

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

SEPTEMBER 25, 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: 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.

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 September 11, 2006 minutes.

UNFINISHED BUSINESS

- 1. 63 Kenberma Street (Z-06-137) – Special Permit:** Samuel DeSimone, representative for Michael and Mark Lapomardo, petitioners, presented the petition. Mr. DeSimone requested that the Board allow his clients to withdraw the application without prejudice. Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to grant the applicant Leave to Withdraw Without Prejudice.

- 2. 44 Byron Road (Z-06-141) – Special Permit:** Mr. Luna informed the Board that Jennifer Lougee, representative for Fiber Tower Corporation, petitioner, had sent a letter requesting a continuation of the hearing until October 16, 2006. The requested time will be used to submit alternative plans to camouflage the proposed antenna, and provide the Board with a radiation emissions report. 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 October 16, 2006.

3. **32-34 Buckingham Street (Z-06-147) – Variance:** Richard Tedesco, representative for Jayson Labouef, petitioner, presented the petition. Mr. Tedesco stated that the petitioner was seeking a Variance for relief of 15 feet from the frontage requirement to construct a single-family detached dwelling at 34 Buckingham Street. Mr. Fontane stated that while 32-34 Buckingham Street had been advertised, the proposed residential dwelling would be built at 34 Buckingham Street. Additionally, he stated that 34 Buckingham Street has the appropriate square footage for a single-family detached dwelling, but lacks the appropriate frontage requirement. Philip Palmieri expressed concern that the steepness of the parcel would make it difficult to plow during winter months. In addition, he stated that he thought a new house at this site would not fit harmoniously in the neighborhood. Jonathan Finkelstein, representative for Joan Hickey, an abutter, expressed concern that the proposed dwelling would be built on a parcel that has not been legally separated from 32 Buckingham Street. Mr. Finkelstein concluded that the petitioner would be creating his own hardship due to the lack of dimensional frontage. Diane Driscoll expressed concern that the proposed dwelling may exacerbate the runoff water problems in the area. Terrance Clifford expressed concern that a spring located at the proposed site may cause icy conditions on the road during winter months. Following testimony presented by the abutters, Mr. Tedesco requested that the Board allow him to withdraw his petition without prejudice. 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 grant the applicant Leave to Withdraw Without Prejudice.

New Business

4. **133 Puritan Avenue (Z-06-152) – Extension of Time - Variance:** Charles Scott, representative for the petitioner, and Frank Fiorillo, petitioner, presented the petition. Mr. Scott stated that the petitioner was seeking an extension of time for a Variance of 125 feet of relief from the gross dimensional requirement to construct a single-family detached dwelling. Mr. Bergman asked Mr. Scott to inform the Board the reason the proposed dwelling has not been built to date. Mr. Scott indicated that the parcel had been sold, and the present owner was in the process of selling the property as well. He added that the prospective buyer had been recently approved by a lending institution, but not on time to complete the transaction and begin construction prior to the expiration of the previous extension of time. Mr. Bergman asked Mr. Scott to inform the Board of the reason the application provided 3 different residential addresses, and 2 different names for the owner of the property. Mr. Fiorillo stated that while the record title for the property stands in the name of 133 Puritan Avenue Realty Trust, he is one-third owner, and therefore, he used both names alternatively in the application. In addition, Mr. Fiorillo stated that while his official address is in West Yarmouth, Massachusetts, he erroneously gave his parent's Worcester address as his, and indicated that the third address in question, 250 Commercial Street, was given because he has an office at said address. Upon a motion by Jerry Horton and seconded by Matthew Armendo, the Board voted 5-0 to close the hearing. Upon a motion by Jerry Horton and seconded by Matthew Armendo, it was voted 4-1 by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, and Morris Bergman to approve the following (Thomas Hannigan voting against):

- **EXTENSION OF TIME - VARIANCE: Relief of 125 Square Feet from the Gross Dimensional Requirement.**

The approval vote carries the following condition:

- **The Extension is approved for 6 months to February 16, 2007.**

***Note:** After the meeting, it was discovered that Variance for 133 Puritan Avenue had expired prior to the submission of the Extension of Time petition. The petition was submitted to the Division of Planning & Regulatory Services on August 21, 2006. The Variance expired on August 16, 2005. Therefore, the Extension of Time for the Variance for Relief of 125 square feet from the gross dimensional requirement is a legal nullity.*

5. **611 Millbury Street (Z-06-154) – Variance and Special Permit:** Mr. Luna informed the Board that Michael O'Rourke, property owner and petitioner, had sent a letter requesting the Board to consider opening the public hearing regarding his petition, but continue it until October 16, 2006 due to an unexpected business trip out of the country. 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 October 16, 2006 to allow the applicant time to return to the country and attend the meeting.
6. **70 James Street (Z-06-155) – Special Permit and Variances:** Kate Rugman, representative for Omnipoint Communications, Inc., petitioner, presented the petition. Ms. Rugman stated that the petitioner was seeking a Special Permit to install a personal wireless service facility, a Variance of 100 feet from the "fall zone" requirement, and a Variance of 15 feet from the rear yard setback requirement. She indicated that the purpose of this petition was to install a personal wireless service facility (a ground-mounted monopole) at this address, which is zoned MG-1.0. In addition, Ms. Rugman stated that the proposed site was ideal for this use because of its large size, its location in a manufacturing zone, and that it is not next to residential neighborhoods. Mr. George asked Ms. Rugman to inform the Board of the petitioner's reasons for requesting the two Variances. Ms. Rugman stated that installing a ground-mounted monopole was the most effective and least costly way to cover areas difficult to reach ("dead spots"). Mr. Bergman asked Ms. Rugman if the petitioner had considered installing the proposed service facility at another location in the area currently being used for this purpose. Ms. Rugman indicated that the petitioner was not successful in locating such a facility in the area. In addition, she stated that Omnipoint Communications preferred being the first carrier on a tower because it guaranteed a location at the top of the tower, which in turn allowed the widest coverage area. Mr. Hannigan stated that while this area is zoned manufacturing, the monopole would be located in close proximity to James Street which generates heavy traffic from nearby residential neighborhoods. In addition, Mr. Hannigan asked Mr. Fontane if the City had done a traffic study in this vicinity. Mr. Fontane indicated that he was not aware of any traffic study that had been done in the area, but indicated that he could confirm with the Department of Public Works and provide the Board with such information at a later date. Upon a motion by Thomas Hannigan and seconded by Jerry Horton, 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 Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the following (Leonard Ciuffredo voting against).

- **SPECIAL PERMIT: Personal Wireless Service Facility.**

Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 0-5 by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan and Morris Bergman to approve the requested Variance of 100 feet from the Fall Zone Requirement. Therefore, the motion failed and the Variance was denied.

Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 0-5 by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, Thomas Hannigan and Morris Bergman to approve the requested Variance of 15 Feet from the Rear Yard Setback Requirement. Therefore, the motion failed and the Variance was denied.

***Note:** After the meeting, it was discovered that the petitioner submitted an incorrect abutter's list (wrong parcel and wrong MBL #). This item was taken up at the December 18, 2006 meeting to rescind the vote for the Special Permit and re-open the Public Hearing to reconsider the matter after the correct abutter's were notified.*

7. **475 Chandler Street (Z-06-156) – Special Permits:** Kate Rugman, representative for Omnipoint Communications, petitioner, presented the petition. Ms. Rugman stated that the petitioner was seeking a Special Permit to install a personal wireless service facility on the roof of the building, and a Special Permit for expansion or change of a pre-existing, nonconforming use/structure. She indicated that all antennae would be disguised and hidden in a faux chimney made of synthetic material, which will then be painted to resemble the existing architecture of the building. Mr. Fontane expressed concern that the creation of a faux chimney for the sole purpose of using it to install wireless antennae did not appear to meet the purpose of the Zoning Ordinance. In addition, Mr. Fontane expressed concern that the petitioner may continue building these structures wherever needed. Mr. Armendo expressed concern that approving the proposed project would set a precedent and thereby be used by other carriers, resulting in the city having faux chimneys everywhere. Mr. Armendo also stated that if Board considered approving this petition, it should be conditioned to only one antennae/chimney on this building, and to only one carrier at this building. Mr. George asked the petitioner if the chimney could be build using solid components such as brick. Ms. Rugman responded that solid materials could not be used for such purpose due to their poor reflectivity. Mr. George asked Ms. Rugman if she could provide any photographs of other faux chimneys. Ms. Rugman stated that she would like to provide the information requested by Board members, and consult with the petitioner regarding the concerns expressed by Board members; therefore, she asked the Board to consider continuing the hearing until October 30, 2006 to allow her time to submit additional information. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Jerry Horton, Matthew Armendo, and Morris Bergman to continue the hearing until October 30, 2006

8. **1120 Pleasant Street (Z-06-157) – Special permit and Variance:** Elizabeth Casey, petitioner, presented the petition. Ms. Casey stated that she was seeking a Variance for 4 parking spaces from the off-street parking requirement, and a Special Permit for the expansion or change of a pre-existing, nonconforming use/structure for the purpose of operating a bakery with limited seating. Ms. Casey stated that the proposed site is located in a commercial area with on-street parking. She also indicated that while the proposed business will have 16 seats, most of her patrons will be individuals from the neighborhood who would walk to the site. Upon a motion by Thomas Hannigan and seconded by Matthew Armendo, 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:

- **VARIANCE: Relief of 4 Parking Spaces from the Off-Street Parking Requirement.**
- **SPECIAL PERMIT: Expansion or Change of a Pre-Existing, Nonconforming Use/Structure.**

9. **32 Mendon Street (Z-06-158) Extension of Time – Variance:** James Vevone, representative for Oak Hill Community Development Corporation, petitioner, presented the motion. Mr. Vevone stated that the petitioner was seeking an Extension of Time for the following previously granted Variances: (1) Variance for 2,694 square feet of relief from gross dimensional requirement, (2) Variance for 11 feet of relief from frontage requirement, (3) Variance for 2 feet of relief from side yard setback requirement and (4) Variance for 4 feet of relief from exterior side yard setback requirement, and (5) Variance for 6 feet of relief from the front yard setback requirement. He indicated that the purpose for said variances was to construct a single-family detached dwelling. Mr. Vevone also stated that while the Zoning Board of Appeals granted said Variances on August 15, 2005 (final action was on September 13, 2005), the petitioner has not been able to receive funding approval to date. 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 an Extension of Time for 6 months to March 13, 2007 for the following:

- **VARIANCE: Relief of 2,694 square feet from the gross dimensional requirement.**
- **VARIANCE: Relief of 4 feet from the exterior side yard setback requirement,**
- **VARIANCE: Relief of 11 feet from the frontage requirement.**
- **VARIANCE: Relief of 2 feet from the yard setback requirement.**
- **VARIANCE: Relief of 6 feet from the front yard setback requirement.**

10. **18-20 Enid Street (Z-06-159) – Variances:** Samuel DeSimone, representative for the petitioner, and Kevin Parvin, petitioner, presented the petition. Mr. DeSimone stated that the petitioner was seeking a Variance for relief of 2,464 square feet from the gross dimensional requirement for Lot 3A, and a Variance for relief of 2,499 square feet from the gross dimensional requirement for Lot 3B, for the purpose of constructing a single-family semi-detached dwelling (duplex). Mr. DeSimone also indicated that the lot is bounded at its rear

by a narrow isolated strip of land 6.44 feet deep and 95 feet wide, purportedly owned by the City of Worcester. Upon a Motion by Matthew Armendo and seconded by Jerry Horton, the Board voted 5-0 to close the hearing. Upon a motion by Thomas Hannigan 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 following:

- **VARIANCE: Relief of 2,464 square feet from the gross dimensional requirement for Lot 3A.**
- **VARIANCE: Relief of 2,499 square feet from the gross dimensional requirement for Lot 3B.**

The approval vote carries the following condition:

- **Should the City of Worcester adopt a Zoning Ordinance amendment regarding lot area requirements for residential uses in BL-1.0 zones, the relief granted by these variances shall revert to the minimum relief required to comply with the Zoning Ordinance.**

11. 22-24 Enid Street (Z-06-160) – Variances: Samuel DeSimone, representative for the petitioner, and Kevin Parvin, petitioner, presented the motion. Mr. DeSimone stated that the petitioner was seeking a Variance for relief of 2,483 square feet from the gross dimensional requirement for Lot 4A, a Variance for relief of 2,480 square feet from the gross dimensional requirement for Lot 4B, a Variance for relief of 2 feet, 4 inches from the rear yard setback requirement for Lot 4B, and a Variance for relief of 6 feet, 3 inches from the rear yard setback requirement for Lot 4B. He indicated that the petitioner was seeking these Variances for the purpose of constructing a single-family semi-detached dwelling (duplex) at this address. Mr. Armendo stated that the proposed site was not the appropriate location for a duplex, as it would exacerbate traffic problems in the area. Mr. Ciuffredo stated that the significant relief requested demonstrated that the proposed use was not suited for a duplex, but for a single-family detached dwelling. Upon a motion by Jerry Horton and seconded by Matthew Armendo, the Board voted 5-0 to close the hearing. Upon a motion by Jerry Horton and seconded by Matthew Armendo, it was voted 0-5 by Leonard Ciuffredo, Jerry Horton, Thomas Hannigan, Matthew Armendo, and Morris Bergman to approve the requested Variances. Therefore, the motion failed and the Variances were denied.

12. 538-540 Pleasant Street (Z-06-161) – Special Permit and Variance: Joseph Butler, owner of the property and Hau Hay Cheng, petitioner, presented the petition. Mr. Butler stated that the petitioner was seeking a Variance for relief of 3 parking spaces from the off-street parking requirement, and a Special Permit for the expansion or change of a pre-existing, nonconforming use/structure for the purpose of operating a take-out restaurant with limited seating. Mr. Butler also stated that several business have existed at this location without off-street parking. However, he indicated that while 4 parking spaces are available at the back of the building, and limited on-street parking is available in front of the building, the proposed business would only require short-time vehicle stops to pick up food orders. The limited seating would only serve walk-in patrons from the neighborhood. Mr. Bergman stated that the proposed parking spaces behind the building could not be used by patrons because the

space only allowed tandem parking, and because it was not known if said parking spaces would also be used for the other business located at the same address. Mr. Armendo stated that the petitioner did not indicate the hours of operation. In addition, Mr. Armendo expressed concern that the petitioner had not indicated how trash would be collected, which he considers an important factor since the proposed business abuts a residential neighborhood. Mr. Bergman also indicated that the plan submitted in the petition did not include the correct square footage to determine if additional parking waivers may be needed. Mr. Butler acknowledged that the application was deficient in information; therefore, he requested the Board to allow him to withdraw the petition without prejudice. Upon a motion by Thomas Hannigan and seconded by Matthew Armendo, 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 grant the applicant Leave to Withdraw Without Prejudice.

13. 38 Oran Street (Z-06-162) – Variance: Jeffrey Clark, representative for Alvaro Rodriguez, petitioner, presented the petition. Mr. Clark stated that the petitioner was seeking a Variance of 1 foot from the height requirement for a detached accessory structure, for the purpose of constructing a garage with a roof height of 16 feet. Mr. Clark also indicated that the size of the proposed project had been reduced from 832 square feet to 754 square feet to comply with Zoning Ordinance dimensional requirements. Mr. Armendo stated that the petition did not include an accurate description of the site plan, and requested that such information would be needed in order for this petition to move forward. In addition, Mr. Armendo stated that an elevation plan should also be submitted. Mr. Hannigan stated that the application had not been signed by the petitioner. Mr. Clark stated that he had signed the application erroneously. Consequently, he requested that the Board consider continuing the hearing until October 16, 2006 to allow the applicant time to sign the application appropriately, correct the application to reflect the correct proposed dimensions, provide a frontal elevation of the garage, and a site plan (to scale) showing the location and accurate square foot of the proposed garage. 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 October 16, 2006.

14. 687 Millbury Street (Z-06-163) – Variance: Mark Santoro, representative for the petitioner, and Huy Nguyen, petitioner, presented the petition. Mr. Santoro stated that the petitioner was seeking a Variance of relief of 62 feet from the frontage requirement for the purpose of constructing a two-story building with retail on the first floor and 5 dwelling units on the second floor. In addition, Mr. Santoro stated that the proposed site was formerly a gas station, but indicated that all issues associated with its former use were addressed. Consequently, the site now complies with the Department of Environmental Protection standards. Mr. Armendo asked Mr. Nguyen if he would consider reducing the number of dwelling units for the project to fit more harmoniously in the neighborhood. Mr. Nguyen stated that the number of dwelling units had been dictated by the cost associated with constructing the project and therefore, he would rather not reduce the number of units. Mr. Bergman asked Mr. Nguyen to inform the Board if he is the owner of the property. Mr. Nguyen indicated that he has a purchase and sale agreement, and is in the final stages of purchasing the site. Mr. Bergman stated that the application submitted did not include a floor

plan showing the location and dimensions of the proposed business units, a floor plan showing the business units in relation to the dwelling units, and a frontal elevation plan to determine if the proposed project would fit harmoniously in the neighborhood and justification for the Variance requested. Mr. Santoro indicated that since Board members had indicated that additional information was needed in order to render a decision, he requested that the Board consider continuing the hearing until October 16, 2006 to provide time to submit floor plans of the proposed building, as well as elevation plan. 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 October 16, 2006.

OTHER BUSINESS

15. Oak Hill CDC – Status of approved housing projects: Mr. Luna distributed a list provided by Oak Hill CDC listing the status of their proposed projects.

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 10:00 PM.