

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

SEPTEMBER 24, 2007

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

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

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Judith Stolberg, Division of Planning & Regulatory Services
John Kelley, Division of Code Enforcement

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Chair Ciuffredo called the meeting to order at 5:30 PM. Mr. Bergman was not present at that time.

UNFINISHED BUSINESS

- 1. 27 Norfolk Street (Z-07-75) – Variances:** John Shea, representative for the petitioner, requested Leave to Withdraw without prejudice and indicated that a new petition would be filed. The petitioner sought to build a single-family semi-detached building. Upon a motion by David George and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, Andrew Freilich, Matthew Armendo, David George and Lawrence Abramoff to grant the request of the petitioner for Leave to Withdraw without prejudice.
- 2. 4 - 6 May Street (Z-07-76) – Variance:** Neither the petitioner nor his representative was present for the hearing. The petitioner is seeking a Variance to develop a retail use in the existing 4,000 SF repair garage. The petitioner has been advised to file an application for a Special Permit, but, to date, he has not done so. Mr. Fontane advised the Board that the constructive grant date is November 2, 2007 and that the hearing could be continued to October 15, 2007 but not beyond that meeting unless the petitioner requests an extension of the constructive grant date. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 to continue the hearing to October 15, 2007.

Mr. Bergman arrived.

- 3. 35 Colton Street (Z-07-79) – Variances:** Donald O'Neil, representative for the petitioner, presented the plan. He stated the petitioner is requesting a Variance for 1, 391 square feet of relief from the gross dimensional requirement and a Variance for 9 feet of relief from the

frontage requirement for the purpose of constructing a two-family detached dwelling. Two previous owners of the property received Variances to construct a single-family detached dwelling. The first owner let the Variances expire and the second owners sold the property to the current petitioner. Mr. George asked how the property was represented at the time of sale and Mr. O'Neil responded that the petitioner purchased the property knowing that the Variances to construct a single-family detached dwelling were in effect. However, Mr. O'Neil told the Board that it is not economically feasible to construct a single-family dwelling on this lot in this particular neighborhood. Mr. Abramoff asked how much the petitioner expected to invest in the property. Mr. O'Neil said he expected the total investment would be approximately \$250,000.00. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 to close the hearing. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 4-1 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo and Lawrence Abramoff (David George voted no) to approve the following:

- **Variance: 1,391 square feet of relief from the gross dimensional requirement**
- **Variance: 9 feet of relief from the frontage requirement**

4. **482 Park Avenue (Z-07-83) – Special Permit and Variance:** Victoria Mariano, petitioner, presented the plan. The petitioner is seeking a Special Permit for expansion or change of a pre-existing nonconforming use/structure and a Variance for relief of 18 parking spaces from the parking requirement in order to create a lounge, café and art gallery within the two-family detached dwelling. The hearing had been continued in order to obtain additional information from the Health Department, Fire Department and Police Department relative to any concerns they might have regarding the operation of this type of facility. Mr. Fontane indicated that staff had contacted the departments and had received a response from the Fire Department that stated they would like the approval to be conditioned upon installation of a fire alarm monitored by a private company. Chair Ciuffredo and Mr. Armendo expressed concerns about the late night closing. Ms. Mariano agreed to closing at 11:00 P.M., Sunday through Wednesday and 2:00 A.M. Thursday through Saturday. Mr. Armendo asked Ms. Mariano to explain the cleaning of the hookah and mouthpieces. She said the mouthpieces come pre-packaged and are disposable. She said the hookah is cleaned daily with an anti-bacterial solution made especially for this purpose. Mr. George asked how the hookah and café sales are tracked to determine that 51% of the sales are from tobacco sales. Ms. Mariano responded that café sales and hookah sales will be tracked separately. Mr. Kelly offered that since there will be no alcohol sales, the Code Enforcement Division is in charge of monitoring the sales and the establishment has to provide proof of sales. Mr. Bergman asked what the total investment would be and Ms. Mariano said it would be \$50,000.00. Upon a question by Mr. Bergman as to the term of the lease, Ms. Mariano stated it was for five years. Upon a motion by Morris Bergman and seconded by David George, it was 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, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to approve the following:

- **Special Permit: Expansion or change of a pre-existing nonconforming use/structure**
- **Variance: Relief of 18 parking spaces from the off-street parking requirement**

The Special Permit and Variance were approved with the following conditions:

- **A fire alarm system to be monitored by a private company must be installed.**
- **That the establishment close no later than 11:00 P.M. Sunday – Wednesday and no later than 2:00 A.M. Thursday – Saturday.**
- **No outdoor seating or activities to be allowed.**
- **Business will abide by all Federal, State and local laws and regulations pertaining to the operation of this type of business.**
- **The Special Permit is approved for a twelve (12) month period commencing from the date the Board files its decision with the City Clerk. The Board, at its last regularly scheduled public meeting, prior to the expiration of this 12 month period will consider official complaints, if any, received by all relevant City of Worcester offices including, but not limited to, the Police Department, the Fire Department, the Department of Health and Human Services and the Code Enforcement Division. Provided that the use has commenced, if no official complaints are received, this condition shall automatically expire at the end of the 12 month period. If an official complaint is received by a City of Worcester office, the applicant must apply for an amendment to this Special Permit prior to the expiration of the stated 12 month period.**

NEW BUSINESS

5. **69 Canterbury Street (Z-07-88) – Special Permit:** Attorney Jonathan Finkelstein, representatives for the petitioners, Stacey DeBoise-Luster and Charles Luster, presented the plan. The petitioners are seeking a Special Permit for expansion or change of a pre-existing nonconforming use/structure and a Special Permit to allow a personal service shop (barber shop) in an ML-2.0 zone. Mr. Finkelstein stated the barber shop would have 4 chairs and would be open six days a week. Mr. Bergman offered that the location is a good one for this type of business and inquired if the barber shop would be for men and women or men only. Ms. Deboise-Luster said it would be for men. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was 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, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to approve the following:

- **Special Permit: Expansion or change of a pre-existing nonconforming use/structure**
- **Special Permit: To allow a personal service shop (barber shop) in an ML-2.0 zone**

The Special Permits were approved with the following conditions:

- **Barber shop shall have no more than 4 barber chairs.**
6. **10 Ronald Drive – Variance (Z-07-89):** Neither the petitioner nor his representative appeared before the Board. Chair Ciuffredo held the item until all the other hearings were concluded. At that time, Chair Ciuffredo recalled the hearing. Still no one appeared to

present the plan. The petitioner sought to subdivide the lot into two lots for construction of a single-family detached dwelling. Mr. Fontane explained that the petitioner planned to file an 81G street opening plan, however, because of wetlands issues, the Conservation Commission would not approve a plan which would allow the petitioner to meet the frontage requirement of the Zoning Ordinance. Mr. Armendo and Mr. Bergman both looked upon the plan unfavorably because the amount of relief was so great. Upon a motion by Mathew 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 0-5 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to approve the Variance for 45 feet of relief from the frontage requirement. Therefore, the Variance was denied.

- 7. 42 Benedict Road (Z-07-90) – Variances and Special Permit:** Robert O’Neil, representative for the petitioner, stated the petitioner requested a Variance for 2.2 feet of relief from the side yard setback requirement, a Variance for 10.9 feet of relief from the rear yard setback requirement and a Special Permit for expansion or change of a nonconforming use/structure to construct a deck onto the rear of the single-family detached dwelling. Mr. O’Neil requested Leave to Withdraw for the Variance for 2.2 feet of relief from the side yard setback requirement. Upon a motion by Morris Bergman and seconded by David George, it was 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, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to approve the following:

- **Variance: 10.9 feet of relief from the rear yard setback requirement**
- **Special Permit: Expansion or change of a pre-existing nonconforming use/structure**

Upon a motion by Morris Bergman and seconded by Matthew Armendo, it was voted 5-0 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 following:

- **Variance for 2.2 feet of relief from the side yard setback requirement**

- 8. 51 Hurtle Avenue (Z-07-91) – Variance:** Robert O’Neil, representative for the petitioner, and Anthony Dellomo, petitioner, presented the plan. Mr. O’Neil stated the petitioner is requesting a Variance for 10 feet of relief from the gross dimensional requirement to subdivide the lot and construct a single-family detached dwelling on the newly created lot. Mr. O’Neil informed the Board that the petitioner had been granted the same Variance in 2005 but did not move forward and the Variance expired. Chair Ciuffredo asked if the plan before the Board was the exact same plan that had been before the Board previously. Mr. O’Neil responded that it was the same plan. Mr. Bergman opined that the requested relief was de minimus. Upon a motion by Matthew Armendo and seconded by Lawrence Abramoff, it was 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, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to approve the following:

- **Variance: 10 square feet of relief from the gross dimensional requirement**

The Variance was approved with the following conditions:

- **Construction must be according to the rendering submitted and marked as Exhibit A.**
- **House must front on Orton Street.**

9. **28 Sears Island Drive (Z-07-93) – Variances and Special Permit:** Charles Colebrook, petitioner, presented the plan. He stated he requested a Variance for 6 feet of relief from the east side yard setback requirement, a Variance for 6 feet of relief from the west side yard setback requirement and a Special Permit for expansion or change of a pre-existing nonconforming use/structure to construct a second story addition to the house and a garage. He informed the Board that the advertisement for the hearing incorrectly stated that he sought to construct a two-story garage. Mr. Fontane said that the hearing would have to be re-advertised. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to continue the hearing to October 15, 2007 to allow time for readvertisement

OTHER BUSINESS

37 Chippewa Road: Mr. Fontane informed the Board that an Administrative Appeal will be heard on October 15, 2007. An abutter has requested it be the last item on the agenda. Chair Ciuffredo stated that it should be placed on the agenda as the first item under New Business based on standard Board policy.

Mileage Reimbursement: Upon a motion by Matthew Armendo and seconded by Andrew Freilich, the Board voted 5-0 to recommend to the City Manager, through Mr. Fontane, that mileage reimbursement be given to any regulatory board member that uses his/her private vehicle to view sites.

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 7:20 PM.