was the best option he had found. Morris Bergman asked Mr. Marrone and Mark and Brenda Rubin to consider discussing their differences of opinion privately, in an effort to reach a mutual and effective solution to resolve their dispute. The two parties declined. Mr. Horton stated that the granting of a Variance required four conditions of hardship from the petitioner, which in his opinion Mr. Marrone had failed to demonstrate. Upon a motion by Matthew Armendo and seconded by Thomas Hannigan, the Board voted 5-0 to close the hearing. Upon a motion by Thomas Hannigan and seconded by Jerry Horton, it was voted 4-1 by Leonard Ciuffredo, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the following (Jerry Horton voting against):

- **VARIANCE: Relief of 13 feet from the Front Yard Setback Requirement for the existing basketball hoop.**
- **VARIANCE: Relief of 3 feet from the Side Yard Setback Requirement for the existing basketball hoop.**

7. **41 Lancaster Street (Z-06-145) – Special Permit:** Jay Hummer, petitioner, presented the petition. Mr. Hummer stated that he was seeking a Special Permit for expansion or change of a pre-existing, nonconforming use/structure, and a Special Permit to allow a Lodging House in BL-1.0 and RG-5 zones to convert a former psychiatric nursing home into a lodging house with 16 bedrooms. Mr. Ciuffredo asked the petitioner to inform the Board if he had alternative plans in the event he could not find college students to rent rooms. Mr. Hummer indicated that several realtors had already contacted him regarding prospective tenants, and had highlighted student housing shortages in the area. Mr. Bergman stated that the petitioner should consider addressing the concerns of the neighbors prior to moving forward with his petition. The Board focused its concerns on whether the proposed use would have adequate and appropriate facilities for the proper operation of a lodging house. Abutters indicated that the intersection of Lancaster and Highland Streets is prone to vehicular accidents due to heavy traffic. Mr. Fontane stated that the Worcester Police Department recorded 6 traffic accidents at the intersection of Lancaster and Highland Streets, 10 at the intersection of Highland and Harvard Streets, and 2 at the intersection of Wachusett and Highland Streets during the months of July and August, 2006. In addition, Mr. Fontane stated that the previous psychiatric nursing home had been licensed for 30 beds. Mr. Armendo asked the petitioner if he would consider employing an on-site manager to oversee the day-to-day operations of the lodging house. Mr. Hummer indicated that such alternative was not financially feasible. Upon a motion by Morris Bergman and seconded by Matthew Armendo, it was voted 4-1 by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, and Morris Bergman to continue the hearing until October 16, 2006 (Thomas Hannigan voting against).

8. **461 Southwest Cutoff, Worcester/2 Latti Farm Road, Millbury (Z-06-146) – Variance:** William Bloom, representative for the Herbert G. Chambers, petitioner, presented the petition. Mr. Bloom stated that the petitioner was seeking a Variance to 5 feet of relief from the maximum height requirement for signs to replace the existing sign on Route 20 in Worcester (rear of the property) by erecting a sign 30 feet in height. Mr. Horton asked Mr. Bloom to identify what hardships had been encountered by the petitioner to justify the grant of a Variance. Mr. Bloom stated that the success of a car dealership depends primarily on visibility and that this site suffered from poor visibility from Route 20 because the building is set back approximately 400 feet from Route 20. The Zoning Ordinance height requirement and the site's poor visibility make it difficult for his company to compete with surrounding businesses. Upon a motion by Matthew Armendo and seconded by Morris Bergman, the Board voted 5-0 to close the hearing. Upon a motion by Matthew Armendo and seconded by Thomas Hannigan, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the following:

- **VARIANCE: Relief of 5 Feet from the Maximum Height Requirement for One Sign.**

The approval vote carries the following condition:

- **Current sign will be removed.**

9. **32 Buckingham Street (Z-06-147) – Variance:** Mr. Luna informed the Board that the petition had been erroneously advertised as 32 Buckingham Street, when in fact it should have been advertised as 32-34 Buckingham Street; therefore, staff requested a continuation of the hearing until September 25, 2006 to allow for proper advertising. Upon a motion by Jerry Horton and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to continue the hearing until September 25, 2006.

10. **30-32 Greenwood Street (Z-06-148) – Variance and Special Permit:** Joe Boynton, representative for the petitioner, and Julio Romero, petitioner, presented the petition. Mr. Boynton stated that the petitioner was seeking a Variance for relief of 15 parking spaces from the off-street parking requirements, and a Special Permit for the expansion or change of a pre-existing, nonconforming use/structure, for a by-right convenience store (retail food sales), service shop and/or office uses. Mr. Boynton stated that the structure was built in 1920, has functioned as a business site for several decades, and has never had off-street parking. Ronald Carlson expressed concern that the proposed use will exacerbate the lack of parking in the area and increase traffic problems for the neighborhood. David Pope, Pastor of the Bethlehem Evangelical Church, expressed concerns that the proposed use will negatively impact parking conditions for the church, as prospective costumers may park in the church parking lot. Howard Durnin expressed concern that a convenience store at this location will attract and exacerbate youth problems in the neighborhood. Beverly Maurais stated that a bus stop is located in front of the building; therefore, if the convenient store's customers park in front of the building, the public buses may not be able to stop there to drop off/pick up

passengers. Mr. George asked Mr. Boynton if the applicant had considered razing a section of the building to provide on-site parking. Mr. Boynton stated that the petitioner had not purchased the building to raze it. Morris Bergman asked Mr. Boynton if the petitioner had considered other businesses that would be more compatible with the residential nature of the neighborhood. Mr. Boynton stated that the parking requirements for a convenience store (retail food sales) are the same as any other types of businesses. Mr. Armendo asked Mr. Boynton if the petitioner would consider continuing the hearing to another date to allow him time to consider the petition. Mr. Boynton stated that his client did not wish to continue the hearing. Upon a motion by Matthew Armendo and seconded by Thomas Hannigan, the Board voted 5-0 to close the hearing. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 2-3 by Leonard Ciuffredo and Jerry Horton to approve the requested Variance of Relief of 15 Parking Spaces from the Off-Street Parking Requirement (Thomas Hannigan, Matthew Armendo, and Morris Bergman voting against). Therefore, the motion failed and the Variance was denied. Upon a Motion by Matthew Armendo and seconded by Morris Bergman, it was voted 3-2 by Leonard Ciuffredo, Thomas Hannigan and Morris Bergman to approve the requested Special Permit of Expansion or Change of a Pre-Existing, Nonconforming Use/Structure (Jerry Horton and Matthew Armendo voting against). Therefore, the motion failed and the Special Permit was denied.

11.2 Eastern Avenue/ 58 & 66 Mulberry Street (Z-06-149) – Special Permit: Samuel DeSimone, representative for George F. Sullivan, Jr., Terrence G. Sullivan, and Patrick J. Diggins, petitioners, presented the petition. Mr. DeSimone stated that he was seeking a Special Permit for the expansion or change a pre-existing, nonconforming use/structure to renovate the lower level for use as a bank branch, renovate the drive-through and lower level entrance, add a drive-up ATM, and place signage for the bank on the building. Mr. DeSimone stated that the site has been used for many years for a credit union with a drive-up teller window, an insurance office, and real estate offices without negatively impacting the surrounding residences. Mr. DeSimone concluded that he thought the proposed uses would enhance the area, as he thought the proposed uses were consistent with the uses and needs of the neighborhood. Upon a motion by Matthew Armendo and seconded by Thomas Hannigan, the Board voted 5-0 to close the hearing. Upon a motion by Thomas Hannigan and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the following:

- **SPECIAL PERMIT: For the Expansion or Change of a Pre-Existing, Nonconforming Use/Structure.**

12. Lot 2, New Street (MBL# 09-015-019-2) (Z-06-150) – Special Permit: Jack Morrison, representative for West Sutton Realty Trust, petitioner, presented the petition. Mr. Morrison stated that the petitioner was seeking a Special Permit to allow single-family attached dwellings (townhouses) in an RL-7 zone, which the petitioner plans to market as affordable housing, with an approximate sale price of \$200,000 per unit. Peter Ferguson expressed concern that the proposed project was too dense, and indicated that the structures would not fit harmoniously in the neighborhood. Sandra Hammond expressed concern that the proposed project would disrupt the mostly single-family neighborhood, as the area does not have any townhouses. Mr. Trifero asked that the Board consider requesting the petitioner that the

building be constructed to allow side-by-side parking within the structure, instead of the tandem parking shown. Mr. George asked Mr. Morrison to inform the Board if the petitioner would consider reducing the number of units to fit more harmoniously in the neighborhood. Mr. Morrison stated that the petitioner would agree to reduce the number of dwelling units from 4 to 3 units, and would redesign the structure to allow side-by-side parking within each dwelling unit. Upon a motion by Matthew Armendo and seconded by Thomas Hannigan, the Board voted 5-0 to close the hearing. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the following:

- **SPECIAL PERMIT: To Allow Single-Family Attached Dwellings in an RL-7 zone.**

The approval vote carries the following conditions:

- **The proposed single-family attached dwellings will be reduced from 4 to 3 units.**
- **The landscaping will be provided as shown on plan.**
- **All driveways will be paved.**
- **The garages will be constructed to accommodate 2 standard parking spaces (9' x 18'), side-by-side, within each dwelling unit.**

13. 16 Gilman Street (Z-06-151) –Special Permit: Jack Morrison, representative for West Sutton Realty Trust, petitioner, presented the petition. Mr. Morrison stated that the petitioner was seeking a Special Permit to allow single-family attached dwellings (townhouses) in an RL-7 zone. Mr. Trifero stated that the parcel's more than 15% slope would trigger Site Plan review by the Planning Board. In addition, Mr. Trifero expressed concern that the building may not comply with height requirement and asked the Board to consider requesting the applicant to construct the building in accordance with the Zoning Ordinance height requirement. Upon a motion by Matthew Armendo and seconded by Thomas Hannigan, the Board voted 5-0 to close the hearing. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the following:

- **SPECIAL PERMIT: To Allow Single-Family Attached Dwellings in an RL-7 zone.**

The approval vote carries the following condition:

- **All structures will conform to the Zoning Ordinance's 35 feet height requirement.**
- **The landscaping will be provided as shown on plan.**
- **All driveways will be paved.**

14. 375 Airport Drive (Z-06-153) – Variance: Maurya Sullivan, representative for New Cingular Wireless PCS, LLC, petitioner, presented the petition. Ms. Sullivan stated that the

petitioner was seeking a Variance of relief of 54 feet, 6 inches from the fall zone requirement for a 60-foot monopole personal wireless service facility. She also stated that the Variance was needed in order to install the 60-foot monopole adjacent to an existing tower site and the proposed equipment shelter, which would be within 5 feet, 6 inches of an existing storage building. Upon a motion by Morris Bergman and seconded by Jerry Horton, the Board voted 5-0 to close the hearing. Upon a motion by Morris Bergman and seconded by Jerry Horton, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the following:

- **VARIANCE: Relief of 54 feet, 6 inches from the fall zone requirement for a proposed 60-foot monopole personal wireless service facility.**

OTHER BUSINESS

15. Flood Zone Designations: Mr. Fontane provided the Board with information regarding Flood Zone Designations.

16. Shannon Street/Rice Lane – Scrivener’s Error: Upon a motion by Jerry Horton and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the scrivener’s error correcting the approval language for two variances from the frontage requirements for Lot C and Lot A-2B in the decision for Shannon Street/Rice Lane. The relief granted in the original decision was transposed.

17. 30-32 Greenwood Street (PB-06-148) Request for Clarification: Mr. Fontane requested clarification regarding the Board’s denial. Specifically, Mr. Fontane asked if the Board had denied the Variance and Special Permit for all uses requested, or just the retail food sales use. Mr. Ciuffredo stated that the Board had denied the Variance and Special Permit for all uses requested in the application.

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 10:05 PM.