

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

December 1, 2008

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

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

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Luba Zhaurova, Division of Planning & Regulatory Services
John Kelly, Department of Inspectional Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

**REQUESTS FOR WITHDRAWALS, POSTPONEMENTS, CONTINUANCES, TIME
EXTENSIONS**

1. **21 Coburn Avenue and 24 Lake Avenue (ZB-2008-100) – Special Permit:** Richard Seder, representative for the petitioner, Paul A. Thomas, who is requesting a Special Permit for expansion or change of a pre-existing non-conforming use, asked for a postponement to January 12, 2009 and to extend the Public Hearing deadline to January 27, 2009 to provide more information to the Board in response to the staff memo. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and Brian Murphy to grant the request of the petitioner for a postponement to January 12, 2009 and to extend the Public Hearing deadline to January 27, 2009.
2. **75 East Mountain Street (ZB-2008-101) – Special Permit:** A. Lorusso Development LLC, petitioner, who is requesting a Special Permit to allow placement of fill on the property, asked for a postponement to January 12, 2009 and for an extension of the Public Hearing deadline to January 26, 2009. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and Brian Murphy to grant the request of the petitioner for a postponement to January 12, 2009 and for an extension of the Public Hearing deadline to January 26, 2009.

UNFINISHED BUSINESS

3. **8 Boynton Street (ZB-2008-085) – Special Permit and Variances:** Attorney Jeffrey Turco, representative for the petitioner, Delta Sigma Phi Building Association of Alpha Chi Rho, Inc., was seeking a Variance for relief of 6 parking spaces from the off-street parking requirement, a Variance for 3.7 feet of relief from the rear yard setback requirement, a Variance for 9.08 feet of relief from the side yard setback requirement, and a Special Permit for expansion or change of a pre-existing nonconforming use/structure.

Below is a list of the exhibits referred to in the minutes:

- **Exhibit A** – a ZBA decision for 13 Hackfield Road (ZB-2008-028) that approved with conditions a conversion of the building into a sorority house.
- **Exhibit B** – a ZBA decision for 5 Claremont Street (ZB-2008-025) that approved with conditions a use of the premises as a lodging house for graduate students.
- **Exhibit C** submitted to the staff on November 21, 2008 with the following contents:
 - A report on the WPI Greek Community; including specific information on Alpha Chi Rho and a five year “WPI Police Responded to 8 Boynton Street”;
 - 8 Boynton Street House Rules;
 - The Alpha Chi Rho Code of Conduct;
 - A letter of support from Mr. Jeffrey R. Modderno;
 - A letter of support from Arthritis Foundation Massachusetts Chapter, Inc.;
 - A letter of support from Mr. Stephen J. Hebert.

Mr. Ciuffredo referred to the previous Board decisions regarding a sorority house (Exhibit A) and a lodging house (Exhibit B) provided to the Board by staff per Board’s request. He asked if the petitioner would be amenable to approving conditions similar to the conditions of approval listed in the Exhibit A (a sorority house at 13 Hackfield Road). Mr. Turco responded that while his client is generally in agreement with the parameters set by those conditions, the 8 Boynton Street House Rules (Exhibit C) and fraternity chapter rules already mirror most of the conditions, although they are lax in some respects. Thus, for example, the conditions for the sorority house (Exhibit A) do not permit alcohol consumption, smoking, or male visitors overnight. The fraternity rules, however, allow alcohol on premises but regulate it. Mr. Turco further raised a question with regard to the Exhibit B’s condition #9 – “Management reserves the right to amend or add to these rules and guidelines.” He asked whether the fraternity would need to apply for a permit every time it wanted to change rules. Chair George noted that the fraternity rules allowed the use of alcohol on premises, but provided controls. Mr. Ciuffredo asked the petitioner if he knew why the sorority rules (Exhibit A) prohibited the use of alcohol on premises, while the fraternity rules did not. Mr. Turco responded that this fact is a result of a so-called blue law that historically regulates sororities more stringently than fraternities. Even today, most insurance agencies do not insure a sorority that allows alcohol on premises, while only requiring that fraternities to comply with the U.S. laws with regards to the alcohol consumption.

Mr. Abramoff asked if the “Expectations for Fraternity and Sorority Chapter Functions” (Exhibit C) were expectations or the rules. Mr. Turco responded that they are expectations set by the Worcester Polytechnic Institute, not the chapter. Mr. Abramoff noted that according to his count, 15 of the 26 items on the list are related to alcohol control. Mr. Freilich and Mr. Abramoff asked

if the petitioner would be amenable to changing the title from “Expectations for Fraternity and Sorority Chapter Functions” to “Rules for Fraternity and Sorority Chapter Functions.” Mr. Turco responded that those were WPI rules, not fraternity’s.

Mr. Ciuffredo asked if the petitioner knew how frequently the fraternity has functions. A representative of the fraternity said that there are approximately 8-10 functions during a school year.

Mr. Freilich said that two of the neighbors he encountered did not have any negative comments with regards to the fraternity. He then pointed out that 77% of the new members have participated in the TIPS Alcohol Education program (Exhibit C). While overall he felt that the fraternity was adequately addressing alcohol control, he suggested that the Board could include some conditions of approval imposed on the sorority house (Exhibit A) which could set a standard for the City’s regulation of sororities and fraternities. He concluded by saying that he would vote in the support of the petition if the 13 Hackfield Road (Exhibit A) conditions are modified and adopted. Chair George also proposed to adopt a modified version of the 13 Hackfield Road (Exhibit A) by eliminating an item which prohibits any use of alcohol. While Mr. Freilich reminded the Board that there are differences between sororities and fraternities, Chair George questioned if the Board was acting inconsistently in treating sororities and fraternities differently. He then acknowledged that he should not have voted to deny the petition at the last meeting, but instead should have voted to continue it so as to give the petitioner time to provide requested information to the Board. Mr. Fontane added that the fraternity was asked to submit house rules to the first hearing but failed to do so.

Mr. Murphy said that many of the conditions imposed on the 13 Hackfield Road (Exhibit A) property were unique to the property and do not address the current concerns. He felt that there is a general agreement among the Board members that a combination of the 13 Hackfield Road (Exhibit A) conditions and the 8 Boynton House Rules would suffice as conditions of approval for the petition.

Mr. Ciuffredo noted the last condition for the 13 Hackfield Road (Exhibit A): “At the time of the annual inspection by the Code Enforcement Division and Fire Department, landowner must demonstrate that the conditions of the Special permit are being met.” Mr. Kelly confirmed that the fraternity is required by law to be inspected annually. Chair George asked if the fraternity use is subject to the License Commission’s approval. Mr. Fontane responded that a lodging house license is required from the License Commission for this fraternity house. Mr. Abramoff further added that the Police Department monitors everything related to alcohol consumption.

Ms. Kathleen M. Toomey, from 50 Ideal Road, a City Councilor At Large, spoke next. She said that she is a parent of a WPI alum who dated a member of the fraternity. She attested to the character of the young man and his friends and validated their commitment to the neighborhood in which they lived. Chair George asked if Ms. Toomey as a councilor thinks that the benefits of the fraternity outweigh expenses accrued by the City. Ms. Toomey responded that the fraternity is not a tax-exempt entity and that she does not see many expenses accrued by the City as a result of the fraternity’s activities. Mr. Fontane quoted the assessor data that valued the house at \$455,000 last year and \$500,000 in 2006. He added that per Exhibit C, the fraternity paid the

City \$34,300 in real estate taxes since the beginning of 2003. Chair George said that this fact was duly noted.

Mr. Freilich, referring to the Exhibit C, asked if WPI typically guarantees mortgages for its fraternities. Mr. Turco responded that WPI's guarantee of the Alpha Chi Rho's mortgage is an exception, rather than the rule.

Next, the discussion turned to the fraternity functions that involve alcohol. Mr. Freilich asked about the maximum number of people allowed to be at the functions. Mr. Murphy noted that no more than 2 guests are allowed per member, thus the maximum number of people would be 108 (36 members times 3). The Board discussed if a maximum number of occupants was needed as a condition. Mr. Fontane provided suggested language for a condition as follows: maximum number of people be no more than 108 or the maximum legal occupancy of the building, whichever is less. Mr. Turco said that 108 people was a reasonable threshold. Mr. Ciuffredo inquired about the need for police details at the house's potentially large parties. Mr. Turco suggested that it would be within the authority of the License Commission to consider thus making the Board's condition redundant.

Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to approve the following:

VARIANCE: 9.08 feet of relief from the side yard setback requirement
VARIANCE: 3.7 feet of relief from the rear yard setback requirement
VARIANCE: Relief of 6 parking spaces from the off-street parking requirement
SPECIAL PERMIT: Expansion or change of a pre-existing nonconforming use/structure

The special permit and variances were approved with the following conditions:

- 1) That the "Expectations for Fraternity and Sorority Chapter Functions" (Exhibit C) name is changed to "Rules for Fraternity and Sorority Chapter Functions" and that these rules are posted in the building and adhered to.
- 2) That the "8 Boynton Street House Rules" (Exhibit C) are posted in the building and adhered to.
- 3) That "The Alpha Chi Rho Code of Conduct" (Exhibit C) is adhered to.
- 4) That at the time of the annual inspection by the Code Enforcement Division and Fire Department, the landowner must demonstrate that the conditions of the Special Permit and the Variances are being met.
- 5) That should there be a complaint that results in a verifiable violation of the House Rules regarding gatherings and the use of alcohol, the License Commission would consider whether a police detail is needed to ensure public welfare and safety.
- 6) That a damaged car currently located in the driveway is removed within 60 days.

7) That the area surrounding the dumpster inside the dumpster fence is kept clean.

POSTPONED BUSINESS

4. **1394 Main Street (ZB-2008-097) – Special Permit:** Donald O’Neil, representative for the petitioner Joseph Nguyen, was requesting a Special Permit to allow food service with consumption/sale of alcoholic beverages in the BL-1.0 zone. Mr. O’Neil said that the petitioner purchased the property in May and that the renovations to the building include enclosing the outdoor sitting area, which is allowed by right. He added that Mr. Nguyen is an experienced business owner who owned a Vietnamese restaurant in Boston for 10 years.

Mr. Ciuffredo asked the petitioner if the tenants in the building are aware of the owner’s plans. Mr. O’Neil responded that while currently no one is living in the building, the owner is planning to live in one of the units above the restaurant and renting out the second unit to his employees.

Mr. Abramoff asked if the petitioner’s restaurant in Boston allowed its customers to bring in their own alcohol. The answer was yes. He then commented that in his own experience as a restaurant owner he noticed that people drink less when the restaurant serves them alcohol, than when they are allowed to bring in their own drinks. Thus, he reasoned, an alcohol license would be more beneficial as the potential impact on the neighborhood would be smaller. Then, Mr. Abramoff asked if the petitioner would be amenable to having the restaurant open 10am-10pm. The answer was yes. Abramoff wanted to clarify if the applicant would close the restaurant or stop serving food at 10 pm. Mr. O’Neil responded that his client would be more comfortable with the latter option.

Mr. Murphy asked if there the owner is planning to have a bar. Mai Pheing, the architect, of 204 Adams Street, Dorchester, responded affirmatively but noted that the bar is meant to have people seated while they wait for a table. Mr. O’Neil added that the floor plan shows that the bar would be accessory to the main business, which a restaurant and that bar stools are not shown on the plan. Chair George said that this petition is very similar to the 325 Grafton Street petition heard at the previous meeting and proposed similar conditions of approval. Mr. Abramoff noted that the parcel has a good size parking lot, providing larger off-street accommodations than 325 Grafton Street. Mr. Ciuffredo said that he is more amenable to this petition than 325 Grafton Street petition because this neighborhood is not as dense and thus possibly is a better location for the restaurant. Then he asked the petitioner if he informed the neighbors of the upcoming restaurant. Mr. O’Neil responded that in addition to the abutters’ notices, there has been a large sign hanging on the building notifying the neighborhood of the restaurant and that he had no inquiries from the neighbors so far. Mr. Freilich asked if the bar would serve food, to which Mr. Pheing responded that the bar’s main purpose is for the alcohol. Mr. Freilich said that he would not object to the petition.

Richard Johnson of 1386 Main Street, an abutter, then spoke. Since he has two children and bedrooms facing the side of the restaurant, he voiced concern over the potential impact on his property. He said that there is no fence separating his and petitioner’s properties. Chair George proposed to increase the buffer between the two properties by means of landscaping and fencing.

Mr. Johnson said that the previous restaurant did not have an alcohol license. Mr. Freilich responded that the impact on the neighbor might be smaller because alcohol license allows for a tighter control by the City, than when an owner allows his customers to bring in their own alcohol. While Mr. Fontane quoted from the Zoning Ordinance that from March to November a restaurant is allowed by right to have outdoor seating, Chair George reassured Mr. Johnson that the outdoor patio will be enclosed so there should not much noise coming from the business. He then asked if the petitioner would be amenable to putting more landscaping and a fence between his and Mr. Johnson's property, to which the petitioner answered affirmatively. Mr. Johnson said that he did not have a specific concern regarding the petition. Mr. Ciuffredo responded that in order to alleviate neighbor's concerns, the Board could place a condition that no outdoor seating be allowed at any time of the year.

Upon a motion by Andrew Freilich and seconded by Brian Murphy, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to close the hearing. Upon a motion by Andrew Freilich and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to approve the following:

SPECIAL PERMIT: To allow food service with alcohol sales in a BL-1.0 zoning district.

The special permit was approved with the following conditions:

- 1) That there would be no outdoor seating at any time of the year.
- 2) That there be no seated service at the bar.
- 3) That the Special Permit for food service with alcohol consumption use is for a restaurant use where alcohol is served in addition to and as an enhancement of the predominant food service use only.
- 4) That the restaurant use does not exceed 48 seats.
- 5) That the establishment closes no later than 11 pm.
- 6) That the proposed wall sign be externally lit, not internally illuminated.
- 7) That additional ornamental grasses, shrubs, and/or perennials be added along the front façade and that landscaping buffering is enhanced on the east boundary of the property adjacent to the 1348 Main Street parcel.
- 8) That a six foot stockade fence matching the existing fence is placed along the entire line of the eastern property boundary adjacent to the 1348 Main Street parcel.
- 9) That any unscreened dumpsters be screened with a six foot stockade fence.
- 10) That prior to the issuance of a Building Permit for the Special Permit, two copies of a revised plan be submitted to the Division of Planning and Regulatory Services that include a landscaping table indicating number and species of plants to be used.
- 11) That the proposed front renovations be done substantially in accordance with the submitted rendering of the building.
- 12) That all landscaping improvements be completed in the Spring of 2009.

5. **9 Tihonet Street (ZB-2008-098) – Variance:** Patrick Perkins of the J.E.P. Contracting Inc., petitioner, was requesting a Variance for 8.2 feet of relief from the front yard setback in the RS-7

zone. Mr. Perkins said that he is a contractor for the owners of the house who would like to build a farmer's porch facing Tihonet Street on the side of the single-family house that is contemporary in style. He further added that the farmer's porch would enhance the neighborhood by adding a porch to the intersection of two roads which are not well maintained. The project would also allow house owners to enjoy their yard and property more. Chair George asked why the petitioner did not design a porch that would comply with dimensional requirement. Mr. Perkins responded the hardship is the shape and topography of the lot as the front yard slopes drastically thus preventing a by-right construction of the porch.

When Mr. Kelly asked, Mr. Perkins said that the proposed retaining wall under 4 feet tall. Mr. Kelly pointed to the inconsistency between the petitioner's plot plan and elevation plan. While the rendering of the porch only shows side stairs, the plot plan shows both front and side stairs. Chair George said that a revised plan will need to be submitted. Mr. Perkins said that he will e-mail a PDF of the revised plan promptly.

Upon a motion by Leonard Ciuffredo and seconded by Brian Murphy, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to close the hearing. Upon a motion by Brian Murphy and seconded by Lawrence Abramoff, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to approve the following:

VARIANCE: 8.2 feet of relief from the front yard setback.

The variance was approved with the following conditions:

- 1) That a revised elevation plan reflecting changes to the stair placement be submitted to the Division of Planning & Regulatory Services and the Division of Building and Zoning prior to issuance of the Building Permit.
- 2) That the construction be in substantial accordance with the plot plan and final revised elevation plan.

NEW BUSINESS

6. **Lots 1A and 1B Rosamond Street (ZB-2008-104) – Amendments to Variances:** Cynthia Agbey, owner and petitioner for Lots 1A and 1B Rosamond Street, was seeking an Amendment to a Variance for 85.29 square feet of relief from the gross dimensional requirement for Lot 1A and an Amendment to a Variance for 748.01 square feet of relief from the gross dimensional requirement for Lot 1B in order to bring the lots into compliance with gross dimensional area requirements. Ms. Agbey said that the parcel had a single-family detached dwelling which burned down in 2006. The petitioner sought and was granted additional relief in 2007 to be able to construct two single-family, semi-detached dwellings. Ms. Agbey indicated that she hired one engineer to do the original plot plan, and a second engineer to do a foundation plot plan. She said that she believed the plot plan produced by the first engineer was a result of the site being surveyed, but later found that it was based on the City's GIS records instead. Ms. Agbey

discovered the discrepancy when the final survey plan completed by another engineer did not match with the original plot plan. Ms. Agbey said that the house is already built and that she did not know of the discrepancy until it was too late. She also added that it was very difficult for her to get the tenants and that currently no one is living there yet.

Chair George reaffirmed that City's GIS records do not reflect true land dimensions and that those maps have a disclaimer that they are not to be used for legal purposes. As a related comment to the Board, he added that this case is directly related to the discussion the Board had at the last meeting regarding requiring petitioners applying for variances to provide certified plot plans with the application. At the same time, Chair George acknowledged that at the time the petition was first before the Board, a certified plot plan was not required as part of the application.

Mr. Abramoff asked the petitioner about the landscaping requirements that were part of the conditions of the original approval. Ms. Agbey responded that it took her a long time to put in the infrastructure lines; therefore, she will complete the landscaping in the upcoming spring. She said that she might also add landscaping to the front of the house to increase the buffer between the houses and the road.

Mr. Ciuffredo was displeased with the situation as it put the Board in an uncomfortable position of considering granting a variance after the parcel was developed. He pointed out to the petitioner that the Board was under no obligation to approve the petition and to fix contractor's mistakes. Ms. Agbey acknowledged Mr. Ciuffredo's concern.

Upon a motion by Andrew Freilich and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to close the hearing. Upon a motion by Brian Murphy and seconded by Andrew Freilich, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to approve the following:

AMENDMENT TO VARIANCE: 85.29 square feet of relief from the gross dimensional requirement for Lot 1A

AMENDMENT TO VARIANCE: 748.01 square feet of relief from the gross dimensional requirement for Lot 1B

The relief granted by the amendment superseded the previously granted gross dimensional relief and was not in addition to that relief. The petition was approved with the following conditions:

- 1) That previous conditions of approval (dated July 9th, 2007) related to erosion mitigation system are followed;
- 2) That previous conditions of approval (dated July 9th, 2007) related to landscaping for screening purposes are followed and that at least one 3" caliper tree be planted per lot in the front yards of the dwellings.

7. **67 Temple Street (ZB-2008-102) – Variances:** Attorney Jonathan Finkelstein, representative for the petitioner, John G. Giangregorio, Inc., was seeking a Variance for 10 feet of relief from the rear yard setback requirement, a Variance for 3,670 square feet of relief from the gross dimensional requirement, a Variance for 54.3 feet of relief from the frontage requirement, and a Variance for relief of 29 parking spaces from the off-street parking requirement.

Mr. Finkelstein handed out to the Board a Massachusetts Historical Commission's Form B for the 67 Temple Street parcel. He pointed the building built around 1870 during the times of the original canal's operations and consisted of the commercial store on the first floor with dwelling units above. After the building was demolished in 2007, Mr. Giangregorio proposed to rebuild the structure in the same footprint and replicating the general character of the building by keeping it as first-floor commercial and 2nd and 3rd floor residential. Mr. Finkelstein also pointed out that this proposal is in-line with the City's overall goal of mixed-use development. Mr. Murphy asked if the two residential units would be sold as apartments or condos. Mr. Finkelstein said that his client did not yet decide. Mr. Ciuffredo asked if the Blackstone Canal Parking Overlay District has been adopted, to which Mr. Fontane responded that it has but it only applies to the existing structures, not new construction. Mr. Ciuffredo asked if it is possible for the petitioner to make parking arrangements with the Union Station garage, to which Mr. Fontane said that he does not know what arrangements the garage offers and thus can not answer that question. Mr. Abramoff asked why the petitioner has applied for 29 parking spaces, when minimum eight are needed for the proposed use. Mr. Finkelstein responded that his client is hoping to lease the space to a restaurant and therefore prefers to apply for the maximum variance of 29 parking spaces. Mr. Ciuffredo complimented the applicant for applying for maximum available variance, as the Board often sees the opposite when applicants need amendments to incorrectly planned variances.

With regards to the hardship, Mr. Finkelstein said that the lot is of a unique trapezoid shape and size that is unlike any other lot in the neighborhood. He added that the lot can not be used for anything else when abiding by the current Zoning Ordinance, as it was created for a specific use that the petitioner is trying to replicate.

Mr. Fontane said that from a historical perspective the Historical Commission would most likely be amenable to the new building as it would be in character of the historic structure that once occupied the lot. When Chair George asked if the Commission had an oversight of the project, Mr. Fontane indicated that they did not and added that these comments were solely advisory in nature.

Steve Gordon represented Ralph Spokis of 75 Temple Street, a parcel adjacent to the petitioner's parcel. Mr. Gordon said that the petitioner does not have hardship necessary to be granted variances. Mr. Spokis claimed that the previous owner allowed the building to deteriorate to a point where it had to be knocked down, to which Mr. Kelly responded that there was a court order to demolish the building due to safety concerns. Mr. Spokis's biggest concern was not enough parking on Temple Street to accommodate proposed restaurant's customers. Thus, he was concerned that some customers will be improperly parking on Burt Street, a 15 foot wide private way off of Temple Street which separates 67 Temple Street and 75 Temple Street. This, Mr. Spokis continued, would block access to 75 Temple Street by some of the property's

occupants. To alleviate his concerns, Mr. Finkelstein said that less than half a block from the property there is a Union Station Parking Garage. He added that it would be in the restaurant's own interests to provide valet parking if so needed thus solving the potential issue. Lastly, Mr. Finkelstein said that he believes there has been no recent development in the Canal District that did not need a parking variance as parking requirements in the Zoning Ordinance do not apply well in this neighborhood. Mr. Freilich said that illegal parking problem on Burt Street does not trouble him because the City's Code enforcement could address this issue. Mr. Giangregorio also responded saying that on-street parking is underutilized and that the restaurant's busy time would be at night, when most businesses would be closed.

Mr. Spokis reminded the Board that current Blackstone Canal Parking Overlay District applies to existing buildings only. Chair George responded that the Board likes to look at the neighborhood as a whole when deliberating its decision. Mr. Ciuffredo said that the City is looking to revitalize downtown districts and that this project seems to be in line with this effort. He then asked Mr. Spokis what he would rather see on the site, to which Mr. Spokis responded that he would keep the site unbuilt. Mr. Ciuffredo said that he believes the petitioner wants to do a good job, and that the project will contribute to revitalizing the district and increasing tax revenues for the City, therefore he looks favorably on the petition, though some conditions might be necessary to minimize potential negative impact on the abutters.

When asked, Mr. Finkelstein said there would be no dumpsters on the site. Municipal trash would be picked up for residential units, while the commercial unit would have a small internal trash system.

Mr. Abramoff asked how much the applicant plans to invest and how much he is paying in taxes. Mr. Giangregorio responded that while he is paying small taxes currently as the site is vacant, he is planning to invest around \$500,000. He said that he would use a lot across the street for off-site storage for construction vehicles because he owns parking lots there.

Commenting at the end of the meeting, Mr. Freilich encouraged Mr. Giangregorio and Mr. Spokis to be good neighbors to each other and to be cooperative.

Mr. Murphy asked the petitioner how much his certified plot plan cost. The answer was \$1,600.

Upon a motion by Brian Murphy and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to approve the following:

VARIANCE: 10 feet of relief from the rear yard setback requirement
VARIANCE: 3,670 square feet of relief from the gross dimensional requirement
VARIANCE: 54.3 feet of relief from the frontage requirement
VARIANCE: Relief of 29 parking spaces from the off-street parking requirement

The Variances were approved with the following conditions:

- 1) That during construction all reasonable efforts be made to minimize the impact on abutters, particularly access to abutting properties.
- 2) That operation of the property is properly conducted in such a manner as to avoid patrons' parking on Burt Street.
- 3) That a sign is placed on the portion of the building facing Burt Street that reads "No Parking".
- 4) That the construction be in substantial accordance with the submitted rendering.

OTHER BUSINESS

Memo Review: Chair George thanked Ms. Zhaurova for her work on the memo for 21 Coburn Avenue petition.

Working with Applicants: Chair George asked to what degree the staff works with the applicants. Mr. Fontane responded that the applications are typically due 27 days before any Board meeting in order to give staff enough time to review the application. All applicants receive the staff review memo prior to the meeting and are contacted by staff prior to the meeting if additional items are required for the application.

Illegal signage on Lake Avenue: Mr. Kelly told the board that an enforcement action was taken to remove an illegal 3 by 5 foot sign on Lake Avenue.

8 Boynton Street: Mr. Freilich raised a question to the Board regarding 8 Boynton Street petition. He expressed concern that the outcome of the initial vote was not what he expected. He asked other Board members how they determined when there was enough information to vote on an item vs. to continue it. Board agreed it was a good idea to continue the item since it gave them the time needed for a review.

Approval of Minutes: Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich, and Brian Murphy to approve the minutes from November 3, 2008 and November 17, 2008 meetings.

ADJOURNMENT

Chair George adjourned the meeting at 8:20 P.M.