

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

March 10, 2008

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

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

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

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Chair Ciuffredo called the meeting to order at 5:30 PM.

Chair Ciuffredo stepped down and David George assumed the Chair.

APPROVAL OF MINTUES

Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the minutes from the February 25, 2008 meeting.

REQUESTS FOR WITHDRAWALS, CONTINUANCES, TIME EXTENSIONS

1. **44 Byron Street (Z-07-122) – Special Permit:** Ms. Stolberg reported to the Board that the outstanding fee for a second Special Permit had been paid. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice.
2. **102 Green Street (Z-08-16) – Variance and Special Permit:** Angel Rodriguez, petitioner, requested a continuance to March 24, 2008 for a Variance for relief of 26 parking spaces from the off-street parking requirement and a Special Permit for expansion or change of a pre-existing nonconforming use/structure to expand the restaurant seating from 18 to 52. Upon a motion by Leonard Ciuffredo and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to continue the hearing to March 24, 2008.

UNFINISHED BUSINESS

3. **2 Wayne Terrace (Z-08-09) – Variances:** Robert O’Neil and Joe Goodman, petitioner, presented the revised plan for a Variance for 15 feet of relief from the frontage requirement and Variance for 3,500 square feet of relief from the gross dimensional requirement to construct a single-family detached dwelling. Mr. O’Neil said the dwelling had been designed slightly smaller to accommodate a straight in driveway rather than the horseshoe drive on the original plan. Chair Ciuffredo said he was opposed to granting relief for these undersized lots when there were other homes for sale in the neighborhood. Mr. George said he didn’t think the petitioner had met the burden of showing a hardship for approval of a variance. Mr. Abramoff said a vacant lot has negative affects on a neighborhood and new construction would add to the City’s tax base. Mr. Murphy agreed with Mr. Abramoff’s assessment. Mr. Freilich thought the parking layout was fine and said he could vote approval. Arthur Dupuis, who lives at 4 Wayne Terrace, reiterated his opposition and said he thought the lot would be overcrowded. Mr. Freilich asked Mr. Goodman if he had purchased the property yet. Mr. Goodman responded that he had a Purchase and Sale Agreement which depended upon approval of the requested relief. It appeared that the petition was not going to garner the requisite four affirmative votes and the petitioner was advised by Chair George that he could move forward or request Leave to Withdraw without prejudice. He chose to move forward. Upon a motion by Brian Murphy and seconded by Leonard Ciuffredo, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Brian Murphy, it was voted 3-2 by Andrew Freilich, Lawrence Abramoff and Brian Murphy (Leonard Ciuffredo and David George voted no) to approve the following:

- **Variance: 3,500 square feet of relief from the gross dimensional requirement**
- **Variance: 15 feet of relief from the frontage requirement.**

The motion failed and the Variances were denied.

4. **10 Ronald Drive (Z-08-13) – Variance:** Hossein Haghanizadeh, representative for the petitioner, Arthur Demma, presented the petition to divide the lot to create two single-family lots and construct a single-family detached dwelling on the new lot. Mr. Haghanizadeh said the original petition for 45 feet of relief from the frontage requirement had been denied by the Board. He indicated that only 30 feet of relief is being requested now and the new plan incorporates a turnaround for emergency vehicles that was not on the first submission. Mr. Ciuffredo stated it looked like a significant change, however, he would not vote in favor of the Variance if it is deemed a significant change by both the Zoning Board of Appeals and the Planning Board. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Brian Murphy, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy that the petition is significantly different based on the amount of relief requested and the inclusion of a turnaround for emergency vehicles and to forward its finding to the Planning Board for its concurrence.

5. **1 Holt Avenue (Z-08-14) – Variances:** David Sadowski, representative for the petitioner, said the petitioner is seeking a Variance for 15 feet of relief from the frontage requirement for Lot A, a Variance for 4.7 feet of relief from the side yard setback requirement for Lot A, a Variance for 12.73 feet of relief from the frontage requirement for Lot B and a Variance for 3,309 square feet of relief from the gross dimensional requirement for Lot B to divide the lot and construct a single-family detached dwelling on the new lot. He explained that the existing house was damaged by fire and with his insurance settlement, the petitioner wants to rebuild the existing dwelling and construct a new dwelling for his own use. He said he was aware there is a paper street that would have to be constructed to meet City standards in order to provide frontage for the second lot. In response to Mr. Freilich's question as to which house would be worked on first, Mr. Sadowski answered the work would occur concurrently. Mr. Abramoff asked why the lots were configured to split in such a manner. Mr. Sadowski responded that it was done to make one of the lots have the required 7,000 square feet. Mr. Ciuffredo said that, historically, the Board does not approve petitions requesting such a large amount of relief. Mr. George said he would have to be consistent with previous votes. Attorney David Silverman, representing the petitioner, said his client was looking to maximize benefit of his land. Mr. Abramoff and Mr. Freilich indicated they would vote no. Upon a motion by Leonard Ciuffredo and seconded by Brian Murphy, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. At this point, Chair George realized he had not advised the petitioner that it was possible to request Leave to Withdraw without prejudice since it was not likely he would achieve four affirmative votes. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to re-open the hearing. Mr. George advised the representatives for the petitioner that Leave to Withdraw without prejudice could be requested. They opted to request Leave to Withdraw without prejudice. Upon a motion by Leonard Ciuffredo and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice.

Leonard Ciuffredo excused himself from the meeting to attend to a personal matter.

6. **435 Shrewsbury Street (Z-08-15) – Special Permits:** Harry Avery, Ken Strom and Donald Bray presented the plan for a Special Permit for relief of one space from the loading space requirement and a Special Permit for relief from the landscape buffer requirement to construct a 13,806 square foot office building. Mr. Strom explained that because of a deed restriction, McDonalds Corporation has the right to maintain a site line restriction for any construction on the site. They requested the building be placed further back on the lot and requested low plantings in the front buffer area. The plantings proposed as a buffer for abutting property have been changed to low plantings at the request of the abutter in order to facilitate any maintenance access they might require for the building. Mr. Abramoff said the design of the building has changed significantly. He indicated he had no problem with the loading space relief and felt the landscaping could be mitigated with interesting flowering plantings. Mr. Freilich said he does not like the metal roof because it does not fit in with the brick sides and front. He said that, while the metal roof is practical from a maintenance perspective, it does not complement the other buildings on the street. It was the consensus of

the Board that the building design had changed from what was approved previously and that there was not enough brick in the current design. The Board wants to see a higher quality rendering, a landscaping plan that includes ornamental japanese cherry trees and ornamental grasses incorporated in a manner similar to the landscaping at 328 Shrewsbury Street, low lying plantings, not arbor vitae, incorporated along the westerly side of the property, roof color samples and samples or pictures of façade materials. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to continue the hearing to March 24, 2008 to allow the petitioner to provide the requested revisions.

OTHER BUSINESS

160 Woodland Street – Personal Wireless Facility: Attorney Simon Brighenti and Mike Hartel, representatives for Omnipoint Communications, Inc., appeared before the Board seeking direction from the Board on the proper procedure to follow. He explained that Joseph Mikielian, Director of Code, issued an opinion that a Special Permit or Variance would be required to obtain a Building Permit for an equipment shelter for a personal wireless service facility. Mr. Brighenti did not agree with Mr. Mikielian’s interpretation and was essentially asking the Board to tell him how to proceed. Mr. Fontane said it was proper to discuss application content and specifics of the requirements. However, he discouraged the Board from engaging in advice to an applicant to counter an interpretation of the Director of Code. Brian Murphy opined that if Mr. Brighenti disagrees with the decision of the Director of Code, the recourse is to file an Administrative Appeal. Otherwise, he should file an application for a Special Permit or an application for a Variance as outlined in Mr. Mikielian’s letter dated February 12, 2008. No action was taken by the Board.

ADJOURNMENT: Chair George adjourned the meeting at 8:10 P.M.