

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

JUNE 25, 2007

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

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

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

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Chair Ciuffredo called the meeting to order at 5:35 PM.

APPROVAL OF THE MINUTES

Upon a motion by Jerry Horton and seconded by Morris Bergman, the Board voted 5-0 to approve the minutes from the June 11, 2007 meetings.

REQUESTS FOR CONTINUANCE/LEAVE TO WITHDRAW/EXTENSION OF TIME

1. **41 Lancaster Street (Z-07-56) – Special Permits & Variance:** Attorney Jonathan Finkelstein, representative for the petitioner, requested Leave to Withdraw Without Prejudice for the requested Special Permit to allow a sorority/lodging house in an RG-5 district and a BL-1.0 district, Special Permit to waive landscaping or barrier requirement, Special Permit for expansion or change of a pre-existing nonconforming use/structure and Variance for relief of three parking spaces from the off-street parking requirement for the purpose of using the premises as a sorority/lodging house. Upon a motion by Morris Bergman and seconded by Jerry Horton, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, Jerry Horton and David George to approve the request of the petitioner for Leave to Withdraw Without Prejudice.
2. **947 West Boylston Street (Z-07-52) – Special Permits & Variance:** Attorney Patricia Gates, representative for Dennis DiSchino, Equity Partners, Inc., petitioner, requested a continuance to July 23, 2007 and an extension of the deadline for constructive grant to August 14, 2007. 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

continue the hearing to July 23, 2007. 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 extend the deadline for constructive grant to August 14, 2007.

UNFINISHED BUSINESS

- 3. 299 Shrewsbury Street (Z-07-30) – Special Permits and Variance:** Roger Bachour, petitioner, is seeking a Variance for relief of four parking spaces from the off-street parking requirement, Special Permit for expansion or change of a pre-existing nonconforming use/structure and 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 May 14, 2007 to allow the petitioner time to file an application for relief of six parking spaces from the off-street parking requirement. The Director of Code Enforcement has since determined that a Variance for relief from the off-street parking requirement for the proposed tanning salon is not necessary because the number of off-street parking spaces required for the proposed use is the same as what was required for the grocery store that formerly occupied the space. Mr. Bachour requested Leave to Withdraw Without Prejudice for the Variance for relief of four parking spaces from the off-street parking requirement. Mr. Bergman asked what the hours of operation would be. Mr. Bachour responded that the hours would be Monday through Friday – 9:00 A.M. to 9:00 P.M., Saturday – 10:00 A.M. to 6:00 P.M. and Sunday – Closed. Mr. Bergman asked if he would consider an earlier closing on Friday so as not to interfere with the restaurant parking on Friday nights. Mr. Bachour agreed to close at 6:00 P.M. on Friday. Chair Ciuffredo asked why relief has been denied in the past and Mr. Fontane answered that the requests were for restaurant uses that need more parking than this type of use. 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 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 Special Permit for expansion or change of a pre-existing nonconforming use/structure and Special Permit to allow a personal services shop in an MG-2.0 district with the following conditions: (1) Hours of operation are Monday through Thursday – 9:00 A.M. to 9:00 P.M., Friday – 9:00 A.M. to 6:00 P.M., Saturday – 10:00 A.M. to 6:00 P.M., Sunday – Closed; (2) Special Permit is for two tanning beds and two tanning booths; and (3) Lot in the rear is to remain open for parking. 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 petitioner’s request for Leave to Withdraw Without Prejudice the Variance for relief of four parking spaces from the off-street parking requirement.
- 4. 299 Shrewsbury Street (Z-07-30A) – Variance:** Roger Bachour, petitioner, is seeking a Variance for relief of six parking spaces from the off-street parking requirement for the purpose of operating a tanning salon. The Director of Code Enforcement has since determined that a Variance for relief from the off-street parking requirement for the proposed tanning salon is not necessary because the number of off-street parking spaces required for the proposed use is the same as what was required for the grocery store that formerly occupied the space. Mr. Bachour requested Leave to Withdraw Without Prejudice the Variance for relief of six parking spaces

from the off-street parking requirement. 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 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 petitioner's request for Leave to Withdraw Without Prejudice the requested Variance for relief of six parking spaces from the off-street parking requirement.

5. 10 & 12 Rosemont Road (Z-07-41) – Variances: Paula Leverone, wife of the petitioner, presented the petition. The petitioner requested a Variance for 9 feet of relief from the frontage requirement for 10 Rosemont Road, Variance for 429 square feet of relief from gross dimensional requirement for 10 Rosemont Road and Variance for 2.8 feet of relief from the setback requirement for accessory structures for 12 Rosemont Road for the purpose of dividing the lot and constructing a single-family semi-detached dwelling (duplex) on 10 Rosemont Road. At the Board's request at its May 14, 2007 meeting, the structure proposed was changed to a single-family detached dwelling. However, the Board wanted to see a rendering and the hearing was continued to June 25, 2007. Ms. Leverone said that because the structure had changed, only 4 feet of relief from the frontage requirement was necessary rather than the 9 feet originally requested. She requested Leave to Withdraw Without Prejudice for the Variance for 429 square feet from the gross dimensional requirement because it is no longer needed. Michael Milligan and Eve Riftah expressed their opposition to the proposed use. 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 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 the Variance for 429 square feet of relief from the gross dimensional requirement for 10 Rosemont Road. Upon a motion by Matthew Armendo 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 following:

- **Variance for 4 feet of relief from the frontage requirement for 10 Rosemont Road**
- **Variance for 2.8 feet of relief from the setback requirement for accessory structures for 12 Rosemont Road**

The Variances were approved with the following conditions:

- **Approval is for a single-family detached dwelling to be constructed at 10 Rosemont Road.**
- **Single-family detached dwelling be constructed such that the front door faces Rosemont Road.**
- **Requested relief from frontage requirement for 10 Rosemont Road decreased from 9 feet to 4 feet.**

6. 1112 West Boylston Street (Z-07-42) – Amendment to Special Permit: Attorney Joseph Allen and Seth Toch, representatives of the petitioner, presented the petition. Mr. Allen said the petitioner requested an amendment to a previously approved Special Permit to allow multi-family dwellings in an RL-7 district for the purpose of changing the location and footprints of both buildings. Mr. Allen informed the Board that issues with the neighbor had been addressed to his satisfaction. Chair Ciuffredo asked how the original plan and the amended plan differed. Mr. Allen said the builder had constructed the hallway in the back building wider than proposed which had resulted in the building being closer to the lot line. 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 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Lawrence Abramoff to approve the following:

- **Amendment to Special Permit to allow multi-family dwellings in an RL-7 district**

The Amendment to Special Permit was approved with the following condition:

- **Approval is subject to the amended site plan approved by the Planning Board on May 16, 2007.**

7. 25-27 Rena Street (Z-07-58) – Variances: Morris Bergman assumed the Chair. Attorney Donald O’Neil, Dennis Dean and Robert O’Neil, representatives for the petitioner, presented the petition. Attorney O’Neil stated the petitioner requested a Variance for 2,000 square feet of relief from the gross dimensional requirement (25 Rena Street), Variance for 15 feet of relief from the frontage requirement (25 Rena Street), Variance for 6 feet, 10 inches of relief from the front yard setback requirement (27 Rena Street), Variance for 3 feet, 4 inches of relief from the rear yard setback requirement for accessory structure – garage (27 Rena Street), Variance for 4 feet, 8 inches of relief from the side yard setback requirement for accessory structure – garage (27 Rena Street) and Variance for 3 feet, 2 inches of relief from the rear yard setback requirement for accessory structure – shed (27 Rena Street) for the purpose of constructing a single-family detached dwelling at 25 Rena Street. Attorney O’Neil reported to the Board that some progress had been made cleaning up the property. He also said that Animal Control had visited the site and there were no violations issued relative to the pigeons on the property. Mr. Dean has agreed to limit the number of pigeons to 100 rather than the current total of 325. Mr. Kelly suggested conditioning approval to limit the number of pigeons with enforcement delegated to the Animal Control Office. Mr. George asked if any thought had been given to razing the existing house and creating two lots that would comply with zoning. Attorney O’Neil said the house could be updated and repairs made because it is structurally sound. Adam Norris said efforts had been made to clean up trash on the lot, but the pigeon problem had not been addressed. Maria Rossetti and Theresa Morgo complained about the odor from the pigeons. Upon a motion by David George and seconded by Leonard Ciuffredo, it was voted by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Jerry Horton to close the hearing. Upon a motion by Jerry Horton and seconded by Leonard Ciuffredo, it was voted by

Leonard Ciuffredo, Morris Bergman, Matthew Armendo and Jerry Horton (David George voted no) to approve the following:

- **Variance for 2,000 square feet of relief from the gross dimensional requirement (25 Rena Street)**
- **Variance for 15 feet of relief from the frontage requirement (25 Rena Street)**
- **Variance for 6 feet, 10 inches of relief from the front yard setback requirement (27 Rena Street)**
- **Variance for 3 feet, 4 inches of relief from the rear yard setback requirement for accessory structure – garage (27 Rena Street)**
- **Variance for 4 feet, 8 inches of relief from the side yard setback requirement for accessory structure – garage (27 Rena Street)**
- **Variance for 3 feet, 2 inches of relief from the rear yard setback requirement for accessory structure – shed (27 Rena Street)**

The Variances were approved with the following conditions:

- **The pigeon population under the control of the owner be limited to not more than 100 pigeons to be evenly distributed between the two outbuildings. Enforcement is delegated to the Animal Control Office.**
- **The 10'x2' bump-out added to the rear of the garage be removed or re-roofed.**
- **Single-family detached dwelling to be constructed according to rendering submitted.**

NEW BUSINESS

8. 25 Tobias Boland Way (Z-07-55) – Administrative Appeal: Leonard Ciuffredo re-assumed the Chair. Veronica Orozco and Ronald and Janet Bousquet, petitioners, filed an Administrative Appeal to overturn the March 21, 2007 decision of the Planning Board approving the Definitive Site Plan for construction of Worcester Crossing, a proposed 350,000 square foot retail development on property with 15% or more slope. Mr. Fontane referred to a legal opinion from Michael E. Traynor, Deputy City Solicitor, dated June 6, 2007, that stated the Zoning Board of Appeals lacks jurisdiction to review a site plan decision of the Planning Board and must dismiss the petition and deny the appeal. Chair Ciuffredo would not entertain any testimony on the petition since it is not properly before the Board. Upon a motion by Jerry Horton and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Jerry Horton to dismiss the petition for lack of jurisdiction and deny the appeal.

Mr. Bergman left the room.

9. 75 Southgate Street, 146 Grand Street, 88 Armory Street, 90 Armory Street, 92 Armory Street, 98 Armory Street, 103 Armory Street, 104 Armory Street, 3 Burns Court (Z-07-60) – Variances: Ronald Charette, Randy Johnson and Dan Brainard, representatives for South

Worcester Neighborhood Improvement Corporation, petitioner, presented the petition. Mr. Charette said the petition seeks a Variance for 11 feet of relief from the front yard setback requirement (Parcel B), Variance for 1 foot, 1.5 inches of relief from the front yard setback requirement (Parcel C), Variance for 7 feet of relief from the rear yard setback requirement (Parcel C), Variance for 31 feet of relief from the frontage requirement (Parcel C) and Variance for relief of 1 story from the number of stories requirement (Parcel C) for the purpose of demolishing the existing abandoned warehouse to construct residential buildings, including a low-rise, multi-family building with 19 rental apartments on Parcel A, 9 single-family attached dwellings on Parcels B&C and one single-family semi-detached dwelling. It was subsequently determined by the Director of Code Enforcement that on 6 feet of relief is necessary from the front yard setback requirement for Parcel B. Mr. Charette said the project was the result of a neighborhood planning process that included a series of neighborhood meetings. All of the rental units will be affordable housing and the townhouses will be sold as condominiums. Mr. Johnson said the rental units would be perpetually affordable with monitoring for rental by the IRS through the tax credits used for the project. He also said the units to be sold would have deed restrictions with limitations of return. Mr. Charette said funding will be through a combination of public and private dollars. Mr. Fontane said potential funders want to know the applicant has the ability to construct the project and that any necessary relief has been granted. Mr. Armendo asked if there would be on-site management for the rental units. Mr. Johnson said there would be a management company, experienced in affordable housing management, located in the building. Mr. Horton asked about the tandem parking. Mr. Johnson said the tandem spaces would be designated for one unit and it was the only way to meet the parking requirement. Mr. Horton also said he believed it was important that Burns Court, a private way, be brought up to City standards and made public. Mr. Fontane asked about the requirement for 10% of the space devoted to recreational purposes for new construction in business districts. Mr. Brainard said they exceeded the 10% requirement. Mr. Fontane said the recreational areas are not necessarily green space but can be an indoor area or room devoted to recreational purposes, but they should be noted on the plan. Mr. George asked if there were brownfields issues on the site. Mr. Johnson said money had been budgeted for clean-up of 21E issues and that the partnership is pursuing a grant as well. Upon a motion by Matthew Armendo and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Matthew Armendo, David George, Jerry Horton and Lawrence Abramoff to close the hearing. Upon a motion by Jerry Horton and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Matthew Armendo, David George, Jerry Horton and Lawrence Abramoff to approve the following:

- **Variance for 6 feet of relief from the front yard setback requirement (Parcel B)**
- **Variance for 1 foot, 1.5 inches of relief from the front yard setback requirement (Parcel C)**
- **Variance for 7 feet of relief from the rear yard setback requirement (Parcel C)**
- **Variance for 31 feet of relief from the frontage requirement (Parcel C)**
- **Variance for relief of 1 story from the number of stories requirement (Parcel C)**

The Variances were approved with the following conditions:

- **Approval is subject to the definitive site plan approved by the Planning Board.**
- **Burns Court, a private way, be brought up to City standards and developer petition the City Council to make it a public street thereafter.**

Mr. Bergman returned.

10. 345 Greenwood Street (Z-07-61) – Special Permit: Attorney Mark Allen, representative for the petitioner, presented the petition. He stated the petitioner is seeking a Special Permit for expansion or change of a pre-existing nonconforming use/structure for the purpose of adding fourteen parking spaces in the front area of the parcel. Mr. Allen said the tenants of the building would like extra parking. Mr. Bergman and Mr. Armendo said they would like to see the dumpsters screened. Upon a motion by Morris Bergman and seconded by Jerry Horton, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Jerry Horton to close the hearing. Upon a motion by Jerry Horton and seconded by Matthew Armendo, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, Matthew Armendo, David George and Jerry Horton to approve the following:

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

The Special Permit was approved with the following conditions:

- **Approval is subject to the final site plan approved by the Planning Board.**
- **Landscaping for screening purposes to be a combination of trees and shrubs.**

OTHER BUSINESS:

Mr. Fontane gave the Board a proposed fee structure that included an adjustment for inflation, introduction of new fees and other changes. The Board asked if commercial fees and residential fees could be separated for quicker reference. They also wanted to see a comparison with other cities for personal wireless special permits. Once the Board agrees on the proposed fees, a hearing will be advertised and held.

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 8:15 PM.