

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

**June 29, 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  
Ruth Gentile, 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.

- 1. 90 East Central Street (ZB-2009-031) – Amendments to Variances and Special Permit:** Donald O’Neil, representative for the applicant, requested Leave to Withdraw without Prejudice for the Amendments to Variances for relief of 40 feet from the frontage requirement, relief of 3,022 square feet from the gross dimensional requirement, relief of two parking spaces from the off-street parking requirement and an amendment to Special Permit for expansion or change of a pre-existing non-conforming structure. Mr. Kelly requested that the applicant make an appointment to have the property inspected by Inspectional Services. The Board agreed. Upon a motion by Lawrence Abramoff, and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Brian Murphy to approve the petitioner’s request for Leave to Withdraw without Prejudice.
- 2. 36 Harlow Street (ZB-2009-027) – Variance:** Paul Conger, applicant, and David Messier, representative presented the plan. Mr. George reviewed staff’s recommendation. Mr. Conger expressed his displeasure with receiving staff comments late Friday which he felt did not provide him sufficient time to prepare for the meeting. Mr. Fontane explained that the City is in the process of revising its sign ordinance and that is why it needed additional time to advise the Board on this matter. Mr. Fontane reminded the Board and Mr. Conger that staff developed this memo merely to advise the Board should it want to consider the applicant’s request. He further indicated that his recommendation as it was at the previous hearing on the matter was not to grant variances while a new ordinance was being developed. Mr. Abraham inquired about when the new ordinance would be adopted. Mr. Fontane stated that the ordinance, if approved by the City Manager, would be recommended to City Council in the Fall 2009 and that the consideration process takes between four to six months on average. The Board stated that it wanted to accept staff’s recommendation, but also did not want to have the applicant wait another six months or more for a decision. Mr. George asked Mr. Conger whether he wanted to continue with the hearing or leave to

withdraw. Mr. Conger decided to proceed with the hearing. He stated that he is seeking to install an electronic 800 SF sign and is requesting relief of 600 SF from the maximum allowed size for a roof sign in an MG-2.0 zoning district (200 SF). He indicated that the message will advertise on-premise uses only and that the electronic display will change once every 8 seconds and that the purpose of the proposed signage is to more clearly identify the building, promote upcoming events (such as art gallery shows) and to advertise space for lease. Mr. Ciuffredo asked if Mr. Conger would accept the dimensions recommended by staff with the message changing every 2 minutes also recommended by staff. Mr. Conger said he would not and that the sign was state-of-the-art. Mr. Fontane said that the reason for staff's recommendation was to limit distractions and that the goal was not to prohibit signs but to regulate them reasonably for public safety. Mr. Messier described the sign as a billboard that does not have scrolling or animation and that the messages adjust to ambient light. Mr. George was concerned that the roof of the building would be able to accommodate the weight of the sign. Mr. Ciuffredo expressed concern with the Board granting a variance while staff was developing a new ordinance to address this type of sign and indicated that it appeared that staff's ordinance reflected concerns that the Board has expressed regarding this type of sign. Mr. Ciuffredo further indicated that Mr. Messier was presenting a billboard to the Board yet the applicant stated that he did not have the specifications for the specific sign that will be installed and that therefore he would not be able to vote favorable on such a request. Mr. George stated that he was not sure that the requested relief was the minimum relief required and that he wanted photo simulations before he would be able to vote. Mr. Ciuffredo agreed that the Board needed photo simulations and the specifications of the sign that will be installed if the applicant was granted the variance. He also indicated to the applicant that he could install a rather large sign, 200 SF, by-right. Mr. Conger maintained that he needed a larger sign. The Board agreed it needed more information before it could vote on the matter. Upon a motion by Leonard Ciuffredo, and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Brian Murphy to grant the applicant's request for a continuance to July 20, 2009 and to extend the constructive grant deadline to August 12, 2009 to allow the applicant time to provide the Board the following information: photo simulations at various distances on the highway, a rendering of the sign, the manufacturer's specifications and dimensions for the sign and additional information regarding the applicant's proposed findings for the variance.

### **3. Proposed Amendment to the Board's Rules and Regulations Related to Application**

**Fees:** Mr. Fontane presented the recommended fee schedule changes for FY-2010. He explained that the Board's application fee schedule is based on the principle that larger projects are more complex and require more staff time to review. He indicated that the proposed changes are aimed at generating enough revenue to cover, in an average year, 50% of the costs of services provided. This goal is based on the policy that our work serves two distinct but equally important groups by balancing the rights of those seeking to develop their land with those of the abutting property owners. Therefore, some fees include an increment charge related to the size of the project in addition to a base fee for certain considerations. Moreover, certain types of applications require considerable staff time to review due to the complexity of the use being considered, wireless facilities for example.

Mr. Fontane noted that the Board's last fee schedule adjustment was August 1, 2007, which primarily adjusted fees for inflation and corrected structural deficiencies. He further informed that Board that this year's recommendations account for inflation, improve clarity,

and make changes that reflect the City's current policy to increase revenue from fee sources. Mr. Fontane explained that staff's findings concluded that, overall, the revenue generated from the fees collected does not cover the cost associated with customer service, clerical support, interdivisional plan review, board support and advertising for Zoning Board applications at the desired level in general and, in particular, for Administrative Appeals. Moreover, he indicated that the Board's Extension-of-Time fee does not cover the cost of the customer service and processing involved.

Mr. Fontane then summarized the FY-2010 fee schedule changes as follows: the proposal increases all base fees and increment charges by approximately 20% and calls for a structural adjustment of the fees associated with Administrative Appeals and Extension-of-Time applications in an effort to capture a greater proportion of the costs associated with customer service, application processing and review.

Mr. Fontane made two policy related recommendations: 1) fees should be adjusted every two years by a simple majority vote of the Board and 2) applicants should exhaust all special permit options prior to seeking a variance.

Mr. Fontane explained that the first policy related recommendation will help ensure that the Board's fee schedule keeps pace with inflation. The second recommendation is based on the notion that applicant should apply for only the minimum relief needed and that this would help minimize variance requests. For example, the 10% relief provided by Special Permit regarding the number of required parking spaces.

Mr. Fontane also presented his findings related to the Board's request about fees other municipalities charge. He stated that he found a variety of methods being used to derive fees. For example, some municipalities had higher base fees and no incremental charges, while others had lower base fees and higher increment charges. Mr. Fontane stated that in general the fees proposed were similar to those in the eight municipalities he surveyed. Mr. Fontane further recommended maintaining the maximum fee and that having a maximum fee is considered to be a good policy and is consistent with the costs associated for the services provided.

Mr. George asked Mr. Fontane if the fee increases were necessary and if there he would commit to no further increases other than for inflation in the future. Mr. Fontane said that he was not able to make any commitment on future increases since that is the City Manager's decision whether to recommend fee changes and that it is based on revenue collection policies that are subject to change and consistent with State Law.

Upon a motion by Brian Murphy and seconded by Leonard Ciuffredo it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Brian Murphy closed the public hearing. Upon a motion by Brian Murphy and seconded by Leonard Ciuffredo it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, William Bilotta and Brian Murphy to approve the amendment to the Board's Rules and Regulations related to Application Fees as recommended by staff.

## **OTHER BUSINESS**

**Approval of Minutes:** Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo it was voted 5-0 by David George, Leonard Ciuffredo, Lawrence Abramoff, William Bilotta and Brian Murphy to approve the minutes from the Board's June 8, 2009 meeting.

Board reviewed and signed decisions.

## **ADJOURNMENT**

Chair George adjourned the meeting at 7:30 P.M.