

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

**OCTOBER 15, 2007**

**WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM**

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

**Staff Present:** Joel Fontane, Division of Planning & Regulatory Services  
Ruth Gentile, Division of Planning & Regulatory Services  
John Kelley, Division of Code Enforcement

**REGULAR MEETING (5:30 PM)**

**CALL TO ORDER**

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

**REQUESTS FOR WITHDRAWALS, CONTINUANCES, AND TIME EXTENSIONS**

- 1. 780 West Boylston Street (Z-07-99) – Variance:** The petitioner, G.M. Realty, Inc., requested a continuance to the October 29, 2007 Zoning Board of Appeals meeting. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to grant the petitioner's request to continue the hearing until October 29, 2007.
- 2. 75 Shore Drive (Z-07-100) – Variance:** YMCA of Greater Worcester, petitioner, requested Leave to Withdraw without prejudice because the Code Enforcement Division determined the sign is in conformance with the requirements of the Zoning Ordinance. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to grant the petitioner's request for Leave to Withdraw without prejudice.
- 3. 680 Lincoln Street (Z-07-103) – Special Permit:** Attorney Todd Rodman, representing the Worcester Housing Authority, petitioner, requested a continuance of the hearing for a Special Permit for expansion or change of a pre-existing nonconforming use/structure to reconfigure and rehabilitate the existing 75-unit apartment complex. Upon a motion by David George and seconded by Morris Bergman, it was voted by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to continue the hearing to October 29, 2007.

## UNFINISHED BUSINESS

4. **4 - 6 May Street (Z-07-76) – Variance:** Neither the petitioner nor his representative was present for the hearing. The petitioner is seeking a Variance to develop a retail use in the existing 4,000 square foot repair garage. The petitioner was advised to file an application for a Special Permit for expansion or change of a pre-existing nonconforming use/structure as well, but, to date, has not done so. Mr. Fontane advised the Board that the constructive grant date is November 2, 2007 and that despite repeated attempts by staff to contact the petitioner and John Riel, the petitioners' representative, no contact has been made. Upon a motion by David George and seconded by Lawrence Abramoff, the Board voted 5-0 to close the hearing. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 2-3 to approve the Variance for relief of 3 parking spaces from the off-street parking requirement. The motion failed and the Variance was denied.
  
5. **28 Sears Island Drive (Z-07-93) – Variances and Special Permit:** Charles Colebrook, petitioner, requested a Variance for 6 feet of relief from the east side yard setback requirement, a Variance for 6 feet of relief from the west side yard setback requirement and a Special Permit for expansion or change of a pre-existing nonconforming use/structure to construct a second story addition to the house and a garage. He provided the Board with a rendering which was marked "Exhibit A". Mr. George asked if the Conservation Commission needed to approve the project. Mr. Fontane responded that the Department of Public Works had not alerted staff to any issues relating to the proposed project. Upon a motion by David George and seconded by Lawrence Abramoff, the Board voted 5-0 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, David George, Andrew Freilich and Lawrence Abramoff to approve the following:
  - **Special Permit: Expansion or change of a pre-existing nonconforming use/structure**
  - **Variance: 6 feet of relief from the east side yard setback requirement**
  - **Variance: 6 feet of relief from the west side yard setback requirement**

The Special Permit and Variances were approved with the following condition:

- **Addition must be constructed in accordance with the rendering submitted and marked as "Exhibit A".**

## NEW BUSINESS

6. **76 Sagamore Road (Z-07-101) – Variances:** Attorney Samuel Desimone, representative for the petitioners, Linda and Jack Reid, presented the plan. The petitioners are seeking a Variance for 976 square feet of relief from the gross dimensional requirement, Variance for 3 feet, 9 inches of relief from the side yard setback requirement and Variance for 25 feet of relief from the frontage requirement to divide the property and maintain the three-family structure on Lot 1 and construct a two-family structure on Lot 2. Mr. Desimone said a Special Permit had been previously approved and extended. Site Plan approval had been

received from the Planning Board but needed to be extended as well. When the Extension of Time for Site Plan Approval was submitted, the petitioners were informed that Variances were needed. Mr. Bergman asked for a time sequence for construction. Mr. DeSimone said the foundation would be done this fall, if possible, and, if not, then in the spring of 2008. He said the project is out for bid and blueprints are completed. Tony Prendergast requested an explanation of the gross dimensional relief and the frontage relief. Mr. Kelley explained the relief. Upon a motion by Morris Bergman and seconded by Lawrence Abramoff, it was voted 5-0 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, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Variance: 976 square feet of relief from the gross dimensional requirement**
- **Variance: 3 feet, 9 inches of relief from the side yard setback requirement**
- **Variance: 25 feet of relief from the frontage requirement**

The Variances were approved with the following conditions:

- **Foundation must be completed within seven months from the date the Board files its decision with the City Clerk.**
- **Occupancy must occur within twelve months.**

7. **37 Chippewa Road – Administrative Appeal (Z-07-92):** Attorney Todd Rodman, representative for the petitioner, explained that the petitioner filed an Administrative Appeal to overturn the issuance of a Cease & Desist Order from the Division of Code Enforcement relative to a home occupation. Mr. Rodman presented letters of support from neighbors. He stated that Mr. Darvish had operated a dental laboratory in his basement for over ten years. Mr. Rodman further stated that the Division of Code Enforcement is interpreting a home occupation as a professional office. He expressed the opinion that two of the tests in the zoning ordinance do not apply here: 1) There is no adverse affect of this business on the neighborhood; and 2) The business does comply with the ordinance. Steve Addlestein stated that the problems began when Mr. Darvish expanded the business and the employees were on their property and delivery truck traffic increased. Mr. Bergman asked if the parties had tried to resolve their differences. Leon Stein stated that he had lived in the neighborhood for eight years and was unaware of a business on the premises. He was concerned about any waste that was being produced on site. Mr. George asked why the business was in the home and the answer from the petitioner was that he wanted to spend time with his young children. Upon a motion by Morris Bergman and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich 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, David George, Andrew Freilich and Lawrence Abramoff to rescind the vote to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to table the item. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to take the item off the table. Mr. Rodman stated that no progress had

been made. Mr. Addlestein stated he is concerned with safety as a result of the length of the fence and that the business will be expanded further. Mr. Rodman stated that Mr. Darvish is trying to run a business and that he is looking for space for his business and that he does not believe there is a negative impact on the neighborhood. Mr. Bergman and Mr. Abramoff stated that the zoning ordinance is vague on the definition of home occupation. Mr. George stated that the zoning ordinance regulates intensity and not uses and that the Board should support the Director of Code Enforcement. Mr. Freilich expressed concern that this issue will open up other problems in the future. Upon a motion by Morris Bergman and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to take the item under advisement. Upon a motion by Morris Bergman and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to reopen the hearing. Mr. Rodman stated that the parties had agreed to the following conditions if the vote is to overturn the Director of Code's decision: 1) Remove one section of fence closest to Chippewa Road; 2) Keep vehicles away from the Addlestein property; and 3) the Addlesteins will stay on their side of the fence. Mr. Bergman and Mr. Fontane stated that everyone must agree, including the Law Department and the Division of Code Enforcement. Mr. Freilich asked if the business was still running. Mr. Kelly stated that it is the decision of the Director of Code Enforcement not to prosecute while an item is under appeal. Mr. Freilich stated that he wanted to continue the hearing until the next meeting. Upon a motion by David George and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to continue the hearing until October 29, 2007. Upon a motion by David George and seconded by Morris Bergman, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to recommend that the section of the Zoning Ordinance that relates to home occupations be rewritten in its entirety.

8. **0 Catharine Street (a.k.a. 30 Catharine Street) (Z-07-96) – Variances:** Domenic Marcigliano, representative for Worcester East Side Community Development Corporation, petitioner, stated the petitioner requested a Variance for 4.84 feet of relief from the frontage requirement, a Variance for 16 square feet from the gross dimensional requirement and a Variance to allow parking within the front yard setback to construct a two-family dwelling. He said the dwelling would be constructed for a first time home buyer with a rental unit to defray mortgage costs and is part of a ten unit project on scattered sites in the area. Mr. George asked what type of housing it would be and Mr. Marcigliano responded that it would be affordable housing with deed restrictions attached. Mr. George asked what the timetable for completion is expected to be. Mr. Marcigliano said the CDC owns the properties, with the City providing some of the funding. They are presently seeking additional funding and hope to start construction in the spring of 2008. Upon a motion by Morris Bergman and seconded by David George, it was voted 5-0 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, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Variance: 4.84 feet of relief from the frontage requirement**
- **Variance: 16 square feet of relief from the gross dimensional requirement**
- **Variance: to allow parking within the front yard setback**

The Variances were approved with the following conditions:

- **Revised version of the plan be submitted showing added landscaping.**
- **Construction must be in accordance with the plan submitted.**

9. **10 Hooper Street (Z-07-97) – Variances:** Domenic Marcigliano, representative for Worcester East Side Community Development Corporation, petitioner, stated the petitioner requested a Variance for 12 feet of relief from the frontage requirement and a Variance to allow parking within the front yard setback to construct a two-family dwelling. Chair Ciuffredo asked how the parking would be configured. Mr. Marcigliano responded that it would be stacked with one car in the garage and one car in the driveway. Upon a motion by David George and seconded by Morris Bergman, it was voted 5-0 to close the hearing. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to approve the following:

- **Variance: 12 feet of relief from the frontage requirement**
- **Variance: to allow parking within the front yard setback**

The Variances were approved with the following conditions:

- **Front door of the house must face Hooper Street.**
- **Revised version of the plan be submitted showing added landscaping.**
- **Construction must be in accordance with the plan submitted.**

10. **27 Norfolk Street (Z-07-102) – Variances:** Attorney John Shea and Robert O’Neil, representatives for the petitioner, Jeffrey Mararian, presented the plan. Mr. Shea stated the petitioner is requesting a Variance for 656.43 square feet of relief from the gross dimensional requirement and a Variance for 4.5 feet of relief from the frontage requirement to construct a two-family dwelling. Staff advised that the requested relief was considered de minimus. Chair Ciuffredo declared it was up to the Board to decide if the requested relief is de minimus. Attorney Vincent Pusateri, representing an abutter, said there is no hardship related to soil conditions, shape or topography and they, therefore, object to the Variances. Mr. Pusateri said his client would like to purchase the property and add it to property he already controls. Mr. George asked Mr. Pusateri if his client would seek relief were he to purchase the property and Mr. Pusateri said it would not be necessary. Chair Ciuffredo made reference to a letter submitted to the Board from Scott Hayman, Director of Housing for the City Manager’s Office of Neighborhood and Housing Development. He said it bothered him because this was not a municipal project and asked if anyone could get such a letter from Mr. Hayman. Mr. Shea said Mr. Mararian had purchased several lots and this particular property was littered with trash. Mr. Mararian has cleaned up the property and has improved many other lots in the area. Mr. Shea stated the hardship was the result of the narrowness of the lot that was created prior to zoning. He said it has a fall off at the rear of the property. He continued that there are multiple pre-existing nonconforming lots in the area. Mr. Shea also requested the fee be waived for this application. Mr. Freilich asked what Mr. Pusateri’s

client would do with the land if he purchased it and Mr. Pusateri responded that his client owns all the land around this piece of property and would like to develop it all. Mr. Mararian said he had not decided whether he would sell or rent the dwelling units. Mr. Bergman opined that the petitioner appears to be in tough position. Mr. Abramoff said the petitioner has done an excellent job in keeping the area in good shape. Mr. Pusateri said that even though the lot is narrow, there is no hardship because a single-family home can be constructed. Upon a motion by Lawrence Abramoff and seconded by Morris Bergman, it was voted 5-0 to close the hearing. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, Morris Bergman, David George, Andrew Freilich and Lawrence Abramoff to waive the filing fee. Upon a motion by Lawrence Abramoff and seconded by Morris Bergman, it was voted 3-2 by Morris Bergman, Andrew Freilich and Lawrence Abramoff to approve (Leonard Ciuffredo and David George voted no) the Variance for 656.43 square feet of relief from the gross dimensional requirement and Variance for 4.5 feet of relief from the frontage requirement. The motion failed and the Variances were denied.

### **OTHER BUSINESS**

**Meeting Schedule:** Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 to approve the following meeting schedule:

<b>January 14, 2008</b>	<b>April 7, 2008</b>
<b>January 28, 2008</b>	<b>April 28, 2008</b>
<b>February 11, 2008</b>	<b>May 12, 2008</b>
<b>February 25, 2008</b>	<b>June 9, 2008</b>
<b>March 10, 2008</b>	<b>June 23, 2008</b>
<b>March 24, 2008</b>	<b>July 21, 2008</b>

Mr. Fontane informed the Board that he hoped to have new appointments to the Board soon.

### **Discussion – 27 Norfolk Street:**

The Board held a discussion regarding the letter of support for the 27 Norfolk Street project that was written by Scott Hayman, Director of Housing, and questioned what the city's policy was on supporting projects. On a motion and duly seconded, the Board voted 5-0 to request that the Division of Neighborhood and Housing Development provide a report regarding its policy related to the issuance of support letters for private sector development projects without City programmatic participation. Mr. Fontane indicated that Attorney Pusateri's concern about staff advising the applicant to file a new petition was unfounded and that a new application and notice were required since the request was different. The Board indicated that they had no problem with the way staff from the Planning and Regulatory Services Division handled the petitioner's request.

**ADJOURNMENT:** Chair Ciuffredo adjourned the meeting at 8:45 PM.