

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

April 28, 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 5:35 PM.

APPROVAL OF MINTUES

Upon a motion by Andrew Freilich 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 minutes from the March 24, 2008 meeting.

UNFINISHED BUSINESS

- 1. 852 West Boylston Street (ZB-2008-020) – Special Permit:** Kevin Quinn, representative for the petitioner, said he is seeking a Special Permit for expansion or change of a pre-existing nonconforming use/structure to convert the existing building into a food service (pizza parlor) on the first floor and a single dwelling unit on the second floor. He introduced Ron Harden, contractor for the project, to speak about the kitchen vent location. Mr. Harden indicated that the existing chimney would be removed and the vent would go straight up through the roof. Chalita Youssef, petitioner, said he was willing to work with the neighbors, particularly the McDonalds, to make the project palatable to the neighborhood. When asked by the Chair if he anticipated having outdoor seating, Mr. Youssef answered that there would be no outdoor seating. Chair Ciuffredo asked about the hours of operation and Mr. Youssef stated he would like to remain open until 1:00 A.M. and that he anticipated most of the business during the later hours would be deliveries as is the case at his other location. Mr. George asked about landscaping. Mr. Quinn responded that there was perimeter landscaping that was part of the parking plan approved by the Planning Board. Mr. Abramoff asked about the fence along the property line. Mr. Quinn said it was a six foot stockade fence along the entire property line which was a condition of the parking plan approval as well. James

MacDonald indicated his preference for arbor vitae of a size that would provide buffering for his property rather than the fence. Mr. Harden noted that since the fence was a part of the parking plan approval, it would necessitate an amendment to the parking plan which would delay the project. Mr. MacDonald said it was not his intent to delay construction. Mr. Harden stated six foot arbor vitae would be planted on the MacDonald's side of the fence with their permission. He also said that a gas line to the MacDonald's property needs to be removed from the West Boylston Street property and, as a result, a crumbling concrete wall on the MacDonald's property would be replaced to prevent water from leaking into their basement. Mr. Freilich was concerned about loud radios in the pizza delivery vehicles and suggested that Mr. Youssef caution his delivery employees that would not be allowed. 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 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:

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

The Special Permit was approved with the following conditions:

- **Business will close no later than 1:00 A.M.**
- **There will be no outdoor seating allowed.**
- **Vendora Road driveway is restricted to the residential use only.**
- **Every effort must be made to contain noise emanating from the site (i.e. loud radios, etc.).**
- **Approval is subject to the parking plan approved by the Planning Board on March 5, 2008.**

NEW BUSINESS

2. **277 Providence Street (ZB-2008-033) – Variances:** Attorney Mark Donahue, Matt Smith, from Bohler Engineering, and Robert Smith, representative for Liberty Investment Properties, Inc., presented the petition to construct a 250 foot pylon sign, three 125 foot wall signs and a custom monument sign for a 124-room four-story hotel to be located at the site. Mr. Donahue explained the pylon sign would be a rotating text message sign that would enable visibility on Route 146 soon enough for people to safely find the correct exit for the hotel. Robert Smith stated that the messages could be programmed to change in from 5-10 seconds. He assured the Board that the yellow LED text will not flash. Mr. Murphy asked why a sign that meets the Zoning Ordinance requirement would not provide enough visibility. Mr. Donahue responded that it would be competing with other lights and signs in the area which would make it less visible for the people from out of town to determine the location of the hotel and safely access the exit. Mr. Freilich asked if the petitioner was willing to accept a condition relative to the number of seconds before the message rotates. Mr. Smith said yes and indicated that 10 seconds is the longest time sequence in order for it to still be useful. He said the timing is usually 4 seconds. Mr. Freilich said it would be his preference to regulate the interval and would like it to be no less than 5 seconds. Mr. George

asked why the message portion of the sign, located at the top, and the hotel name, located at the bottom, were not reversed. Mr. Donahue responded that the message portion is a specific shape and that is the logo for the hotel and is used for all the locations, both those existing and those planned, nationwide. 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 close the hearing. Upon a motion by Lawrence Abramoff and seconded by Brian Murphy, it was voted 4-1 by Leonard Ciuffredo, Andrew Freilich, Lawrence Abramoff and Brian Murphy (David George voted no) to approve the following:

- **Variance: 150 square feet of relief from the signage requirement for free-standing signs**
- **Variance: 50 square feet of relief from the signage requirement for wall signs**
- **Variance: 20 feet of relief from the height requirement for free-standing signs**

The Variances were approved with the following conditions:

- **Minimum message duration before change is 5 seconds for each message.**
- **Approval is based upon the sign package submitted to the Planning and Regulatory Services Office.**

3. **34 Sears Island Drive (ZB-2008-023) – Variances:** Edward Paquette, representative for Gerald Maloney, petitioner, presented the plan to raze the existing single-family detached dwelling and construct a larger single-family dwelling with an attached garage and deck. The petitioner requested a Variance for 4,242 square feet of relief from the gross dimensional requirement, a Variance for 44.75 feet of relief from the frontage requirement, a Variance for 3 feet of relief from the front yard setback requirement, a Variance for 2.4 feet of relief from the side yard setback requirement, a Variance for 6.3 feet of relief from the side yard setback requirement and a Variance for relief of one parking space from the off-street parking requirement. Chair Ciuffredo acknowledged that the Board had granted relief on several occasions for other properties on Sears Island Drive, but he felt the amount of relief requested in this particular case was exorbitant. He said the street elevation doesn't appear to be the front of the house and it is the policy of the Board that the front of the dwelling must face the street. Michael Benoit and Maureen Richards both expressed their views that the proposed house was too large for the lot and too close to Ms. Richard's property line. Mr. Freilich agreed that it appeared to be too much house for the size of the lot. Mr. George asked if the petitioner had considered rebuilding on the same footprint. Mr. Abramoff asked the square footage of the existing house and that of the proposed house. Mr. Paquette indicated that the current house was roughly 500 square feet and the proposed house was 1,000 square feet. Mr. George agreed that it was too much relief. Chair Ciuffredo advised the petitioner that, since it appeared the petition would be denied, he had the option to request Leave to Withdraw without prejudice which would enable him to reapply in the future. Mr. Maloney opted to request Leave to Withdraw without prejudice. 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 request of the petitioner for Leave to Withdraw without prejudice.

4. **83 Pine View Avenue (ZB-2008-024) – Variance:** Jay Melick, representative for the petitioners, presented the plan to construct an addition to include a family room, a den/study as well as a one-car garage (he said he had made an error on the application) connected to the house by a mudroom. He said the petitioner requested a Variance for 6.64 feet of relief from the rear yard setback requirement. He stated the abutting property is owned by the City of Worcester School Department. Mr. George asked if the petitioners had considered building the garage closer to the property line. Mr. Melick responded that the idea is to have the garage attached to the house with a mudroom. Mr. George asked Mr. Melick to state the justification for granting a Variance. Mr. Melick said the property had a steep slope. 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 by Leonard Ciuffredo, David George, Andrew Freilich, Lawrence Abramoff and Brian Murphy to approve the following:

- **Variance: 6.6 feet of relief from the rear yard setback requirement**

5. **5 Claremont Street (ZB-2008-024) – Special Permit:** Attorney Morris Bergman, representative for the petitioner, Russell Haims, said the petitioner is seeking a Special Permit to allow a lodging house in an RG-5 zone and a Special Permit to allow a professional office in an RG-5 zone for the purpose of operating a lodging house proposed to be used by graduate students and possibly faculty from Clark University and to maintain the petitioner's real estate office on the premises. Mr. Bergman said the house is an historically significant Victorian structure that has been used strictly by non-profits in the past. He said the property has been returned to the tax rolls and carefully restored to its original condition. He stated Mr. Haims has an outstanding reputation in the City as someone who restores and maintains his properties, most of which have been mandated for use by students at Clark University. Mr. Bergman provided a list of house rules that can be incorporated as conditions of approval. He also said that there will be a Resident Assistant living at the house to ensure compliance with the house rules. Mr. Haims said the minimum term of the leases will be six months, thus eliminating any transient use. Mr. George asked about the lighting in the parking lot. Mr. Haims responded that the lighting consisted of mercury floodlights that are set to come on at dusk and off at dawn. Mr. Abramoff asked if there were any guarantee the property will remain on the tax rolls. Mr. Haims said he plans to maintain his real estate office in the building and is committed to retaining ownership. Relative to conditions of approval for the Special Permit, Mr. Abramoff said he would not be in favor of a condition that would make the Special Permit owner specific or a condition that the property would have to remain taxable property. He said it would limit investment opportunities and would reduce the pool of potential purchasers should the owner decide to sell the property. He felt that the Board should create value not reduce value of properties. Mr. Freilich said he would like to see the house rules incorporated into the decision. Mr. George mentioned conditioning approval for a specific period of time. Mr. Fontane said conditions must have a nexus between a condition and land use, i.e. the way a lodging house performs and how it affects the neighborhood. Chair Ciuffredo said he would prefer to set a condition limiting the Special Permit to this specific applicant rather than a specific length of time if it would be legally defensible. Mr. Murphy opined that he would not be in favor of an excessive number

of conditions to the Special Permit and said he thought the 6 months minimum lease condition would be sufficient to deter transience. 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 close the hearing. 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 approve the following:

- **Special Permit: To allow a lodging house in an RG-5 zone**
- **Special Permit: To allow a professional office in an RG-5 zone**

The Special Permits were approved with the following conditions:

- **The minimum period for leases is six months.**
- **Lease is to include the following house rules which are to be posted on all floors:**
 - (1) **No alcoholic beverages consumed on the premises. Premises to be defined as within the building and within the property boundaries clearly indicated by fencing.**
 - (2) **No smoking of any kind on premises.**
 - (3) **Visitors are not permitted to use off-street parking.**
 - (4) **Residents are prohibited from having overnight guests more than two (2) nights a week.**
 - (5) **Residents are not permitted to have any gatherings on premises of more than three (3) people unless permission is granted in writing by owner.**
 - (6) **No behavior creating loud noise after 10:00 P.M. (i.e. music, television, etc.). In no circumstance is any noise disturbance prior to 10:00 P.M. permitted if it impairs another resident's right to quiet use and enjoyment.**
 - (7) **Residents are responsible for all guest behavior and any problems created by guest will result in potential termination of host's residency.**
 - (8) **Security cameras are located in common areas for resident's protection and peace of mind. Any tampering or damage is to be reported immediately.**
 - (9) **Management reserves the right to amend or add to these rules and guidelines. They shall be posted in the hallways on all floors for reference.**
- **A Resident Assistant be retained and live in building to ensure compliance with the house rules.**

At this point it was requested that the hearing be re-opened to discuss an additional condition of approval. 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 re-open the hearing. Mr. Kelly informed the Board that a lodging house must have an annual inspection by the Code Enforcement Division and the Fire Department. He said during those inspections, the applicant could demonstrate compliance with the conditions of the Special Permit. 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 close the hearing. 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 approve the following:

- **Special Permit: To allow a lodging house in an RG-5 zone**
- **Special Permit: To allow a professional office in an RG-5 zone**

The Special Permits were approved with the following conditions:

- **The minimum period for leases is six months.**
 - **Lease is to include the following house rules which are to be posted on all floors:**
 - (1) **No alcoholic beverages consumed on the premises. Premises to be defined as within the building and within the property boundaries clearly indicated by fencing.**
 - (2) **No smoking of any kind on premises.**
 - (3) **Visitors are not permitted to use off-street parking.**
 - (4) **Residents are prohibited from having overnight guests more than two (2) nights a week.**
 - (5) **Residents are not permitted to have any gatherings on premise of more than three (3) people unless permission is granted in writing by owner.**
 - (6) **No behavior creating loud noise after 10:00 P.M. (i.e. music, television, etc.). In no circumstance is any noise disturbance prior to 10:00 P.M. permitted if it impairs another resident's right to quiet use and enjoyment.**
 - (7) **Residents are responsible for all guest behavior and any problems created by guest will result in potential termination of host's residency.**
 - (8) **Security cameras are located in common areas for resident's protection and peace of mind. Any tampering or damage is to be reported immediately.**
 - (9) **Management reserves the right to amend or add to these rules and guidelines. They shall be posted in the hallways on all floors for reference.**
 - **A Resident Assistant be retained and live in building to ensure compliance with the house rules.**
 - **At the time of the annual inspection by the Code Enforcement Division and Fire Department, land owner must demonstrate that the conditions of the Special Permit are being met.**
6. **13 Hackfeld Road (ZB-2008-028) – Variance and Special Permit:** Attorney Keith Higgins, representative for the petitioner, Jean Leider, President, Alpha Xi Delta Building Corporation of Worcester, Massachusetts, Inc., informed the Board that she is seeking a Special Permit to allow a sorority in an RL-7 zone and a Variance for relief of four spaces from the off-street parking requirement to convert the existing single-family detached dwelling into a sorority house for eleven WPI students. Mr. Higgins said they have met with abutters who expressed their wish that the green area in the rear of the house remain as it is rather than being paved for parking, necessitating the requested parking relief. In response to

a question from Chair Ciuffredo, Alfredo DeMauro, Jr. said WPI does not impose a restriction on students having cars. Mr. Higgins said there were house rules that could be incorporated as conditions of the Special Permit. Chair Ciuffredo asked if any neighbors had any thoughts or concerns they would like to share with the Board. Susan Champeny said the willingness to keep the green space and limit the number of cars parked on the property had impressed her. When asked by the Chair about the parking situation on Hackfeld Road in the winter, Ms. Champeny stated that most of the homes on the street had enough off-street parking so parking was not a major concern as it is in some neighborhoods. Rainer Reichel said he supported keeping the green space as well. He did say that he lives on Dover Street and the parking situation on his street is more limited. Mr. Freilich asked what oversight there would be for the house. Ms. Leider said she, as the president of the housing corporation that manages the house, will be responsible for working with the women in the house and WPI to ensure they are abiding by the house rules. Mr. Freilich asked if a no alcohol condition would be acceptable and Ms. Leider responded that was one of the house rules. Mr. George asked if there were any limit to the number of fraternities/sororities at WPI. Emily Perlow, liaison for Greek life at WPI, said there was no limit. Mr. George asked Ms. Champeny if she felt WPI was encroaching too much into the neighborhood. She responded that she did not consider encroachment to be a problem. Chair Ciuffredo asked if any effort had been made to find other parking for the sorority house. Ms. Leider answered that she had checked with WPI and with the Gateway Corporation but there was no parking that could be dedicated for the use. She added that the Gateway parking was a considerable distance from the house. Nicole Klegraete, a member of the sorority, said the members had been waiting a long time to purchase a house and they would respect of any rules put in place. As for parking, she said most students don't have cars and would be walking to and from the campus. Mr. Freilich asked how many members the sorority had and how the determination is made as to who will live in the house. Ms. Leider said there were approximately 70 members and that a merit system will be used with students having to meet specific criteria. Mr. Higgins and Ms. Leider met briefly to create a list of rules, using the house rules for 5 Claremont Street as an example, for the house and members of the sorority left the meeting to get the sorority house rules. Upon their return the two lists were merged to create the house rules for the sorority house which would be incorporated as conditions of the Special Permit. 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:

- **Special Permit: To allow a sorority in an RL-7 district**
- **Variance: Relief of 4 parking spaces from the off-street parking requirement**

The Special Permit and Variance were approved with the following conditions:

- **Contract between the resident and the housing corporation is to include the following house rules which are to be posted on all floors:**

- (1) No alcoholic beverages consumed on the premises. Premises to be defined as within the building and within the property boundaries.**
- (2) No smoking of any kind on premises.**
- (3) Visitors are not permitted to use off-street parking.**
- (4) Residents are prohibited from having male overnight guests.**
- (5) No behavior creating loud noise after 10:00 P.M. (i.e. music, television, etc.). In no circumstance is any noise disturbance prior to 10:00 P.M. permitted if it impairs another resident's right to quiet use and enjoyment.**
- (6) Residents are responsible for all guest behavior and any problems created by guest will result in potential termination of host's residency.**
- (7) The housing corporation reserves the right to amend or add to these rules and guidelines. They shall be posted in the hallways on all floors for reference.**
- (8) No candles shall be permitted, lit or unlit, at any time in the house or within the perimeter of the property except as approved by the corporation for chapter purposes. Violation of this rule will result in a fine of \$25.00 per candle per incident. Bicycles and non-motorized scooters must be parked and locked in spaces allocated. Bicycles and non-motorized scooters are not to be brought into the house. Residents may not block the walkway or entrances/exits to the house with bicycles or non-motorized scooters.**
- (9) Residents may not install ceiling hooks, hang posters or make alterations to the ceiling in any room of the house.**
- (10) Cooking by residents is prohibited in all areas of the house or within the perimeter of the property except for the use of microwave and other appliances supplied by the corporation in the kitchen area. Barbeques, oil popcorn poppers and other types of cooking appliances with sternos, incense or any open flame is prohibited.**
- (11) Residents may not possess, store or use any type of fireworks in the house or within the perimeter of the property.**
- (12) Furniture in the common areas may not be removed or replaced except as approved by the corporation.**
- (13) Hallways are considered public areas and should be kept free of clutter and debris at all times.**
- (14) Drugs other than those prescribed by a licensed physician are prohibited in the house or within the perimeter of the property.**
- (15) The judicial process as outlined by Student Life at the University will be implemented.**
- (16) Residents shall not duplicate a room or entrance door key at any time. Locks are not permitted on any interior doors except as supplied by the corporation.**
- (17) The roof is off limits at all times except to authorized maintenance personnel approved by the corporation. The use of ledges and roofs for any purpose, including sun bathing, hanging on balconies and scaling of exterior walls is prohibited.**

- (18) Motorcycles, mopeds and motorized scooters are to be parked in the vehicle parking area only and are not to be brought into the house, parked in walkways or blocking entrances/exits of the house.
 - (19) Stereos, musical instruments and televisions must be kept at a volume that does not disturb others.
 - (20) Rooms of the house may only be painted or altered with prior approval of the corporation.
 - (21) Limited parking spaces are available to residents and are not pre-assigned.
 - (22) Property of the corporation, including but not limited to plates, silverware, cups, glasses, furniture, etc., is not to be removed from the house at any time.
 - (23) Quiet hours are to be determined and agreed upon by the residents. Suggested quiet hours are for Sunday through Thursday to begin at 11:00 P.M. and end at 9:00 A.M. the following day. Quiet hours for Friday and Saturday begin at 12:00 A.M. and end at 10:00 A.M. the following day.
 - (24) Residents shall not tamper with or interfere with fire alarm pull stations, smoke and heat detectors, carbon monoxide detectors, fire extinguishers or EXIT signs at any time. Residents and guests are required to leave the house immediately when an alarm sounds.
 - (25) Resident and/or Resident Advisor shall immediately notify a corporation representative of any conditions resident considers unsafe.
 - (26) Resident shall not enter another resident's room uninvited, nor shall residents go through personal property of other residents or chapter property without prior permission from the owner of the property.
 - (27) Firearms, hunting equipment and/or other weapons, including but not limited to sling shots, air-powered guns, wrist rockets and knives, are not permitted in the house or within the perimeter of the property.
 - (28) Window screens are to remain in place at all times in order to fulfill their purpose and prevent loss. Throwing, dropping or allowing an object to fall from a window constitutes a safety hazard and is cause for disciplinary action.
- At the time of the annual inspection by the Code Enforcement Division and Fire Department, land owner must demonstrate that the conditions of the Special Permit are being met.

OTHER BUSINESS

New Special Permit Criteria: Mr. Fontane informed the Board that the City Council is considering new criteria for approval of Special Permits. He said he would keep the Board apprised.

ADJOURNMENT: Chair Ciuffredo adjourned the meeting at 8:45 P.M.