

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

September 9, 2013

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM

Zoning Board Members Present: Lawrence Abramoff
Vadim Michajlow
Joseph Wanat
Timothy Loew
Robert Haddon

Zoning Board Members Absent: William Bilotta

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Luba Zhaurova, Division of Planning & Regulatory Services
Marlyn Feliciano, Division of Planning & Regulatory Services
John Kelly, Department of Inspectional Services
Amanda Gregoire, Economic Development

Board Site Views

CALL TO ORDER

Chair Abramoff called the meeting to order at 5:33 p.m.

RECOGNITION

Chair Abramoff presented a plaque to Mr. Fontane to commemorate his tenure as Director of Planning and Regulatory Services.

REQUESTS FOR CONTINUANCES, POSTPONEMENTS, WITHDRAWALS

1. 184 Highland Street and 2 Einhorn Road (ZB-2013-014 & ZB-2013-036)

- Special Permit: Expansion, alteration or change of privileged pre-existing nonconforming uses and structures (Article XVI, Section 4) with respect to the structure
- Special Permit: To allow a dormitory use (Residential Use #3, Table 4.1) in the RG-5 zoning district
- Special Permit: To modify the parking layout with respect to the 5-ft landscape buffer (Article IV, Section 7)

Special Permit: To modify the parking layout and loading requirements with respect the loading requirement (Article IV, Section 7 (2)). 1 loading space required for buildings over 10,000 Gross SF (no loading space provided).

Special Permit: To modify the number of required parking spaces up to a maximum of 10% (Article IV, Section 7, (A) (2)). Relief of 1 parking space.

Variance: Relief of two (2) off-street parking spaces from the required 13 (10 provided).

Petitioner: D&E Realty LLC & Gido Realty and Property management

Present Use: Two single-family dwellings

Zone Designation: RG-5 (Residence, General)

Petition Purpose: Convert the dwellings to a dormitory for a total of 39 occupants (21 occupants at 184 Highland St and 18 at 2 Einhorn Rd) with ten (10) off-street parking spaces (4 at 184 Highland St and 6 at 2 Einhorn Rd)

Public Hearing Deadline: ~~5/30/13, 6/17/13, 8/8/13~~, 9/6/13

Constructive Grant Deadline (Variance): 10/11/13

Timothy Loew could not vote on the matter because he was not present at all the hearings.

Norman Hill requested a continuance of the hearing (and Public Hearing extension) to October 21, 2013 in writing because Becker College decided not to proceed with the project. Therefore, they are reverting back to the original request to convert 184 Highland Street to a 10-bed lodging house and they need time to provide plans and revise the application.

Mr. Fontane stated that the applicants have altered the original application more than once since the original filing date of March 26, 2013 and he advised that re-notification be made to abutters.

Jonathan Finkelstein, representing Larry Quinn from 3 Einhorn Road, asked that the application should be withdrawn and a new application submitted given the change of the use from a dormitory to a lodging house. The Board concurred.

Mr. Hill requested a Leave to Withdraw Without Prejudice and stated that he would re-apply.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 4-0 to approve the Leave to Withdraw Without Prejudice.

List of Exhibits.

Exhibit A: Special Permit Application; received March 26, 2013; prepared by D & E Realty LLC.

Exhibit B: Special Permit Plan; dated February 28, 2013, last revised; prepared by Land Planning, Inc.

Exhibit C: Floor Plans; dated 1/4/2013; prepared by R. C. Searles, Associates.

Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 184 Highland Street (ZB-2013-014); dated May 17, 2013, revised June 14, 2013, July 5, 2013, and July 25, 2013, and July 29, 2013, and September 6, 2013.

Exhibit E: Postponement request to June 17, 2013; dated May 20, 2013.

- Exhibit F: Postponement and Public Hearing Extension request to July 8, 2013; received June 13, 2013.
- Exhibit G: Letter of Opposition from Robert M. Hagearty; received July 3, 2013.
- Exhibit H: Letter of Intent & Definitive Presentation Plan from Becker College; Re: 184 Highland St and 2 Einhorn Road; letter dated July 22, 2013; plan dated June 27, 2013.
- Exhibit I: Conceptual Floor Plan; Prepared by Land Planning, Inc.; dated July 8, 2013.
- Exhibit J: Electronic Mail from Charlie Smith to Luba Zhaurova; Subject: Re: Revised answers; dated July 19, 2013.
- Exhibit K: Letter of Opposition from Attorney Jonathan Finkelstein; Re: 2 Einhorn Road and 184 Highland Street; dated July 29, 2013.
- Exhibit L: Continuance and Public Hearing Extension request to October 21, 2013; received September 9, 2013.

2. 525 Lincoln Street (aka 525-545) Lincoln Street (ZB-2012-049)

- Special Permit: To convert both faces of the non-accessory freestanding billboard sign to a digital sign
- Petitioner: Clear Channel Outdoor
- Present Use: Commercial shopping center with a two-sided monopole non-accessory freestanding billboard sign (672 SF per side) in the rear of the property facing I-290 interstate highway.
- Zone Designation: BG-4 (Business, General), RS-7 (Residential, Single-Family) and WR (GP-3) (Water Resource Protection Overlay District)
- Petition Purpose: Convert existing two-sided non-accessory freestanding billboard (672 SF per side) facing I-290 highway to a digital sign with same dimensions

Public Hearing Deadline: ~~4/8/13~~, ~~6/17/13~~, 9/30/13

The applicant submitted a postponement request in writing to the September 30, 2013 meeting.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to postpone the item to September 30, 2013.

List of Exhibits.

- Exhibit A: Special Permit Application; received July 23, 2012; prepared by Clear Channel Outdoor, including the following attachments:
 - i. Lease Agreement between the applicant and the owner; dated November 30, 1999
 - ii. Lincoln Plaza Building Key Plan; dated August 8, 2005
 - iii. Two photographs of the existing billboard sign
 - iv. Digital billboard structural plan; prepared by Yesco Electronics; undated; received July 23, 2012.

- Exhibit B: Digital Display Installation Plan; prepared by Dana F. Perkins, Inc. of Consulting Engineers & Land Surveyors; dated July 5, 2012.
- Exhibit C: Structural Plan; prepared by GRC Engineering, Inc. and Quantum Structure & Design; dated September 21, 2011.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 525 (aka 525-545) Lincoln Street (ZB-2012-049); dated August 24, 2012, revised September 14, 2012 and September 19, 2012, December 17, 2012, January 23, 2013, April 25, 2013, June 14, 2013, and September 9, 2013.
- Exhibit E: Postponement requests: to 10/15/2012 (dated 9/24/2012); to 11/19/2012 (dated 10/9/2012); to 12/17/2012 (dated 10/26/2012); to January 28, 2013 (dated December 11, 2012); to March 25, 2013 (dated January 23, 2013); to June 17, 2013 (dated March 29, 2013); to September 9, 2013 (dated June 13, 2013); to September 30, 2013 (dated September 9, 2013).

3. Tory Fort Lane (aka 30 Tory Fort Lane) (ZB-2013-021)

- Special Permit: To allow a Personal Wireless Service Facility in the RS-7 (Residence, Single-Family) zoning district
- Petitioner: Massachusetts Electric Company d/b/a National Grid
- Present Use: Existing Cooks Pond Electric Substation
- Zone Designation: BL-1.0 (Business, Limited)
- Petition Purpose: Install, operate, and maintain 1 WiMAX mounted antenna located on a 10' mast extension attached to a new 80' lattice tower that would replace the existing 55' wooden pole; Install signal cables from antennas to the ground mounted equipment frame, and a radio/transceiver battery unit enclosure.

Public Hearing Deadline: ~~6/20/13~~, ~~7/8/13~~, ~~7/29/13~~, ~~9/9/13~~, 9/30/13

The applicant requested a postponement to September 30, 2013 in writing.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to postpone the item to September 30, 2013, 2013.

List of Exhibits.

- Exhibit A: Special Permit Application; received April 16, 2013; prepared by Massachusetts Electric Company d/b/a national Grid that includes:
1. Location Map
 2. Site Plan
 3. Elevations
 4. Existing conditions photographs
 5. Equipment Brochure
- Exhibit B: Postponement request to June 17, 2013; dated May 17, 2013; and to July 8, 2013; dated June 12, 2013; and to July 29, 2013; dated July 8, 2013; and to September 30, 2013; dated September 9, 2013.

UNFINISHED BUSINESS

4. 37 Fruit Street and 59 William Street (ZB-2012-076)

Amendment to Special Permit: Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Use and Structure (Article XVI, Section 4)

Petitioners: Christopher and Marjorie Bruce

Present Use: Residential and commercial

Zone Designation: BO-1.0 (Business, Office) (37 Fruit St) and RL-7 (Residential, Limited) (59 William St)

Petition Purpose: Amendment to the Special Permit granted by the Zoning Board in January 2012 to remove the condition (condition #15) that the Special Permit expires within one year

Public Hearing Deadline: 2/27/13,

Timothy Loew recused himself and left the room.

Christopher Bruce submitted a report from Quinn Engineering stating that all the conditions of the special permit have been met. Mr. Kelly stated that the property has been inspected and significant improvements have been made. Mr. Kelly stated that he agrees with the report from Quinn Engineering that the petitioner submitted.

Mr. Fontane recommended the board remove the one year condition. Mr. Abramoff stated the petitioner appears to have satisfied the conditions.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 4-0 to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 4-0 to remove the condition that the special permit would expire within one year.

List of Exhibits.

Exhibit A: Special Permit/Variance Application – 37 Fruit Street; 59 William St; received December 24, 2012 prepared by Christopher Bruce. (ZB-2012-076)

Exhibit B: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 37 Fruit Street, 59 William Street dated January 23, 2013, revised May 17, 2013, June 14, 2013, and September 6, 2013.

Exhibit C: Two Enforcement Orders from Amanda Wilson, Director of Housing/Health Inspections- Inspectional Services to Christopher Bruce, owner for 37 Fruit Street dated December 12, 2011.

- 1.) Two Enforcement Orders from Amanda Wilson, Director of Housing/Health Inspections- Inspectional Services to Christopher Bruce, owner for 59 William Street dated December 12, 2011

- 2.) Two Enforcement Orders from John Kelly, Building Commissioner to Christopher Bruce, owner, 37 Fruit Street and 59 William Street dated December 16, 2011.

- Exhibit D: Special Permit and Variance – Findings of Fact and Decision for 7 Fruit Street & 59 William Street (MBL 02-046-00036).
- Exhibit E: Letter from Nancy Tran, Division of Planning & Regulatory Services to Christopher Bruce, dated December 3, 2012.
- Exhibit F: Email from Amanda Wilson, Director of Housing/Health Inspections-Inspectional Services to Nancy Tran, Division of Planning & Regulatory Services, dated January 10, 2012.
- Exhibit G: Email from Katie Donovan, Division of Inspectional Services to Abby McCabe, Division of Planning & Regulatory Services, dated January 23, 2013.
- Exhibit H: Postponement Request Form dated January 28, 2012 to the Zoning Board of Appeals.
- Exhibit I: Letter & Plans from Carl Hultgren, Quinn Engineering, Inc. to Planning & Regulatory Services; Re: 37 Fruit Street / 59 William Street.
- Exhibit J: Request for Leave to Withdraw Without Prejudice; submitted by Christopher Bruce; dated May 29, 2013; received June 11, 2013.
- Exhibit K: Special Permit Application; prepared by Christopher Bruce; received June 11, 2013. (ZB-2013-031)
- Exhibit L: Proposed Amendment to a Definitive Parking Plan & More than (1) Building on a Lot Plan for 37 Fruit Street & 59 William Street; prepared by Quinn Engineering, Inc.; dated February 20, 2012, revised March 18, 2013 and April 25, 2013; received June 11, 2013.
- Exhibit M: Planning Board’s Amendment to Definitive Site Plan; dated May 9, 2013.
- Exhibit N: Site visit photographs; submitted by Department of Inspectional Services on September 6, 2013.
- Exhibit O: Letter from Kevin J. Quinn, Quinn Engineering, Inc. to Planning & Regulatory Services; Re: 37 Fruit Street / 59 William Street dated September 9, 2013.

NEW BUSINESS

5. Hill Top Circle – Administrative Appeal (ZB-2013-033)

Administrative Appeal: Appeal of the decision of the Inspector of Buildings / Inspectional Services Commissioner (Article II, Section 6). An appeal of a decision of the Department of Inspectional Services Commissioner in a letter dated May 7, 2013 stating that no zoning violations have taken place at 5 Hill Top Circle. The petitioners claim that the garage is being used for commercial use.

- Petitioner: Kirsten Hubbard and Brian Lewis, residents of 9 Hill Top Circle
- Present Use: Single-Family dwelling with detached garage.
- Zone Designation: RS-10 (Residence, Single-Family)

Petition Purpose: To appeal the determination of the Building Commissioner that no zoning violations have been found.

Timothy Loew rejoined the meeting. Robert Haddon recused himself and left the room.

Attorney Jonathan Finkelstein, representing the petitioners Brian and Kristen Lewis of 9 Hill Top Circle, provided an overview of the City ordinances he believes are being violated by the owner of 5 Hill Top Circle including the permitted uses by zoning district, Article IV, Section 8 A (1)(a) "Accessory Uses," Article IV, Section 8 B (5) "Limitation in Residential Districts," Article IV, Section 8, and C "Home Occupations in Residential Districts as Accessory Uses." Mr. Finkelstein stated the owner of 5 Hill Top Circle, Mr. Simulis, has violated local ordinances by running his business out of the dwelling and provided the Board pictorial evidence of equipment and work activity taking place at 5 Hill Top Circle.

Mr. Lewis, the petitioner and owner of 9 Hill Top Circle, stated that Mr. Simulis has conducted ongoing commercial activity at 5 Hill Top Circle since he first purchased the home and that Mr. Simulis allegedly acknowledged his improper usage of the property.

Mr. Finkelstein read out loud the letters from neighbors of 5 Hill Top Circle expressing concerns about commercial activity taking place in a residential neighborhood and observations of workers congregating near the dwelling and unloading equipment and materials. One letter stated the activity recently abated. Mr. Finkelstein stated the board had the authority to overturn Commissioner Kelly's decision.

Mr. Kelly stated that Inspectional Services staff visited 5 Hill Top Circle several times to view the property and speak to neighbors and did not observe any of the alleged activities taking place.

Mr. Michajlow requested to hear from Mr. Simulis. Mr. Longden, representing Mr. Simulis, stated Mr. Simulis would not attend the meeting and has placed the property at 5 Hill Top Circle up for sale due to alleged harassment by his neighbors.

Mr. Abramoff asked Mr. Lewis about the current status of the property. Mr. Lewis, stated that the activity has decreased over the past two months and that Mr. Simulis has erected a fence making it difficult to comment on the presence of equipment and materials.

Jo Hart, a member of the public, noted that each side presented valid points.

Mr. Abramoff asked Mr. Kelly for guidance as to what Inspectional Services generally acts upon. Mr. Kelly stated that his office must observe activity to issue a violation.

Mr. Fontane stated that the fact that the property is up for sale is not relevant to the consideration and that the Board must take action of the appeal.

Mr. Abramoff asked Mr. Kelly what he would do if commercial activity was observed at 5 Hill Top Circle. Mr. Kelly stated that if such activity were observed at the property, he would issue a cease and desist letter with a prescribed time frame to remedy the issues.

Mr. Michajlow noted that though staff from Inspectional Services made several visits, it may not have necessarily been at the proper times to observe the activity.

Mr. Loew asked whether a cease and desist letter would be retroactive. Mr. Kelly responded the letter would be effective as of the violation date. Mr. Loew asked if there would be a penalty associated with the violation. Mr. Abramoff stated that if a cease and desist letter is issued, there must be a prescribed time frame to remedy the issue.

Mr. Longden asked what the Board is proposing to do and if Mr. Kelly is overturned whether the property should be re-inspected prior to issuing a cease and desist letter. Mr. Kelly stated the property would be re-inspected before a letter is issued.

Mr. Abramoff proposed voting to send a cease and desist letter to Mr. Simulis without overturning the Commissioner's decision. Mr. Finkelstein stated that a finding should be found by the Board since the reason for the appeal is because the Department of Inspectional Services did not observe the violation. Mr. Michajlow asked whether Mr. Simulis has seen the pictures provided to the Board. Mr. Finkelstein stated that the pictures were sent to the Department of Inspectional Services. Mr. Longden stated that the activity is no longer happening, rendering the action moot.

Mr. Loew stated he believes there is adequate evidence presented to vote on the matter. Mr. Wanat stated that ideally the Board would postpone the matter and re-inspect the property, although there is enough evidence to approve the appeal.

Mr. Finkelstein stated that though the Department of Inspectional Services did not observe the violations, that there is sufficient evidence to determine a violation took place.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 4-0 to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 4-0 to overturn the determination of the Building Commissioner that no zoning violations have been found. The petitioners claim that the property (the garage) is being used for commercial office of use (Business Use # 18, Table 4.1) in the RS-10 zone in violation of Table 4.1 "Table of Permitted Uses", that the land use is not accessory to the predominate use in violation of Article IV, Section 8 "Accessory Uses" A(1)(a), that there is more than one commercial vehicle be kept on the lot in violation of Article IV, Section 8 B(5), and that the use is not in compliance with the home occupation in a residential district as an accessory use (Article IV, Section C).

List of Exhibits.

- Exhibit A: Administrative Appeal Application; received June 6, 2013; prepared by Kirsten Hubbard and Brian Lewis.
- Exhibit B: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 5 Hill Top Circle – Administrative Appeals (ZB-2013-033); dated August 16, 2013.
- Exhibit C: Request for Postponement from applicant's attorney Jonathan Finkelstein; dated July 16, 2013 and July 22, 2013.
- Exhibit D: Request for Postponement from subject property owner's attorney, Robert Longden; dated August 15, 2013.
- Exhibit E: E-mail from Robert Longden; Re: ZB-2013-033 - 5 Hill Top Circle, Worcester; dated September 6, 2013.
- Exhibit F: Photographs of Equipment and Activity at 5 Hill Top Circle on various dates
- Exhibit G: Snapshot of the website for Simulus Plumbing and photographs of Equipment and Activity at 5 Hill Top on various dates

6. 690 Grafton Street (MBL 34-009-12-13)

Special Permit: Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Use (Article XVI, Section 4).

Special Permit: To allow motor vehicle sales and display (Business Use # 15 & 16, Table 4.1) in a BL-1.0 (Business, Limited) zoning district

Petitioner: Skaff Auto Inc.

Present Use: Gas station, 3-bay service garage and commercial space

Zone Designation: BL-1.0 (Business, Limited) & RL-7 (Residence, Limited)

Petition Purpose: Add motor vehicle sales and display use for the outdoor display of 24 motor vehicles; other work proposed with this project is landscaping improvements, repairing the existing pavement, and restriping the lot

Public Hearing Deadline: 9/19/13

Robert Haddon rejoined the meeting. Vadim Michajlow recused himself and left the room.

Mr. Abramoff asked whether the petitioners spoke to the neighbors. Mr. Duquette, owner of Duquette's service station stated he spoke to three different neighbors who expressed no concerns with the proposal before the Board. Mr. Skaff, the petitioner, of Skaff Auto provided an overview of the existing building and conditions of the property located at 690 Grafton Street. Mr. Skaff outlined the proposed changes on the plan, and stated that the site will remain unchanged except for the addition of striping for the display of 24 motor vehicles for sale. Mr. Skaff stated he would fix pavement in areas where needed.

Mr. Kelly stated there were concerns from the neighbors regarding idling trucks. Mr. Kelly submitted photographs of trucks on the property. Mr. Abramoff asked whether the trucks were still on the property. Mr. Duquette stated that trucks are stored on a daily basis and was unclear as to what could and could not be parked at his service station. Mr. Kelly stated the property could not be used as a truck storage area and the neighborhood has complained. He noted that there is a minimum distance from residential areas to buffer from of idling trucks on the site. Mr. Duquette, owner of the service station stated all trucks will be removed from site save two for servicing. Mr. Fontane stated truck servicing is not allowed and there should not be tractor trailers on site overnight.

Maureen Finley of Summit Engineering provided an overview of changes to the plan document, including the demarcation of the various zones, the correction of types, the amount of spaces at 39 total, the screening of the dumpster and the trees. Ms. Finley stated she is concerned about site lines in relation to the caliper of trees and asked whether it is acceptable to relocate trees. Mr. Fontane stated it is acceptable to relocate the trees as long as they are on their property.

Mr. Abramoff asked about snow storage. Ms. Finley stated it would be located at the back of the site. Mr. Skaff stated that the hours would be Monday through Friday, 8:00 AM to 5:00 PM.

Mr. Abramoff asked about the dimensions of the signs on site. Mr. Skaff stated he would remove the signs. Mr. Fontane stated the signs do not need to be removed if they adhere to the sign ordinance.

Mr. Loew asked whether any additional lighting was to be incorporated into the project. Mr. Skaff stated no additional lighting would be needed because there were already 4 floodlights.

Mr. Wanat asked what the treatment will be at the edge of the landscape buffer. Ms. Finley stated they had not yet specified. Mr. Duquette asked the Board's preference. Mr. Wanat stated that berm would be fine. At the request of Mr. Wanat, Ms. Finley shared a sketch of the width of the entrance and exit.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to close the hearing.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to approve the special permit with conditions that:

- Landscaping be installed prior to commencing of vehicle sales and car display use;
- The applicant applies for a motor vehicle sales license from the Worcester Police Department;
- That the car display and customer parking spaces be striped as shown on the plan;
- That parking of vehicles for customers, display, sale or repair shall be not stored in undesignated spaces;
- That no more than twenty-four (24) spaces be on display for sale at one time;
- That eight (8) revised copies¹ of the parking plan be submitted to the Division of Planning & Regulatory Services showing the following changes
 - Landscaping table with quantity and type of plantings proposed (trees shall be minimum 3” caliper, Asian Longhorned Beetle-resistant and planted 20-25’ on center).

and that the petitioner re-pave parking area as needed, no trailer trucks are parked on site unless they are receiving service or delivering goods, and asphalt berm is installed along the parking area.

List of Exhibits.

- Exhibit A: Special Permit Application; prepared by Skaff Auto Inc.; received July 16, 2013.
- Exhibit B: Proposed Site Plan & Parking Plan; dated prepared by Summit Engineering & Survey, Inc.; dated and received July 16, 2013.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 690 Grafton Street; dated August 15, 2013, revised September 6, 2013.
- Exhibit D: Letter from Renfrew St. Residents to the Zoning Board; re: 690 Grafton Street; dated August 7, 2013 and received August 9, 2013.
- Exhibit E: Proposed Site Plan & Parking Plan; dated prepared by Summit Engineering & Survey, Inc.; dated July 16, 2013; revised July 24, 2013 and September 6, 2013; received September 6, 2013.
- Exhibit F: Email from Maureen Finlay, P.E. to Nancy Tran, Senior Planner; re: 690 Grafton – Planning Board Application; dated September 6, 2013.
- Exhibit G: Photos of trucks idling at Duquette’s Service Station.

7. 12 Rodney Street (MBL 16-007-00025)

¹ Total of eight to be distributed to staff and between Zoning Board of Appeals and Planning Board files

Special Permit: To allow a residential conversion from a two unit to three unit -family dwelling in an RG-5 Zoning District (Article IV, Section 9)

Special Permit: Modification of Parking/Loading Requirements (Article IV, Section 7)

Petitioner: Kerley Deoliveira

Present Use: Two-family residential structure

Zone Designation: RG-5 (Residence, General)

Petition Purpose: Add an additional ~400 SF unit in the basement to increase the total number of units on the premises from two to three and relief from providing two parking spaces for the new unit; no other work is proposed on site

Public Hearing Deadline: 10/5/13

Mr. Kerley DeOliveira, owner of the property, stated that he would like to add a small unit to the basement of his investment property.

Luba Zhaurova stated that staff believes that the project was incorrectly advertised with respect to relief requested and that a variance is needed for the parking. Staff recommends postponement of the item in order to allow time to re-advertise the petition for proper relief. Mr. Kelly stated Ms. Zhaurova is correct and that a variance would be needed for the parking.

Mr. Abramoff stated the petitioner must re-advertise and therefore the matter may be postponed. Luba Zhaurova stated that staff is willing to work with the petitioner to be heard on September 30, 2013.

Mr. DeOliveira stated that he has always provided sufficient parking spaces, (7 spaces). Mr. Abramoff stated that based on a site visit, it does not appear that there are 7 compliant parking spaces.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to postpone the item to September 30, 2013.

List of Exhibits.

Exhibit A: Special Permit Application; received August 1, 2013; prepared by Kerley Deoliveira.

Exhibit B: Plan of Land for 12 Rodney Street; dated prepared by Baille & Company Land Surveying & Research; dated December 1, 2003; received August 1, 2013.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 12 Rodney Street; dated September 6, 2013.

Exhibit D: Email from Kerley Deoliveira re: Zoning Board Special Permit Application 12 Rodney Street; dated and received September 4, 2013.

8. 140 Goddard Memorial Drive (MBL 56-010-0003A)

Special Permit: Modification of Landscaping Requirements for Parking/Loading (Article IV, Section 7)
Petitioner: 140 Goddard Memorial Drive, LLC
Present Use: Vacant undeveloped ~5.3 acre lot
Zone Designation: A-1 (Airport)
Petition Purpose: Construct a new 500 space non-accessory parking lot for non-residential use; Petitioner is requesting relief from providing 16 trees and 26 shrubs within the required landscape buffer along Goddard Memorial Drive (located north and northeast of the northerly entrance/exit) and 14 interior trees

Public Hearing Deadline: 10/10/13

Attorney Steve Madaus, on behalf of the 140 Goddard Memorial Drive, LLC, stated that the applicant is proposing to construct a new 500 space non-accessory parking lot for non-residential use on property at 140 Goddard Memorial Drive which is currently a 5.33 acre vacant parcel of land. Mr. Madaus stated that based on the opinion of three separate landscape architects, trees and shrubs would not survive as proposed, and the petitioner is seeking relief from providing 16 trees and 26 shrubs along Goddard Memorial Drive (north of the proposed main driveway). Mr. Madaus stated that any landscape relief provided would not be detrimental to the screening effect due to a difference of elevations and that this relief is necessary to avoid substantial delay to the project.

Ms. Zhaurova stated that a total of 25 trees are required along Goddard Memorial Drive based on the frontage length (~620') of the proposed use, but 12 are proposed. While relief of 16 trees was requested, only 13 trees within the landscaping buffer along Goddard Memorial Drive are required. Ms. Zhaurova also stated that the ZBA could not address the request for relief regarding the interior landscaping because that was under the Planning Board's purview. Staff recommends that all required interior trees and plantings be provided within the islands. Mr. Abramoff asked whether the Board is granting relief for 13 trees and a specific number of shrubs. Joel Fontane stated there are no specific number of shrubs required, and recommended that the Board grants relief to the petitioner.

Jo Hart, Worcester resident, stated that the parking lot would pose an impediment to the airport and contribute to air pollution.

Mr. Loew asked what the petitioner intends to do with snow, whether additional lighting is needed, and whether a bus shelter would be constructed. Mr. Madaus stated that the snow storage area was shown on the plans. Michael O'Hara, manager of 140 Goddard Memorial Drive, LLC, stated that snow would be stored at the lower part of the site at both corners and that any heavy snow would be taken off site. He stated that the site would be well lit and occupied 7:00 AM – 10:00 PM Monday through Thursday and 7:00 AM – 7:00 PM on Friday, Planning Board approved the lighting plan, and shuttle vans would pick up students and faculty from the shelters that will be installed.

Mr. Michajlow asked whether the petitioner is aware of all conditions recommended by the Board. Mr. Madaus stated that he was.

Mr. Madaus stated he was not previously informed that the petitioner needed to go to the planning board for relief regarding interior parking landscaping and asked whether the Board could address the interior trees as well. Ms. Zhaurova stated the Board did not have the authority to grant relief of the interior trees.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to close the hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the requested Special Permit for Modification of Landscaping Requirements for Parking/Loading with respect to parking buffer along the street by providing relief of 13 trees and 26 shrubs with the following conditions of approval:

- That ten (10) revised copies of the parking plan be submitted to the Division of Planning & Regulatory Services showing the following changes:
 - Correct the number of proposed landscaping – landscaping table quantity of Gingko Biloba trees proposed or Gingko Biloba trees depicted; clarify discrepancy between number of trees shown on the plan and the number of trees indicated in the table.

List of Exhibits.

- Exhibit A: Special Permit Application; prepared by Graves Engineering, Inc.; received August 6, 2013.
- Exhibit B: Existing Conditions, Demo, and Sediment & Erosion Control Plan; prepared by Graves Engineering, Inc.; dated June 10, 2013, revised July 23, 2013 and August 2, 2013; received August 6, 2013.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 140 Goddard Memorial Drive; dated September 6, 2013.

DECISIONS FROM PRIOR MEETINGS

There were no decisions from prior meetings.

APPROVAL OF THE MINUTES

There were no minutes available for approval.

ADJOURNMENT

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 5-0 to adjourn the meeting at 7:51 p.m.