

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

OCTOBER 16, 2006

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

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

Staff Present: Joseph Mikielian, Department 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.

APPROVAL OF THE MINUTES

Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Thomas Hannigan, Matthew Armendo, Morris Bergman, and David George to continue approval of the September 25, 2006 minutes until October 30, 2006.

UNFINISHED BUSINESS

- 1. 44 Byron Street (Z-06-141) – Special Permit:** Andy Candiello, representative for Fiber Tower Corporation, petitioner, presented the petition. Mr. Candiello stated that the petitioner was seeking a Special Permit to allow a wireless communication facility in an RG-5 (Residence, General) zone, for the purpose of installing an additional antenna and new equipment on the roof of a structure located on site. Mr. Bergman asked Mr. Candiello if he had submitted the information requested by the Board on September 25, 2006, which included providing alternative plans to camouflage the proposed antenna, and a radiation emissions report. Mr. Candiello stated that he had been assigned to attend the meeting unexpectedly and therefore was not aware that such information had been requested. Mr. Bergman stated that such information was needed in order to render a decision regarding the Special Permit petition. Mr. Candiello requested that the Board consider continuing the petition to November 13, 2006 to allow time to provide such information. Mr. Ciuffredo advised Mr. Candiello to submit alternative plans to camouflage the proposed antenna and a radiation emissions report by November 6, 2006. Upon a motion by Morris Bergman and seconded by David George, it was voted 4-1 by Leonard Ciuffredo, Morris

Bergman, David George, and Andrew Freilich (Matthew Armendo voting against, and Thomas Hannigan absent) to continue the hearing until November 13, 2006.

Note: Board member Thomas Hannigan arrived after the end of above hearing.

2. **41 Lancaster Street (Z-06-145) – Special Permits:** Mr. Luna informed the Board that Jay Hommer, petitioner, had submitted a request to continue the hearing until November 13, 2006 to allow him time to meet with the neighborhood group and to prepare a plan to address their concerns prior to meeting with the Board. Mr. George stated that he did not support approving the requested continuation; as the petitioner had already been granted sufficient time to address the neighborhood concerns. Mr. Bergman stated that he supported the request for a continuation of the hearing and requested that the Board consider not hearing any testimony until next meeting to ensure that the petitioner was aware, of all concerns of neighborhood residents. Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Thomas Hannigan, Matthew Armendo, Morris Bergman, and David George to continue the hearing until November 13, 2006.
3. **611 Millbury Street (Z-06-154) – Variance and Special Permit:** Joan O'Rourke, representative for the petitioner, presented the petition. Ms. O'Rourke stated that the petitioner was seeking a Variance for the relief of 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 converting the commercial space in Building #1 into 2 residential units and expand the rear porch. Mr. Bergman asked Ms. O'Rourke to inform the Board the reason the petitioner had not submitted site plans of the proposed project as such information was needed in order to render a decision regarding the Variance and Special Permit. Ms. O'Rourke stated that the petitioner had left the country unexpectedly due to a family emergency and consequently was not able to provide site plans of the proposed project and attend the meeting himself. Therefore, Ms. O'Rourke asked the Board to consider continuing the hearing until November 27, 2006, to allow the petitioner time to prepare and submit site plans of the proposed project and attend the meeting himself. Mr. Ciuffredo asked Ms. O'Rourke to inform the petitioner that he needs to submit the site plans to the Division of Planning and Regulatory Services 10 days prior to the November 27, 2006 Board meeting. Upon a motion by Matthew Armendo and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, Thomas Hannigan, Matthew Armendo, Morris Bergman, and Andrew Freilich to continue the hearing until November 27, 2006.
4. **38 Oran Street (Z-06-162) – Variance:** Alvaro Rodrigues, petitioner, presented the petition. Mr. Rodrigues stated that he was seeking a Variance of 1 foot of relief from the height requirement for a detached accessory structure for the purpose of constructing a garage with a roof height of 16 feet. Mr. Armendo asked Mr. Rodrigues to inform the Board the reason for constructing a garage with a roof height of 16 feet. Mr. Rodrigues stated that he was planning to use the proposed garage to store a truck and a boat. Mr. Bergman asked Mr. Rodrigues to inform the Board if he was planning to build a second floor in the proposed structure for dwelling purposes. Mr. Rodrigues stated that the proposed structure would not have a second story, and indicated that it would only be used for storing a truck and a boat. 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 Thomas Hannigan, it was voted 5-0 by Leonard

Ciuffredo, Thomas Hannigan, Matthew Armendo, Morris Bergman, and David George to approve the following:

- **VARIANCE: Relief of 1 foot from the height requirement for a detached accessory structure.**

The approval carries the following condition:

- **The proposed structure will be used to store vehicles only, and will not be habitable.**
5. **687 Millbury Street (Z-06-163) – Variance:** Huy Nguyen, petitioner, and Mark Santora presented the petition. Mr. Nguyen stated that he was seeking a Variance of 62 feet of relief from the frontage requirement for the purpose of constructing a two-story building with 5 commercial units on the first floor and 5 dwelling units on the second floor. Mr. Fontane informed the Board that the proposed project was also being reviewed by the Planning Board for Site Plan Approval, and indicated that the project had been continued until October 18, 2006. Mr. Bergman asked the petitioner to inform the Board what financial investment he had made for the proposed project. Mr. Nguyen stated that his investment was approximately \$500,000.00. Mr. Armendo asked Mr. Nguyen to inform the Board if he was planning to expand the proposed structure in the future. Mr. Nguyen stated that he was not planning to expand the structure in the future because the site dimensions were limited and would not allow expansion. Upon a motion by Thomas Hannigan and seconded by Morris Bergman, 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, Thomas Hannigan, Matthew Armendo, Morris Bergman, and David George to approve the following:

- **Variance: Relief of 62 Feet from the Frontage Requirement.**

The approval carries the following conditions:

- **The proposed structure will be built according to the approved site plan.**
- **The proposed structure is limited to 5 commercial units on the first floor, and 5 dwelling units on the second floor.**

NEW BUSINESS

6. **115 Dewey Street (Z-06-164) – Amendment to Special Permit and Special Permit:** Hao Nguyen, petitioner, presented the petition. Mr. Nguyen stated that he was seeking an Amendment to a Special Permit to allow retail sales in an MG-1.0 (Manufacturing, General) zone, and a Special Permit for the expansion or change of a pre-existing, nonconforming use/structure for the purpose of converting a part of the supermarket into a Flea Market. Mr. Bergman asked the petitioner to inform the Board the operation days and times. Mr. Nguyen stated that the proposed Flea Market would operate 3 days per week only, on Fridays, Saturdays and Sundays from 8:00 AM to 4:00 PM. Mr. Armendo asked the petitioner to inform the Board the reason he had decided to utilize a section of the supermarket to operate

a Flea Market. Mr. Nguyen stated that the supermarket business had slowed down significantly during the last two years due to heavy competition from large-chain supermarkets; consequently, he decided to diversify the business to supplement his income. Mr. Bergman asked the petitioner to inform the Board how much he had paid for the property, and what percentage of the property would be used for the Flea Market. Mr. Nguyen stated that he paid \$575,000.00 for the property, and indicated that 25% of the supermarket space would be used for the Flea Market. Mr. George asked Mr. Nguyen how many off-street parking spaces are located on site, and how many of those spaces would be allocated to the supermarket and Flea Market respectively. Mr. Nguyen stated that the site has a total of 58 off-street parking spaces, and stated that the supermarket uses 10 to 20 parking spaces at one time, and that the remaining spaces will serve the Flea Market. Mr. Freilich asked the petitioner if he was planning to renovate the premises to accommodate the proposed use. Mr. Nguyen stated that he was planning to do so, but indicated the renovations required would be minimal, consisting primarily on the placement of tables where items for sale would be displayed. Mr. Bergman stated that the area has limited on-street parking; consequently, he expressed concern that the proposed use may exacerbate parking problems in the neighborhood. Mr. Armendo expressed concern that the site is currently full of debris, and requested that an approval should be conditioned upon cleaning up the site. In addition, Mr. Armendo stated that the Board should consider imposing a condition that limits the Special Permit to 12 months which would allow the Board an opportunity to reevaluate the impact of the propose use in the neighborhood. Mr. Nguyen stated that he would accept a 12 month approval, and indicated that he would abide by any conditions of approval that the Board may deem appropriate. 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 Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Thomas Hannigan, Matthew Armendo, Morris Bergman, and David George to approve the following:

- **AMENDMENT TO A SPECIAL PERMIT: To allow retail sales in an MG-1.0 (Manufacturing, Limited) zone.**
- **SPECIAL PERMIT: Expansion or change of a pre-existing, nonconforming use/structure.**

The approval carries the following conditions:

- **The Special Permit is limited to 12 months.**
- **The petitioner will re-notify abutters a year from now stating that the Special Permit allowing the Flea Market has expired, and that an extension will be sought.**
- **Days and hours of operation for the Flea Market will be limited to Fridays, Saturdays, and Sundays, from 8:00 AM to 4:00 PM.**
- **Clear the parking lot of any debris prior to opening the Flea Market.**

7. 322 Cambridge Street (Z-06-166) – Variance and Amendment to Special Permit: Todd Rodman, representative for Blanchard Vending Corporation, petitioner, presented the petition. Mr. Rodman stated that the petitioner was seeking a Variance for relief of 6 parking spaces from the off-street parking requirement, and Amendment to a Special Permit for the

expansion or change of a pre-existing, nonconforming use/structure for the purpose of allowing a religious organization to use a portion of the warehouse building on the property as a church. Nelsa Benitez, member of the church, stated that the congregation uses mini-vans to transport most of the 24 parishioners, and consequently their needs for off-street parking are limited to 6 parking spaces. In addition, Ms. Benitez stated that the congregation has existed in the area since 1996, and that the parishioners had never encountered parking problems. Mr. Bergman asked Ms. Benitez to inform the Board what days and times the congregation holds religious services. Ms. Benitez stated that the church holds religious services during evening hours on Mondays Tuesdays, Wednesdays, and morning and evening services on Sundays. Upon a motion by Matthew Armendo and seconded by Morris Bergman, the Board voted 5-0 to close the hearing. Upon a motion by Morris Bergman and seconded by Matthew Armendo it was voted 5-0 by Leonard Ciuffredo, Thomas Hannigan, Matthew Armendo, Morris Bergman, and Andrew Freilich to approve the following:

- **Variance: Relief of 6 Parking Spaces from the Off-Street Parking Requirement, in addition to the Variances granted to the petitioner on July 24, 2006.**
- **Amendment to Special Permit: Expansion or Change of a Pre-Existing, Nonconforming Use/Structure.**

8. 12 Sweetbriar Lane (Z-06-168) – Special Permit and Variance: Brian MacEwen, representative for the petitioner, presented the petition. Mr. MacEwen stated that the petitioner was seeking a Variance of 4 feet of relief from the side yard setback requirement, and a Special Permit for the expansion or change of a pre-existing, nonconforming use/structure for the purpose of removing an existing garage and second floor of the dwelling and construct a new garage and second floor. Mr. MacEwen stated that the proposed structural changes were needed in order to replace an aging garage and meet the needs of an expanding family. Upon a motion by Matthew Armendo and seconded by David George, 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, Thomas Hannigan, Matthew Armendo, Morris Bergman, and David George to approve the following:

- **Special Permit: Expansion or Change of a Pre-Existing, Nonconforming Use/Structure.**
- **Variance: Relief of 4 Feet from the Side Yard Setback Requirement.**

9. 239 Mill Street (Z-06-169) – Special Permit: Mr. Luna informed the Board that the Worcester Telegram and Gazette failed to advertise the petition on October 2, 2006; therefore, the hearing was re-advertised appropriately for the October 30, 2006 meeting. Mr. Luna also stated that the abutters were re-notified of the change.

OTHER BUSINESS

10. 2007 Meeting Schedule: Upon a motion by Thomas Hannigan and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Thomas Hannigan, Matthew Armendo,

Morris Bergman, and David George to approve the 2007 Zoning Board of Appeals meeting schedule for the following dates:

- 1. January 8**
- 2. January 22**

- 3. February 12**
- 4. February 26**

- 5. March 12**
- 6. March 26**

- 7. April 9**
- 8. April 23**

- 9. May 14**

- 10. June 11**
- 11. June 25**

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 7:45 PM.