

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

September 30, 2013

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM

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

Zoning Board Members Absent: None

Staff Present: Luba Zhaurova, Division of Planning & Regulatory Services
Marlyn Feliciano, Division of Planning & Regulatory Services
John Kelly, Department of Inspectional Services

Board Site Views

CALL TO ORDER

Chair Abramoff called the meeting to order at 5:30 p.m.

RECOGNITION

Chair Abramoff presented a certificate to Mr. Bilotta to recognize his years of service on the Zoning Board.

**REQUESTS FOR CONTINUANCES, EXTENSIONS OF TIME, POSTPONEMENTS,
WITHDRAWALS**

1. 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 3 WiMAX mounted antenna and 2 microwave antennas 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 a 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

Ms. Zhaurova stated that the petitioner requested a postponement in writing to the October 21, 2013 meeting.

Upon a motion by Mr. Michajlow and seconded by Mr. Bilotta, the Board voted 5-0 to postpone the item to October 21, 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; and to October 21, 2013; dated September 30, 2013.

2. 5/7 Arctic St (aka 284 Franklin St), 25, 38, 45 Arctic Street; 14 Hygeia St (aka 8-10 Hygeia St), 1, 23 Hygeia Street and 290 Franklin Street (ZB-2013-042)

Special Permit: To modify the number of required parking spaces up to a maximum of 10% (Article IV, Section 7, (A) (2)). Relief of 76 off-street parking spaces.

Variance: Relief of 202 off-street parking spaces (total of 768 required for the 384 dwelling units)

Petitioner: DOK Realty LLC

Present Use: Vacant warehouse buildings

Zone Designation: BG-3.0 (Business, General) and BCPOD (Blackstone Canal Parking Overlay District)

Petition Purpose: Demolish the existing buildings and construct a seven-story residential apartment building with 384 units (6 residential floors with 2 parking levels). A total of 490 off-street parking spaces are proposed within the building and at 38 Arctic Street (768 spaces required); Special Permit request for relief from providing 10% of required parking – 76 spaces and a Variance from providing 202 required off-street parking spaces (total relief of 278 parking spaces)

Public Hearing Deadline: 10/31/13

Constructive Grant Deadline: 12/5/13

The Petitioner, Tony Kwan, requested for Leave to Withdraw Without Prejudice as the Petitioner has modified its original plans so that a Special Permit and/or a Variance will not need be required.

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the Board voted 5-0 to approve the Leave to Withdraw Without Prejudice.

Upon the petitioner's request the Board allowed the Petitioner to do a brief presentation about the project despite the fact that, at the moment, the petitioner no longer needs to appear before this board.

List of Exhibits.

- Exhibit A: Variance and Special Permit Application for 284 Franklin St (aka 5 & 7 Arctic St), 25, 26, 38 & 45 Arctic St, 14 Hygeia St (aka 8 & 10 Hygeia St and fka 10 Plastics St); 23 Hygeia St; received August 27, 2013; prepared by DOK Realty LLC.
- Exhibit B: Variance and Special Permit Plan for 284 Franklin St (aka 5 & 7 Arctic St), 25, 26, 38 & 45 Arctic St, 14 Hygeia St (aka 8 & 10 Hygeia St and fka 10 Plastics St); 23 Hygeia St; prepared by JH Engineering Group LLC; undated and unstamped; received August 27, 2013.
- Exhibit C: Letter to the Zoning Board of Appeals from John N. Altomare, Esquire; re: Public Hearing Notice\DOK Realty LLC, Petitioner; dated September 24, 2013; received September 23, 2014.
- Exhibit D: Letter to the Zoning Board of Appeals from Norman Picard of New England Sign Group; re: Public Hearing Notice/DOK Realty LLC, Petitioner; dated September 24, 2013.
- Exhibit E: Letter to the Zoning Board of Appeals from Tony Kwan; re: John N. Altomare, Esq., Representative for Owner of 33 Arctic Street; dated September 23, 2013.
- Exhibit F: Letter to the Zoning Board of Appeals from Jon P. Carlson of FlexOgraphic Printing Plate Co., Inc.; re: letter to city re Arctic St. Parking; dated September 24, 2013.
- Exhibit G: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 5/7 Arctic St (aka 284 Franklin St), 25, 38, 45 Arctic Street; 14 Hygeia St (aka 8-10 Hygeia St), 1, 23 Hygeia Street and 290 Franklin Street (ZB-2013-042); dated September 25, 2013.
- Exhibit H: Request to Leave to Withdraw Without Prejudice; submitted by Jeffrey Howland; dated September 26, 2013; received September 25, 2013.

NEW BUSINESS

3. 525 Lincoln Street (aka 525-545) Lincoln Street (ZB-2012-049)

- Special Permit: To convert both faces of a non-accessory freestanding billboard sign to a digital sign
- Petitioner: Clear Channel Outdoor
- Present Use: Commercial shopping center

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

Mike Maurello, representing Clear Channel Outdoor, stated his request to convert the eastern-most static sign into a digital sign.

Ms. Zhaurova stated that the applicant had applied last summer. Initially, it was determined that the entire site had to comply with the current sign ordinance and therefore the applicant needed to apply for a Comprehensive Sign Permit before the Planning Board. Because of this the application had been postponed. However, after various internal discussions with the City's Law Department, as well as the Petitioner's attorney, the Law Department determined that, while the original intent was to require lots with billboards to be converted to digital signs to comply with all sign requirements, it was determined that the language in the existing ordinance does not reflect this intent. It was also determined that there was a defect in the ordinance and therefore the City determined that the Comprehensive Sign Permit was not necessary. As a result, the Petitioner withdrew its previous petition for a Comprehensive Sign Permit and is now in front of this Board again.

In regards to the new petition, Ms. Zhaurova stated that the Petitioner is proposing for one of the existing two static signs to be converted into a two-sided digital billboard sign. The existing billboard signs comply with maximum size and minimum space between the two of them, but the length and height are in non-compliance. Also, current signage ordinance only allow for one billboard sign per site, however, a Special Permit can be submitted to waive these requirements.

Ms. Zhaurova also added that, when reviewing these types of requests, staff considers the traffic implications. The applicant submitted a traffic study and after further consideration, staff recommends approval of the Special Permit.

The Chairman asked if the Board needed to specify specific operations of the digital sign to which the Staff responded that the existing ordinance covers how digital signs must be operated.

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

Alternate Loew was identified to vote on this matter. Upon a motion by Mr. Michajlow and seconded by Mr. Bilotta, the Board voted 5-0 to approve the requested Special Permit to convert both faces of the static non-accessory freestanding billboard sign (672 SF per face) to a digital sign of same dimensions with the following application requirement waivers:

- "Photographs taken within the last 30 days showing all existing signs on site labeled as to which signs will be kept and which ones removed."

Site Plan of the entire parcel and all existing signs,

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, and December 11, 2012.

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).

Exhibit F: Traffic Study including:

- a) Traffic Summary titled “Worcester I-290 Westbound/Eastbound 1,200 fee south of On-Ramp from Plantation Street; 1,200 feet east of Mile Marker 9”; prepared by BSC Group, Inc.; dated May 13, 2013;
- b) Mass DOT Segment Crash Rate Worksheet
- c) Plan prepared by BSC Group; titled Locus Map – Interstate-290; Worcester, Massachusetts; dated May 13, 2013.
- d) Collision Diagram 2010 & 2011 Data for Interstate-290; prepared by BSC Group; dated May 13, 2013.

Exhibit G: Application Waiver Request submitted by Michael Aurello; dated September 25, 2013.

4. 12 Rodney Street (ZB-2013-038)

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)

Variance: Relief of four off-street parking spaces (total of six required for the three dwelling units)

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 four parking spaces for the new unit.

Public Hearing Deadline: 10/5/13

Constructive Grant Deadline: 11/9/13

Mr. Deoliveira expressed his intentions to add a residential unit in the basement and convert his existing two-family home to a three-family. He also stated he would open up the existing garage, which has been used for storage purposes, in order to provide additional parking spaces.

Ms. Zhaurova stated that this item was postponed from the last meeting because the variance was not advertised. The petitioner is requesting a Special Permit for a residential conversion, from two units to three units, because the lot itself does not comply with dimensional requirements. Ms. Zhaurova also mentioned that a Variance for the relief of four off-street parking spaces is required.

Ms. Zhaurova stated that given the availability of on-street parking in the neighborhood and the minimal impact of a small residential unit, on-street parking will not increase significantly. Also, the neighborhood is dense and many buildings in the area do not comply with the dimensional requirements, therefore staff recommends approval.

The Chair asked Mr. Kelly, Inspectional Services, if the structure would physically support a new residential unit in the basement. Mr. Kelly responded that will be reviewed when a Building Permit is approved .

The Chair asked how many total parking spaces will be available and Mr. Kelly responded that only two spaces because parking is not allowed in the side yard setback.

Mr. Bilotta asked how vegetation treatments in the buffer areas and snow-plowing will be handled. The petitioner responded that he will continue to maintain the buffer areas with vegetation and the snow plowing will be done responsibly.

The Chair also asked the Petitioner if he was amenable to the conditions of approval and the petitioner stated that he was.

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

Mr. Haddon was identified to vote on this item. Upon a motion by Mr. Michajlow and seconded by Mr. Bilotta, the Board voted 5-0 to approve the requested 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) and the requested Variance for relief of four off-street parking spaces with the following conditions:

- That there be no changes to the external appearance of the structure except for new doors, windows, fire escapes, and / or stairways;
- That the structure and use are operated in substantial accordance with the final approved plan;
- That no parking will be provided in the front-yard setback (on the south side of the building between the garage and the building);
- That the fence along the southerly property line be repaired and maintained in good condition.

List of Exhibits

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

- 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, revised September 25, 2013.
- Exhibit D: Email from Kerley Deoliveira re: Zoning Board Special Permit Application 12 Rodney Street; dated and received September 4, 2013.
- Exhibit E: Supplemental Material - Variance Application; prepared by Kerley Deoliveira; received September 24, 2013.

5. 1239, 1241 & 1243 Millbury Street (ZB-2013-040)

- Special Permit: Open lot storage (Table 4.1, Manufacturing Use #8)
- Special Permit: Modification of Landscaping Requirements for Parking/Loading (Article IV, Section 7) – requesting a waiver of a landscaped 5-ft buffer
- Petitioner: Francise Yeboah
- Present Use: ~40 unregistered vehicles at 1239 Millbury Street and retail food sales at 1241 Millbury Street
- Zone Designation: MG-1.0 (Manufacturing, General)
- Petition Purpose: Special Permit request for open lot storage use to park a total of 45 unregistered vehicles at 1239 and 1243 Millbury Street; relief from providing the required landscape buffer along Millbury Street (southerly portion fronting 1243 Millbury Street) and Cliff Street

Public Hearing Deadline: 10/19/13

Attorney Richard Considine, representing the petitioner, stated that Mr. Yeboah has read the recommendations prepared by the City Staff, and is willing to accept all of those recommendations and is now submitting a new plan, which reflects these recommendations. Mr. Considine also mentioned that Mr. Yeboah intends to use this space for the storage and sale of used vehicles.

The Petitioner, Mr. Yeboah, briefly described his operations, including storing used vehicles, selling cars, and shipping these cars to another site. Mr. Yeboah stated that he will employ 6 employees. He reminded the Board that he will adhere to all the recommendations made, including keeping all the buffers clean.

Ms. Zhaurova described the two Special Permit requests filed by the Petitioner, the use of an open lot storage facility and the modification of landscaping requirements. Ms. Zhaurova stated that there is a non-compliant landscape buffer on 1239-1243 Millbury Street. Mr. Yeboah stated that he will comply will all conditions of approval.

Mr. Abramoff asked the petitioner if he was aware of a letter from one of his abutters, which states that he may be operating a junk yard and is causing traffic when off-loading vehicles on the street. The petitioner responded that he does not operate a junk yard, that no vehicles are dismantled on site, and that furthermore, the one time a vehicle had to be off-loaded on the street, as normally all vehicles are off-loaded on site, he noticed that an abutter took a picture of this vehicle.

When asked by the Board about his hours of operation, including trucking operations (off-loading and loading on site), Mr. Yeboah stated that this will only occur from 9:00AM to 6:00PM on weekdays, with the exception of the used –car sales business component, which operated in the weekends as well.

When asked by the Board as to how long the cars stand on site the Petitioner’s response was that, at most, a vehicle will not stay on site beyond one month. On the question about keeping parts on site, the response was that no vehicle parts are kept on site since no dismantling or repairs occurs onsite.

When asked by the Board about the recommendations made by the staff, the Petitioner’s response was that he was aware of all of them. The Board raised concerns about traffic circulation issues on site. These concerns were addressed by the Petitioner to the Board’s satisfaction.

Richard Anderson, property owner of 1265 Millbury Street, stated that the lot is a junk yard and is an eyesore. He stated that as of the day of this meeting there were 71 wrecked vehicles on site . According to Mr. Henderson, there are other junk yards in the neighborhood and they are kept nicely, in terms of buffers and vegetation, but this one is not. He added that he has noticed activity, including loading and off-loading vehicles as early as 5:00AM. He also mentioned that none of the cars on this lot are operable and a truck does block the road when loading and off-loading. He added that some of these wrecked vehicles may be spilling contaminants on the ground. . Finally he stated that he believed this was not an operation to sell cars but only to store them and ship them elsewhere.

Mr. Tom Mazzeo, an abutter from Grafton, MA, mentioned that when this business moved into the neighborhood they “tied” into his fence without permission. He mentioned that cars are all damaged and not drivable and they have devalued the assessed value of his property, as this business is running a junk yard. Mr. Mazzeo’s wife, who was also present, stated that in many instances, as a result of their operations, their driveway has been blocked by these trucks as they off-load vehicles from the street to the site. Lastly, Ms. Mazzeo stated that this business also loads and off-loads vehicles on the weekends.

The Board asked Mr. Kelly for clarification on the difference of a junk yard and a car lot sales use in the context of Zoning. Mr. Kelly said that this Board sets the limitation on the uses to be allowed and the controls are the responsibility of the Police and Fire Prevention. The Board asked is this business was currently in violation of the Zoning Ordinance to which Mr. Kelly responded that a Cease and Desist order was issued, which prompted the application.

Mr. Bilotta asked the petitioner how many years he has been in operation and how many cars he has sold since, to which the petitioner responded that he has been in operation for two years and that has never sold a vehicle. Mr. Bilotta also asked if there were contaminants spilled on the property from the wrecked cars. The petitioner responded that prior to the transport of these cars from the auction; these cars are drained of any hazardous liquids.

Upon a motion made by Mr. Wanat and seconded by Mr. Bilotta, the Board voted 5-0 to continue this item for the October 21, 2013 meeting.

List of Exhibits

- Exhibit A: Special Permit Application; prepared by Francise Yeboah; received August 19, 2013.
- Exhibit B: Parking Plan; prepared by Viacad, LLC; dated June 25, 2013.

- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 1239, 1241 & 1243 Millbury Street; dated September 27, 2013.
- Exhibit D: Letter from Thomas & Marilyn Mazzeo of Reliable Cash Register, Inc. to the Division of Planning and Regulatory Services; re: 1239 Millbury Street; dated and received September 24, 2013.
- Exhibit E: Pictures submitted by Marilyn Mazzeo, abutter, received September 30, 2013.

6. 1121 Grafton Street (ZB-2013-041)

- Special Permit: To allow a food service establishment that includes consumption/sale of alcoholic beverages (Business Use #8)
- Petitioner: Paesano Pizzeria LLC
- Present Use: Commercial building with 27 off-street parking spaces
- Zone Designation: BL-1.0 (Business, Limited)
- Petition Purpose: Operate a ~1,645 SF food service facility serving/selling alcohol with a 14-seat capacity

Public Hearing Deadline: 10/23/13

Ms. Nancy Bianco, owner of Paesano Pizzeria, and Mr. Raymond Leopolito, representing the Petitioner, were present for this item. Mr. Leopolito stated their request is for a Special Permit to allow for the consumption/sale of alcoholic beverages.

Ms. Zhaurova stated that this property has been before the Zoning Board in the past and she reviewed previous conditions of approval that have not been complied with, mainly parking in what should be the landscaping buffer and the unsightly dumpster area. She stated that staff did not have an objection to the proposal but property should be in compliance before approving the petition.

Mr. Abramoff stated that he was concerned about the amount of parking onsite and the non-compliance with the previous conditions of approval. Mr. Bilotta stated that he could not approve the item if the applicant is not compliant with the previous conditions of approval.

Scott Ricker, an abutter, stated that he was glad that the site was redeveloped and believes it looks wonderful. He asked, however, for ADA accessibility and at least one more handicapped accessible parking space to be located on site.

Mr. Leopolito asked for a continuance to look into the matter further. Upon a motion made by Mr. Loew and seconded by Mr. Bilotta, the Board voted 5-0 to continue this item for the October 21, 2013 meeting.

List of Exhibits.

- Exhibit A: Special Permit Application; prepared by Paesano Pizzeria, LLC; received August 19, 2013.
- Exhibit B: Floor Plan for Anthony Bianco, 1121 Grafton St; prepared by J.R. Associates; dated May 14, 2012; received August 19, 2013.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re:1121 Grafton Street; dated; September 24, 2013; revised September 30, 2013.

DECISIONS FROM PRIOR MEETINGS

The Board signed the following decisions: 5 Hill Top Circle, 37 Fruit/59 William Streets, 140 Goddard Memorial Drive, 690 Grafton Street, 184 Highland Street and 2 Einhorn Street.

APPROVAL OF THE MINUTES

Upon a motion by Mr. Loew and seconded by Mr. Bilotta, the Board voted 6-0 to approve the minutes from 7/8/13, 8/19/13, and 9/9/13.

ADJOURNMENT

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the Board voted 6-0 to adjourn the meeting at 7:20 p.m.