

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

February 25, 2008

WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM

Zoning Board Members Present: Leonard Ciuffredo, Chair
David George, Vice-Chair
Andrew Freilich
Lawrence Abramoff
Brian Murphy

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

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

APPROVAL OF MINTUES

Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the minutes from the February 11, 2008 meeting.

REQUESTS FOR WITHDRAWALS, CONTINUANCES, TIME EXTENSIONS

1. **5 Suburban Road (Z-07-115) – Amendment to Special Permit:** The petitioner, Sprint Wireless Broadband Co., LLC, requested Leave to Withdraw without prejudice. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice.
2. **39 First Street (Z-07-116) – Amendment to Special Permit:** The petitioner, Sprint Wireless Broadband Co., LLC, requested Leave to Withdraw without prejudice. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice.
3. **442 Southwest Cutoff (Z-07-117) – Amendment to Special Permit:** The petitioner, Sprint Wireless Broadband Co., LLC, requested Leave to Withdraw without prejudice. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 by Leonard

Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice.

4. **100 Barber Avenue (Z-07-118) – Amendment to Special Permit:** The petitioner, Sprint Wireless Broadband Co., LLC, requested Leave to Withdraw without prejudice. Upon a motion by David George and seconded by Brian Murphy, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice.
5. **39 Jolma Road (Z-07-119) – Amendment to Special Permit:** The petitioner, Sprint Wireless Broadband Co., LLC, requested Leave to Withdraw without prejudice. Upon a motion by David George and seconded by Brian Murphy, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice.
6. **49 Pleasant Valley Drive (Z-07-120) – Amendment to Special Permit:** The petitioner, Sprint Wireless Broadband Co., LLC, requested Leave to Withdraw without prejudice. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice.
7. **1050 Main Street (Z-07-121) – Amendment to Special Permit:** The petitioner, Sprint Wireless Broadband Co., LLC, requested Leave to Withdraw without prejudice. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the request of the petitioner for Leave to Withdraw without prejudice.
8. **44 Byron Street (Z-07-122) – Special Permit:** At the February 11, 2008 meeting, Mr. Fontane said he was uncertain whether the issue regarding an additional fee had been resolved. Mr. Fontane reported to the Board that contact had not been made with the petitioner and the additional fee for a second Special Permit had not been paid to date. The Board still wants to see resolution of the fee issue prior to approving the request of the petitioner for Leave to Withdraw without prejudice. There was also an issue as to whether any work had been done on the site. Chair Ciuffredo asked Mr. Fontane and Mr. Kelly to attempt to get answers from the petitioner relative to these two issues. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to continue the hearing to March 10, 2008 to determine if the additional fee had been paid and asked that the petitioner be informed that the Board might not look favorably upon the request for Leave to Withdraw without prejudice if the issues have not been resolved.

UNFINISHED BUSINESS

9. **7 Benefit Terrace (Z-08-06) – Special Permit:** This item had been advertised incorrectly as 52 Queen Street, which is the petitioner's address not the application address. David Lizome, representative for Matthew 25, explained the petitioner is seeking a Variance for

2,250 square feet of relief from the gross dimensional requirement, Variance for 5 feet of relief from the frontage requirement, 10 feet of relief from the front yard setback requirement, Variance for relief of 2 parking spaces from the off-street parking requirement and Variance to allow parking within the front yard setback to construct a two-family dwelling. He indicated that it would be a green building constructed under the guidelines of the LEED program. He said Matthew 25 usually rehabilitates existing dwellings and utilizes students from the Worcester Vocational Technical High School to do the work. He said the students would benefit greatly from the experience they will gain from working on a new construction project. He said the new structure would be constructed in a manner to make it look similar to the existing homes in the neighborhood. Chair Ciuffredo asked if a rendering can be created for the Board to look at. Mr. Lizome said he would work with the school to come up with a rendering that would satisfy the Board. Samuel Rosario stated his opinion that it was a lot of house for the size of the lot. He asked if the property would be on the tax rolls and was told that Matthew 25 owns 9 properties and pays taxes on all of them. He said the Board of Directors had established that policy even though Matthew 25 is a non-profit entity. Upon a motion by David George and seconded by Brian Murphy, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to continue the hearing to March 24, 2008 in order to allow the petitioner time to submit a rendering.

NEW BUSINESS

10. **443 Lake Avenue (Z-08-05) – Special Permit:** Radu Tenenbaum, petitioner, said he is seeking a Special Permit for expansion or change of a pre-existing nonconforming use/structure to enclose a portion of the existing deck to create a 16'x 6' sun room on the south side of the dwelling. Upon a motion by Lawrence Abramoff and seconded by Brian Murphy, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Brian Murphy, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

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

The Special Permit was approved with the following condition:

- **Sunroom must be constructed in accordance with the rendering submitted.**

11. **1 Wigwam Hill Drive (Z-08-07) – Extension of Time for Variances:** Attorney Joe Boynton, representative for the petitioner, Joseph Panarelli, presented the petition to construct a single-family detached dwelling. Mr. Boynton explained that market conditions had changed considerably and the petitioner had not been able to commence construction. He also said the site plan approval had been amended by the Planning Board allowing the size of the house to be decreased as well as some other changes to the plan. Mr. George asked if there have been any overtures to purchase the property. Mr. Boynton said they have a potential buyer who actually amended the site plan and received approval from the Planning Board on February 6, 2007. He indicated they are waiting to see if the sale will

actually occur. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by David George and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

- **Extension of Time for Variance: 588 square feet of relief from the gross dimensional requirement**
- **Extension of Time for Variance: 22.5 feet of relief from the frontage requirement**
- **Extension of Time for Variance: 6.72 feet of relief from the side yard setback requirement**

The Extension of Time for the Variances was approved with the following conditions:

- **Approval is for a six month period.**
- **Approval is subject the most recent site plan approved by the Planning Board on February 6, 2008.**

12. **27 Grammont Road (Z-08-07) – Variance:** Attorney Donald O’Neil, representative for the petitioners, Alicia Johnson and Robert Johnson, said they are seeking a Variance for 5 feet of relief from the frontage requirement to convert a single-family detached dwelling presently under construction into a two-family dwelling. Mr. O’Neil said the father would occupy one unit and the daughter would occupy the other unit. He explained that originally they were going to both occupy the single-family dwelling, however, they decided to make it a two-family dwelling so they could have separate living spaces and separate mortgages. Mr. Freilich said he would like to see plans showing the modifications and how the division of the house would work. Mr. George said he had reservations about the sequence of events leading to the decision to change the dwelling to a two-family. Mr. Abramoff said the requested relief was small, and as long as they could meet the requirements, he could vote yes. Mr. Kelly suggested they look at grass cement pavers as a means to mitigate the large impervious area. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to continue the hearing to March 24, 2008 in order to allow the petitioner time to submit a rendering for the dwelling.

13. **2 Wayne Terrace (Z-08-09) – Variances:** Robert O’Neil and Joe Goodman, petitioner, presented the plan, saying Mr. Goodman is seeking a Variance for 15 feet of relief from the frontage requirement and Variance for 3,500 square feet of relief from the gross dimensional requirement to construct a single-family detached dwelling. Chair Ciuffredo asked if Mr. Goodman was constructing the house for sale or to live in. Mr. Goodman responded that the house would be sold. Mr. George asked who uses the property currently and Arthur Dupuis, who lives at 4 Wayne Terrace, said he did. Mr. Dupuis and Lori Taylor opposed construction of a new home in the area. Ms. Taylor said there were several houses for sale in the neighborhood and construction of a new home would detract from the opportunity to sell those older homes. Mr. Abramoff asked what the total investment would be in the property. Mr. Goodman answered \$175,000.00 to \$180,000.00. Mr. Kelly said there appears to be

room for two parking spaces near the retaining wall and utilizing that area for parking would allow more greenery in the front of the property. Mr. George said he wasn't convinced there was a hardship to support approving the Variance. Chair Ciuffredo said the Board continually struggles with development on nonconforming lots. Mr. Freilich stated the lot is similar in size to others on the street and opined that vacant lots are not good for neighborhoods because they promote littering and other nuisances that generally denigrate the neighborhoods. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to continue the hearing to March 10, 2008 in order to allow the petitioner time to revise the plan to incorporate Mr. Kelly's suggestion regarding the parking.

14. **231 Cambridge Street (Z-08-10) – Variance:** Michael Hannigan, representative for the petitioner, presented the plan, saying Kay Gee Sign is seeking a Variance for 4 feet of relief from the requirement that signs be set back 5' from the property line. He explained that the Honey Farm convenience store recently changed brands for their gasoline sales to Sunoco and Sunoco has standard signage it requires their purveyors to display. Mr. Freilich said he is always concerned about the light output for these signs and whether they incorporate motion or flashing. Mr. Hannigan said there would be five 7' fluorescent lamps for the Sunoco portion of the sign one 7' fluorescent lamp for the NASCAR portion and two 7' fluorescent lamps for the Honey Farm portion. He said that only the pricing part of the sign would be LED lighting. Chair Ciuffredo asked if was any motion or flashing involved and Mr. Hannigan answered no. Mr. Fontane noted that motion signs are not permitted in BL-1.0 zones. Mr. George said he didn't like the NASCAR part of the sign and would prefer it not be included. Mr. Freilich and Mr. Murphy disagreed. Thomas Curdy said he would not want to see the sign any closer to the sidewalk and Mr. Hannigan demonstrated to him that it would not be any closer to the sidewalk. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 to approve the following:

- **Variance: 4 feet of relief from the requirement that signs be set back 5' from the property line.**

The Variance was approved with the following conditions:

- **Landscaping must be in accordance with the prior plan.**
- **Dumpster is to be moved to the rear of the building.**
- **There shall be no motion or flashing signage.**
- **LED portion of the sign shall have no motion.**
- **Specifications for lighting output must be submitted prior to issuance of a Building Permit.**

15. **766 Main Street (Z-08-11) – Amendment to Special Permit and Special Permit:** Michael Liu, representative for the petitioner, said the YMCA of Greater Worcester was seeking to amend its previously approved Special Permit for expansion or change of a pre-existing

nonconforming use and a Special Permit for a modification of the parking/loading requirement. He said the landscaping buffer along the eastern portion of the site will be reduced to accommodate a 7' right of way that was unknown at the time of previous applications. Mr. George suggested that the landscaping could perhaps be planted in another area or on another YMCA owned property. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 to approve the following:

- **Amendment to Special Permit: Expansion or change of a pre-existing nonconforming use/structure.**
- **Special Permit: Modification of parking/loading requirement**

16. **16 Sears Island Drive (Z-08-12) – Variance and Special Permit:** Richard Tedesco, representative for the petitioner, stated the petitioner is seeking a Variance for 14.4 feet of relief from the rear yard setback requirement and a Special Permit for expansion or change of a pre-existing nonconforming use/structure to add a second story to the existing single-family detached dwelling. Mr. Fontane informed the Board that the petitioner only needs 13' of relief from the rear yard setback requirement not 14.4 feet. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to close the hearing. Upon a motion by David George and seconded by Andrew Freilich, it was voted 5-0 to approve the following:

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

Upon a motion by David George and seconded by Andrew Freilich, it was voted 4-1 (David George voted no) to approve the following:

- **Variance: 13 feet of relief from the rear yard setback requirement**

17. **10 Ronald Drive (Z-08-13) – Variance:** Mr. Fontane explained that the Board needs to make a determination that this application seeking a Variance for 30 feet of relief from the frontage requirement is substantially different from a previous application for 45 feet of relief from the frontage requirement to divide the lot and construct a single-family detached dwelling on the new lot. He further explained that if the Board determines that it is substantially different, it needs to be referred to the Planning Board for its concurrence. He stated that only if the two Boards agree that it is a substantially different application, can the Zoning Board consider the Variance application. Mr. Abramoff and Mr. George wanted to see the previous plan that was denied in order to make an informed comparison. Ben Sherman, representative for the applicant, did not bring the previous plan. Mr. Abramoff said the hearing should be continued so the Board could have both plans before them. Mr. George agreed and also requested an analysis clearly showing the differences from Mr. Sherman as well. Upon a motion by Lawrence Abramoff and seconded by David George, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff

and Brian Murphy to continue the hearing to March 10, 2008 and advised Mr. Sherman to provide the requested analysis and both plans.

OTHER BUSINESS

18. **25 Eskow Road – Special Permit – Remand From Land Court:** Mr. Fontane summarized the series of events which led to this Special Permit for open lot storage being remanded to the Zoning Board of Appeals with an order to vote to approve the Special Permit for open lot storage. He provided the following explanation. On March 27, 2006, the Board voted to deny a Variance to allow parking in the 50 foot buffer area, Special Permit for expansion or change of a pre-existing nonconforming use/structure and Special Permit for open lot storage to operate a fuel storage facility at 25 Eskow Road. Global Companies, LLC, the petitioner, appealed the decision to Land Court and the Court found that the petitioner had met all the legal criteria for issuance of the Special Permit for open lot storage. It did not, however, remand the Variance to allow parking in the 5- foot buffer area or the Special Permit for expansion or change of a pre-existing nonconforming use/structure so those denials stand. Mr. Fontane said the only option the Board has is to vote to approve the Special Permit for open lot storage and the Board cannot set any conditions of approval. Upon a motion by David George and seconded by Lawrence Abramoff, it was voted 5-0 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the Special Permit for open lot storage per the order of the Commonwealth of Massachusetts, The Trial Court, Land Court Department.

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 8:40 P.M.