

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

May 5, 2014

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

Zoning Board Members Present: Lawrence Abramoff, Chair
Vadim Michajlow, Vice-Chair
Joseph Wanat
Timothy Loew
Robert Haddon

Zoning Board Members Absent: None

Staff Present: John Kelly, Inspectional Services
David Horne, Inspectional Services
Stephen Rolle, Division of Planning and Regulatory Services
Luba Zhaurova, Division of Planning & Regulatory Services
Michelle Smith, Division of Planning & Regulatory Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

APPROVAL OF THE MINUTES

The minutes for January 13, 2014 were held to the May 19, 2014 meeting.

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

1. 597 Mill Street (ZB-2013-044)

Special Permit: To allow a Personal Wireless Service Facility (PWSF) (per FCC regulation – Jobs Act, § 6409, a)

Variance: Relief of the height dimensional requirement (40-ft max.) and ‘fall zone’ setback for ground-mounted PWSF (Article IV, § 12, C, 3, e & f)

Petitioner: Massachusetts Electric Company d/b/a National Grid

Present Use: Tatnuck Electric Substation

Zone Designation: BL-1.0 (Business, General)

Petition Purpose: Install a 90-ft tall ground-mounted PWSF facility (monopole) with three (3) Worldwide Interoperability for Microwave Access (WiMAX) antennas and two (2) microwave antennas at 597 Mill Street transmission structure as part of National Grid’s Smart Grid Pilot Program. As part of the proposal, the

applicant is also proposing signal cables from the antennas to a ground mounted equipment frame, where radio/transceiver and battery unit enclosures will be installed on a 35 SF concrete pad

Constructive Grant Deadline (Variance): 11/07/13, 5/20/14

Ms. Zhaurova stated that the applicant submitted a request to continue the hearing for 597 Mill Street and postpone the hearing for 0 (aka 30) Tory Fort Lane to the June 16, 2014 meeting as National Grid has identified an potential alternative site to co-locate at but has not finalized testing as the tests require full foliage to ensure the location will provide adequate coverage.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to continue the item to June 16, 2014 and extend the constructive grant deadline to July 8, 2014.

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

Special Permit: To allow a Personal Wireless Service Facility

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, 10/21/13, 12/2/13, 1/13/14, 3/17/14, 5/5/14

See item number one above.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to postpone the item to June 16, 2014 and extend the public hearing deadline to June 16, 2014.

3. 301 Burncoat Street (ZB-2014-007)

Administrative Appeal: Of the Cease and Desist Order issued by the Commissioner of Department of Inspectional Services (Article II, Section 6, A, 1).

Petitioner: Bernard J. Conlin III

Present Use: A two-family detached dwelling

Zone Designation: RS-7 and within the Water Resource Protection District (GP-3)

Petition Purpose: To appeal the Cease and Desist Order of the Inspectional Services Commissioner dated November 19, 2014 and denial of building permit dated January 24, 2014 which asserted that an illegal third dwelling unit has been created on the third floor of the structure

Public Hearing Deadline: 4/17/14, 5/5/14; Constructive Grant Deadline: 5/22/14

Attorney Jonathan Finkelstein stated that he submitted a written request to postpone the item to the next regularly scheduled meeting.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to postpone the item to May 19, 2014 and extend the constructive grant deadline to June 17, 2014.

List of Exhibits:

- Exhibit A: Administrative Appeal Application; received February 11, 2014; prepared by Bernard J. Conlin, III.
- Exhibit B: Denial of the Building Permit #BP-2013-103 from the Department of Inspectional Services for Bernard Conlin; re: 301 Burncoat Street; dated January 24, 2014.
- Exhibit C: Cease and Desist letter from the Department of Inspectional Services for Bernard Conlin of 301 Burncoat Street; dated November 19, 2013.
- Exhibit D: Registry of Deeds documents associated with this property (Book 6769 Page 314, Book 22373 Page 070, Book 22373 Page 073).
- Exhibit E: Assessing Property Cards for 301 Burncoat Street (MBL 36-006-00001), subject of this application, and 301 Burncoat Street (MBL 36-006-00002).
- Exhibit F: Preliminary Injunction Court Order for 301 Burncoat Street; dated February 18, 2014
- Exhibit G: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 301 Burncoat Street (ZB-2014-007) (MBL 36-006-00001); dated April 2, 2014.
- Exhibit H: Requests for Postponements:
 - a) Dated April 4th to May 5th, 2014 meeting (by Atty. Finkelstein)
 - b) Dated May 5, 2014 to May 19th, 2014 meeting, with extension of the Constructive Grant Deadline to June 17, 2014

4. 64 Green Street (aka 68 & 70 Green Street) & 1 Winter Street (ZB-2014-012)

- Variance: For relief of 28.33 ft. from the 80 ft. frontage dimensional requirement in a BG-4.0 (Business, General) zoning district (Article IV, Section 2, Table 4.2)
- Petitioner: Dominic Van Ngo
- Present Use: A two-story mixed-use building with 2,500 SF of retail space on the first floor
- Zone Designation: BG-4.0 (Business, General) and within the Mixed Use Development District, Downtown/Blackstone Canal Sign Overlay District, and Blackstone Canal Parking Overlay Districts
- Petition Purpose: The petitioner seeks to construct two residential dwelling units, at property located at 64 Green Street (aka 68 & 70 Green Street)

Public Hearing Deadline: 5/22/14; Constructive Grant Deadline: 6/26/14

Ms. Smith stated that the petition required re-advertisement as there had been a discrepancy regarding the location of the petition. Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to postpone the item to June 16, 2014 and extend the constructive grant deadline to July 8, 2014.

List of Exhibits:

- Exhibit A: 1 Winter Street Application; received March 18, 2014; prepared by Dominic Van Ngo.
- Exhibit B: 1 Winter Street Plan; dated January 16, 2014; prepared by HS&T Group.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 1 Winter Street; dated May 2, 2014, revised June 12, 2014.
- Exhibit D: Fire Comments; re: 64 Green Street & 1 Winter Street, dated April 18, 2014.
- Exhibit E: Cease and Desist Order Issued by Inspectional Services re: 1 Winter Street; dated June 3, 2013.
- Exhibit F: Request to Postponed; re: 1 Winter Street; dated May 5, 2014.

UNFINISHED BUSINESS

5. 40 Quinsigamond Avenue (ZB-2014-003)

- Special Permit: For waiver of the 5 ft. landscape buffer and screening requirement where parking abuts a street.
- Special Permit: To allow accessory storage of flammable liquids/gasses/explosives (Article IV, Table 4.1, Manufacturing Use #1) in a MG 2.0 Zone
- Special Permit: To allow an automobile refueling station (Article IV, Table 4.1., Business Use #17) in an MG 2.0 Zone
- Petitioner: innovative Natural Gas (iNATGAS)
- Present Use: Undeveloped land used for natural gas pipe storage
- Zone Designation: MG-2.0 (Manufacturing, General)
- Petition Purpose: To construct and operate a large capacity compressed natural gas refueling station with two fueling areas including fueling dispensers, canopy and accessory storage of fuel, along with associated site improvements

Michael Manning, Vice President of Innovative Natural Gas, and resident of 15 Kinder Circle, Marlborough, MA requested a Leave to Withdraw Without Prejudice on the Special Permit to allow an automobile refueling station (Article IV, Table 4.1., Business Use #17) in an MG 2.0 Zone. He stated that there are regulations coming down from the Office of the State Fire Marshall that could affect this portion of the project and they would like to withdraw said Special Permit to allow for resolution of said regulations.

Mr. Manning stated that he seeks to proceed with the two other special permits. He stated that the rear portion of 40 Quinsigamond Avenue is proposed to be a two tanker-truck refueling facility

where the compressed natural gas generated onsite will fill trailers that will deliver the compressed natural gas to facilities in Central Massachusetts that have no access to such fuel. He stated that the site will be fully secured and gated and that the Worcester Fire Department had no issues with this portion of the petition since it is not considered “public refueling”. He stated that the tanker-truck drivers will have a signed contract with Innovative Natural Gas and will have to be given access to the site due to the proposed security.

Mr. Abramoff asked if the drivers will be trained. Mr. Manning responded that they will need a commercial driver’s license with a hazmat endorsement and that Innovative Natural Gas will also train drivers on how to use the facility.

Mr. Manning stated that they are requesting a waiver from the landscaping buffer requirements as NSTAR has multiple gas lines around the perimeter of their property - along Lafayette Street and Quinsigamond Avenue - making it dangerous to plant trees where said buffer is required by the Ordinance. He stated that they are proposing the required quantity of landscaping, just in another location on the site.

Ms. Zhaurova stated that on February 24, 2014, the Zoning Board of Appeals opened a hearing and then continued it to allow the applicant to apply for an additional Special Permit, for a waiver of the 5 ft. landscape buffer and screening requirement where parking abuts a street, identified by staff during review. She stated that on March 14, 2014, the applicant met with representatives from the Worcester Fire Department, Police Department, Inspectional Services Department, and Division of Planning & Regulatory Services as well as the State Fire Marshall to discuss the Fire Department’s concerns listed in the February 24, 2014 memorandum. She stated that as a result of this meeting, the applicant decided to withdraw the Special Permit to allow automobile refueling.

Ms. Zhaurova stated that while the Zoning Ordinance does not specify whether a fueling station is to be manned, the State Fire Code mandates that all automobile refueling stations must be manned. She explained that the applicant will work with the State Fire Marshall to amend the Fire Code to refine the refueling station requirements for compressed natural gas facilities as compared to those for petroleum. Ms. Zhaurova recommended that the Leave to Withdraw Without Prejudice be granted, as requested by the petitioner. Staff believes the applicant provided sufficient information to demonstrate hardship with respect to complying with the Landscaping Ordinance, and proposed a reasonable alternative landscaping plan that accomplishes the intent of the Ordinance’s landscaping buffer.

Ms. Zhaurova stated that staff recommends the following conditions of approval:

1. That the front portion of the site to be utilized by the tanker trucks for exiting the site be paved.
2. That the egress from the site’s northern curb cut onto Quinsigamond Avenue is a right-turn only due to close location to the streets’ intersection.
3. That operation of the site complies fully with the submitted Emergency Response Plan.
4. New fencing is installed along the entire perimeter of the site.
5. That 6 copies of final revised plans, to-scale, are submitted to the DPRS prior to issuance of the Building Permit.

Mr. Abramoff asked if there were similar compressed natural gas sites like this in the state. Mr. Manning responded that there are a few unmanned stations in the state, including one in Worcester. He explained that there is new staff in the State Fire Office and thus there is a new interpretation of “manned” and a question as to whether these facilities need to be manned.

Mr. Michajlow asked if there was an emergency response plan (ERP) in place and if they are amenable to the conditions suggested by staff. Mr. Manning stated the there is an ERP in place and that the front side of the property on Quinsigamond Avenue is already paved and the dispensing stations need to be paved and thus he is amenable to the conditions of approval.

Mr. Manning asked if they could retain the existing fencing on-site. Ms. Zhaurova stated that the fence that’s currently on-site is in poor condition thus Mr. Abramoff asked that the fencing be consistent since landscaping will not be along the entire perimeter. Mr. Manning stated that he was amenable thereto.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the request to Leave to Withdraw Without Prejudice for the Special Permit to allow an automobile refueling station.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff, and the Special Permit for waiver of the 5 ft. landscape buffer and screening requirement where parking abuts a street and the Special Permit to allow accessory storage of flammable liquids/gasses/explosives (Article IV, Table 4.1, Manufacturing Use #1) in a MG 2.0 Zone with the following conditions of approval:

- 1) That the front portion of the site to be utilized by the tanker trucks for exiting the site be paved;
- 2) That the egress from the site’s northern curb cut onto Quinsigamond Avenue is a right-turn only due to close location to the streets’ intersection and is striped and signed as such;
- 3) That operation of the site complies fully with the submitted Emergency Response Plan;
- 4) New fencing is installed along the entire perimeter of the site;
- 5) The 6 copies of to-scale final revised plans are submitted to the DPRS, prior to issuance of the Building Permit, satisfying the above conditions of approval; and
- 6) Provided it is in accordance with the site plan and rendering submitted on file with the City of Worcester and in compliance with all governmental codes.

List of Exhibits:

- Exhibit A: Special Permit Application; prepared by innovative Natural Gas (iNATGAS); received January 21, 2014.
- Exhibit B: Grading & Drainage Plan; prepared by Eaglebrook Engineering & Survey, LLC; dated January 17, 2014.
- Exhibit C: Locus Plan; prepared by Eaglebrook Engineering & Survey; dated February 10, 2014.

- Exhibit D: Supplemental Locus Plan; prepared by Eaglebrook Engineering & Survey; dated February 10, 2014.
- Exhibit E: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 40 Quinsigamond Avenue – Special Permits Application; dated February 21, 2014; revised April 2, 2014 & May 2, 2014.
- Exhibit F: Email and supplemental information from Michael Manning, applicant to Nancy Tran, DPRS re: 40 Quinsigamond Avenue – Additional information for ZBA; dated February 20, 2014, including:
- a) Permit Site Development Plans; prepared by Eaglebrook Engineering & Survey, LLC; dated January 17, 2014; received February 14, 2014;
 - b) Vehicle Access Plan;
 - c) Equipment specifications for iNATGAS – Worcester CNG Station
 - d) Draft Emergency Response Plan for iNATGAS, LLC; prepared by iNATGAS, LLC; dated February 10, 2014
- Exhibit G:
- a) Project Review Sheet from John P. Powers, Fire Department re: 40 Quinsigamond Ave; undated.
 - b) Memorandum from the Worcester Fire Department’s District Chief John P. Powers to the Zoning Board of Appeals; re: iNATGAS CNG Refueling Station Special Permit Hearing; dated February 24, 2014.
 - c) Memorandum from the Worcester Fire Department’s District Chief John P. Powers to the Zoning Board of Appeals; re: iNATGAS CNG Refueling Station Special Permit Hearing 40 Quinsigamond Ave; dated March 26, 2014.
- Exhibit H: AVSG Webpage Print-outs; 2/21/2014. <http://cngnewengland.com/>
- Exhibit I: Letter from the applicant to the Zoning Board of Appeals; re: 40 Quinsigamond Avenue (05-022-01+02); dated April 22nd, 2014.
- Exhibit J: Permit Site Development Plans; prepared by Eaglebrook; dated January 17, 2014, revised May 1, 2014
- Exhibit K: Landscape Plan (C-5); prepared by Eaglebrook; dated January 17, 2014, revised May 1, 2014.
- Exhibit L: Emergency Response Plan for iNATGAS, LLC; prepared by iNATGAS, LLC; dated April 28th, 2014.

NEW BUSINESS

6. 9 Richards Street (ZB-2014-004)

- Variance: Relief of 1 ft. from the 55 ft. frontage dimensional requirement (Article IV, Table 4.2)
- Petitioner: Thang Nguyen
- Present Use: A vacant lot

Zone Designation: RG-5 (Residence, General)

Petition Purpose: To construct a two-family detached dwelling on the property with an attached two-car garage and provide 2 off street parking spaces along with associated site work.

Public Hearing Deadline: 3/27/14, 4/7/14, 5/5/14; Constructive Grant Deadline: 5/1/14, 5/20/14

Ms. Zhaurova stated that no one was present for the hearing but the Board could postpone the item to the next meeting since the constructive grant deadline was the day after the next meeting.

Mr. Abramoff stated that since no one was present they should table the item to the end of the meeting to give the applicant a chance to show up.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to table the hearing to the end of the meeting.

List of Exhibits:

Exhibit A: Variance Application; prepared by Thang Nguyen; received January 29, 2014.

Exhibit B: Variance Plot Plan (with rendering); prepared by Hawk Consulting, Inc.; dated January 24, 2014.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 9 Richards Street; dated April 2, 2014, revised April 30, 2014.

Exhibit D: Request for Postponement and Constructive Approval Extension from Thang Nguyen, applicant to the Zoning Board of Appeals; dated March 13, 2014.

7. 4 Bird Street (ZB-2014-006)

Special Permit: To allow a Single-Family Attached Dwelling in an RL-7 (Residential, Limited) zoning district (Article IV, Section 2, Table 4.1)

Petitioner: Normand R. Champigny

Present Use: A vacant lot

Zone Designation: RL-7

Petition Purpose: To construct a two-story single-family attached dwelling with 3 dwelling units and 6 associated off-street parking spaces

Public Hearing Deadline: 4/17/14, 5/5/14

Norman Champigny, Sutton, MA resident, introduced his engineer Brian MacEwen. Mr. MacEwen, Graz Engineering, stated that Mr. Champigny seeks to develop three single-family attached units (triplex). Mr. MacEwen stated that they kept the parking and driveway off of Boston Ave, as it is the busier roadway. Mr. MacEwen stated that the plans have been revised since the application was submitted with DPW&P and staff comments. He briefly reviewed the plans for the Board.

Mr. MacEwen stated that each unit will have two parking spaces in each drive-under garage, below the unit. He stated that they are providing a dry-well to deal with the roof drainage and are working out the details regarding the proposed catch basin to the rear of the lot.

Mr. Abramoff asked if there was a rendering of the proposed structure. Mr. MacEwen stated that the applicant is requesting a waiver of that application requirement until he is ready to build and brings an architect on board. Ms. Smith stated that the applicant had submitted a picture of a four unit structure to show the style of structure he was proposing.

Ms. Smith stated that proposed are three two-bedroom dwelling units each above a two-car garage. She stated that staff is concerned with the large portion (51%) of the property that will be rendered impervious with the construction of the proposed parking and recommend re-configuration of the plan to reduce the amount of impervious surface on the site. She suggested that the applicant could reduce the curb-cut and aisle width and/or re-locate the driveway closer to the intersection of Boston Avenue and Bird Street. Ms. Smith stated that the engineer addressed staff recommendations for screening but recommended additional tree plantings. She recommended that the item be continued to allow staff time to review the revised plans.

Mr. Kelly asked if the structure is less than the 35ft. height requirement. Mr. Champigny stated that it was less than 35 ft.

Mr. Wanat asked if the applicant had reduced the aisle width in the back of the building in the revised plans. Mr. MacEwen responded that they reduced it from 24 ft. to 16 ft.

Barry Baroud, 9 Bird Street, stated that Bird Street is poorly built and suffers from erosion. He expressed concerns about increased runoff and flooding in his basement because the runoff will be directed between his property and 7 Bird Street and stated that a drywell would not be sufficient. He proposed that the Board condition approval upon the developer tying into the surface sewer.

Joseph Peter Rautkis, 7 & 8 Bird Street, stated that he is also concerned about the runoff and asked if Mr. Champigny will have a deck there. Mr. Abramoff stated that there is no request at this time to build a deck, although there is nothing preventing one. Mr. Champigny stated that he was considering decks but hadn't determined if he wants the liability. Mr. Abramoff stated that staff is recommending that a rendering be submitted and emphasized that the rendering should include the deck if it's proposed. He explained that if the rendering doesn't include the decks then if the applicant wants to build a deck, he would be required to file an amendment.

Mr. Abramoff stated that there is a significant grade to the property and a large portion of it will be impervious. He stated that DPW&P had not provided comments on the project but that he did not believe the runoff issues have been addressed. He stated he would like to see engineering of the stormwater that staff can review as well as renderings, floor plans, and elevations on all four sides.

Mr. Abramoff stated that he agreed with staff's recommendation of more trees along Bird Street and asked the developer to consider using a pervious material rather than impervious. Mr. Abramoff suggested that the developer meet with the neighbors to discuss appropriate types of screening.

Upon a motion by Mr. Lowe and seconded by Mr. Wanat, the Board voted 5-0 to continue the item to June 16, 2014.

List of Exhibits:

- Exhibit A: 4 Bird Street Application; received February 11, 2014; prepared by Norman Champigny.
- Exhibit B: 4 Bird Street Plan; dated February 11, 2014; prepared by GRAZ Engineering, LLC.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 4 Bird Street Special Permit; dated April 2, 2014, revised May 2, 2014.
- Exhibit D: 4 Bird Street rendering; received March 31, 2014.
- Exhibit E: Request to Postpone; dated 4/4/14.

8. 981 Grafton Street (ZB-2014-009)

- Special Permit: Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Structure (Article XVI, Section 4).
- Petitioner: Jackson Grafton, LLC
- Present Use: A ~4,454 SF auto service and repair garage with 6 service bays and 24 associated off-street parking spaces
- Zone Designation: BG-2.0
- Petition Purpose: To construct a 1,072 SF addition to the southeastern side of the building to provide two additional service bays and tire storage and seeks to re-configure the parking lot to create two additional parking spaces (for a total of 26 spaces). The existing building is nonconforming with regard to the rear yard setback dimensional requirement.

Public Hearing Deadline: 5/8/14

Brian McCarthy, Civil Engineer for the project, introduced Mark Hebert, applicant. Mr. McCarthy stated that the site is located on the intersection of Grafton Street and Jolma Road and the existing structure is a one story 4,454 SF auto-service garage, Good Year Auto Service & Repair Shop, with 6 service bays and 24 associated off-street surface parking spaces. Mr. McCarthy stated that to the east of the property is an intermittent stream for which they filed a Notice of Intent with the Conservation Commission and were granted an Order of Conditions on March 27, 2014. He stated that the existing use, Motor Vehicle Service, Repair, Garage, and Display (Article IV, Section 2, Table 4.1, Business Use #16), is permitted by-right in the BG-2.0 Zone.

Mr. McCarthy stated that the site is mostly impervious and the existing structure is non-conforming with regard to the rear-yard setback (15 ft. required, 3.8 ft. provided). He stated that the proposed project is to construct a 1,072 SF addition to the southeastern side of the building to provide two additional service bays and tire storage. He stated that the proposed structure is compliant with the required setbacks and does not require an additional variance. He stated that the parking area will be regarded to provide access to the additional service bays and reconfigured to create two additional parking spaces for a total of 26 spaces. He added that a 16 ft. x 8 ft. dumpster pad is proposed near the southeastern lot line with a 6' chain-link fence with plastic slats. He explained that they will increase the green space behind and to the side of the building and will provide a landscaped island with two shade trees.

Mr. McCarthy stated that the façade of the building will be updated but signage and access to the site will remain unchanged.

Ms. Smith stated that the applicant had provided revised plans that addressed all of staff's comments and staff recommended the following Conditions of Approval:

1. The structure be constructed in substantial accordance with the final approved plot plan and the submitted rendering on file with the City of Worcester and prepared by SN Consulting Group, dated February 10, 2014, revised April 14, 2014.
2. Provided the project is in compliance with all governmental codes.

Mr. Wanat asked if the truck that will empty the dumpster will be able to do it easily. Mr. McCarthy stated that the Good Year Service facility will be able to control what happens in the bays closest to the dumpster so that the dumpster truck would be able to access the dumpster.

Upon a motion by Mr. Wanat and seconded by Mr. Haddon, 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 project with the following conditions of approval:

1. The structure be constructed in substantial accordance with the final approved plot plan and the submitted rendering on file with the City of Worcester and prepared by SN Consulting Group, dated February 10, 2014, revised April 14, 2014.
2. Provided the project is in compliance with all governmental codes.

List of Exhibits:

- Exhibit A: 981 Grafton Street Application; received February 4, 2014; prepared by Jackson Grafton, LLC.
- Exhibit B: 981 Grafton Street Plan; dated March 3, 2014; revised April 14, 2014; prepared by RJ O'Connell & Associates, Inc.
- Exhibit C: Rendering; dated February 10, 2014; prepared by SN Consulting Group.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 981 Grafton Street Special Permit; dated April 2, 2014, revised April 29, 2014.
- Exhibit E: Site Plan with applicant's annotations showing proposed interior landscaping, received March 31, 2014.
- Exhibit F: Plan revisions transmittal letter; prepared by RJ O'Connell & Associates, Inc.; re: staff comments; dated April 11, 2014; received April 15, 2014.
- Exhibit G: Request to Postpone to 5/5/14 received and dated 4/3/14.

9. **135 Goddard Memorial Drive (ZB-2014-008)**

Special Permit: To allow a Personal Wireless Service Facility (PWSF) in the A-1 (Airport) Zoning District

Petitioner: Massachusetts Electric Company, d/b/a National Grid

Present Use: A commercial warehouse and a ~45 ft. tall water tower

Zone Designation: BL-1.0

Petition Purpose: To mount one (1) ten ft. mast for (1) WiMAX antenna, one (1) integrated GE Intrepid microwave radio/panel antenna and one GE MDS Mercury 3650 WiMAX radio/transceiver unit on top of the existing water tower; Also proposed on site are co-axial cables, and associated equipment and battery cabinet to be located within the existing pump enclosure at ground level

Public Hearing Deadline: 5/8/14

Mark Reilly, council for National Grid, introduced Project Engineer, Mike Key, Community & Customer Manager, Kevin Shaughnessy, and Emissions Expert, Dr. Peter Walberg. Mr. Reilly stated that they submitted revisions in response to staff's memo today and provided copies to the Board. He stated that they are requesting waivers for some of the application requirements and gave an overview of what was included in the revised packet.

Mr. Key stated that the site is owned and occupied by TJ Maxx as a warehouse and that the site has 24 hour security with cameras on site and a private entrance road.

Mr. Abramoff asked if this installation was related to the Smart Grid program and Mr. Key answered that it was. Mr. Key then went over the coverage map and showed the Board pictures of what the installation will look like. Mr. Key stated that all the equipment is mounted on the back side of the water tower so as to be out of public view. He stated that there are no residences within a few hundred feet of the installation.

Mr. Reilly stated that National Grid submitted a certification that the installation will meet FCC emission regulations. Mr. Abramoff asked if there was a report issued by the Health Department.

Mr. Rolle stated that Health Department issued a report regarding these types of emissions on February 4, 2014 that concluded that there was no conclusive link in the studies that emission affects health, while noting that there is public concern.

Mr. Abramoff asked if distance affects the effects the RF emissions. Dr. Walberg stated that the emissions depend on distance and power (wattage). He explained that these particular antennae are only 0.33 watts, while a cell phone can be up to 4 watts. Mr. Reilly asked Dr. Walberg to provide his credentials. Dr. Walberg stated that he has been a Human Health Risk Assessor for 15 years at a Boston based company called Gradient and studies how health-protective the standards set by the FCC are and has a PhD degree from Harvard in Electricity and Magnetism. Mr. Reilly asked if there are different types of radiation. Dr. Walberg stated that there is ionizing radiation and non-ionizing radiation but that the frequencies from the antennas in question produce non-ionizing radiation.

Mr. Reilly asked Dr. Walberg to discuss the FCC standards. Dr. Walberg stated that the FCC is not the only body that regulates radiation. He stated that the standards are periodically reviewed and changed according to current data. Dr. Walberg stated that he reviewed the data for the National

Grid's Smart Grid Program and believes the levels are very low, ~1/1000 of the allowable limit. He explained that this calculation likely exceeds the actual radiation as it was generated by testing the antennas as if they were to face downward, while the proposed antennas will face the horizon.

Mr. Loew asked how the global exposure limits compare to the US exposure limits. Dr. Walberg stated that the US is in conformance to most international bodies but that a few countries have set their limits up to 10 times lower as a precautionary method, not widely accepted.

John Provost, Castle Street resident, stated that it is not just the power (wattage) of the antennae that he is concerned with but the wavelengths - which can have a non-thermal effect on people, animals, and plants. He stated that he suffers from ringing of the ears, which causes insomnia.

Dr. Walberg stated that the exposure limits vary with wavelength. He stated that people radiate energy at ~100 watts by just generating bodily functions. He stated that people are much more energetic than radio or microwave frequencies while the proposed antenna puts out 1 microwatt.

Mr. Provost stated that he believed the emissions can still affect people, even with the low power. He stated that he read a compilation of studies that classifies non-ionizing radiation as Class 2B, meaning the radiation can be carcinogenic - just like DDT and asbestos.

Mr. Abramoff stated that while he was still concerned, that this location is remote and the potential impacts would be minimal.

Mr. Reilly stated that they would like to keep the antennae white versus painting it suggested in the conditions of approval. Mr. Rolle stated that he was not concerned about the color.

Mr. Reilly stated that there will be no noise coming from the unit other than a small fan that will be in the equipment cabinet enclosure. Mr. Loew stated that noise usually results from a generator. Mr. Key stated that this installation will not have a generator. Mr. Abramoff stated that he was amenable to changing the conditions of approval regarding noise.

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

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 4-1 (Mr. Michajlow against) to approve the findings of fact as modified by staff and the petition with the following conditions of approval:

1. **Cost of decommissioning:** That an affidavit, signed by a qualified professional, be submitted that provides an accurate and complete estimate of the costs of decommissioning and removal of the proposed PWSF, and that said affidavit be submitted to the Division of Building and Zoning and the Division of Planning & Regulatory Services prior to the issuance of a building permit;
2. **Paint color matching:** That an affidavit, signed by the applicant, be submitted that states that the applicant agrees to match the paint of the proposed equipment, as produced, as closely as practicable to the existing materials within the area of the installation, and that said affidavit be submitted to the Division of Building and Zoning and the Division of Planning & Regulatory Services prior to the issuance of a building permit;
3. **Surety Bond:** That prior to the issuance of a building permit, a surety bond, equal to the cost of decommissioning and removal of the proposed PWSF, be obtained. Said bond shall be for a term of at least two years, and be adjusted for inflation every two years. The

provisions of said bond shall be to the satisfaction of the Director of Planning & Regulatory Services;

4. ***Post-installation measurement of RFR:*** That post-installation measurements of the total Radio Frequency Radiation emitted by all PWSF on the building/site are taken by a certified RF engineer; that results of these measurements demonstrate compliance with the Radio Frequency Radiation standards of the Zoning Ordinance and Federal Communication Commission Guidelines; and that these results are submitted to the Division of Planning & Regulatory Services and Department of Inspectional Services prior to the issuance of the Certificate of Use & Occupancy;
5. That the structure is constructed in substantial compliance with all governmental codes and the City of Worcester Zoning Ordinance, and in accordance with the final approved site plan and the photo simulation package dated March 4, 2014 submitted by National Grid on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to approve waivers of the following application requirements:

- 1) Article IV, Section 12, 7, d, ii:
 - A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
 - Zoning district designation for the subject parcel (Submit color copy or color grid section of City Zoning Map with parcel identified).
 - A city-wide map showing other existing Personal Wireless Service Facilities in the City and outside the City within one mile of its corporate limits.
 - The proposed locations of all existing and future PWSF's in the City on a city-wide map for this carrier.
- 2) Article IV, Section 12, 7, d, iii, aa:
 - Property lines of all properties adjacent to the subject property within 300 feet.
 - Vegetative cover on the subject property and immediately abutting adjacent properties.
 - Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
 - Proposed security barrier, indicating type and extent as well as point of controlled entry (if applicable).
 - Location of all roads, public and private, on subject property and on all adjacent properties within 300 feet including driveways proposed to serve the Personal Wireless Service Facility.
 - Distances, at grade, from the proposed Personal Wireless Facility to each building on the vicinity plan.
 - Contours at each two feet AMSL (Above Mean Sea Level) for the subject property and adjacent properties within 300 feet.
 - Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" subsection below.

3) Article IV, Section 12, 7, d, iii, bb:

- Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet.
- Each of the existing condition photographs shall have the proposed Personal Wireless Service Facility superimposed on it to show what will be seen from public roads if the proposed Personal Wireless Service Facility is built.

4) Article IV, Section 12, 7, d, iii, cc:

- Sitting elevation or views at-grade from the north, south, east and west for a 50-foot radius around the proposed Personal Wireless Service Facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:
- Security barrier. If the security barrier will block views of the Personal Wireless Service Facility, the barrier drawing shall be cut away to show the view behind the barrier.
- Any and all structures on the subject property.
- Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
- Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot topographical contours.

5) Article IV, Section 12, 7, d, iv:

- cc) Colors of the proposed Personal Wireless Service Facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- ee) Appearance shown by at least two photographic superimpositions of the Personal Wireless Service Facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.
- ff) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- gg) Within 30 days of the pre-application conference, or within 21 days of filing an application for a Special Permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed Personal Wireless Service Facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days prior to the test.

6) Article IV, Section 12, 7, d, v:

7) Article IV, Section 12, 7, d, vi:

The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed Personal Wireless Service Facility, for the following situations (*an actual in-the-field study should be done to measure existing RFR*):

- aa) Existing, or ambient: the measurements of existing RFR.

bb) Existing plus proposed Personal Wireless Service Facilities: maximum estimate of RFR from the proposed Personal Wireless Service Facility plus the existing RFR environment.

8) *Article IV, Section 12, 9, a* - Co-location Application Requirements:

- i. A survey of all existing structures that may be feasible sites for co-locating Personal Wireless Service Facilities;
- ii. Contact with all the other licensed carriers for commercial mobile radio services operating in Worcester County; and
- iii. Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

List of Exhibits:

- Exhibit A: 135 Goddard Memorial Drive Application; received March 4, 2014; prepared by Massachusetts Electric Company, d/b/a National Grid.
- Exhibit B: 135 Goddard Memorial Drive Plan; dated 10/9/13, revised 11/19/13; prepared by Hudson Design Group.
- Exhibit C: 135 Goddard Memorial Drive Rendering; dated 10/9/13, revised 11/19/13; prepared by Hudson Design Group.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 135 Goddard Memorial Drive Special Permit; dated April 28, 2014.
- Exhibit E: Letter and RFR Calculations from National Grid, re: 135 Goddard Memorial Drive Application RFR Calculations; dated March 6, 2014; received March 6, 2014.
- Exhibit F: Letter from National Grid, re: 135 Goddard Memorial Drive Tax Lien; dated March 7, 2014; received March 10, 2014.
- Exhibit G: Supplemental Materials and Waivers from National Grid re: 135 Goddard Memorial Drive; received May 5, 2014.

10. 16 Tatman Street (ZB-2014-016)

- Special Permit: Placement of Fill/Earth Excavation (Article IV, Section 5)
- Petitioner: Maria C. Galindez
- Present Use: A three-family detached dwelling with 2 associated off-street parking spaces
- Zone Designation: RL-7(Residential, Limited)
- Petition Purpose: To fill and re-configure the rear yard to provide 6 parking spaces and construct a concrete-block retaining wall along the perimeter of the rear portion of the property, along with associated site work and paving

Public Hearing Deadline: 6/11/14

Ms. Zhaurova stated that she spoke with the applicant and reviewed the Ordinance and staff realized that this item is not properly before the Board. She explained that in December 2013,

Inspectional Services received a complaint regarding the filling of the backyard and issued a Cease and Desist Order, having believed the filling was for landscaping purposes - which would require a Special Permit from the Board. She stated that the owner decided to construct a parking lot in the rear of the three-family dwelling for six cars which allows the filling by-right. She stated that staff supports a Leave to Withdraw Without Prejudice and fee refund.

Maria Galindez, applicant, stated she wanted to withdraw her petition without prejudice and asked for a fee refund.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to grant the leave to withdraw without prejudice.

Upon a motion by Mr. Wanat and seconded by Mr. Michajlow, the Board voted 5-0 to approve the fee refund requested.

William Duprey, 15 Kosta Street resident, stated that he was concerned with runoff since the entire backyard is going from a landscaped to impervious.

Mr. Abramoff stated that there is nothing the Board can do since the petition is not before them. Mr. Kelly stated that Inspectional Services has to approve a permit administratively and they would review the plans the applicant submitted and ensure that the drainage is dealt with.

List of Exhibits:

- Exhibit A: Special Permit Application; prepared by Maria C. Galindez; received April 7, 2014.
- Exhibit B: Retaining Wall & Parking Plan; prepared by Viacad, LLC; dated April 4, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 16 Tatman Street – Special Permit Application; dated April 30, 2014.
- Exhibit D: Cease and Desist Order Issued by Inspectional Services re: 16 Tatman St; dated December 2, 2013.

11. 9 Richards Street (ZB-2014-004)

- Variance: Relief of 1 ft. from the 55 ft. frontage dimensional requirement (Article IV, Table 4.2)
- Petitioner: Thang Nguyen
- Present Use: A vacant lot
- Zone Designation: RG-5
- Petition Purpose: To construct a two-family detached dwelling on the property with an attached two-car garage and provide 2 off street parking spaces along with associated site work.

Public Hearing Deadline: 3/27/14, 4/7/14, 5/5/14; Constructive Grant Deadline: 5/1/14, 5/20/14

Ms. Zhaurova stated that she spoke to the applicant on the phone and that he indicated that he purchased a portion of land adjacent to his lot in order to make up for the foot of relief requested. She stated that staff would contact the applicant to have him submit a Leave to Withdraw request.

Upon a motion, the Board voted 5-0 to postpone the item to May 19, 2014.

List of Exhibits:

- Exhibit A: Variance Application; prepared by Thang Nguyen; received January 29, 2014.
- Exhibit B: Variance Plot Plan (with rendering); prepared by Hawk Consulting, Inc.; dated January 24, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 9 Richards Street; dated April 2, 2014, revised April 30, 2014.
- Exhibit D: Request for Postponement and Constructive Approval Extension from Thang Nguyen, applicant to the Zoning Board of Appeals; dated March 13, 2014.

OTHER BUSINESS:

12. Communications

Mr. Abramoff reviewed the legal opinion provided by the Law Department regarding the Telecommunications Act and the proposed SmartGrid installations.

Mr. Rolle stated that he would review the report in detail once the public hearings for the associated petitions are opened.

13. Signing of Decisions from prior meetings

The decisions for 55 Linden & John Street; 104 Armory Street; 721-31 Main Street; 12 Laurier Street; and 21 Heywood Street were signed.

ADJOURNMENT

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to adjourn at 7:35 P.M.