

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

MAY 14, 2007

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

Zoning Board Members Present: Leonard Ciuffredo, Chair
Morris Bergman, Vice-Chair
Matthew Armendo
David George
Andrew Freilich
Lawrence Abramoff

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

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

APPROVAL OF THE MINUTES

The minutes from the April 23, 2007 were held until the June 11, 2007 meeting.

REQUESTS FOR CONTINUANCE/LEAVE TO WITHDRAW/EXTENSION OF TIME

1. **947 West Boylston Street (Z-07-52) – Special Permits & Variance:** Equity Partners, Inc., petitioner, is seeking a Special Permit to allow 50% compact parking spaces, Special Permit to allow drive-thru service, Special Permit to modify drive-thru escape lane (9 feet) and parking layout and Variance for 11 feet, 5 inches of relief from the rear yard setback requirement for the purpose of constructing a building containing three retail stores and a restaurant with drive-thru service. The petitioner submitted a letter requesting a continuance to June 11, 2007 to allow time for a meeting with abutters. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 4-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to continue the hearing to June 11, 2007.
2. **15 Kimball Street (Z-07-21) – Variance:** The petitioners requested a Variance for 15 feet of relief from the frontage requirement for the purpose of dividing the lot known as 15 Kimball Street from the adjacent lot known as 12 Kimball Street. Sumner Silver, representative for the petitioner, submitted a letter requesting Leave to Withdraw without prejudice. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to close the hearing. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted

5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to approve the request of the petitioner for Leave to Withdraw without prejudice.

3. **74 Dorchester Street (Z-07-49) – Extension of Time - Variances:** James Vevone, representative for Oak Hill Community Development Corporation, owner and petitioner, presented the petition. Mr. Vevone stated that, on May 22, 2006, the petitioner received approval for a Variance for 2,210 square feet of relief from the gross dimensional requirement, Variance for 5.1 feet of relief from the frontage requirement and Variance for 5 feet of relief from the side yard setback requirement for the purpose of constructing a single-family detached dwelling. He said an extension of time was necessary because State funding is an important component of the project and the approval process has been lengthy. Upon a motion by Morris Bergman and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to close the hearing. Upon a motion by Morris Bergman and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to approve the following:

- **Extension of Time for six months for a Variance for 2,210 square feet of relief from the gross dimensional requirement, Variance for 5.1 feet of relief from the frontage requirement and Variance for 5 feet of relief from the side yard setback**

UNFINISHED BUSINESS

4. **299 Shrewsbury Street (Z-07-30) – Special Permits and Variance:** Roger Bachour, petitioner, is seeking a Variance for relief of four spaces from the off-street parking requirement, a Special Permit for expansion or change of a pre-existing nonconforming use/structure and a Special Permit to allow a personal services shop in an MG-2.0 district for the purpose of operating a tanning salon. The hearing had been continued from April 9, 2007 to allow the petitioner time to find parking that could be leased. Mr. Bachour provided a lease for four parking spaces in a parking lot on Nebraska Street directly abutting the property. Chair Ciuffredo asked who owned the parking lot and Mr. Bachour responded that Anthony Vigliotti, owner of 299 Shrewsbury Street, owned it. Mr. Armendo questioned if the lot was part of the 299-305 Shrewsbury Street property, how could Mr. Vigliotti lease parking to tenants rather than provide the parking to his tenants. Chair Ciuffredo asked if the parking was for the other tenants as well or if it were to be dedicated to the tanning salon. Mr. Bachour said it would be for all tenants at Heywood Square. Mr. Fontane informed the Board that in October, 2006 an amendment to the FPOD was ordained which allows restaurants and other businesses to share parking during off hours and suggested that possibly an arrangement of that sort would work for the tanning salon. Mr. Armendo wanted to know the overall number of parking spaces for all the uses in the building. He asked that Mr. Vigliotti provide a list of all tenants, the use and the square footage for each use so that the required parking can be calculated. Upon a motion by David George and seconded by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to extend the deadline for constructive grant to July 25, 2007. Upon a motion by David George and seconded

by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to continue the hearing to June 25, 2007.

NEW BUSINESS

5. **516-522 Southwest Cutoff (Z-07-43) – Special Permit:** William Tully, representative for the petitioner, presented the petition. The petitioner requested a Special Permit for expansion or change of a pre-existing nonconforming use/structure for the purpose of constructing a 3,200 square foot addition to the existing building to be used for storage. Mr. Tully stated that the Zoning Board of Appeals had approved a Special Permit for expansion or change of a nonconforming use in 1999 for the construction of an addition but it was never constructed. Chair Ciuffredo asked about signs on the property and whether they had been approved. Mr. Tully said that the sign for the landscaping business was put in place without permission and would be removed. Chair Ciuffredo said there needed to be screening for the residential property. Mr. George said the lot needed to be cleaned and kept clean. Mr. Armendo said he did not want open lot storage on the property. Mr. Fontane said the petitioner would need to obtain Parking Plan Approval from the Planning Board for the project. Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to close the hearing. Upon a motion by Matthew Armendo and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to approve the following:

- **Special Permit: expansion or change of a pre-existing nonconforming use/structure**

The Special Permit was approved with the following conditions:

- **Stockade fence must be installed along the property line for screening purposes.**
- **Intent of the approval is to eliminate open lot storage.**
- **All non-accessory signage is to be in compliance with the Zoning Ordinance or be removed.**
- **A landscaping buffer be placed along the front of the property to include a species of low level shrubbery from the approved list in the Zoning Ordinance.**

6. **13 Marland Road (Z-07-44) – Variance:** Andrew Beardsley, petitioner, presented the petition. He stated he requested a Variance for 65 feet of relief from the frontage requirement for the purpose of dividing the property into two lots and constructing a single-family semi-detached dwelling on the second lot. He said would provide parking for the three-family dwelling. Chair Ciuffredo informed the petitioner that the Zoning Ordinance does not allow you to seek relief when you create your own hardship. Mr. Armendo told the petitioner he hadn't proved a hardship. Chair Ciuffredo advised Mr. Beardsley that he had two options. The first being to let the Board deny the petition which would preclude him from re-applying within two years unless it was a substantially different petition and the second being requesting Leave to Withdraw

without prejudice. Mr. Beardsley requested Leave to Withdraw without prejudice. Upon a motion by Morris Bergman and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to close the hearing. Upon a motion by Morris Bergman and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to approve the request of the petitioner for Leave to Withdraw without prejudice.

- 7. 4 Upsala Street/183 Vernon Street (Z-07-46) – Variances:** Raymond Smith, petitioner, presented the petition. He stated he requested a Variance for 264 square feet of relief from the gross dimensional requirement (4 Upsala Street), Variance for 3 feet of relief from the rear yard setback requirement for an accessory structure (183 Vernon Street), Variance for 5 feet of relief from the side yard setback requirement for an accessory structure (183 Vernon Street) and Variance for 9 feet of relief from the front yard setback requirement (183 Vernon Street) for the purpose of re-establishing the original lot line and constructing a single-family detached dwelling on 4 Upsala Street. He stated that the single-family dwelling will meet all of the dimensional setback requirements. Mr. Bergman asked who owns 183 Vernon Street and Mr. Smith responded that his father owns it. Mr. Bergman asked why he didn't just purchase the 264 square feet of land from his father. Mr. Smith said that the property was mortgaged and the mortgage company would have to approve it. Chair Ciuffredo asked how vehicles would access the site. Mr. Smith said the land would be filled and access would be from Upsala Street. Mr. Bergman said the rendering made the house appear to be sideways on the lot and he wasn't convinced it would fit in the neighborhood. Mr. Smith said the house would be a substantial improvement over the vacant lot that presently exists. Mr. George said he would like to see the petitioner try to get the 264 square feet and urged Mr. Smith to make an attempt. Upon a motion by Matthew Armendo and seconded by Morris Bergman, it was voted 5-0 Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to continue the hearing to June 11, 2007 so the petitioner can communicate with the mortgage lender regarding purchase of the 264 square feet of land.
- 8. 44-46A & 46B Reed Street (Z-07-48) – Amendment to Special Permit:** Donald O'Neil, representative for the petitioner, and Robert O'Neil, petitioner, presented the plan. Mr. O'Neil stated the petitioner requested an Amendment to a previously approved Special Permit for expansion or change of a pre-existing nonconforming use or structure for the purpose of altering the rear property line. Mr. O'Neil stated that a Special Permit for expansion or change of a pre-existing nonconforming use/structure to allow the addition of two dwelling units onto the existing single-family detached dwelling thereby rendering it a single-family attached dwelling with three units had been granted on August 15, 2005. He continued that the addition was connected by a carport. Mr. Kelly told the Board that this type of addition would not meet the definition of a party wall for a duplex or townhouse under the current interpretation. Mr. Fontane concurred. Mr. O'Neil explained that the proposed amendment to the site plan for the single-family attached units has been changed by reconfiguring lot lines and conveying square footage to Lot 10C May Street, directly to the rear of 44 & 46A & 46B Reed Street, to create buildable lots for a duplex. Mr. Fontane advised the Board that a Special Permit to allow single-family attached dwellings in an RL-7 district should have been obtained, but was not. However, it was clear under the Finding of Facts in the decision the dwellings would be single-family

attached. Upon a motion by Morris Bergman and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to close the hearing. Upon a motion by Morris Bergman and seconded by Matthew Armendo, it was voted 4-0-1 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo and Lawrence Abramoff (David George abstained) to approve the following:

- **Amendment to Special Permit: expansion or change of a pre-existing nonconforming use to alter the rear property line**

9. **9 May Street/3 Silver Street (Z-07-50) – Amendment to Special Permit and Variance and Special Permit:** Carl Hultgren and Jonathan Finkelstein, representatives for the petitioner, and Steve Patton, Executive Director of Worcester Common Ground, petitioner, presented the plan. Mr. Finkelstein stated the petitioner requested an Amendment to a previously approved Special Permit for expansion or change of a pre-existing nonconforming use/structure, Amendment to a previously approved Variance for relief of 64 parking spaces from the off-street parking requirement and a new Special Permit to modify parking layout, loading and landscaping requirements for the purpose of rehabilitating the existing building into forty-six dwelling units. The modifications include the waiver of one loading space and waiver of the 5’ setback and landscaping requirement for parking. Mr. Finkelstein stated the petitioner would provide as much landscaping as possible in the rear landscaping buffer area and along Silver Street property line. Chair Ciuffredo asked how many dwelling units Worcester Common Ground has rehabilitated to date and Mr. Patton responded 71 and soon to be 83. Chair Ciuffredo asked what the project schedule was and Mr. Patton said it depended on the receipt of tax credits which are anticipated at the end of May. He said he expects construction to commence 40-60 days after award with completion in two years. Mr. Fontane informed the Board that an outstanding tax bill had been paid. Upon a motion by Morris Bergman and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to close the hearing. Upon a motion by David George and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Andrew Freilich to approve the following:

- **Amendment to Special Permit: expansion or change of a pre-existing nonconforming use/structure**
- **Amendment to Variance: relief of 64 parking spaces from the off-street parking requirement rather than the 60 parking spaces previously approved**
- **Special Permit: to modify parking layout, loading and landscaping requirement**

10. **1259 Grafton Street (Z-07-51) – Special Permit:** Hussein Haghanizadeh, representative for the petitioner, and Robert Suleyman, petitioner, presented the plan. Mr. Haghanizadeh stated the petitioner requested a Special Permit to allow motor vehicle sales in a BL-1.0 district for the purpose of operating a motor vehicle display lot. Richard Raskett, an abutter, stated his adamant opposition to the plan. Mr. Bergman said there were many more intrusive uses that are allowed by right in a BL-1.0 district. City Councilor Paul Clancy and Representative John Fresolo expressed their opposition because the use did not complement the character of the

neighborhood. Mr. Clancy said there were 9 residential homes in close proximity to the site that would be adversely affected. Chair Ciuffredo voiced his opinion that the area did not need another used car lot. Mr. George said the property should be “down-zoned”. Mr. Fontane stated that a used car lot, unlike some other business uses, does not really serve a neighborhood. Mr. Abramoff said a business offers more value to the City because businesses are taxed at a higher rate than residential property, but that he also said that he understood the quality of life issue for the neighborhood. Mr. Freilich asked if the petitioner had considered any other type of business use for the site. Mr. Suleyman said he had not because his business was automobile related. Mr. Freilich said he would rather see a business at the site which would serve the neighborhood. Given the tenor of the discussion, Mr. Armendo suggested to the petitioner that he might want to withdraw his petition rather than risk denial by the Board. When asked if he would consider meeting with Mr. Suleyman to try to reach a compromise, Mr. Raskett said he was not willing to meet. At this point Mr. Haghanizadeh requested Leave to Withdraw without prejudice. Upon a motion by Morris Bergman and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to close the hearing. Upon a motion by Morris Bergman and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to approve the request of the petitioner for Leave to Withdraw without prejudice.

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 8:20 PM.