

**MINUTES OF THE PROCEEDINGS OF THE
PLANNING BOARD OF THE CITY OF WORCESTER**

**February 4, 2009
WORCESTER PUBLIC LIBRARY, 2 SALEM SQUARE, SAXE ROOM**

Planning Board Members Present: John Shea, Chair
Scott Cashman, Vice Chair
Anne O'Connor, Clerk
Margaret Guzman
Nicole Xifaras Parella

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Lara Bold, Division of Planning & Regulatory Services
Luba Zhaurova, Division of Planning & Regulatory Services
Judy Stolberg, Division of Planning & Regulatory Services
Jody Kennedy-Valade, Department of Inspectional Services
John Kelly, Department of Inspectional Services
Michael Traynor, Law Department
Jennifer Beaton, Law Department
Russ Adams, Department of Public Works and Parks

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

APPROVAL OF MINUTES

Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 5-0 to approve the minutes from the January 21, 2009 meeting.

REQUESTS FOR WITHDRAWALS OR CONTINUANCES

- 1. 71 Elm Central Street – Definitive Site Plan (PB-2008-083):** Steven P. Murphy, representative for Brian MacEwen, requested a continuance to March 18, 2009 and an extension of the decision deadline to April 2, 2009. Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 5-0 to continue the item to March 18, 2009 and to extend the decision deadline to April 2, 2009.

UNFINISHED BUSINESS

Public Meetings

2. **35 Central Street – Parking Plan (PB-2008-082):** Anne O’Connor recused herself. Attorney Robert Longden, representative for the applicant, presented the plan to re-stripe and repave the existing parking lot for 31 parking spaces with an ATM kiosk. He said the property consists of two non-accessory parking lots held in common ownership but separated by a grade change via a retaining wall and chain link fence. He indicated the lot in question is the lot configured with the diagonal spaces. Ms. Bold informed the Board that a Special Permit for expansion or change of a pre-existing nonconforming use/structure was approved by the Zoning Board of Appeals on January 26, 2009 with the condition that three planter boxes and four snow storage areas be shown on the plan. Upon a motion by Margaret Guzman and seconded by Scott Cashman, the Board voted 4-0 to approve the parking plan with the following conditions:

- **Excess snow is to be removed from the site.**
- **Three container planter boxes and four snow storage areas be shown on the plan as conditioned by the Zoning Board of Appeals upon approval of a Special Permit for expansion or change of a pre-existing nonconforming use/structure with respect to parking lot layout, landscape screening buffers and access aisle width.**
- **Central Street be labeled as public on the plan.**
- **Plan must include a summary of zoning classification requirements with what is required and what is proposed.**
- **Owner of the property must be labeled as Exchange Associates Real Estate Trust for both lots.**
- **Elevations and contours of the existing and finished site must be labeled on the plan.**
- **Existing rights of way, entrances and exits must be labeled on the plan.**
- **Proposed changes to drainage must be labeled on the plan.**
- **Location, size and arrangement of existing and proposed lighting and/or signs must be labeled on the plan.**
- **Berms, if any, must be shown on the plan.**
- **Fences, their height and materials, both existing and proposed, must be labeled on the plan.**
- **Landscaped areas on the parcel must be labeled on the plan or plan should note that none exist.**
- **Label location, dimensions, number and construction materials of all vehicular and pedestrian circulation elements, including streets, entrances, curbs, curb cuts, parking spaces, access aisles and sidewalks.**
- **Information regarding the total number of compact and standard parking spaces on both lots must be provided.**
- **Date and conditions of approval of the Special Permit granted by the Zoning Board of Appeals must be noted on the plan.**
- **Plan must be labeled “Parking Plan Approval”.**
- **All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.**
- **Subject to the Zoning Enforcement Officer’s determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.**

- **The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.**
- **Six copies of the revised plan must be submitted to the Division of Planning and Regulatory Services prior to release of the decision.**

3. 75 East Mountain Street – Definitive Site Plan (PB-2008-089): The Special Permit for a Common Driveway (PB-2008-093) was taken contemporaneously. John Grenier, representative for A. Lorusso Development, applicant, presented the plan to construct six single-family semi-detached dwelling units on property with 15% or more slope to be accessed by a common driveway. He said all of the lots meet the dimensional requirements of the Zoning Ordinance. Ms. Bold’s memo dated December 4, 2008 and updated January 30, 2009 noted that access easements for each lot should be provided. However, she said the Law Department opined this was not necessary. Ms. Beaton confirmed that when the Special Permit is filed at the Registry of Deeds, access easement issues will be addressed. Ms. Bold, through the Chair, asked Mr. Lorusso when the pile of fill on site will be removed. He responded that any excess fill remaining after the existing house is demolished and the hole filled in, would be removed by April 30, 2009, weather permitting. Ms. Bold informed the Board that an outstanding tax bill had been paid. She also said the proposed plan for the common driveway complies with the requirements for common driveways as outlined in Article IV, Section 8(F) of the Zoning Ordinance. She explained that the common access driveway benefits the design of the development, reduces the number of access points onto the public street and provides for safer access to and egress from the site. Upon a motion by Anne O’Connor and seconded by Margaret Guzman, the Board voted 5-0 to approve the Definitive Site Plan with the following conditions:

- **Excess fill is to be removed from the site by April 30, 2009.**
- **All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.**
- **Subject to the Zoning Enforcement Officer’s determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.**
- **The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.**

NEW BUSINESS

Public Hearings

4. 75 East Mountain Street – Special Permit (PB-2008-093): Upon a motion by Margaret Guzman and seconded by Anne O’Connor, the Board voted 5-0 to close the hearing. Upon a motion by Anne O’Connor and seconded by Margaret Guzman, the Board voted 5-0 to approve the Special Permit for a Common Driveway with the following findings:

- **By providing six smaller units of housing, this project will allow for more affordable housing than would the construction of larger single-family housing on the site.**
- **By providing one common access driveway onto East Mountain Street, this project will provide safer access and egress from the site as opposed to individual driveways.**

- **The site will be serviced by sewer, water, gas and electric services that are located along the frontage of the property within East Mountain Street.**
- **The existing condemned structure will be removed. The size and type of housing to be constructed will blend in with the surrounding residences.**
- **This project will provide quality housing that will add to the tax base of the City.**

The Special Permit was approved with the following conditions:

- **Label the plan set for the common driveway “Special Permit for Common Driveway”.**
- **Six copies of the revised plan set must be submitted to the Division of Planning and Regulatory Services.**

Public Meetings

5. **34 Eskow Road – Definitive Site Plan (PB-2009-001):** Michael Dryden and Joseph Amorello represented the applicant, A.F. Amorello & Sons, Inc. Mr. Dryden presented the plan to construct an access drive off of Eskow Road and a commercial development consisting of four buildings totaling 155,000 square feet as well as 192 off-street parking spaces. He said the infrastructure and utilities for the four buildings would be constructed as well as one of the buildings as part of the first phase of the project. He said the three other building locations would be pad-ready for marketing when economic conditions improve. He indicated that the first building to be constructed would be used by the applicant for his business with an area designated as an “equipment and material storage yard”. Ms. Bold said staff had determined that the proposed use for this area does not meet the definition of Open Lot Storage and does not require a Special Permit; however, any change in the use of this area to Open Lot Storage would require a Special Permit and possibly an Amendment to Definitive Site Plan. Mr. Dryden said the applicant was amenable to the changes enumerated in Lara Bold’s memo dated January 28, 2009 and would incorporate them on a revised plan. He did say that the detention ponds are less than 4-foot deep and therefore will not require fencing. Mr. Adams said DPW&P requested the applicant revise the stormwater treatment train for detention ponds 23 and 42 and provide a drainage system for the proposed driveway to capture more of the runoff. Mr. Fontane said the applicant had agreed to provide a 50-foot buffer to include evergreens along the rear of the property in proximity to the Weatherstone Condominiums and advised the Board that it should be a condition of approval. Ms. Kennedy Valade said the proposed connection to Balis Avenue is to be used for emergency purposes only and is not to be used for truck traffic. City Councilor Paul Clancy said he was pleased to hear about the inclusion of a 50-foot buffer. He asked if any part of Balis Avenue, which had just been made public and paved, would have to be torn up for any of the connections to infrastructure and Mr. Dryden said it was not necessary because all utility connections would be made from Eskow Road. Robert McGinn, representative from Weatherstone Condominiums, was concerned about dust during construction, noise and hours of operation. Mr. Kelly noted there are City ordinances in place with regard to hours of operation and noise. Mr. Fontane stated that water spraying can be used to reduce dust. Robert Zack, a Balis Avenue resident, asked what uses are allowed in the three zones on the property. Ms. Bold explained that the portion of the property abutting Balis Avenue is zoned RS-7 (Residential, Single-family), another portion is zoned ML (Manufacturing, Limited) and the remaining portion is zoned MG (Manufacturing, General). He also asked that he be shown the locations of the detention ponds. Mr. Dryden pointed out the detention ponds on the plan. Ms. Bold indicated that proper erosion and sedimentation control is a standard condition of approval. Upon a motion by Anne O’Connor and seconded by

Margaret Guzman, the Board voted 5-0 to approve the Definitive Site Plan with the following conditions:

- **Balis Avenue access is for emergency use only and so noted on the plan.**
 - **The designated equipment storage area is to be used for A. Amorello & Sons, Inc. business only.**
 - **A 50-foot buffer incorporating evergreen trees be created and maintained along the rear of the property in proximity to the Weatherstone Condominiums as indicated on the plan.**
 - **Applicant must revise the stormwater treatment train for detention ponds 23 and 42**
 - **Applicant must provide a drainage system for the proposed driveway to capture more of the runoff.**
 - **Plan set must be labeled “Definitive Site Plan”.**
 - **Applicant must provide a locus plan that more clearly shows street names.**
 - **Zoning Summary Table on sheet C2.01 must be corrected by removing the reference to frontage on Balis Avenue because Eskow Road provides the frontage.**
 - **A note must be on the plan indicating total square footage and percentage of site that is pervious/impervious.**
 - **Exterior materials and rendering/elevation of Phase I building must be provided.**
 - **Depth of detention ponds must be labeled on the plan.**
 - **Location of any on-site signage must be provided.**
 - **Proposed maple trees be replaced with different deciduous tree species that are resistant to the Asian Longhorn Beetle infestation.**
 - **One interior tree, 3” caliper minimum, must be provided for the ten interior spaces adjacent to Building 2.**
 - **All trees must be 3” caliper minimum.**
 - **Label height and materials of any proposed fencing.**
 - **Show 6’ wooden enclosures for proposed dumpsters on the plan.**
 - **All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.**
 - **Subject to the Zoning Enforcement Officer’s determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.**
 - **The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.**
 - **Six copies of the revised plan must be submitted to the Division of Planning and Regulatory Services prior to release of the decision.**
6. **558 Southbridge Street (a.k.a. 514, 542 & 558 Southbridge Street) – Amendment to Definitive Site Plan (PB-2009-002):** Attorney Robert Longden, representative for 542 Southbridge Street LLC, explained the circumstances that necessitated filing an amendment to the originally approved Definitive Site Plan for the construction of three commercial buildings (a Price-Rite Supermarket and two retail buildings) as well as 222 off-street parking spaces. Mr. Longden apologized to the Board for changes during construction that were not authorized by the Board and resulted in issuance of a Cease and Desist Order and a Temporary Occupancy Permit for the supermarket being

withheld. Mr. Kelly wrote in his letter to Mr. Longden dated January 14, 2009, that he could not issue a Temporary Certificate of Occupancy at that time because of the magnitude of remaining site-related issues and structural components which could not be sufficiently addressed if the supermarket was open and operational. Mr. Adams indicated that a major change to the site plan was that the previously approved underground stormwater detention system had been replaced with a technology known as a “blue roof” to collect stormwater on the roof of Building 3. He indicated that because the technology is relatively new, staff had needed time to review the proposal and discuss details with the engineer. He stated that a DPW& P representative has been on site to inspect the new stormwater system and is satisfied that the work has been properly designed and executed. He also said an affidavit from a structural engineer had been submitted certifying that the roof was designed for the load that it must bear. He also stated that the applicant has proposed a 6” concrete berm to block drainage between Building 1 and Building 3 in place of a previously approved 6’ retaining wall. Mr. Adams suggested that the wall be poured concrete with no drain holes and indicated that it could not be “versalock”. Mr. Kelly indicated that the major remaining life safety concerns for the site were the proposed sidewalk along the tracks behind Building 1 which he believed could affect the ballast of the track and thus negatively impact the rail. Neil Duffy, representing Price-Rite, apologized for the inadvertent release of an advertisement and circular that announced the grand opening of the supermarket on February 9, 2009 prior to the Board’s review. He said the advertisements were supposed to be on hold until the Board acted favorably and he apologized for the mistake. He said they had not stocked the store with any perishable items and would not do so until a temporary Certificate of Occupancy is obtained. City Councilor Barbara Haller and Ron Charette both spoke in support of the project and its importance to the neighborhood. Attorney Marshall Gould, representing the owners of A&D Cold Storage and the Providence and Worcester Railroad, informed the Board that it is not his client’s intention to stop the project or the opening of the supermarket but rather they are trying to protect their existing business and maintain the integrity of the railroad tracks. He said the track has recently been rebuilt at considerable expense and the installation of the gas line for this project had caused the track to sink. He indicated his concern that should a derailment occur in the area, there was immediate danger of explosion. He stated concern that runoff from the proposed site would adversely affect the integrity of the tracks. Mr. Gould indicated that the original site plan showed that stormwater would travel away from the railroad tracks but the current site slopes towards the railroad tracks. He indicated that the rail access is a vital component to his client’s business. He informed the Board that his client, based on the recommendation of his engineer, John Lewis, would like to see a 2’ high berm / wall instead of the currently proposed 6” berm as well as a 6’ stockade fence behind the berm to prevent access to the tracks. He also submitted photos to the board showing the proximity of the tracks to the proposed sidewalk behind Building 1 is a safety concern. Mr. Adams said the two foot high impervious berm to be constructed to capture runoff and direct it away from the tracks would resolve that issue. Mr. Longden and engineer, Benjamin Smith, stated that they do not agree that the tracks have been compromised as a result of the work that has been done. Mr. Smith indicated that he has conducted detailed measurements and that he believes a train would be canted $\frac{3}{4}$ of an inch at most and stated that the tracks were originally built on poor materials such as peat. He also stated that in speaking with NSTAR, his understanding was that railroad standards would allow up to 3” of cant. He did agree that damage had been made to the railroad ties and stated that they had addressed that issue with A&D Storage. Mr. Cashman urged everyone to consider the fact that if the project had been built according to the approved site plan, the applicant would not have to be before the Board. He said his major concern is whether or not the gas line is safe at this time. He and Chair Shea said that public safety is paramount and their decision would reflect that conviction. Ms. Guzman indicated that she understands Mr. Cashman’s frustration and felt there was no question that there

was failure to consider reasonable alternatives. She also felt that an interior common corridor running along the rear of the Building 1 and exiting through the first or second door at the western end of the building closest to Southbridge Street was a must as was the extended 2-foot berm to control runoff that would otherwise flow to the railroad tracks. Mr. Longden proposed an interior corridor to serve doors 3-5 and a 1-foot berm. The Board insisted on a 2-foot berm and Mr. Longden acquiesced. Mr. Longden stated that a 2-foot berm cannot be properly installed in the winter months and suggested that a stockade fence be installed temporarily to separate the Price-Rite Building from the remainder of the site. Ms. Parella indicated that an additive could be placed in concrete to allow for pouring during cold weather. Mr. Kelly agreed that this was possible. The Board was not receptive to the idea of a stockade fence and suggested jersey barriers would be more appropriate as a temporary measure. The Board also questioned the dumpster locations for Building 1 and Building 2. Mr. Longden stated his client was amenable to relocating the dumpster for Building 1 but disagreed that relocating the dumpster for Building 2 was necessary. He said that it was moved because of National Grid equipment and is proposed to be relocated marginally closer to the residential uses and would still be buffered by a stockade dumpster enclosure and proposed fence along the compensatory flood storage area. He further stated that moving it into the parking field could create traffic circulation issues. Ms. Bold agreed staff would agree with the dumpster location remaining as proposed for Building 2. Chair Shea noted that, given the history of the developer, he would not be comfortable taking a vote to approve with conditions. He suggested a performance bond to ensure the work was completed in compliance with any conditions that the Board imposed. Mr. Kelly informed the Board that he wanted the gas line work done as soon as possible. Upon a motion by Margaret Guzman and seconded by Nicole Xifaras Parella, the Board voted 4-1 (Scott Cashman voted no) to approve the Definitive Site Plan with the following conditions:

Conditions of Approval that Require Immediate Action:

- **Within forty-eight hours of the Planning Board's vote to approve the Amendment to Definitive Site Plan, the applicant must notify NSTAR, in writing, and provide a copy of said letter to the Division of Planning and Regulatory Services and the Department of Inspectional Services giving permission and requesting work begin as soon as possible to relocate the gas meter in accordance with NSTAR's letter dated February 4, 2009.**
- **The following temporary measures must be installed until such time that the permanent berm and stockade fence are installed between Building 1 and 3: (1) jersey barriers starting at the southeast corner of Building 1 running easterly to Building 3 and (2) a temporary chain link, stockade or construction fence between the northeast corner of Building 1 to the northwest corner of Building 3 preventing access to the railroad tracks.**
- **A performance bond, (the amount to be determined by staff from DPW&P, DIS and DPRS), be in place to ensure all work related to the full Occupancy Permit for Building 3 is completed by April 30, 2009 including: the construction and installation of the stockade fence, installation of the two foot high (2') berm, and drainage improvements.**

Conditions of Approval Related to Building 1:

- **Emergency egress for Building 1 must be provided by an interior common corridor running along the rear of the Building 1 and exiting through the first or second door or both, secured at the western end of the building closest to Southbridge Street.**

- **The proposed sidewalk at the rear of Building 1 must be removed and the three doors farthest from Southbridge Street providing egress to the sidewalk must be removed or made inoperable.**
- **The dumpster for Building 1, as shown on the plan dated 2/26/09, must be relocated near the Massachusetts Electric transformer adjacent to Building 1. The dumpster should not be visible from Southbridge Street.**
- **No Occupancy Permit will be issued for Building 1 until an interior common corridor is constructed by the Developer and inspected and approved by the Division of Inspectional Services to allow a means of egress from the building through the first or second door only at the western end of the building closest to Southbridge Street.**

Conditions of Approval Related to Building 3:

- **Fire lane must be shown on the plan in front of Building 3 and be painted on site by April 30, 2009.**
- **The exterior door on Building 3 that abuts the railroad tracks must be for emergency use only with appropriate signage stating such.**

Conditions of Approval Related Landscaping / Fencing:

- **A black, vinyl-coated chain link fence six (6) feet in height must be installed from the rear of Building 1 behind the second door closest to Southbridge Street northerly to the abutter's building. This fence must be installed at a reasonable distance from the end of the rail spur so as not to interfere with use of track and must allow unrestricted emergency egress from the first and second doors of Building 1 closest to Southbridge St. Cost of the fence to be shared by the applicant and the owners of the A&D Cold Storage Company.**
- **A two foot (2') high impervious berm must be installed at the northeast corner of Building 1 running easterly to the northwest corner of Building 3 with a six-foot stockade fence behind the berm and equipped with one access gate at the eastern end of the fence.**
- **Proposed maple trees must be replaced with 1 or 2 deciduous tree species that are resistant to the Asian Longhorn Beetle.**
- **Proposed fencing must be installed along Washburn Street and allow visibility into the compensatory flood storage area for security purposes.**
- **All landscaping must be completed and fencing must be installed prior to June 30, 2009.**
- **All stockpiled soil located within the area marked "Loam and Seed", also known as the compensatory flood storage area, must be removed by March 30, 2009, and a note be added to the plan reflecting this condition of approval.**

Standard Conditions of Approval:

- **All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction**

Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.

- **Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.**
- **The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.**
- **Six copies of the final revised plan set including copies of the approved lighting plan (dated 6/26/08) and final renderings reflecting any above changes must be submitted to the Division of Planning and Regulatory Services prior to release of the decision.**

OTHER BUSINESS

APPROVAL NOT REQUIRED (ANR) PLANS:

AN-2009-006 Westview Road: Upon a motion by Anne O'Connor and seconded by Margaret Guzman, the Board voted 5-0 to endorse ANR Plan AN-2009-006.

Porto Rico Street – To Make Public and Install Sewer: Upon a motion by Anne O'Connor and seconded by Margaret Guzman, the Board voted 5-0 to recommend a Priority 5 based on the recommendation of the DPW&P and to adopt the recommendation of the DPW&P that the sewer be designed and installed.

1393 Grafton Street Subdivision (McAvey Way) – Bond Reduction & Extend Work Completion Date: John Shea recused himself and Scott Cashman assumed the Chair. Upon a motion by Margaret Guzman and seconded by Anne O'Connor, the Board voted 4-0 to extend the work completion date to April 1, 2009 based on the recommendation of DPW&P. DPW&P does not recommend a bond reduction at the time because the work will be completed soon allowing a full bond release at that time.

John Shea reassumed the Chair.

Jasmeen Place Subdivision (Fatima Lane) – Extend Work Completion Date: Upon a motion by Margaret Guzman and seconded by Anne O'Connor, the Board voted 5-0 to extend the work completion date to December 1, 2009 for Fatima Lane based on the recommendation of the Department of Public Works and Parks. Mr. Adams indicated that the requested work completed date of December 31, 2010 is beyond the subdivision sunset date of April 27, 2010. As the work completion date approaches, an additional request can be made to amend the subdivision approval by extending the sunset date as well as requesting an additional extension of the work completion date.

ADJOURNMENT

Chair Shea adjourned the meeting at 9:00 pm.