

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

OCTOBER 29, 2007

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

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

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Judy 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 5:35 PM.

REQUESTS FOR WITHDRAWALS, CONTINUANCES, AND TIME EXTENSIONS

- 1. 37 Chippewa Road (Z-07-92) – Administrative Appeal:** The petitioner, Aaron Darvish, requested Leave to Withdraw without prejudice because he found an alternative site for his business. 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 grant the request of the petitioner for Leave to Withdraw without prejudice the Administrative Appeal to overturn the issuance of a Cease and Desist Order relative to a home occupation.

UNFINISHED BUSINESS

- 2. 780 West Boylston Street (Z-07-99) – Variance:** Attorney Robert Longden and Michael Smith represented G.M. Realty, Inc., petitioner. Mr. Longden stated that the petitioner was seeking a Variance for 9 feet of relief from the rear yard setback requirement to construct a garage to house construction vehicles. He said the Variance was needed because the narrowness and slope of the lot necessitated the building be pushed back as far as possible to allow for the required aisle and bay dimensions for parking in the garage. Mr. Bergman asked if they have been in contact with the rear abutters and Mr. Longden said they have no objections. Mr. Bergman said they would certainly be improving the look of the property. Mr. George said the proposed chain link fence on the Valkmar Street side of the property should have privacy slats. Mr. Fontane said it was important for the parcel at 770 West Boylston Street to be shown since they are held under common ownership. When Chair Ciuffredo asked if the hearing should be continued, Mr. Fontane responded that it was not

necessary because that would be a requirement for site plan approval by the Planning Board. Upon a motion by David George and seconded by Morris Bergman, the Board voted 5-0 to close the hearing. 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 approve the following:

- **Variance: 9 feet of relief from the rear yard setback requirement**

The Variance was approved with the following conditions:

- **Construction must be in accordance with the rendering submitted.**
 - **Plan must show 770 and 780 West Boylston Street which are held in common ownership when submitted for site plan approval from the Planning Board.**
 - **Chain link fence with privacy slats be installed along the Valkmar Street property line.**
3. **680 Lincoln Street (Z-07-103) – Special Permit:** Attorney Todd Rodman, representing the Worcester Housing Authority, petitioner, presented the petition. Mr. Rodman stated the petitioner is seeking a Special Permit for expansion or change of a pre-existing nonconforming use/structure to reconfigure and rehabilitate the existing 75-unit apartment complex. He said that the plan is to reduce the number of units to 44 within the existing footprint and to provide 18 parking spaces. Mr. Bergman wondered how the parking spaces would be distributed. Mr. Rodman said the majority of tenants do not own cars so it will not be problematic. He said there is on-street parking that can be used as well. Mr. George was concerned about creating more impervious area in a Ground Water Protection area. George O’Neil said a bituminous type of paving which is highly permeable would be used. Chair Ciuffredo asked if there would be tenant relocation. Thomas McMillan, representative of the Worcester Housing Authority, said tenants would be relocated to other WHA locations and 31 people would not be returning to 680 Lincoln Street. Upon a motion by Lawrence Abramoff and seconded by David George, the Board voted 5-0 to close the hearing. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Special Permit: Expansion or change of a pre-existing nonconforming use/structure**

NEW BUSINESS

4. **2 Nutall Lane (Z-07-94) – Variance:** Paula Hebert, petitioner, presented the petition. She stated she is seeking a Variance for 366 square feet of relief from the gross dimensional requirement to subdivide the lot into two lots and construct a single-family semi-detached dwelling. Mr. Bergman said she was not creating her own hardship because the lots are separate. She said there would be a two-car garage for each unit. Mr. Kelly said the plan doesn’t show parking for the existing three-family dwelling. He also said that when the new lots are created, the existing three-family dwelling will not meet the side yard setback requirement because of an existing enclosed porch. Mr. Bergman told the petitioner that

when a buyer attempts to get a mortgage, the noncompliance will be a problem. Mr. Kelly said the parking on both lots must be shown on the plan and part or all of the porch should be removed or the petitioner must file for a Variance for the porch. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 to continue the hearing to November 26, 2007 in order to allow the petitioner time to revise the plan or apply for a Variance.

5. **12 Wellington Street (Z-07-104) – Special Permit:** Attorney Thomas Millot and David Bombard, Sr., petitioner, presented the petition. Mr. Millot said the petitioner is seeking a Special Permit for expansion or change of a pre-existing nonconforming use/structure to convert a lodging house into a 4-unit multi-family dwelling. Mr. Fontane explained to the Board that the actual Special Permit was for residential conversion to additional dwelling units. He said the Board could still act on the Special Permit but the application needs to be modified to reflect the change. Chair Ciuffredo asked Mr. Bombard if he would take down the tavern sign and pole on the premises. Mr. Bombard agreed to remove them. Mr. Bergman commented that a REAP search had shown real estate taxes were owed for the property. Mr. Bombard stated his intent to pay them. Upon a motion by David George and seconded by Lawrence Abramoff, the Board voted 5-0 to close the hearing. Upon a motion by David George and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Special Permit: Residential conversion to additional dwelling units**

The Special Permit was approved with the following conditions:

- **Application must be modified to indicate Special Permit is for residential conversion to additional dwelling units.**
 - **Tavern sign and pole on the premises are to be removed.**
 - **Tax arrearages be paid to the City of Worcester prior to issuance of a Building Permit.**
6. **5 Almont Avenue (Z-07-105) – Variance:** John Simarano, petitioner, presented the petition. He said he is seeking a Variance to allow a commercial vehicle in excess of $\frac{3}{4}$ ton to be parked on the premises. He said he is a self-employed electrician and purchased the vehicle in 2004. Mr. Simarano explained to the Board that on August 22, 2007, the Division of Code Enforcement issued a Cease and Desist Order stating he must cease and desist the parking of a vehicle over $\frac{3}{4}$ ton in an RG-5 zone. He said the complaint was the result of an ongoing dispute between the abutting property owner and him. Deborah Vincequere, the abutting property owner, said she didn't think the truck should be kept on the property because of its size. She objected because it was only 8 feet from her window and blocked sunlight from entering her kitchen and dining room. She also objected to the noise emanating from the back-up warning signal. She presented a letter from her son, Captain Marc E. Vincequere, USAF, who also owns a home in the immediate area, objecting and claiming it would have a negative effect on the residential character of the area. Both Mr. Simarano and Ms. Vincequere brought up personal issues that resulted in their dispute,

including mutual restraining orders, none of which were germane to the discussion. Mr. Bergman said it was abundantly clear there are long-standing bad feelings that the Board can't fix. Chair Ciuffredo said the petitioner had a truck of some sort parked on the property for six years. Mr. Bergman stated that, if having the truck allowed him to earn an income and maintain his property as well as he does, he would be hard pressed to stop him. Ms. Vincequere said she did not want to see a precedent set and the main issue was the fact that the size of the truck was, in fact, a code violation. Mr. Freilich said this appeared to be a much larger dispute than just the size of the truck and Mr. Simarano was in a very difficult position. Mr. Bergman said nothing the Board can do will resolve the parties dislike for each other, but he would not vote to deprive someone of his or her livelihood. Mr. George asked if Mr. Simarano had attempted to find somewhere else to park the vehicle. Mr. Simarano said he had checked with businesses in the area but had been unsuccessful. Anthony Gallati, a neighbor, said Mr. Simarano and Ms. Vincequere were both good neighbors with the best maintained properties in the neighborhood. He also said he didn't understand why there was such a big problem. Robert Aleknas, owner of the property at 7 Almont Avenue, stated he had no issues with the truck. He said it was a sad situation that had escalated too far and the whole situation made no sense. Mr. Bergman asked why the Board has not had a consideration like this before. Mr. George asked if this consideration was a use Variance. Mr. Fontane requested the hearing be continued to allow him time to review the matter further with the Division of Code Enforcement. Upon a motion by Andrew Freilich 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 November 26, 2007.

7. **Lot 1 Ockway Street (Z-07-106) – Variances:** Attorney Michael Abodeely, Jr., representative for AET Realty Trust, petitioner, stated the petitioner is seeking a Variance for 2 feet of relief from the maximum height allowance of 35 feet for a single-family semi-detached dwelling. He explained to the Board that the structure was already constructed and properly permitted, however, it was discovered when the occupancy permit was being issued, that the height of the trusses was 2 feet over the limit. He said the owners could not lower the trusses at this point in time. He also said that it was clearly just a mistake and not done intentionally. Ronald Dickie, an abutter, said he had no problem with the Variance being approved but wants to make sure the other three structures planned in the area are built correctly. Upon a motion by David George and seconded by Andrew Freilich, it was voted 5-0 to close the hearing. Upon a motion by David George and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Variance: 2 feet of relief from the maximum height requirement of 35 feet**

8. **1 Bay Edge Drive (Z-07-107) – Variances:** Andrew Freilich recused himself. Attorney Jonathan Finkelstein, representative for Roger & Eileen Karr, petitioners, stated they were seeking a Variance for 5 feet of relief from the side yard setback requirement and a Variance for 2.4 feet of relief from the rear yard setback requirement to install a kit shed 24'x24'x15'H on the premises. Mr. George commented that it was the "upper level of shedness". Mr. Karr said the shed would be used to house woodworking tools. Chair Ciuffredo asked if there

would be any retail sales involved. Mr. Karr said woodworking was his hobby and there would be no sales. Upon a motion by Morris Bergman and seconded by Lawrence Abramoff, it was voted 4-0 to close the hearing. Upon a motion by Morris Bergman and seconded by Lawrence Abramoff, it was voted 4-0 by Leonard Ciuffredo, Morris Bergman, David George and Lawrence Abramoff to approve the following:

- **Variance: 5 feet of relief from the side yard setback requirement**
- **Variance: 2.4 feet of relief from the rear yard setback requirement**

The Variances were approved with the following conditions:

- **Shed shall have no plumbing.**
- **No retail sales allowed.**
- **Construction must be in accordance with the rendering submitted.**

9. **166 & 172 Stafford Street (Z-07-108) – Special Permit:** Attorney Samuel DeSimone, representative for the petitioner, 85 Green Street Limited Partnership, presented the plan. Mr. DeSimone stated the petitioner is requesting a Special Permit for expansion or change of a pre-existing nonconforming use/structure to upgrade the property for use as a wholesale business and storage for home décor products. He said the site had previously been used as a truck terminal and the proposed use would be less intrusive than the past use. Mr. DeSimone said a Special Permit had been granted on June 12, 2006, however, that Special Permit had expired. Chair Ciuffredo asked if the previous conditions of approval were acceptable if this Special Permit is granted. Mr. DeSimone answered yes except for the hours of operation. He said they would be as follows if acceptable to the Board: Monday-Tuesday – 8:30 A.M. to 8:00 P.M.; Wednesday, Thursday, Friday – 8:30 A.M. to 4:30 P.M.; and Saturday (1 per month) 8:30 A.M. to 4:30 P.M. Mr. George asked when the site was last used as a truck terminal and Mr. DeSimone responded 1½ years ago, within the 2 years required. Mr. Fontane indicated that the Board’s original condition regarding fencing and landscaping be clarified. 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 Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Special Permit: Expansion or change of a pre-existing nonconforming use/structure.**

The Special Permit was approved with the following conditions:

- **A stockade fence be installed along the northerly property line proceeding around the corner to the entrance on Lavalee Terrace.**
- **The site be landscaped in accordance with the plan submitted.**
- **Hours of operation to be as follows: Monday-Tuesday – 8:30 A.M. to 8:00 P.M.; Wednesday, Thursday, Friday – 8:30 A.M. to 4:30 P.M.; and Saturday (1 per month) 8:30 A.M. to 4:30 P.M.**

- **Uses will be limited to Office General (#18), Office Professional (#19) and Wholesale Business or Storage (#29) as described in Article IV, Table 4.1 of the City of Worcester Zoning Ordinance.**
- **Utility area is to be screened.**
- **All season planter boxes be placed along Stafford Street and Eureka Street.**

10. 1119 Pleasant Street (Z-07-109) – Special Permits: As required by M.G.L. c. 268A, §23(b) (3), Mr. Bergman made the following disclosure in order to dispel the perception of a conflict of interest. Mr. Bergman has ownership of a building on the other side of the street from 1119 Pleasant Street. He stated that he does not have any financial or other interest in the proposed project. Attorney James Vevone, representative for the petitioner, Roberto Burgos, stated he was seeking a Special Permit to allow motor vehicle sales in a BL-1.0 zone, Special Permit to modify parking lot layout by waiving requirements for 5 foot setback and 24 foot aisle widths and a Special Permit to waive the landscaping requirement for parking lots to operate a display lot to sell used automobiles on the premises. Mr. Vevone said the proposed use would be well suited to the commercial area. He continued by saying the only repairs to cars prior to their sale will occur on site and that it will not be a public garage. Heather Rochford was concerned about traffic and also said she felt the lot was too small for the proposed use. William Brown was concerned that any spill-over parking would be on Tiverton Parkway which already has heavy parking on both sides. Chair Ciuffredo said he does not see any benefit in having a used car lot in the area. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 5-0 to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 1-4 by Lawrence Abramoff (Leonard Ciuffredo, Morris Bergman, David George and Andrew Freilich voted no) to approve the Special Permit to allow motor vehicle sales in a BL-1.0 zone, Special Permit to modify parking lot layout by waiving requirements for 5 foot setback and 24 foot aisle widths and a Special Permit to waive the landscaping requirement for parking lots. The motion failed and the Special Permits were denied.

11. 13, 17, 19, 21, 22, 23, & 27 Kilby Street/216-218 Beacon Street (Z-07-110) – Amendment to Special Permit & Amendment to Variance: Attorney Todd Rodman and J. Steven Teasdale, representatives for the petitioner, Main South Community Development Corporation, presented the plan to construct 14 dwelling units in three sets of single-family attached buildings and one two-family detached building. Mr. Rodman reminded the Board that in April of this year, a Special Permit to allow non-accessory residential parking in an RG-5 zone and a Variance for relief of 8 parking spaces from the off-street parking requirement were approved. He explained that because of higher development costs associated with grading, it became necessary to reconfigure the plan necessitating additional parking relief. Mr. Teasdale said they have never had to use the number of required parking spaces in any of their projects because most people who live in them don't have cars. Chair Ciuffredo asked if the project were going to be phased and Mr. Teasdale responded that the buildings would be constructed simultaneously. Mr. Bergman asked how the units were allocated. Mr. Teasdale said the units would be advertised, applicants pre-screened for income eligibility and then those eligible would participate in a lottery. Chair Ciuffredo asked about the success rate and was told by Mr. Teasdale that they have had no foreclosures. He said Main South Community Development Corporation would buy back the units prior to

foreclosure. 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 Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Amendment to Special Permit: To allow non-accessory residential parking in an RG-5 zone**
- **Amendment to Variance: To increase the relief from the off-street parking requirement from 8 spaces to 13 spaces**

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

- **Approval is subject to site plan approval by the Planning Board.**
- **Construction must be in accordance with plan submitted.**

12. 799 West Boylston Street (Z-07-111) – Amendment to Special Permit & Variance:

Attorney Mark Donahue and Andrew Liston, representatives for the petitioner, Seven Hills Family Services, presented the plan. Mr. Donahue stated the petitioner was seeking an Amendment to Special Permit for expansion or change of a pre-existing nonconforming use/structure and a Variance for 14 feet of relief from the front yard setback requirement to renovate portions of the building and add a greenhouse, pergola and structures to cover handicap ramps. Chair Ciuffredo asked what kinds of services were provided on site. Richard Martel, from Seven Hills Family Services, said therapeutic services, adult day care, and assistance to physically and mentally challenged clients were offered on site. Mr. Donahue said they would be seeking waivers from the interior landscaping requirement and the 5 foot buffer requirement on the west side of the property from the Planning Board. Upon a motion by David George and seconded by Morris Bergman, it was voted 5-0 to close the hearing. Upon a motion by David George and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Amendment to Special Permit: Expansion or change of a pre-existing nonconforming use/structure**
- **Variance: 14 feet of relief from the front yard setback requirement**

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

- **Approval is subject to site plan approval by the Planning Board.**
- **Trees be planted in the 5 foot buffer area on the south side of the site in lieu of the required interior trees.**

OTHER BUSINESS

New Members: Chair Ciuffredo asked Mr. Fontane if new members have been appointed yet. Mr. Fontane responded that the City Manager will be notifying the City Council on November 20 regarding his appointment decisions.

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 8:50 PM.