

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

June 25, 2012

WORCESTER CITY HALL

455 MAIN STREET, LEVI LINCOLN ROOM

Zoning Board Members Present:

Andrew Freilich, Chair
Lawrence Abramoff, Vice-Chair
William Bilotta
Vadim Michajlow
Kola A. Akindele

Staff Present:

Joel Fontane, Division of Planning & Regulatory Services
Deborah Steele, Division of Planning & Regulatory Services
John Kelly, Department of Inspectional Services

Board Site Views

CALL TO ORDER

Chair Freilich called the meeting to order at 5:31 PM.

REQUESTS FOR CONTINUANCES, EXTENSIONS OF TIME, POSTPONEMENTS, WITHDRAWALS

1. 59 Granville Street (ZB-2012-024):

Attorney O'Neil stated he knew that Mr. Loew was unable to be present for tonight's meeting and that Mr. Abramoff was not present when item was first heard and therefore could not vote and that would mean that the petition would require an affirmative vote from the four members present who were able to vote on item and therefore he requested the item be postponed until there was five member Board present to vote on the item.

Mr. Fontane indicated that the Board should request that applicant also extend the constructive grant deadline to August 28, 2012.

Upon a motion by Mr. Abramoff and seconded by Mr. Akindele the Board voted 5-0 to postpone the meeting to July 16, 2012 and to extend the constructive grant deadline to August 28, 2012.

List of Exhibits.

Exhibit A: Variance Application; received March 20, 2012; prepared by Edward Rodriguez.

- Exhibit B: Variance Plan of Land; dated March 7, 2012; prepared by HS&T Group, Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 59 Granville Avenue; dated April 20, 2012, revised April 23, 2012, revised May 11, 2012, revised June 13, 2012.
- Exhibit D: Letter of Opposition from Mike Carlson on April 20, 2012.
- Exhibit E: Letter of Opposition from Donna Gustafson on April 20, 2012.
- Exhibit F: Letter of Opposition from Marian Ouimette on April 20, 2012.
- Exhibit G: Letter of Opposition from Maya Elisayeff on April 21, 2012.
- Exhibit H: Letter of Opposition from Ann and John Klump on April 23, 2012.
- Exhibit I: Request for continuance received from Attorney Don O'Neil dated June 25, 2012 and received June 25, 2012.

3. 10 Midgley Lane (ZB-2012-029):

Items #2 and #3 were taken contemporaneously.

Grover Gentry appeared on behalf of the applicant, Patrick Hayes.

Mr. Gentry stated at this time they would like to withdraw the petition.

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 5-0 to approve the leave to withdraw.

List of Exhibits.

- Exhibit A: Variance Application; received April 13, 2012; prepared by Patrick M. Hayes.
- Exhibit B: Variance Plan; dated April 6, 2012; prepared by New England Land Survey.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 10 Midgley Lane; dated April 8, 2012, revised May 31, 2012, revised June 1, 2012, revised, June 19, 2012.
- Exhibit D: Letter of Opposition from Gerard M. Sutton, dated May 2, 2012.
- Exhibit E: Letter of Opposition from Gerard M. Sutton and Petition signed by abutting owners, dated May 6, 2012.
- Exhibit F: Letter of Opposition from James H. Faler; dated May 8, 2012.
- Exhibit G: Updated Letter of Opposition from Gerard M. Sutton, Quitclaim Deed and Petition signed by abutting owners dated May 25, 2012.

Exhibit H: Request for Leave to Withdraw, received from Hossein Haghazadeh on June 25, 2012 and dated June 25, 2012.

Executive Session: 5:43 p.m. – 5:55 p.m.

Chairman Freilich explained that Zoning Board would be going in to Executive Session to discuss pending legal matter and would reconvene the regular meeting after Executive Session was completed.

NEW BUSINESS

4. 55 Greencourt Street (ZB-2012-030):

Hossein Haghazadeh from HST Group, appeared on behalf of the petitioner, Joannae Konan. Mr. Haghazadeh stated that Ms. Konan is looking for a Variance for Relief of 1,113 SF from the gross dimensional requirement and a Variance for relief of 5-ft from the frontage dimensional requirement. Mr. Haghazadeh stated the lot has been in existence for quite a while but the lot only has 60 feet of frontage and they are short on the area by 1,113 SF and they are requesting relief for that.

Mr. Haghazadeh stated the house would be 21x42 which would be a good size and that is why they are requesting the relief. If they don't receive relief they cannot do anything with lot. Ms. Konan has attempted to buy land from neighboring property to bring this location into conformity but has been unsuccessful.

Mr. Fontane stated that as Mr. Haghazadeh had mentioned the applicant could meet the minimum gross area and frontage requirements if some type of deal could be reached with the abutting property.

Mr. Fontane stated that Planning Staff had reviewed the properties in the area and they meet the Zoning Ordinance requirements except for one, 44A Greencourt Street.

John Kelly from Inspectional Services stated he had no comments.

David Ginisi stated he owns the lot next to Ms. Konan and five years ago a petition for Variance was applied for by Ms. Konan's ex-husband and was denied by the Board and the Board at that time suggested neighbors try to work something out.

Mr. Ginisi stated that he has approached Ms. Konan about buying what she needed from his property as he has the frontage to make her lot a Zone 7 which would keep neighborhood intact.

Mr. Ginisi stated he owns the vacant lot next to his house and he could petition for exact thing Ms. Konan is requesting and if her variance is granted then he would also seek one for his property.

Mr. Ginisi stated that he would request that Ms. Konan worked it out with him as he would be happy to sell her what she needs to make her lot compliant.

Ms. Konan stated she has tried to work it out but Mr. Ginisi is requesting too much money.

Chairman Freilich asked how much money Mr. Ginisi was asking.

Ms. Konan stated \$60,000.

Chairman Freilich asked Mr. Fontane whether Ms. Konan needed only need a piece of the lot and not entire lot.

Mr. Fontane stated only a piece of the lot and the prior denial at same location was for 1,113 SF and 5 ft of frontage.

Chairman Freilich asked what Mr. Ginisi lot size was.

Mr. Fontane responded that it was 12,800 square feet and 125 feet for frontage.

Chairman Freilich stated that Mr. Ginisi would then have more than enough to section of a piece of the property then.

Mr. Fontane stated that he does not recommend the Board getting involved in a private transaction.

Chairman Freilich asked whether the lot Mr. Ginisi owns is a conforming lot.

Mr. Fontane stated that was correct.

Chairman Freilich asked if Mr. Ginisi had any intentions to do anything with that lot.

Mr. Ginisi stated he would only ask for variance if Ms. Konan is approved for her variance.

Chairman Freilich asked why would Mr. Ginisi ask for variance if he has conforming lot.

Mr. Ginisi stated he owns 29 Greencourt Street and the vacant lot next to property.

Chairman Freilich asked if that had any relevance.

Mr. Fontane stated Mr. Ginisi lot has 12,860 SF so it is short of the 14,000 SF required to be buildable.

Mr. Fontane stated the lot in question at 55 Greencourt could give Mr. Ginisi additional land and frontage so he could have buildable lot.

Chairman Freilich asked if there was anyway that through the Planning Department that the neighbors could come to some sort of arrangement as it looks like Mr. Ginisi may have two buildable lots.

Mr. Fontane stated that would be incorrect as Mr. Ginisi would be short and that the 29 and 55 Greencourt abut each other and both of them are short the frontage and the lot area to build another house.

Mr. Ginisi stated that he was not short frontage on his vacant lot.

Mr. Ginisi stated the reason the price he is requesting is because that five years ago that was price Ms. Konan ex-husband had suggested.

Chairman Freilich stated if petition is denied that she cannot build and that it seems that some sort of compromise could be made between neighbors and maybe the neighbors could meet in hall and make some type of arrangements.

Mr. Ginisi stated that no as they have talked before and could not come to any agreement.

Mr. Michajlow stated this application does not seem to meet the criteria for a variance.

Mr. Fontane stated that lot was created after zoning ordinance was created and if they approve this they may set a bad precedent for neighborhood.

Mr. Abramoff asked how long Ms. Konan owned lot.

Ms. Konan she just received as settlement in divorce agreement.

Mr. Abramoff asked before divorce how long did Ms. Konan and her husband own the property.

Ms. Konan stated 12-15 years.

Mr. Abramoff asked if was buildable lot at that time.

Mr. Fontane stated no. 15 years ago it would have been 65 ft frontage.

Mr. Abramoff stated so then 15 years ago they acquired unbuildable lot.

Mr. Fontane stated that is be correct.

Mr. Michajlow stated that may create hardship as you can't build on the lot so you can't do anything with it.

Chairman Freilich stated that are multiple properties in Worcester that are unbuildable but not sure that creates a hardship.

Mr. Fontane stated unbuildable lots do not sell for as much as buildable lots but the lot does have some value as it is land and could be added to 29 Greencourt to create a buildable lot. There is a land transaction that would allow for a by right frontage and lot area and that would be preferred over it not happening.

Mr. Michajlow stated so there is an alternative.

Mr. Fontane stated that is correct.

Chairman Freilich stated that Mr. Ginisi owns 12,810 square feet at 29 Greencourt Street.

Mr. Kelly stated that is still not enough land area for two buildable lots. One area would have enough area and frontage for house that is existing but would still have to come before the Board if he wanted to render his other section as he would need variance as he doesn't have the 14,000 and 140 feet of frontage.

Mr. Fontane stated Mr. Ginisi is 29 Greencourt Street and is the next to last one on the table given to Board in staff's memo and Ms. Konan is at 55 Greencourt and if variance is granted it would be short frontage and short area. If there was land transaction one could sell to other party.

Mr. Abramoff stated ideally best for the neighborhood and both parties if it could be two lots.

Chairman Freilich stated you would still need two variances.

Mr. Fontane stated no because you could only do one more home in this area.

Mr. Abramoff stated would they not be better off economically with another house in area as would increase tax base.

Chairman Freilich asked Mr. Fontane whether two houses would be allowed on both lots if they were to proportion evenly on both side.

Mr. Fontane stated you could get one more house if the land transaction occurred. Mr. Fontane stated this is similar to 2004 where the Board was put in middle of private land transaction and it appears that it is still unresolved.

Mr. Michajlow stated it does not meet the variance criteria as there is existing option.

Chairman Freilich stated he doesn't want Board to render a decision that gets them involved in a private land transaction and he would suggest the following: withdrawal, the Board vote on item or neighbors work it out.

Mr. Haghanizadeh stated he spoke to Mr. Ginisi few moments ago at meeting and he is not willing to work out agreement and at this time they would like to ask for leave to withdraw and maybe come back in the future when neighbors can come to agreement.

Chairman Freilich suggested that Mr. Haganizadeh and the neighbors meet in hall to see if they can work something out or they could ask for leave to withdraw come back sometime in the future.

Mr. Bilotta stated that as Mr. Fontane had pointed out the only thing before board is petition and not the neighbor's financial transactions.

Mr. Haganizadeh he would like to request for leave to withdraw.

Upon a motion by Mr. Abramoff and seconded by Mr. Akindele the Board voted 5-0 approve the leave to withdraw.

List of Exhibits.

- Exhibit A: Variance Application; received April 25, 2012; prepared by JoAnne Konan.
- Exhibit B: Variance Plan; dated April 2, 2012; prepared by HS&T Group.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 55 Greencourt Street; dated May 31, 2012, revised June 19, 2012.
- Exhibit D: Approval Not Required (ANR) Plan of Land, dated May 16, 2001, prepared by George E. Smith & Associates.
- Exhibit E: Request to Leave to Withdraw; received 6/25/2012, prepared by Hossein Haganizadeh.

5. 2 Northboro Street (ZB-2012-031):

Hossein Haganizadeh from HST Group, appeared on behalf of the petitioner, Rodney Haddad, on request for Special Permit for extension, alteration or change of a privileged pre-existing nonconforming use and structure – allow use of a similar nature (Article XVI, Section 4) to convert a vacant dry cleaning business to a restaurant (a food service deli) with associated 10 off-street parking spaces.

Mr. Haganizadeh stated prior to the tonight's meeting they met with all the abutters and shared the plans with abutters and any suggestions from abutters they incorporated their comments and that they also appeared in front of the Planning Board for site plan which was approved by that Board.

Mr. Haganizadeh stated the Haddad family has own the property for over 20 years and they plan to keep the building and improve the parking. They will provide drainage system which is improvement over what it is right now and they will also provide landscaping. During construction they will have erosion control and the landscaping will be improved. They will propose to provide 10 off street parking as they will have 20 seats at the restaurant. It will be different type of business but same nature as previous business.

Mr. Fontane stated that staff recommended that project be constructed in accordance with the plans on file with the Division of Planning & Regulatory Services.

Mr. Fontane stated that dry cleaning use is Business Use #27 and applicant is applying for a 20 seat restaurant which is Business Use #7 with 10 off street parking space and after reviewing the Zoning Ordinance it does meet the standard of similar use and does recommend approval.

Mr. Kelly stated he agreed with Planning Staff of use of similar nature.

Mr. Fontane stated in terms on recommendation that it be not only constructed in accordance with plan but that the restaurant is limited to 20 seats.

Mr. Abramoff stated it seems to be a reasonable use and better than having a vacant building.

Mr. Bilotta stated that being from the neighborhood he had question regarding the parking and how they plan to put parking on the right side of the building on Plantation Street.

Mr. Haghanizadeh stated they did not plan to do any blasting and they will remove the ledge by hammering to create the parking and that way it will not cause any problems for the neighbors. They also do a pre-blasting survey even though not required.

Mr. Bilotta asked how they plan to get some of that rock ledge out.

Mr. Haghanizadeh stated by hammering.

Mr. Bilotta stated his concern would be traffic back up on Plantation Street.

Mr. Fontane stated that a condition of approval could be imposed that no blasting and the pre-blasting survey be required as it is important that parking area be created otherwise a variance would be required. He also indicated that the Board condition that the lot is created prior to the certificate of occupancy being issued.

Mr. Haghanizadeh stated they have no objection to that condition.

Henry Martin, an abutter, stated Northboro Street is tough to get in and out of and there are no parking signs on Northboro Street so people are parking on street all the time. Mr. Martin wanted to know where the 6-10 employees would be parking. He also wanted to know where the delivery truck would park and load. Also, where the construction vehicles would park during the initial work on the property. He also asked that since it was a dry cleaning business will any investigation be done into ground contamination from dry cleaning business.

Mr. Haghanizadeh stated with regard to the employee parking that Mr. Haddad has made provisions with his uncle to park at his property.

Chairman Freilich asked if he had copy of the parking arrangement with the uncle.

Mr. Haddad stated he did not have any written confirmation but can get written confirmation.

Chairman Freilich asked what hours would be busiest.

Mr. Haddad stated lunch hours and slower at dinner.

Chairman Freilich asked if there would be walk in neighborhood traffic.

Mr. Haddad stated he believe he would as he has similar establishment in Shrewsbury and he does have lot of walk in traffic.

Mr. Haddad stated he plans to do catering and he wants to make building better and be asset to the City of Worcester.

Mr. Bilotta asked how deliveries are made in Shrewsbury.

Mr. Haddad stated it is done in a.m.

Mr. Bilotta asked what type of vehicle.

Mr. Haddad stated truck will come up Peabody Street and enter on the left and make the delivery in the back when nobody in lot and at that time truck can make u turn or make exit out Northboro Street.

Paul Ginitti an attorney from Hudson stated he was there on behalf of Madeline Petrone Martin who lives at 25 Northboro Street. Mr. Ginitti stated this is residential area and this is a pre-existing non confirming use and as the Board knows the use can be expanded as long as the new use is not substantially more detrimental than existing use and that the petitioner presented that business hours are 6:00 a.m. to 9:00 p.m. seven days a weeks which is substantial expansion.

Mr. Ginitti stated that it had been mentioned in reports that a hairdresser and dentist were in the area but that is not same type of business as a deli that would have huge turn in terms of customers during business hours.

Mr. Ginitti stated the plan does meet the requirements of the City of Worcester, but feels with the turn over of customers that ten parking spaces will not be enough.

Mr. Ginitti stated he felt this deli is substantially more detrimental use and unfair to the people who live in neighborhood.

Mr. Abramoff stated he had no problems with the proposal.

Mr. Fontane stated that the Board could condition the hours of business and the Board could consider condition of no outdoor dining permitted on the site.

Chairman Freilich asked Mr. Kelly if they could require a pre blast survey even if no blasting takes place.

Mr. Kelly stated that is correct.

Chairman Freilich asked what the prior business hours were.

Mr. Haghanizadeh stated that hours would be 6:00 a.m. to 9:00 p.m. but at 6:00 a.m. the owner would be there doing prep work and most likely customers wouldn't come until to about 11:00 a.m. so it would be similar hours to what the dry cleaners had.

Mr. Abramoff asked what the weekend hours would be.

Mr. Haddad stated he would rather not work on Sunday but he does do catering on weekend so would like to have option to open.

Chairman Freilich asked what our hours for Shrewsbury business.

Mr. Haddad stated Monday-Saturday to public and Sunday closed but they do catering.

Mr. Bilotta stated if agreeable could applicant mirror the Shrewsbury business in Worcester.

Mr. Haddad stated he have no problem with that, but if business was booming could he could come back to expand.

Chairman Freilich stated he have to come back before the Board.

Chairman Freilich stated he would like to restrict truck deliveries to weekdays.

Mr. Abramoff stated that he agreed with Chairman Freilich to restrict to truck deliveries to morning weekday morning hours.

Elaine Longven, 29 Pineland Avenue in Worcester stated she frequents Mr. Haddad's business in Shrewsbury and this proposal would be asset to City of Worcester.

Upon a motion by Mr. Abramoff and seconded by Mr. Akindele the Board voted 5-0 close the public hearing.

Upon a motion by Mr. Abramoff and seconded by Mr. Michajilow the Board voted 5-0 to approve Special Permit for Extension, Alteration of Change of a Privileged Pre-Existing Nonconforming and Structure – Allow a Use of Similar Nature (Article XVI Section 4) with the following conditions of approval:

That the project is constructed in substantial accordance with the plans on file with the Division of Planning & Regulatory Services.

- Limited to a 20 seat restaurant.
- That no blasting be done but a pre-blasting survey be done.
- Hours are limited from 6:00 a.m. to 9:00 p.m.
- No outdoor dining.
- That a six month landscaping maintenance program be implemented at property.
- That when jack hammering the ledge that hours of work adhere to city ordinance.

List of Exhibits.

- Exhibit A: Special Permit Application; received 4/25/2012; prepared by Rodney Haddad.
- Exhibit B: Special Permit Plan; dated 4/2/2012; prepared by HS&T Group, Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 2 Northboro Street (ZB-2012-031) – Special Permit; May 31, 2012.

Chairman Freilich requested a five minute recess.

6. 321 Greenwood Street (ZB-2012-036):

John Grenier appeared on behalf of Shadow Brook Acres Nominee Trust on request for a Special Permit to allow a food service with a drive-through use.

Mr. Grenier stated location is currently a vacant parcel and historically there was two residential properties at location but were demolished when a fire occurred.

Mr. Grenier stated there are wetlands to east of property.

Mr. Grenier stated his client is looking for multi business at location and one would be food service and they would require a drive thru at north side of building for that. Mr. Grenier stated rear of property he envisioned that would be for employee parking.

Mr. Grenier stated he had received comments from Planning Staff requesting that they show where the 240 feet of queuing around the building would be and they have modified the parking at the southerly portion with the queuing starting at the southwest end of building and that provides 260 feet which is 20 feet more than required by zoning with a by pass lane that is 300 feet lane.

Mr. Grenier stated his client did not have specific client in mind but he wants to accommodate any potential tenants and that they are looking for a coffee type use and they do provide adequate parking on site for all retail as well as the drive thru service.

Mr. Grenier stated for drive thru it will be one way in and one way out so there aren't any issues with cars and they will have adequate handicapped parking to accommodate any patrons coming in and out of building.

Mr. Grenier stated Planning Staff had requested two additional trees and they will provide two additional trees on the northerly portion of the site and they also will install a screen fence.

Mr. Fontane stated that Planning Staff had requested that applicant label point of service window and that Mr. Grenier had mentioned he amended the plans to show that.

Mr. Kelly stated he had no comments.

Mr. Abramoff asked if conditions relative to the drive through length and pedestrian sidewalk access were on the plan.

Mr. Grenier stated only question he had was with regard to the pedestrian access as there is no sidewalk on Greenwood Street but believed there was one on other side and needed clarification as where crosswalk should be labeled.

Mr. Fontane showed the point on the plan where the crosswalk could be added.

Mr. Grenier stated that would be acceptable.

Mr. Abramoff asked whether plan being presented is the one Board was approving.

Mr. Fontane stated no that they would need to submit revised plan subject to conditions approved.

Chairman Feilich asked who would be tenant.

Mr. Grenier stated his client has approached Honey Dew but they did not have interest in location but that is type of use he is looking for.

Chairman Freilich stated that a lot of drive thru that have sidewalks in the parking lot are dangerous and he requested applicant work with Inspectional Services to make sure sidewalk and signage be implemented correctly.

Mr. Bilotta stated he saw there is wetland and the snow storage is in wetland buffer zone as well as dumpster in same area and he has concerns relative to the drainage.

Mr. Grenier stated this plan has been approved by Conservation Commission with conditions. One is moving the dumpster outside the 50 foot wetland buffer and also modifying some of the snow storage area so it is outside the 30 foot buffer.

Mr. Fontane stated that part of staff's recommendation that applicant incorporate Planning and Conservation Commission conditions of approval.

George Robidioux stated he lives at 296 Greenwood Street and his concerns were relative to the volume of the intercom that would be used at the drive thru and where the sidewalk would be installed.

Mr. Fontane showed Mr. Robidoux on the plan where the sidewalk would be located on the site.

Chairman Freilich stated he agreed with Mr. Robidioux about the volume of speaker of intercom and asked where it would be located.

Mr. Grenier stated it would be on the backside of the building.

Chairman Freilich asked Mr. Fontane if they could condition the volume level of the drive thru intercom.

Mr. Fontane stated the Board could set condition that decibel level be required to be set at normal conversation level.

Mr. Fontane asked Mr. Grenier to clarify on the plans where the point of service is.

Mr. Grenier showed on the plan the pick up window on north side of building with queuing go back around.

Mr. Fontane asked whether speaker would be on rear side of building.

Mr. Grenier stated that would be correct.

Chairman Freilich stated whatever business is in there has to comply with city ordinance.

Mr. Abramoff stated that he plans to suggest condition that the external speaker not exceed normal conversation level within 50 feet.

Chairman Freilich stated he would also like condition that speaker be placed in easterly position facing away from neighbors.

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Abramoff and seconded by Mr. Michajilow the Board voted 5-0 to approve the Special Permit to allow a food service with a drive-through subject the following conditions:

- 1.) That project is constructed in accordance with final revised plans on file with Division of Planning & regulatory Services;
- 2.) That two (2) copies of the final revised plan are submitted to the Division of Planning and Regulatory Services prior to issuance of a Building Permit with the following amendments:
 - a. Incorporate Planning Board and Conservation Commission conditions of approval;
 - b. Label the Zoning Board approval granted;

- c. Label point of service window and the drive-through length (if non-compliant – additional relief should be sought);
- d. Provide pedestrian access from the sidewalk to the entrance of the building;
- e. Provide 1-2 additional trees along northern 5-ft setback closer to Greenwood Street to provide visual buffer to the site.
- f. That external speaker for food service not exceed 50 decibel at the property line.
- g. That six month landscaping maintenance plan be implemented on the property.

List of Exhibits.

- Exhibit A: Special Permit Application; received May 10, 2012; prepared by Shadow Brook Acres Nominee Trust.
- Exhibit B: Parking Plan; dated May 8, 2012; prepared by J.M. Grenier Associates Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 321 Greenwood Street; dated June 13, 2012.
- Exhibit D: Letter from the City of Worcester Department of Public Works & Parks to Nancy Tran; re: DPW comments for ZBA item – 321 Greenwood Street; dated June 18, 2012.

7. 888 Grafton Street (ZB-2012-034):

Brendan V. Ly appeared on behalf of petition. Mr. Ly stated he is requesting Special Permit for non-residential use allowed by a Special Permit (Article IV, Section 2, Table 4.1) – a personal service shop in the RL-7 Zoning district and Variance for relief of 4 off-street parking spaces from the parking requirement (minimum 7 required for the proposed use).

Mr. Ly stated this is vacant building that used to be a two family residential dwelling and he wants to do some type of business at the location.

Mr. Ly stated if he is allowed to run a business it would improve the neighborhood and it would be small business that would not effect the neighborhood.

Mr. Fontane stated that he passed around a revised memo from staff relative to the proposal and indicated that staff felt proposed use could work if properly designed and constructed but that staff has reservations about the area of the proposed use as applicant had indicated on application it would be only 230 SF and staff questions whether that would be sufficient for the proposed business use. Mr. Fontane said without a floor plan it is hard to tell how only 230 SF would be for the business and there is also not enough information about the parking area and staff had also indicated concern whether the mature oak tree on property would remain.

Chairman Freilich asked Mr. Ly what his plans where for the property.

Mr. Ly stated it would be a small nail salon but if more customers come in he would then asked for additional space.

Mr. Fontane asked how the first floor of the home was going to be divided so that 230 SF be for business use and rest of floor being used as residential.

Chairman Freilich asked if Mr. Ly could work with city departments to create a floor plan.

Mr. Fontane stated the use is not a problem if properly constructed but there might be a need for a variance.

Chairman Freilich stated upon reviewing application he noticed Mr. Ly had originally applied for 1200 SF but then reduced to 230 SF and asked Mr. Ly what did he intend to utilize first floor for.

Mr. Ly stated a nail salon and residential use on first floor but he believes first floor is designed for business as only one room and he believes property was used as business previously.

Mr. Kelly stated asked if there was kitchen on first floor.

Mr. Ly stated that was correct and also kitchen on second floor.

Mr. Kelly asked what square footage of first floor was.

Mr. Ly stated approximately 1,400 square feet.

Mr. Kelly stated that if Mr. Ly does make this a public personal service that some type of handicapped accessibility would be required for the business.

Mr. Kelly stated it would nice to see floor plan of what Mr. Ly plans to do as that way city personnel could advise him.

Chairman Freilich stated it looks like a good petition but he would like to see a floor plan and have Mr. Ly meet with city departments then come to next meeting and Board will view the item.

Mr. Abramoff stated a floor plan and a plot plan would be requested from Mr. Ly for the next meeting.

Mr. Fontane stated there is also a retaining wall that is not indicated on the plan and that needs to be shown.

Mr. Bilotta stated he would like to see the additional information and that he grew up in the area and this location was never a business.

Mr. Akindele stated he agreed with the rest of Board that more information is required.

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 5-0 to continue the item until the July 16, 2012 Zoning Board meeting.

List of Exhibits.

- Exhibit A: Variance Application; received May 3, 2012; prepared by Brendan V. Ly.
- Exhibit B: Variance Plan; not dated, prepared by Brendan V. Ly.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 888 Grafton Street; dated May 31, 2012, revised June 19, 2012.
- Exhibit D: Letter of Opposition from Antonio Di Rodi, dated May 26, 2012.
- Exhibit E: Updated Variance Plan, not dated, prepared by Brendan V. Ly, received June 5, 2012
- Exhibit F: Updated Variance Plan, not dated, prepared by Brendan V. Ly, received June 12, 2102.
- Exhibit G: Letter of Opposition from Ben Grigaliunas & Family, dated June 12, 2012.
- Exhibit H: Leave to Withdraw – Variance Request, dated June 13, 2012.
- Exhibit I: Request for continuance received by Brendan V Ly; received June 25, 2012, dated June 25, 2012.

APPROVAL OF THE MINUTES

Upon a motion by Mr. Abramoff and seconded Mr. Bilotta by Board voted to approve the following minutes: March 5, 2012 and June 4, 2012.

DECISIONS SIGNED

1 Midland Street, 60 Shrewsbury Street, Marcuis Road

ADJOURNMENT

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 5-0 to adjourn the meeting at 7:35 p.m.