

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

February 23, 2009

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

Zoning Board Members Present: David George, Chair
Leonard Ciuffredo
Lawrence Abramoff
Brian Murphy
William Bilotta

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Judy Stolberg, Division of Planning & Regulatory Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

UNFINISHED BUSINESS

1. **309 Park Avenue (ZB-2009-003) – Variance:** Richard Tedesco, representative for 309 Park Avenue, LLC, asked for Leave to Withdraw without prejudice the application for a Variance for 820 square feet of relief from the gross dimensional requirement. He explained that more relief was needed and he would be submitting a new application. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, Brian Murphy and William Bilotta to approve the request of the petitioner for Leave to Withdraw without prejudice.

2. **142 West Street (ZB-2008-107) – Administrative Appeal:** The Board considered items #2 (142 West Street), #3 (26 Elbridge Street), #4 (24 Elbridge Street) and #5 (153 West Street) contemporaneously. Attorney Gary Brackett was present to ask the Board to continue the hearings to March 9, 2009 so that he can provide additional information to the Division of Planning and Regulatory Services. Chair George asked that any additional information be provided by March 2, 2009 for inclusion in the Board packets for the March 9, 2009 meeting. He also asked Mr. Fontane to provide the Board with the original Cease and Desist letter, the corrected Cease and Desist letter, information Mr. Brackett gave the Board at a previous meeting relating to the definition of “dwelling units” as well as Robert Ritchie’s letter, on behalf of Thomas Reilly, Attorney General, and the new evidence of the pre-existing nonconforming use Mr. Brackett would be providing as well as any other information that had been given to members previously so that they would have everything in one package. Mr. Fontane agreed and emphasized to Mr. Brackett that anything he wished to submit to the Board should be submitted to the Division of Planning and Regulatory Services by March 2, 2009. Mr. Brackett indicated that at the March 9, 2009 meeting, he would be willing to do a complete presentation in order to bring the Board up to speed on his arguments relative to the Administrative Appeals. Mr. Fontane indicated that he has been told that Mr. Nordberg from the Division of Inspectional Services will be

present on March 9, 2009, per the Board's request, to provide testimony and answer questions. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, Brian Murphy and William Bilotta to grant the request for a continuance to March 9, 2009 and an extension of the constructive grant deadline to April, 28, 2009.

3. **26 Elbridge Street (ZB-2008-108) – Administrative Appeal:** Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, Brian Murphy and William Bilotta to grant the request for a continuance to March 9, 2009 and an extension of the constructive grant deadline to April, 28, 2009.
4. **24 Elbridge Street (ZB-2008-109) – Administrative Appeal:** Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, Brian Murphy and William Bilotta to grant the request for a continuance to March 9, 2009 and an extension of the constructive grant deadline to April, 28, 2009.
5. **153 West Street (ZB-2008-110) – Administrative Appeal:** Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, Brian Murphy and William Bilotta to grant the request for a continuance to March 9, 2009 and an extension of the constructive grant deadline to April, 28, 2009.
6. **75 East Mountain Street (ZB-2008-101) – Special Permit:** A. Lorusso Development LLC, petitioner, who was requesting a Special Permit to allow placement of fill on the property, asked for Leave to Withdraw without prejudice. Mr. Lorusso submitted information (marked as Exhibit A) to the Board that the fill came from property at 75 Main Circle in Shrewsbury. He said he owned the property and had constructed a house on the site. He referred to it as "virgin fill". He did not provide any other verification of the contents of the fill as the Board had requested. Mr. Bilotta said that he had visited the site and had seen pieces of cinder blocks, slabs of cement and bricks on the right rear corner of the site which indicated to him that the term "virgin fill" was incorrect. Mr. Lorusso said he was unaware of that but the deep snow cover had possibly obscured view of the materials Mr. Bilotta referenced. Mr. Ciuffredo still wanted the information relative to the estimated volume of earth/fill dumped; documentation regarding the origin of the fill on site; estimated volume of fill to be used for the proposed single-family semi-detached dwellings; and a site plan showing existing and proposed erosion controls prior to a vote on the request for Leave to Withdraw. Mr. Fontane reminded the Board that any excess fill must be removed from the site by April 30, 2009 as conditioned in the Planning Board's site plan approval for the project. He also stated that the information regarding the fill could be ascertained at the time of issuance of a Building Permit for the project. Mr. Ciuffredo said that it was still a matter of concern for him and that if a Building Permit is not issued, the nature of the fill would never be known. Chair George said he could not vote to approve the request for Leave to Withdraw until he had the requested information. Upon a motion by Leonard Ciuffredo and seconded by Lawrence Abramoff, it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, Brian Murphy and William Bilotta to continue the hearing to March 9, 2009 and asked Mr. Lorusso to provide John

Kelly with the requested information prior to the hearing so Mr. Kelly can provide an opinion on the materials submitted.

NEW BUSINESS

7. **25 Eskow Road (ZB-2009-002) – Variances:** Jamie Cook and Attorney Patricia Gates, representatives for the petitioner, Global Companies, LLC, presented the petition seeking an Extension of Time for a Special Permit for open lot storage of flammable liquids in ML-0.5 (Manufacturing, Limited) and MG-2.0 (Manufacturing, General) zoning districts approved on February 25, 2008. Mr. Ciuffredo asked when construction would commence and Mr. Cook responded they would begin construction this year. Louis Maurello was opposed and said another project in the immediate area (an industrial park) was recently approved and the traffic from the two projects would be problematic. Chair George indicated to Mr. Maurello that the other project had no bearing on the request for a one year extension of time given that a decision has already been rendered on this matter and the project's context had not changed. Mr. Maurello reiterated his concern about traffic. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, Brian Murphy and William Bilotta to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, Brian Murphy and William Bilotta to approve the following:

EXTENSION OF TIME SPECIAL PERMIT: For open lot storage of flammable liquids in ML-0.5 and MG-2.0 zoning districts

The Extension of Time was approved with the following condition:

- **That the extension of time is for one year.**

8. **102 Russell Street (ZB-2009-004) – Variance and Special Permit:** Attorney Stephen Madaus, representative for the Greek Orthodox Community of Worcester, petitioner, stated a Variance for 15 feet of relief from the side yard setback requirement and a Special Permit for expansion or change of a pre-existing nonconforming use/structure are being sought to renovate and expand the church building and make improvements to the existing parking lot. He said the use is covered by the Dover Amendment, however, they are subject to reasonable dimensional requirements. He said the food pantry would be expanded as well as class room space. Parking is located in the rear of the building and in a lot immediately across Cedar Street and Mr. Madaus indicated that the off-street parking requirement will be exceeded by 18 parking spaces. In her memo dated February 18, 2009, Lara Bold explained that the Building and Zoning Division determined that 20 feet is the appropriate exterior side yard setback in an RL-7 district and since the petitioner is proposing an exterior side yard setback of 5.5 feet, relief of 14.5 feet would be required for the proposed building configuration not 15 feet as requested. Mr. Ciuffredo asked if the portion of the building encroaching into the exterior side yard setback could be shifted so that the building is flush with the existing building. Mr. Madaus responded that the interior had already been designed and it would be cost prohibitive to redesign it. James May and Patricia Wiener, both William Street residents, were concerned about conditions of approval for the previously approved parking plan for the lot on Cedar Street. They both cited fence issues and buffering. They asked about hours of operation as well as noise and

lighting. Dimitrios Vasilicilis said the hours of operation would not change. He said there are some night functions such as dances and ethnic holiday events presently and those would continue. He added that they schedule such functions presently. Ms. Wiener said there is no cooperation from the church in resolving issues that are troubling to them, particularly the damage to their respective fences that were knocked down. Anthony Matulaitis, who was the project manager when the first parking lot was constructed, said he had spoken with Ms. Wiener and showed her the plans including landscaping at that time. Chair George advised them that issues resulting from the parking plan approval were not relevant to the Variance and Special Permit and tried to keep them focused on this particular site and noted that the use is allowed by right. Mr. Murphy felt that it would be helpful to hear the complaints as they relate to the expansion and variance because they could affect the new project and could affect his decision. Mr. Fontane advised that the issues raised by Mr. May and Ms. Wiener were code compliance issues related to the parking plan approval and complaints should be directed to the Division of Inspectional Services. Mr. May stated he would like to see the issues they raised resolved before another approval is given to the church. Mr. Madaus indicated that representatives from the Division of Inspectional Services had visited the site periodically when the parking lot on Cedar Street was constructed and that it was built in compliance with all requirements and conditions of approval. Mr. Ciuffredo urged the parties to begin a dialogue and come to a resolution that would be mutually satisfactory. Mr. Bilotta said he had visited the site and was concerned because the snow and ice had not been cleared from the Cedar Street side of the property while the front of the building had been cleared down to bare ground. Chair George said that only onsite issues could be addressed according to the Zoning Ordinance. He also said there was a City ordinance in place relating to clearing snow from sidewalks. City Councilor Barbara Haller said the church has been a good neighbor for the most part and she would be willing to facilitate a meeting between the parties to aid them in working together cooperatively. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, Brian Murphy and William Bilotta to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, Brian Murphy and William Bilotta to approve the following:

VARIANCE: 15 feet of relief from the exterior site yard setback requirement
SPECIAL PERMIT: Expansion or change of a pre-existing nonconforming use/structure

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

- **That a note be provided on the plan regarding the existing parking in the parking summary.**
- **That the zoning table be corrected to state that the site is in an RL-7 zoning district, not RS-7.**
- **That the height of all fences be labeled on the plan.**
- **That a note be added to the plan that all excess snow will be removed from the site.**
- **That thirteen off-street parking spaces on the eastern portion of the lot be screened from abutting residential property. At a minimum, the parking spaces that face windows of abutting residential property should be screened with**

evergreens and, if possible, the connection to the existing pedestrian concrete walk and arbor should be maintained.

- That all dumpsters on site be enclosed completely with a six-foot stockade fence per current requirements.
- That the applicant repair leaning posts (in chain and post area) along Elm Street.
- That the following additions be made to the landscaping: (1) One additional street tree and additional shrubs or other low plantings be placed on either side of the entrance/exit of the parking area on Elm Street; and (2) Additional shrubs be added to the five foot setback on the northeastern portion of the site along Cedar Street.
- In the event that the plan submitted to the Planning Board for Definitive Site Plan Approval exceeds the above recommendations, the landscaping shown on the Definitive Site Plan will be that which is approved.
- That construction will be in accordance with the final Definitive Site Plan approved by the Planning Board.

OTHER BUSINESS

155 Ararat Street Remand: The Board discussed whether they needed an executive session to discuss with the City's Law Department representative the Land Court's remand, its ramifications and procedures to be followed by the Board to effect resolution. Chair George said he thought it would be prudent to do so. Mr. Fontane said he would forward the request to the Law Department for consideration..

ADJOURNMENT

Chair George adjourned the meeting at 7:00 P.M.