

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

**July 23, 2007**

**WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM**

**Zoning Board Members Present:** Leonard Ciuffredo, Chair  
Morris Bergman, Vice-Chair  
Matthew Armendo  
David George  
Andrew Freilich

**Staff Present:** John Kelly, Department of Code Enforcement  
Joel Fontane, Division of Planning & Regulatory Services  
Judy Stolberg, Division of Planning & Regulatory Services  
Kwabena Owusu-Ansah, 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, Morris Bergman, Matthew Armendo and David George to approve the minutes of the June 25, 2007 and July 9, 2007 meetings.

**UNFINISHED BUSINESS**

- 1. 947 West Boylston Street (Z-07-52) – Special Permits & Variance:** Item #2, a Special Permit to allow a drive-through and escape lane length of 228 feet rather than the required 240 feet, was taken contemporaneously. Attorney Patricia Gates, Dennis DiSchino, Equity Partners, Inc., petitioner, and William Scully presented the petition. Ms. Gates stated the petitioner is seeking a Special Permit to allow 50% compact parking spaces, Special Permit to allow drive-through service, Special Permit to modify drive-through escape lane to 9 feet in width and parking layout and a Special Permit to allow a drive-through and escape lane length of 228 feet. She requested Leave to Withdraw without prejudice for the Variance for 11 feet, 5 inches of relief from the rear yard setback requirement since the building footprint had been scaled down and the relief was no longer necessary. Ms. Gates said they had agreed to an exit only onto Dixfield Street and had reduced the drive-through lane length. Mr. George asked Mr. DiSchino if he had attempted to purchase the abutting property that is currently for sale and combine the two sites to create a project that would not require relief. He replied that he had contacted the owner but the property has environmental issues and is in the process of being cleaned up. He said he would not enter into a Purchase and Sale Agreement until the clean-up was completed. Mr. Fontane reported that

the site plan was much improved and the structure had been scaled back to accommodate the Board's concerns. Mr. Freilich also said the developer had done a good job of scaling it back. Eileen Daubney, Karen Daubney-Lester, Patricia Labreton, Mary McGovern, Andrea Travey, Elizabeth Knott and Fr. Edward Nichols expressed their concerns relative to the drive-through and traffic in the area. Susan Sacco spoke in support of the project. Ms. Gates told the Board that the drive-through was necessary to make the site work financially. She said they had worked diligently to assuage the concerns of the neighbors. Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to extend the deadline for constructive grant to August 15, 2007 for the Variance. Upon a motion by David George and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to close the hearing. Upon a motion by David George and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to take the matter under advisement until later in the meeting. The item was tabled. After concluding its other hearings, the Board resumed deliberation. Ms. Gates requested that the hearing be re-opened for clarification purposes. There was discussion relative to the propriety of re-opening the hearing after neighbors had left assuming the hearing was closed. Upon a motion by Matthew Armendo and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to re-open the hearing to discuss conditions of approval. Regarding the prohibition of certain business franchises, Mr. Freilich opined that it would be impossible to cover all businesses that neighbors would not want located there. Mr. Armendo suggested limiting it to the restaurant uses the petitioner had agreed to, namely, McDonald's, Burger King and Wendy's restaurants. Mr. Bergman reiterated his concern about not knowing what business would be locating on the site. Mr. Freilich was concerned about noise from speakers for the drive-through. Ms. Gates agreed to relocating the speaker and providing landscape buffering. Mr. Freilich asked Mr. DiSchino if he was in serious negotiations with any companies at the present time and he responded that he was negotiating with Honeydew Donuts and had contact with a bank that may be interested as well. Upon a motion by Matthew Armendo and seconded by Andrew Freilich, it was voted 5-0 to close the hearing. Upon a motion by Matthew Armendo and seconded by David George, it was voted by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to approve the request of the petitioner for Leave to Withdraw Without Prejudice the requested Variance for 11 feet, 5 inches of relief from the rear yard setback requirement. Upon a motion by Matthew Armendo and seconded by David George, it was voted 4-1 by Morris Bergman, Matthew Armendo, David George and Andrew Freilich (Leonard Ciuffredo voted no) to approve the following:

- **Special Permit to allow 50% compact parking spaces**
- **Special Permit to allow drive-through service**
- **Special Permit to modify drive-through escape lane to 9 feet in width and parking layout**
- **Special Permit to allow a drive-through and escape lane length of 228 feet**

The Special Permits were approved with the following conditions:

- **McDonald's, Burger King and Wendy's restaurants are prohibited from the site.**
- **Dunkin Donuts prohibited from locating on the site for a period of one year from the date of issuance of a building permit.**
- **Any restaurant located on the site, must close from Midnight to 4:00 A.M.**
- **A six-foot wood fence as shown in Exhibit A is to be installed along the rear property line.**
- **Drive-through speaker is to be located on the south side of the building at the curve of the drive-through with no overhead lighting.**
- **Land area located at the southwest corner of the property be landscaped to suppress noise from the speaker. Arborvitae, 7 feet in height, shall be densely planted in the area at the southwest corner of the property and is to be extended a distance of 25 feet along the fence that will be installed along the rear property line.**
- **Exit only onto Dixfield Street.**
- **Lot is to be developed in conformance with the final Parking Plan approved by the Planning Board.**
- **Two-foot curb returns at all curb cuts be shown on the plan.**
- **All existing curb cuts that will not be used in the new design of the site are to be closed.**
- **Landscaping must be in conformance with that shown on the most recently revised plan (dated 6/28/07) with additional landscaping per above condition.**

## **NEW BUSINESS**

2. **947 West Boylston Street (Z-07-52A) – Special Permit:** This hearing was held contemporaneously with Item #1. The petitioner is seeking a Special Permit to allow a drive thru and escape lane length of 228 feet (240 feet required). See Item #1.
3. **500 Salisbury Street (Z-07-65) – Special Permit:** Thomas Voltero, Richard Hogan and Luis Teves, representatives for the petitioner, presented the plan. The petitioner requested a Special Permit to install and operate a personal wireless facility for the purpose of installing a roof-mounted personal wireless facility. Mr. Bergman asked if there were a policy for choosing sites for these types of facilities. Mr. Voltero answered that, in this case, there are other personal wireless facilities currently located on the roof top. Mr. Hogan said location decisions are based on technical merit. Chair Ciuffredo asked if more antennae would be added to the proposed personal wireless facility in the future. Mr. Voltero responded that there would not be any more room for additional antennae. Chair Ciuffredo asked about the safety of RF frequencies, particularly since the facility will be mounted on a dormitory roof top. Mr. Voltero said Verizon facilities were FCC compliant. Mr. Horgan said Federal Communication Commission regulations require periodic measurement of power densities. He said Verizon takes such measurements yearly. Mr. Bergman asked to see a copy of the lease. Mr. Voltero said he would provide a redacted copy of the lease. Mr. Fontane asked what was meant by the phrase “gap in coverage”. Mr. Hogan answered that it was an area where service is not optimum meaning the signal strength is lower, not necessarily absent. Mr. Freilich asked if there were language in the

lease regarding removal of equipment if the lease is terminated. Mr. Voltero said language stating equipment would be removed within thirty days is incorporated into the lease. Mr. Bergman asked staff to ask the Assessor how personal property located on a non-profit property is taxed. Mr. Armendo requested that a representative from Assumption College be present at the next meeting to answer questions. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to continue the hearing to August 13, 2007 and asked the petitioner to provide a copy of the lease and criteria for site search.

4. **Lots 71 & 72 Wigwam Hill Drive (Z-07-66) – Extension of Time – Variances:** Joe Boynton, representative for the petitioner, presented the petition. The petitioner is requesting an Extension of Time for a Variance for 588 square feet of relief from the gross dimensional requirement, Variance for 6.72 feet of relief from the side yard setback requirement and Variance for 22.25 feet of relief from the frontage requirement for the purpose of constructing a single-family detached dwelling. Mr. Boynton stated that illness had prevented the petitioner from starting construction, but health issues have been resolved and he is ready to commence. Upon a motion by Matthew Armendo and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to close the hearing. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to approve an Extension of Time for six months for the following:

- **Variance for 6.72 feet of relief from the side yard setback requirement**
- **Variance for 588 square feet of relief from the gross dimensional requirement**
- **Variance for 22.25 square feet of relief from the frontage requirement**

5. **6 Tennyson Street (Z-07-69) – Special Permit:** Todd Brodeur, representative for the petitioner, presented the petition. The petitioner is requesting a Special Permit for expansion or change of a pre-existing, nonconforming structure for the purpose of constructing a second story addition to the dwelling. Upon a motion by Matthew Armendo and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to close the hearing. Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to approve the following:

- **Special Permit – Expansion or change of a pre-existing nonconforming structure**

The Special Permit was approved with the following condition:

- **Addition to be built in conformity with the rendering submitted and marked as Exhibit A.**

6. **76, 78, 82 May Street, Lots 38B, 394, 402, 404 Park Avenue & 123 Winfield Street (Z-07-71A) – Special Permits:** Todd Brodeur, Ana Fill, Chris Gerard and Derek Redgate, representatives for the petitioner, presented the petition. The petitioner is requesting a Special Permit to allow a drive-through lane length of 111 feet (120 feet required) and a Special Permit

to allow a drive-through lane in a BG-2.0 district for the purpose of constructing a CVS retail pharmacy with a drive-through lane. Mr. Fontane informed the Board that, since it appears that the major cross point for pedestrians will be at the corner of May Street and Park Avenue, staff is recommending an additional pedestrian access that crosses the parking lot closer to the southeastern corner of the lot at that intersection. He continued that staff also recommends that areas labeled "LA" on the plan and scattered throughout the site, include a combination of plantings to include additional shade trees and other planting materials such as shrubs, ornamental grasses or flowers. Mr. Brodeur said he would have to consult with CVS to obtain authorization for any changes to the plan. When asked about the number of cars that would be queued at peak periods, Ms. Fill said that, historically, at peak times, there would be three cars queued, with service taking approximately 5 minutes per car. She also said the drive-through is for prescription drop-off and pick-up only. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to continue the hearing to August 13, 2007 to allow time for Mr. Brodeur to discuss the additional pedestrian access issue and a right-turn only sign for cars exiting onto Park Avenue with CVS officials.

7. **Amendment to Zoning Board of Appeals Rules and Regulations – Fees:** Mr. Fontane presented to the Board a proposed fee schedule to reflect the associated costs with application review processing that included an adjustment for inflation, introduction of new fees and other changes. Mr. Fontane recommended that the fees should be tied to the CPIU and updated bi-annually. He informed the Board that he would propose another amendment in the near future to accomplish this. Mr. Fontane recommended that the Board adopt the \$100.00 fee for Extension of Time to be consistent with the Planning Board. The Board agreed to the change. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to close the hearing. Upon a motion by Matthew Armendo and seconded by David George, the Board voted 5-0 to amend the Zoning Board of Appeals Rules and Regulations by deleting the fees listed in Article II, Section 5 and all its subsections and inserting in their place the portions of the table titled "Application Fees – Worcester Zoning Board of Appeals", as appropriate.

**OTHER BUSINESS:** None

**ADJOURNMENT:** Chair Ciuffredo adjourned the meeting at 9:45 PM.