

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

July 16, 2012

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM

Zoning Board Members Present:

Andrew Freilich, Chair
Lawrence Abramoff, Vice-Chair
William Bilotta
Vadim Michajlow
Kola A. Akindele
Timothy Loew

Staff Present:

Joel Fontane, Division of Planning & Regulatory Services
Deborah Steele, Division of Planning & Regulatory
Services
John Kelly, Department of Inspectional Services

Board Site Views

CALL TO ORDER

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

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

1. 65 Oneida Avenue (ZB-2012-039):

Attorney Mo Bergman appeared on behalf of the petitioner, John McCabe, and requested a postponement until the August 13, 2012 Zoning Board of Appeals meeting. Upon a motion by Mr. Abramoff and seconded by Mr. Akindele the Board voted 6-0 to postpone the meeting to August 13, 2012.

List of Exhibits.

- Exhibit A: Variance Application; received June 11, 2012; prepared by John E. McCabe.
- Exhibit B: Variance Plan; dated January 27, 2009, last revised 6/9/2011; prepared by George Edward Smith III.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 65 Oneida Avenue, revised July 13, 2012.

Exhibit D: Worcester Registry of Deeds Plan Book 31, Plan 18 for lots 181 and 182 (dated 1917).

2. 28 Garden Street (ZB-2012-041):

Attorney Robert Longden appeared on behalf of the petitioner, Lamar Advertising Company, and requested a postponement until the August 13, 2012 Zoning Board of Appeals Meeting.

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 6-0 to postpone the meeting to August 13, 2012.

3. 140 Higgins Street (ZB-2012-040):

Attorney Stephen Madaus appeared on behalf of the petitioner, Lutco International Inc, and requested a postponement until the August 13, 2012 Zoning Board of Appeals meeting. Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 6-0 to postpone the meeting to August 13, 2012.

List of Exhibits.

Exhibit A: Variance & Special Permit Application; received July 13, 2012; prepared by Atty. Stephen Madaus.

Exhibit B: Parking Plan; dated June 12, 2012; prepared by Graves Engineering Inc.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 140 Higgins Street; dated July 13, 2012, revised, July 16, 2012.

4. Economic Development Overview Presentation by Timothy McGourthy, Chief Development Officer

Timothy McGourthy, Chief Development Officer for the City of Worcester thanked the Zoning Board for their work and gave an overview of the economic development initiatives and planning efforts taking place in the City of Worcester. In summary, Mr. McGourthy discussed the City's wayfinding/signage plan; streetscape improvements both underway and planned in the future, as well as the theater district collaboration with Worcester Business Development Corporation. He also discussed the proposed extension of Front St. to Union Station as part of the City's public infrastructure improvements related to CitySquare, stating that the reconnection will position all of downtown as a more transit oriented development.

Exhibit A: Economic Development Presentation presented by Timothy McGourthy – Chief Development Officer.

OLD BUSINESS

5. 59 Granville– (ZB-2012-024):

Attorney Donald O’Neil appeared on behalf of the applicant, Edward Rodriguez on request for Variances for:

Existing dwelling (Lot 65):

- 1) Relief of 7-ft from the 65-ft frontage dimensional requirement (58-ft proposed);
- 2) Relief of 794SF from the 7,000 SF gross dimensional area requirement (6,206 SF proposed);
- 3) Relief of 1.2-ft from the 8-ft side yard setback dimensional requirement;

Proposed dwelling (Lot 66):

- 4) Relief of 5-ft from the 65-ft frontage dimensional requirement for the proposed dwelling (60-ft proposed);
- 5) Relief of 580SF from the 7,000 SF gross dimensional area requirement for the proposed dwelling (6,420 SF proposed).

to construct an additional single-family detached dwelling and to separate the lot into two lots.

Mr. O’Neil stated since the last meeting they have made revisions to the plan and they pulled the new proposed building closer to the street so it is more aligned with existing dwellings on the street. They also shifted house away from the direct abutter and the driveway will be aligned with the existing curb cut. That they will also install arbor vitae hedge in between 59 Granville to provide additional buffer. Parking will be provided and proposed house will have a two car garage and they will be in compliance with the off street parking requirements.

Mr. Fontane reminded Board that Mr. Abramoff was not present for initial meeting so would be unable to vote on this item.

Mr. O’Neil stated this lot size is consistent with other lots in the area.

Mr. Michajilow stated that the plans seems to meet the criteria for a variance.

Mr. Bilotta stated putting in this additional project would make the lot tight and he would be against second house being packed into this area.

Mr. O’Neil stated they will not be squeezing in and house is in-line with other lots in the neighborhood.

Chairman Freilich stated that Board has reviewed all the letters submitted by neighbors and understand their position.

Tony Economou, District I, City Councilor stated due to the Asian Long Horn Beetle many trees have been removed from area which will cause drainage problem. It will also create more parking problems and stated approving this would be a detriment to the neighborhood.

Ann Klump, an abutter to the property, stated she was in objection to the application. She stated she has lived in the area for forty years. She feels this project will bring more drainage and parking problems to the area.

Maya Elisayeff, stated she was an abutter to the property and she is in opposition to proposal and she does not feel it will improve the value of her home and this project will reduce the amount of green space in the neighborhood which has already been dramatically reduce due to the Asian Long Horn Beetle problem.

Chairman Freilich asked if Mr. Rodriguez if when he bought the property did he know the lot was non-conforming.

Mr. Rodriguez stated when he bought the property he saw the deed and Assessment records and did see that.

Marie Gut, an abutter to the property, stating she was in opposition due to the reduction in green space in neighborhood and increase in drainage problems.

Nicolas Coporelli stated his property is opposite the property in question and he is in opposition to this proposal due to increase parking problems and does not believe applicant plans to even live in the property.

Mr. Abramoff stated even though he cannot vote on item he did go by the property and feels bad to see all the destruction of the trees in the neighborhood and with regard to the drainage issue that would have to be house by house. He also believes the lot size is similar to other properties in neighborhood and believes there is adequate parking and if was voting he would vote in favor on them item.

Chairman Freilich stated he went back to property for a second visit and stills feels like a house is being jammed into lot and he will not be voting in favor of the project.

Mr. Michajilow stated his position is clear on the matter and will vote in favor.

Mr. Akindele stated he would agree with Mr. Michajilow and be in favor.

Mr. Loew stated that he agrees with Mr. Michajilow and Mr. Akindele.

Mr. Bilotta stated he would not be in support.

Chairman Freilich asked if applicant would like Board to close the hearing and vote on the matter.

Attorney O'Neil stated he would like the Board to vote on them item.

Upon a motion by Mr. Billotta and seconded by Mr. Michajilow the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Michajilow and seconded by Mr. Akindele the Board voted 3-2 to approve the Variances: Vadim Michajilow, Kola A. Akindele and Timothy Loew voting in the affirmative and Andrew Freilich Freilich and William Bilotta voting in the negative.

The motion failed, therefore, the requested Variances were denied.

Mr. Fontane stated the Board needed to vote and discuss the denials for Findings of Fact.

Upon a motion by Mr. Bilotta and seconded by Mr. Akindele the Board voted 5-0 to accept the findings of facts as follows:

A literal enforcement of the provisions of the Zoning Ordinance would involve substantial hardship, financial or otherwise, to the petitioner(s) for the following reasons:

The applicant did not demonstrate that any hardship, financial or otherwise, would be created if the Variances were not approved.

Said substantial hardship is owing to circumstances relating to the soil condition, shape or topography of such land or structure for the following reasons:

The applicant did not present any testimony that any hardship had been created due to soil conditions, shape of topography of such land or structure.

Desirable relief may be granted without detriment to the public good for the following reasons:

The Board determined that granting the Variances at this location would be detrimental to the public good as another house at this location would not fit with the character of the neighborhood.

List of Exhibits.

- Exhibit A: Variance Application; received March 20, 2012; prepared by Edward Rodriguez.
- Exhibit B: Variance Plan of Land; dated March 7, 2012; prepared by HS&T Group, Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 59 Granville Avenue; dated April 20, 2012, revised April 23, 2012, May 11, 2012, June 13, 2012, July 13, 2012.
- Exhibit D: Letter of Opposition from Mike Carlson on April 20, 2012.
- Exhibit E: Letter of Opposition from Donna Gustafson on April 20, 2012.
- Exhibit F: Letter of Opposition from Marian Ouimette on April 20, 2012.
- Exhibit G: Letter of Opposition from Maya Elisayeff on April 21, 2012.
- Exhibit H: Letter of Opposition from Ann and John Klump on April 23, 2012.

6. 888 Grafton Street – (ZB-2012-034):

Brendan Ly is the petitioner for:

Special Permit: Non-residential use allowed by a Special Permit (Article IV, Section 2, Table 4.1) – a personal service shop in the RL-7 zoning district.

Variance: Vacant building formerly used as a two-family residential dwelling

The petitioner was seeking to convert an existing 1,495 SF two-family residential dwelling into a personal service shop and a single-family dwelling unit. The subject parcel is a 6,010 SF lot, in an RL-7 zone and located at the corner of Grafton Street and

Arcadia Street. The proposed personal service shop would use 230 sq. ft. on the first floor.

Mr. Fontane stated that Mr. Ly had submitted via email a request for Leave to Withdraw for the Special Permit but did not specifically state he would like Leave to Withdraw for the Variance.

Mr. Fontane stated that staff from Department of Planning & Regulatory Services had contacted Mr. Ly via phone and stated they needed in writing request for Leave to Withdraw for Variance also but Mr. Ly stated he was too busy to provide that and did not plan to attend the Zoning Board meeting being held that evening.

Mr. Abramoff asked whether the item could be postponed to the next meeting.

Mr. Fontane stated item could not be postponed as next meeting would be pass the final action deadline of August 11, 2012.

Mr. Michajilow asked whether Board could deny the item for applicant not showing up.

Mr. Loew stated that the Special Permit and the Variance are linked therefore he would interpret that applicant meant to withdraw both petitions.

Mr. Fontane stated the Board cannot do a Leave to Withdraw for the applicant and runs the risk of applicant coming back in at future date saying the Variance is approved.

After discussion the Board determined that due to the email and the phone conversation with Planning Staff that Mr. Ly's intention was to withdraw both the request for a Special Permit and request for a Variance.

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to grant Leave to Withdraw for both the Special Permit and the Variance.

List of Exhibits.

- Exhibit A: Variance Application; received May 3, 2012; prepared by Brendan V. Ly.
- Exhibit B: Variance Plan; not dated, prepared by Brendan V. Ly.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 888 Grafton Street; dated May 31, 2012, revised June 19, 2012, June 25, 2012 by LZ, June 19, 2012, July 13, 2012.
- Exhibit D: Letter of Opposition from Antonio Di Rodi, dated May 26, 2012.
- Exhibit E: Updated Variance Plan, not dated, prepared by Brendan V. Ly, received June 5, 2012
- Exhibit F: Updated Variance Plan, not dated, prepared by Brendan V. Ly, received June 12, 2102.
- Exhibit G: Letter of Opposition from Ben Grigaliunas & Family, dated June 12, 2012.
- Exhibit H: Leave to Withdraw – Variance Request; from Brendan V. Ly, dated June 13, 2012.
- Exhibit I: Variance Request, from Brendan V. Ly,dated July 3, 2012.

Exhibit J: Leave to Withdraw – Special Permit Request, from Brendan V. Ly, dated July 13, 2012.

NEW BUSINESS

7. 5 Clifton Street (ZB-2012-037):

Hossein Haghanizadeh from HST Group, appeared on behalf of the petitioner, Angelo Gianakis. Mr. Haghanizadeh stated petition is for a Special Permit for Residential conversion of a two family to a three family dwelling (Article IV, Section 9). The applicant would like to convert the existing two-family to a three-family residential dwelling would provide 6 off-street parking spaces.

Mr. Haghinzadeh stated his client has been using property as three family but would like to make it legal.

Mr. Abramoff asked why this would not be a Variance request. Mr. Fontane requested a moment to review the ordinance.

Chairman Freilich stated that looks like property has been three family for a quite a bit.

Mr. Haghinzadeh stated his client bought property as a three family.

Mr. Haghinzadeh stated in Assessor's Office and Inspectional Services it is listed as two family and his client wishes to make it legal three family.

Chairman Freilich asked Mr. Kelly how this situation came about.

Mr. Kelly stated after reviewing the ordinance with Mr. Fontane, since it is considered a residential conversion the dimensional standards can be waived by Special Permit.

Mr. Fontane stated in ordinance in section 9, A4 there is special provision so this structure maybe converted to provide additional dwelling unit by Special Permit and dimensional relief can be considered through that process.

Chairman Freilich asked how did the city find out it was illegal structure and why did applicant all of sudden come before the Board.

Mr. Haghinzadeh stated it has been used as three family for several years and his client just want to make sure it is a legal structure.

Mr. Kelly stated if approved they would be required to get a building permit to change from two family to a three family and he would make sure change was made in Assessing Office to reflect property to be a three family.

Mr. Abramoff stated if Board votes to approve that the applicant would have to meet all building codes.

Mr. Fontane stated Inspectional Services cannot issue building permit to convert to a three family until the Board renders its decision.

Chairman Freilich asked if applicant was going to meet all the requirement asked by the Board.

Mr. Haghizadeh stated that they will have no problem with that.

Chairman Freilich stated that Mr. Akindele would be the alternate member voting on this item.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Akindele the Board voted 5-0 to approve the Special Permit for residential conversion of a two family to a three-family with the following conditions of approval:

- That applicant apply for a building permit with Department of Inspectional Services;
- The project is constructed and operated in accordance with final revised plans on file with the Division of Planning & Regulatory Services;
- That a minimum of 2 (native species that are ALB¹-resistant) trees and shrubs are planted along northeast and southeast property lines in the rear to provide a more substantial buffer between the parking area and abutting residential use;
- That the front yard remain unpaved;
- That at no point the snow storage area interferes with the parking area
- Plan submitted on file with the City of Worcester be in compliance with all governmental codes.

List of Exhibits.

Exhibit A: Special Permit Application; received June 11, 2012; prepared by Angelo Gianakis.

Exhibit B: Plan of Land; dated March 7, 2012; prepared by HS&T Group, Inc.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 5 Clifton Street; dated July 10, 2012.

¹ Asian Longhorned Beetle

8. 265 Grafton Street (ZB-2012-038):

Peter F. Keenan, Jr, Esquire along with Michael V. Mariano, Brian Mariano, Bill Hannigan and Ron Muller appeared on behalf of the application on a request for:

Special Permit: To allow a food-service with a drive-through (Table 4.1, Business Use #6)

Special Permit: To allow retail sales in MG-2.0 (Table 4.1, Business Use #26)

Special Permit: To modify parking layout with respect to landscape buffer (Article IV, Section 7)

The proposed purpose is to demolish the existing building on site and construct a 7,425 SF building with 63 off-street parking spaces for a food-service with a drive-through use (allowed by a Special Permit), a food service use (allowed by-right), and retail/office space use (allowed by a Special Permit).

Mr. Keenan stated that 265 Grafton Street, Inc. is the owner of the property and has assented to the petition. The property is at 265 Grafton Street in a MG 2.0 zone. It also is in the Grafton Street Overlay District. Property consists of 74,000 square feet of land on one parcel. Present on the parcel is an existing 25,000 sq ft building that it owned by Howlett lumber and it used for home building materials surplus warehousing. The building will be razed and replaced with a new structure. They are requesting the Zoning Board grant three Special Permits. The first use, Table 4.1, Business Use #6 will be a Dunkin Donuts which will also be principal use. The second Special Permit, Table 4.10, Business Use #26 is for a second restaurant use and there will be four additional tenant uses for either retail uses or office uses. The third Special Permit under Article IV, section 7 is request to modify the requirements regarding the landscape provision of the ordinance along the parking areas and the drive thru areas that abut the residents that are next to the development.

Mr. Keenan stated the parcel will be entirely redeveloped and current building will be demolished and all material on site will be removed and site will be redeveloped with a new building.

Mr. Keenan stated Dunkin Donut use will take up 2,725 sq. feet of the building, the second restaurant use will take occupy 1,500 sq ft and the combo office use will be housed in the 800 sq.ft. units. The total area will be 7,425 sq. ft.

Mr. Keenan stated the plan proposes 45 customer parking spaces and 18 employee spaces. The plan proposes a total of 63 spaces and there are 47 spaces required. The drive thru that is proposed is one the longest drive thru's in Worcester County and being designed that way to avoid the queuing of cars on Grafton Street. The drive thru comes in one side of the building and comes out on the other side. The drive thru is in excess of 300 sq. ft.

Mr. Keenan stated that Department of Planning & Regulatory Services and had several questions relative to:

1. What are the proposed business hours of operation for each proposed the drive-thru?

Mr. Keenan stated the Dunkin Donuts will be 24/7. However, the other tenants have not been signed yet but hours will comply with Zoning Ordinance.

2. Where will the order intercom be located?

Mr. Keenan stated the intercom will be at the drive up menu and the intercom will be posted in the drive up menu. The intercom will be facing towards the vehicles as they approach that menu.

3. The external speaker for food service not exceed 50 decibel at the property line.

Mr. Keenan stated that the decibel level will be kept below 50 db and they have spoken with manufacturer of the menu board and the speaker and they have provided a sheet with what decibel level will be. Mr. Keenan presented copy to the Board the decibel level sheet provided by manufacturer.

Mr. Keenan stated that decibel level is tied to the direction which sound is traveling and will be opposite to the residents and the residents will not be bothered at all.

4. What type of pylon sign is proposed along Grafton Street?

Mr. Keenan stated Mr. Hannigan will present rendering later in meeting.

5. What types of retail businesses are proposed?

Mr. Keenan stated a Dunkin Donuts, another proposed restaurant and other tenants who have not been signed yet.

6. Will outdoor seating be provided?

Mr. Keenan stated they would prefer not to have outdoor seating due to the proximity to traffic on Grafton Street.

Mr. Keenan stated this development will not adversely affect the neighborhood and this use will be amenable to the neighborhood and there will be no nuisance or hazards that will be created to interfere with pedestrians and that the facility will be adequate for the use and is an ideal location.

Mr. Keenan stated that site plan approval goes before the Planning Board on August 1, 2012.

Mr. Abramoff asked Mr. Keenan to show on plan the specific landscaping relief being requested.

Mr. Keenan stated he would prefer engineer present that.

Mr. Bilotta asked what the front of the building is going to look like.

Mr. Keenan stated that they did not submit a rendering of that but showed a proposed rendering to the Board.

Mr. Michajilow asked about the traffic study as he felt the project would increase amount of traffic on Grafton Street.

Mr. Fontane asked if the site is expected to handle tractor trailers.

Chairman Freilich stated he would request Mr. Hannigan and Mr. Muller address the questions asked by Mr. Michajilow and Mr. Fontane.

Mr. Hannigan stated he was from Hannigan Engineering and showed a plan of the site. He stated that the main entrance is more towards to the easterly side of the property and the traffic flow would loop around for the drive thru and there is 315 sq ft of total drive thru length from the beginning of the drive thru up to drive up window. The parking requirements are met and they have additional area in the back which is designated for employee parking which would be for Dunkin Donuts and other tenants.

Mr. Hannigan presented copies of plans to the Board and also a copy of the composite sign for premises. Mr. Hannigan stated the sign will be 25 feet in height and will comply with zoning requirements.

Mr. Hannigan showed on amended plan where the intercom will be on the menu board and stated speaker will be in middle of board and it is 46 decibels at 36 feet and sound will be directed away from the residents.

Mr. Hannigan stated sign document had not been prepared for site and what was being presented is a proposed sign but the sign will be 50 square feet on each side which is in compliance with zoning ordinance.

Chairman Freilich asked where sign would be located.

Mr. Hannigan stated it would be in front.

Mr. Hannigan showed on the plan where the pedestrian access would be located. The crosswalk would be signed and the intent is to get the people from the employee parking lot to a directed location where they can have safe pedestrian access and they have provided that and will also be reviewed with Department of Planning & Regulatory Services.

Mr. Hannigan stated with regard to fencing that in two locations there are existing fieldstone retaining walls and he showed on the plan. Mr. Hannigan stated the conditions of the walls is not currently known and their intent is to take them down and worst case scenario is that they would rip rap the slope but what they anticipate is to take the retaining walls down and rebuild them but depends on the conditions of the wall when they start construction. Mr. Hannigan stated they maybe able to provide more landscaping than on plan but they rather be cautious with what they are asking so they will not have to come back for another Special Permit if they cannot comply.

Mr. Hannigan stated that several trees are being removing from the perimeter and will be moved into the interior during construction.

Mr. Hannigan stated with respect to grading and drainage a centralized drainage system has been created for the property and DPW had asked applicant to look at volume of runoff and they will be able to reduce the volume in most cases. There will be perforated pipe along the property which will help infiltrate more of the water.

Mr. Hannigan said a new water main will be on property with individual connections to the units and there will be sewer connection and restaurants will have required grease traps.

Mr. Hannigan stated the landscaping and lighting plan had been given to the board members.

Mr. Abramoff asked whether the entrance is closest to the residential properties.

Mr. Hannigan stated that would be correct.

Mr. Abramoff asked whether they would consider flip flopping the site as would be a better proposal.

Mr. Hannigan stated it would benefit to them to flip building but cannot be done as you cannot do not a drive thru via a passenger window.

Mr. Abramoff stated he has concerns about the property line.

Mr. Hannigan stated they will be installing a six fence foot fence on property line.

Mr. Abramoff asked if fence would go entire length of property.

Mr. Hannigan showed on the plan where fence would be installed.

Chairman Freilich asked why they cannot put a deflector shield on the speaker of the drive thru speaker to direct the sound down to the ground.

Mr. Hannigan stated that requirement is that by time sound gets to the residential property line sound needs to go down to 50 decibel and they will agree to that requirement.

Mr. Loew stated his big concern is location of dumpster and what time dumpster is emptied at the property.

Mr. Fontane stated the Board can set a desirable decibel level at the property line nearest to the residents and that the Board could make condition that after certain hour customers would be required to enter premises to order and not at drive up.

Chairman Freilich stated that he has problem with parking as it will be tight and his concern is that drive thru could back up extremely quick. He also expressed concerns regarding the pedestrian walk thru on property.

Mr. Bilotta asked if the applicants owned other Dunkin Donuts with similar set up.

Brian Marino stated on Route 122 going toward Grafton they own that Dunkin Donuts which has similar traffic pattern to this project.

Mr. Bilotta asked what the other side of the building will look like.

Mr. Hannigan showed on the plan what the building would like.

Mr. Bilotta stated he would prefer not to see a solid stone wall on back of building and prefer it be dressed up.

Mr. Bilotta asked whether the stone wall would be replaced as a field stone wall and whether any ground covered would be installed.

Mr. Hannigan stated if needed to be rip rapped they would create surface to stabilize the slope and install vine cover.

Mr. Bilotta asked what the maintenance program for the drainage system would be.

Mr. Hannigan stated the entire drainage system is on their property and they have a Stormwater Maintenance Program which they have submitted to the Board.

Mr. Loew asked what the plan was for snow removal.

Mr. Hannigan stated there will be a shoulder along right side for small storms but if large storm they have room in back. However, if there was to be an extremely large storm the snow would be trucked off the property.

Mr. Loew asked how they plan to prevent illegal turns.

Mr. Hannigan stated the city requires it to be one way and requested they install "do not enter signs", "no turn signs". Mr. Hannigan showed on the plan where the signs would be located.

Mr. Akindele stated his main concern would be impact on the traffic and how long construction will take. Also, whether there would tractor trailer traffic.

Mr. Hannigan stated on the far side of the lot they will have truck parking. It will also be where the delivery truck will be. He said plan is to have all construction traffic on the site.

Mr. Abramoff stated his concern is about the facade on the west side.

Mr. Hannigan stated he did not have rendering for that side of building but understands that Board does not want to see a warehouse look on the back of the building.

Mr. Abramoff stated there could be opportunity for landscaping on that side and hopes that would be considered.

Mr. Hannigan stated that is being considered.

Mr. Abramoff stated he would prefer to see a rendering.

Mr. Fontane stated the city is excited to see this development but would like to see some more specifics on the façade of the building and plan for landscaping.

Chairman Freilich stated he is looking how the traffic will flow and he has concerns as there will be additional tenants beside Dunkin Donuts which will increase the traffic flow and location will become difficult to get in and out.

Chairman Freilich asked whether there a plan to put Baskin Robbins in at location.

Mr. Marino stated they do not have any plans for a Baskin Robbins.

Mr. Fontane suggested that Board may want to consider continuing the item until the next Zoning Board of Appeals meeting which would allow item to go before Planning Board and also allow time for the applicant to submit a rendering for the building and revised plans.

Mr. Muller stated he was from Ron Miller & Associates and had prepared the traffic study for this project and stated that this proposed development will generate between 171 and 334 peak vehicle trips, most of the traffic is already on adjacent streets and not new to the area. During peak hours it is expected that peak hour traffic increase on Grafton Street will range between 20 and 40 additional vehicles which results in one additional vehicle every 1.5 to 3 minutes.

Mr. Muller stated that taking left turn out of establishment during peak hours will be difficult but those are delays on site and not on Grafton Street.

Chairman Freilich asked whether that would back up the drive thru lane.

Mr. Muller stated drive thru rate is 1-2 minutes per order but majority of traffic will be right turn in and right turn out.

Chairman Freilich asked whether building could be pushed back as he had concerns about back up in the drive thru lane.

Mr. Fontane asked what the anticipated queue will be.

Mr. Mueller stated site will be able to accommodate up to 19.

Mr. Hannigan stated they could look at moving the drive up window to accommodate more cars.

Jason Adams, a representative from Cumberland Farms, abutter to the property, stated they dispute the traffic study presented. Mr. Adams stated Cumberland Farms is next to this proposed project and was not included in the traffic study presented.

Mr. Adams stated the square footage is not in aligned with the proposed site plan. Mr. Adams stated the Dunkin Donuts and proposed restaurants are based on smaller footage than actually presented.

Chairman Freilich asked Mr. Adams if they are disputing the traffic study done by Mr. Mueller.

Mr. Adams stated that is correct. He stated if based on higher square footage the traffic will increase in area. He also stated they had concerns regarding queuing at the drive up window.

Mr. Adams stated there is also a concern regarding the entrance only drive way as people may just park in front which will cause additional confusion with traffic in the area.

Chairman Freilich requested that the traffic study be verified by the appropriate departments.

Jo Hart, city resident, stated she had concerns regarding where the trucks would enter and where they would park on the site and time restrictions when trucks would be on site. She also asked where the pedestrian access would be from Grafton Street.

Mr. Hannigan showed Ms. Hart on the plan where the pedestrian access would be.

Mr. Loew stated he had similar concerns that Ms. Hart had presented.

Mr. Abramoff requested to continue item and asked applicant to provide more details on the landscaping, rendering for west side of building and that city administration review the traffic study.

Mr. Keenan stated that Department of Public Works had no comments relative to the traffic study.

Mr. Fontane stated they would like requested items from applicant be provided to Department of Planning & Regulatory Services a week before August 13, 2012 Zoning Board of Appeals meeting.

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 6-0 to continue the meeting until July 16, 2012 Zoning Board of Appeals meeting.

List of Exhibits.

- Exhibit A: Special Permit Application; received June 11, 2012; prepared by Michael V. Marino and Brian Marino, Trustees of First Westborough Realty Trust.
- Exhibit B: Site Plan; dated May 10, 2012; prepared by Hannigan Engineering, Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 265 Grafton Street; dated July 11, 2012.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Zoning Board of Appeals; re: 265 Grafton Street; dated July 13, 2012.
- Exhibit E: Audio level sound measurement document received July 16, 2012 and dated July 16, 2012.
- Exhibit F: Site utility plan, received July 16, 2012 and dated May 10, 2012.
- Exhibit G: Site grand plan, received July 16, 2012 and dated May 10, 2012.
- Exhibit H: Proposed Dunkin Donut sign, received July 16, 2012, no date on document.
- Exhibit I: Request for postponement received July 16, 2012 from Attorney Peter Keenan and received July 16, 2012.

Mr. Michajilow stated he needed to excuse himself from the rest of the meeting.

9. 1227 Main Street (ZB-2012-042):

Attorney Robert Longden on behalf of the petitioner, TD Bank, along with Josh Swerling from Bohler Engineering.

Mr. Longden stated that the petitioner is requesting a Special Permit for Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Use/Structure (Article XVI, Section 4). The applicant plans to alter the existing drive-through by: 1) removing bollards, b) adding new bollards and cover, c) relocating the drive-through ATM, d) adding a new drive-through window and a deal drawer, and e) repairing and replacing concrete curbing. The petitioner will also maintain the landscaping, will add a customer entrance and will restripe and repair the parking facility.

Mr. Longden stated this ATM has been existence since 1983 and is a legal use and they are just updating the drive thru.

Mr. Longden showed on the plan where the ATM would be relocated and where ATM is currently located there will be a drive up teller window to provide better customer service for bank customers. The current drive thru and escape lanes will remain as is but there will be increased landscaping on the site. There will also be a new entrance at rear of the building so customers can access from rear of building which will cut down the amount of pedestrians walking through the parking lot.

Mr. Longden stated that currently there 23 off-street parking spaces which will be reduced to 22 as a result of this project. On the westerly portion the length of those parking spaces will be increase to 25 feet and be parallel to the drive thru lane.

Mr. Longden stated that the proposed ATM and teller window will reduce the amount of parking and pedestrian traffic on site.

Mr. Longden stated with regard to Department of Planning & Regulatory Services comments relative to:

- The drive-through lane and the traffic movement arrows are clearly marked on the pavement;

Mr. Longden stated that can be done.

- Provide 1 or 2 handicapped parking spaces in the rear of the building closest to the newly provided rear entrance;

Mr. Longden stated they would propose to take one of the handicapped spaces to the rear of the building and they will lose a parking space in the eastern side of building.

- Provide a triangular-shaped landscaped buffer (with shrubs and grasses, at a minimum) at the exit from the site (north-eastern corner of the lot);

Mr. Longden stated they will agree to make that change. He responded to staff's comments regarding parking encroachment on neighbor's property and stated that the applicant will revise the plans to correct for that.

Chairman Freilich asked what the westerly side would become.

Mr. Longden stated that would be an easement area.

Mr. Fontane recommended that the Board specify the exact location, shape and dimensions of the landscaped area in the north-eastern corner of the site and suggested it is triangular in shape, 15 feet in either direction.

Mr. Swerling stated he was the engineer for the project and asked that he be given opportunity to work with planning staff on location of handicapped space as he is unsure if handicapped space can be located in rear of lot due to grade.

Mr. Abramoff stated that Board can change condition to: applicant will provide adequate handicapped parking.

Mr. Longden requested that condition relative to submitting dimensions of all existing and proposed signs be eliminated as they are not proposing any new signs. Mr. Fontane stated staff will be amenable to that change.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to approve Special Permit for Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Use/Structure (Article XVI, Section 4) with the following conditions of approval:

- That the drive-through lane and the traffic movement arrows are clearly marked on the pavement;
- That adequate handicapped space/s will provided as close as possible to the entrance;
- That a landscaped buffer is provided (with shrubs and grasses, at a minimum) near the exit from the site (north-eastern corner of the lot) that is minimum fifteen feet wide and long;
- That the owner of the 1219 Main Street co-signs the application or the site plans are revised to remove parking encroachment on this abutting parcel;
- That ongoing six month maintenance landscaping program be implemented on the site;
- That the petitioner submits the following to the Division of Planning & Regulatory Services prior to the issuance of the Building Permit:
 - 6 copies of the existing conditions plan;
 - 6 copies of the Site and Landscape plan showing the above-mentioned conditions of approval and:
 - Labeling more clearly the 2 off-street parking spaces in the south-western corner of the site (one on the easement, and one on the deeded property);
 - Labeling the drive-through lane length and width;

- That the project is constructed in substantial accordance with the final approved plans.

List of Exhibits.

- Exhibit A: Special Permit Application; received June 12, 2012; prepared by TD Bank.
- Exhibit B: Site & Landscaping Plan for TD Bank; prepared by Bohler Engineering; dated 6/7/2012.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 1227 Main Street; dated July 16, 2012.

10. Chairman Freilich requested that Mr. Fontane request the City administration look into providing a stipend to Board members for mileage reimbursement for Board members.

On motion duly made by Chairman Andrew Freilich and seconded by Lawrence Abramoff it was voted 4-0 by Board members, Andrew Freilich, Lawrence Abramoff, William Bilotta and Kola A. Akidnele to request the city administration consider a mileage stipend for members of the Zoning Board of Appeals. Timothy Loew requested to abstain from the vote and Vadim Michajilow was not present for this item.

DECISIONS SIGNED

321 Greenwood Street, 2 Northboro Street, 10 Midgley Lane, 55 Greencourt Street

ADJOURNMENT

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board 5-0 voted to adjourn the meeting at 9:35 p.m.