

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

FEBRUARY 24, 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
Michael Traynor, Law Department
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

Lawrence Abramoff called the meeting to order at 5:30 PM.

REQUESTS FOR WITHDRAWALS, CONTINUANCES, AND TIME EXTENSIONS

1. 8 Bluff Street (MBL 06-013-00013) – Variance Application

Variance: Relief of 670 SF from the 5,000 SF minimum lot size dimensional requirements for a single family detached dwelling

Variance: Relief of 3.5-ft from the 15-ft rear-yard setback requirement for a single family detached dwelling

Petitioner: Mayank Patel

Zone Designation: RG-5 (Residence, General)

Present Use: Vacant lot

Petition Purpose: Construct a single-family detached dwelling with two off-street parking spaces

Final Action Deadline: March 5, 2014

Ms. Zhaurova stated that the applicant's representative submitted a Leave to Withdraw because the proposed project no longer requires relief from the Zoning Board as City Council amended the Zoning Ordinance which became effective on January 7, 2014 to allow construction of single- (detached, attached, semi-detached), two- and three-family dwellings on undeveloped lots with a minimum of 4,000 SF.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to grant the Leave to Withdraw without Prejudice.

List of Exhibits

- Exhibit A: Variance Application; prepared by Mayank Patel; received December 30, 2013.
- Exhibit B: Plan for Variance; prepared by B&R Survey, Inc.; dated December 6, 2013; received December 30, 2013.
- Exhibit C: Rendering Home Plans; prepared by Beyond Basics; dated December 3, 2013; received December 30, 2013.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 8 Bluff Street – Variance Application; dated January 28, 2014, revised February 21, 2014.
- Exhibit E: Leave to Withdraw and fee refund request from Atty. Don O'Neil; dated February 18, 2014; received February 20, 2014.

OLD BUSINESS

2. 73 Downing Street (ZB-2013-064)

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

Petitioner: Blake J. Rubin & Dean A. Taylor

Present Use: Four condominiums with accessory off-street parking

Zone Designation: RG-5 (Residence, General)

Petition Purpose: To appeal the Cease and Desist Order of the Inspectional Services Commissioner dated November 18, 2013 which asserted that the first and third floors of 73 Downing Street were found to be operating as a Lodging House without a Lodging House License

Public Hearing Deadline: 2/15/2014

Constructive Grant Deadline: 3/22/2014

Attorney Blake Rubin, representing himself and his partner Dean Taylor, stated that he believed the City's Ordinance and the state's statute are identical. He quoted the City of Worcester v. Bonaventura case (pg. 169, footnote 4) "the city's ordinance resembles the definition of lodging house provided by the state's statute." He stated that the legal opinion prepared by Ann S. Refolo, Assistant City Solicitor, states that "City is still able to prosecute these cases under the Worcester Zoning Ordinance... In the College Hill decision, the SJC recognized that the City's goal of protecting student safety can be addressed through the Zoning Ordinance." Mr. Rubin stated that

Ms. Refolo's statement was inaccurate and that she misquoted the case. He stated that the courts actually said:

“While we recognize that the city seeks to protect student's safety and apparently regards the apartments at issue here as being the equivalent as dormitories such concerns are better addressed through enforcement of applicable zoning ordinances and provisions of the sanitary and fire safety codes.”

He Asserted that the Court's decision stated that the City can use ordinances to address safety problems, but it doesn't state that the City can implement the specific Zoning Ordinance to do so.

Mr. Rubin stated that the legal opinion stated that in the College Hill case the SJC specifically analyzed the Worcester Lodging House Ordinance in the Bonaventura case and that the SJC determined the City can continue to use the lodging house ordinance to regulate apartments with four or more unrelated people. Mr. Rubin stated that the case does not address the Zoning Ordinance at all. He stated that when the SJC upheld the City's ordinance in the Bonaventura case it was based on two things: its definition of family (4 students living together do not meet the definition of a family) and that nothing states that the ordinance was open to varied application. He stated that in the College Hill case the SJC determined that the City of Worcester was selectively enforcing the lodging house statute.

Mr. Rubin stated that he did not believe 73 Downing Street was a lodging house. He stated that the first and third apartments are rented out to four students each and that each apartment has one lease – with no “rooms” rented out. He insisted that he is not in violation of the lodging house ordinance because these students live in the condominium as one housing unit.

Mr. Abramoff asked Mr. Traynor why when approving personal wireless service facilities the Board is only allowed to look at a very narrow aspect of it based on precedent set by rulings by a higher court. He asked why it is not the same with this lodging house case.

Mr. Traynor stated that in the Telecommunications Act case, the court rulings are interpreting that particular federal statute and it was written into the statute itself that the local communities cannot place a bar to the advancement of cellular communications, thus, effectively trumping the City's Zoning Ordinance. He explained that the College Hill case is different because it took a judicial review of the state lodging house licensing statute. He noted that the Bonaventura case was a judicial review of the local ordinance and it was upheld and subsequently the Zoning Ordinance is still good law and has not been overturned.

Mr. Traynor stated that the Board should be looking at whether the Code Enforcement Officer interpreted the Zoning Ordinance consistent with the actual wording for the item at hand.

Jo Hart, Worcester resident, stated that ‘we need better housing in Worcester and we need to get away from badly run lodging houses’. She stated that the City needed to be more flexible and use common sense.

Mr. Abramoff agreed that the law should be more flexible but stated that the Zoning Ordinance was clear.

Scott Ricker, Worcester resident, asked if all four tenants are on the lease. Mr. Rubin responded that all four names were on the same lease and that only one rent is collected.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 4-1 (Mr. Michajlow voting against) to uphold the cease and desist order issued by the Building Commissioner and Code Enforcement Officer on November 18, 2013 ordering the property owners to cease and desist the illegal lodging house at 73 Downing Street (on the 1st and 3rd floors) for the following reasons:

- 1) The College Hill case has no effect on the City's ability to enforce its Zoning Ordinance with regard to Lodging Houses;
- 2) The ZBA may uphold, modify, or reverse the enforcement order, but does not have the power to determine the validity of municipal ordinances; and
- 3) The doctrine of preemption does not affect the City's ability to enforce its Zoning Ordinance as it pertains to Lodging Houses.

List of Exhibits

- Exhibit A Cease and Desist Order, dated September 3, 2009 for property at 10 Boyden Street, signed by John Nordberg and John Kelly.
- Exhibit B Administrative Appeal Application, with attached memorandum of December 13, 2013 from Blake J. Rubin, attorney representing himself and the other petitioners.
- Exhibit C Massachusetts Cases (www.masscases.com), City of Worcester v. Anthony Bonaventura and others, 56 Mass. App. Ct. 166. Decided September 30, 2002. Retrieved January 29, 2014.
- Exhibit D Massachusetts Cases (www.masscases.com), City of Worcester v. College Hill Properties, LLC and another, 465 Mass 134. Decided May 15, 2013. Retrieved January 30, 2014.
- Exhibit E February 12, 2014 Memorandum from Ann S. Refolo, Assistant City Solicitor.

NEW BUSINESS

PUBLIC HEARING:

3. 12 Laurier Street (ZB-2013-056)

- Variance: Relief of 4.8 ft. from the 8 ft. side-yard setback dimensional requirement for a single-family detached dwelling in a RS-7 Zoning District (Residence, Single Family)
- Special Permit: Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Structure (Article XVI, Section 4)
- Petitioner: William Lepage
- Present Use: A single family detached dwelling
- Zone Designation: RS-7.0
- Petition Purpose: Petitioner seeks to construct a ~384 SF two car attached garage along the western side of the building.

Public Hearing Deadline: 2/3/2014, 2/24/14

Constructive Grant Deadline: 4/9/2014

No one was present for this item.

Ms. Zhaurova stated that the applicant submitted supplementary findings of facts and a revised floor plan showing an additional overhead door at the rear of the proposed garage that allows access to a second required off-street parking space south of the structure. She noted that the applicant did not communicate with staff about not being present at the meeting.

Mr. Abramoff opened the public hearing and stated that the item should be continued to the next meeting to allow the applicant to present the item.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to continue the item to April 7, 2014.

List of Exhibits

- Exhibit A: Variance and Special Permit Application; prepared by William LePage; received November 1, 2013; revision received 2/10/14.
- Exhibit B: Plan for Variance; prepared by B& R Survey, Inc.; dated September 8, 2013; received November 1, 2013.
- Exhibit C: Floor Plan and Details; prepared by William LePage; undated; received November 1, 2013; revision dated 2/11/14, received 2/10/14.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 12 Laurier Street; dated January 30, 2014; revised 2/19/14.
- Exhibit E: Request for Postponement (2/13/14 to 2/3/14) from William LePage to the Zoning Board of Appeals; dated December 17, 2013; received December 31, 2013.
- Exhibit F: Request for Postponement (2/3/14 to 2/24/14-hearing; 2/25/14 to 4/9/14-constructive grant) from William LePage to the Zoning Board of Appeals; dated and received 2/3/14.

4. 13 Hope Avenue (ZB-2013-062)

- Special Permit: To allow an Auction House (Table 4.1, Manufacturing Use #2) in a MG-2.0 Zoning District (Manufacturing, General)
- Special Permit: To allow Retail Sales (Table 4.1, Business Use #26) in a MG-2.0 Zoning District (Manufacturing, General)
- Petitioner: Worcester Antique Associates, Inc. (aka Antique and Auction Centre at Worcester)
- Present Use: A ~24,320 SF industrial warehouse with a ~20,000 SF mostly paved lot
- Zone Designation: MG-2.0
- Petition Purpose: To operate an auction house and conduct retail sales

Public Hearing Deadline: 2/24/2014

Ms. Smith stated that staff recommends continuation until the applicant is able to provide a plot plan showing a parking schedule, parking layout, proposed loading/delivery areas, existing and proposed landscape buffering, signage, and lighting, and also pays the \$780 in outstanding fees associated with the application.

Mr. Abramoff opened the hearing per the applicant's request.

Ronald D'auteuil, 729 Franklin Street resident, displayed a plan, drawn to scale. He stated that the plan was done to the requirements of the Ordinance, showing the required parking spaces for the site. He submitted two letters of support from the Chamber of Commerce and from Polar Beverages into evidence.

Mr. D'auteuil stated that he is leasing this building with an option to buy and has been operating the retail sales component out of the space because the previous tenant had been using it in that capacity and he was unaware of the need to obtain special permits by the Zoning Board.

Mr. Abramoff asked if the building was brought up to code. Mr. D'auteuil stated that the building is currently up to standards and has a sprinkler system.

Mr. Abramoff stated that staff was requesting a plan of land and he is not sure that what was being displayed met all the requirements.

Mr. D'auteuil stated that it would cost thousands of dollars to provide a surveyed plan of land and that he hoped that what he presented, based on the City's Assessing records, was sufficient.

Ms. Smith stated that the main concern with the request was whether the applicant could provide sufficient parking on Saturdays when the applicant operates the auction house. She stated that the plan displayed appears to show that the site would provide sufficient parking to accommodate the estimated ~50 patrons.

Mr. Abramoff stated that he was in favor of this petition.

Mr. Kelly stated that if the plan is to scale, the applicant can meet with him to verify the spaces required. He believes the applicant has the space but noted that the lot is both paved and unpaved.

Mr. Rolle stated that he was concerned that staff has not had an opportunity to review the plans presented.

Mr. Michajlow stated that although he was in favor of the petition he would like to see a plan that shows the layout, landscaping, lighting, etc. He asked if the applicant had read the suggested conditions of approval and if he was amenable to them.

Mr. D'auteuil stated that being asked to landscape, install fencing, pave, etc. was asking him to spend money on a property he doesn't yet own. He has already spent hundreds of thousands of dollars improving the property but is still waiting for the 21-E grant process to determine if he can afford the building.

Mr. Abramoff stated that the lot should be cleaned up with outdoor lighting, delineated parking spaces, and landscaping. He asked the applicant when he expects to become the property owner, pending the 21-E. Mr. D'auteuil stated that it might be another year because he was at the mercy of the state. He stated that he cannot mortgage the property without the Special Permit for the use and the 21-E approvals.

Ms. Hart stated that she has attended Mr. D'auteuil's auctions and vouched for his character and way of doing business. She stated that she thought it was problematic to ask the applicant to re-apply.

Michael Lanava, on behalf of Mayor Joseph Petty, stated that Mr. Petty wanted him to communicate that he is supportive of the project as the work done to the property is a great improvement and a catalyst for revitalizing the neighborhood.

Mr. Abramoff stated that the Board's options are as follows: they can approve the petition with the recommended conditions of approval; they can continue and require an engineer's plan and revisit the matter later; they can approve it with a 2 year time limit and the applicant would have to return with a plan before the 2 years expire; or they can condition the approval that upon purchase, the applicant must provide a plan substantially in compliance with the Zoning Ordinance and effect it within 12 months.

Mr. Wanat asked where the handicapped parking spaces are located. Mr. D'auteuil stated that there is space for three right handicap accessible space in front of the main entrance. Mr. Abramoff stated that those handicapped spaces need to be identified immediately.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Wanat, the board voted 5-0 to approve the petition subject to the following conditions:

1. Comply with the ADA requirements for handicap accessible parking immediately;
2. Within twelve months from the date of the applicant's purchase of the property, provide 6 copies of revised plans to the Division of Planning and Regulatory Services showing compliance with the Zoning Ordinance and effect such changes so as to comply with the Ordinance (specifically with respect to parking layout and landscaping); and
3. Provided the project is constructed in accordance with all governmental codes.

List of Exhibits:

- Exhibit A: 13 Hope Avenue Application; received December 20, 2013; prepared by Worcester Antique Associates.
- Exhibit B: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 13 Hope Avenue; dated January 8, 2014.
- Exhibit C: Request for waiver of the plan of land application requirement; re: 13 Hope Avenue; dated January 9, 2014.
- Exhibit D: Request for postponement; re: 13 Hope Avenue dated January 13, 2013.
- Exhibit E: Chamber of Commerce Letter of Support for 13 Hope Ave, prepared by W. Stuart Loosemore, dated February 21, 2014.
- Exhibit F: Polar Beverages Letter of Support for 13 Hope Ave, prepared by Brian La Forte, dated February 24, 2014.

5. 2 Coes Square (ZB-2014-001)

Special Permit: To allow a pre-existing non-conforming use of a similar nature in RL-7 zoning district

Petitioner: Lakhveer Sahota

Present Use: A ~8500 SF mixed use building with a restaurant (Food Service excluding the consumption and sale of alcoholic beverages per Article IV, Table 4.1, Business use # 7) and associated off street surface parking

Zone Designation: BG-2.0 (Business, General) and RL-7 (Residential, Limited)

Petition Purpose: To serve alcohol in the restaurant (Food Service including the consumption and sale of alcohol per Article IV, Table 4.1, Business use # 8)

Public Hearing Deadline: 3/22/2014

Anthony Paladino, 35 Purchase Street, whose father is the property owner, stated that they were petitioning to have alcohol permitted with the existing restaurant that operates at the site. He stated that they would provide the additional handicapped parking spaces, the required trees, and the requested fence and that they were amenable to all the conditions and will comply with them.

Mr. Abramoff stated that the building has been cleaned recently.

Ms. Smith stated that the applicant did not submit a plan of land and has not requested a waiver for it. She stated that the site is compliant with regards to parking as 61 spaces were required, given the information provided by the owner, and 80 spaces appeared to be provided. She stated that the number of seats for the use had been reduced from 144 to 92. Staff has determined that the proposed use appears to be that of a similar nature and fits in with the neighborhood which is a mix of commercial and residential.

Mr. Kelly stated that a new certificate of occupancy was issued for 92 seats.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 5-0 to approve the findings of fact as modified by staff and approve the petition subject to the following conditions:

1. Comply with the Zoning Ordinance requirements as they relate to landscaping:
 - a. Plant trees every 20-25 ft. on center where parking areas abut a street or residential use and provide a minimum of 5 trees in the interior landscaping islands (1 per every 10 interior spaces);
 - b. Select tree species that are non-Asian Longhorned Beetle susceptible;
2. Provide a six foot stockade fence along the northern lot line where the parking area abuts a residential property owned by n/f Truong;
3. Screen the existing dumpster(s) with a six foot stockade fence;
4. Provide a minimum of 4 handicapped accessible spaces, striped and signed in compliance with ADA Regulations; and
5. Provided the project is completed in compliance with all governmental codes.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to approve the waiver for the formal to-scale plan of land application requirement.

List of Exhibits

- Exhibit A: 2 Coes Square Application; received 1/16/2014; prepared by Lakhveek Sahota.
- Exhibit B: 2 Coes Square Plan; received 2/6/2014; prepared by Lakhveek Sahota.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 2 Coes Square Special Permit; dated February 21, 2014.
- Exhibit D: 2009 Aerial Image of the site showing parking layout, with staff mark ups; dated February 20, 2014.

6. 40 Quinsigamond Avenue (ZB-2014-003)

- 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

Public Hearing Deadline: 3/27/2014

Ms. Zhaurova stated that staff recommends opening the hearing, taking testimony, and continuing the item to allow the applicant time to address the issues and questions raised by staff, to submit revised plans, and to allow time for the Fire Department District Chief to provide recommendations with regards to safety, adequacy, and operations of the proposed facility.

Kenneth Knowles from Eaglebrook Engineering & Survey in Danvers, MA, introduced Babak Alizadeh, the representatives for iNatGas and CNG. Mr. Knowles stated that the property is located at the corner of Lafayette Street and Quinsigamond Street. He stated that the property is currently owned by NSTAR Gas but is vacant and used to store construction debris and staging for NSTAR as they install and maintain the pipelines throughout the region.

Mr. Babak stated that because the 100 year flood plain bisects the property, they will go before the Conservation Commission on March 3, 2014.

He stated that there will be two uses onsite: the rear portion of the site will be used to refuel bulk storage containers and trailers, and the front portion of the site will be used to refuel fleet vehicles. He stated that the rear portion will have its curb cut from Lafayette Street and that it will require a keycard to access and thus will not be open to the general public. He stated that a chain-link fence will separate the two uses. He explained that the bulk containers/trailer refueling portion of the site

serves to provide natural gas to customers that want to use the product but do not have access to a pipeline from the street. He stated that the site will not be manned.

Mr. Abramoff asked if iNATGAS operates any of these unmanned facilities elsewhere in the state. Mr. Knowles stated that the parent company of iNATGAS, AVSG (Alternative Vehicle Service Group), has nine other similar stations in New England.

Mr. Abramoff asked if the applicant was complying with the landscaping requirements. Mr. Knowles stated that they will plant some shrubs and have some grass areas but they cannot plant trees along the street because there are pipelines underground. Mr. Knowles stated that they will need to request a waiver for the screening and buffer along Quinsigamond Avenue but that they are amenable to providing additional trees along Lafayette Street.

Ms. Zhaurova stated that she recommends the item be continued to allow the applicant to meet with the Fire Chief and address the fire concerns. She stated the following concerns:

1) Emergency Operation Plan:

- a. Revised Emergency Operation Plan states section 2.2 “*Onsite Communications – Methods used to alert on-site personnel*” as no on-site personnel is proposed. Provide information regarding emergency operations training of all fleet operators, per conversation with staff.
 - b. What is the EOP for cases when no customers are on site? Will there be 24/7 surveillance cameras?
 - c. How many Emergency Coordinators will be assigned for the site and what will be their schedule? (24 hrs a day / 7 days a week?)
 - d. Information about the only other CNG facility constructed and currently operated by Alternative Vehicle Service Group LP (AVSGLP) at 25/29 Lake Avenue North, particularly as it relates to the questions / additional information requested for this application.
- 2) The plan does not show compliant landscaping. The applicant should show compliant landscaping and an updated proposed planting schedule (trees every 20-25 ft on center in a 5-ft buffer where work area is abutting a street (Lafayette Street and Quinsigamond Avenue)) or request relief from this Zoning Ordinance requirement (a filing of a Special Permit for a waiver of landscaping requirement would be required).
- 3) The plan did not provide enough information about the maintenance of the facility.

Ms. Zhaurova stated that staff supports this project but more information is needed before permitting can commence as this site is the first of this type of facility to be permitted in the City by the Board. She stated that there is only one other CNG facility in the City, located at 25/29 North Lake Avenue, and operated by the applicant but that the site is not as large as the subject project and because due to it being state property – it was not subject to ZBA permitting that the current site requires. She expressed concerns regarding who would push the Emergency Shutdown Device if no one was on-site to initiate such a sequence at the time of said emergency.

Mr. Knowles stated that there was one comment in the staff memo regarding only allowing a right turn out of the northerly curb cut. He stated that the exit is intended only for emergency use and

when the road gets blocked off. Mr. Rolle stated that staff was amenable to such use but the information provided was previously unclear.

Mr. Loew asked if the location on North Lake Ave is similar to the one the applicant is proposing. Mr. Knowles stated that the front portion, where fleet cars will refuel, is similar.

In response to staff questions, Mr. Alizadeh stated that iNATGAS has operated the North Lake Ave location since 2003. He stated that CNG is generally for providing fleets with fuel and that it is rare to see a private citizen as a customer. He stated that there are two ways to operate this type of business 1) as a "private" refueling station where a customer of the company can bring their fleet overnight and refuel all of their vehicles and only those fleet vehicles have access to the site, or 2) as a "public" refueling station which is open to all fleet vehicles, any vehicle that belongs to a fleet group.

Mr. Alizadeh stated that iNATGAS is owned by AVSG and is a separate entity because the trailer refueling use is tax-exempt while the public fleet fueling is subject to federal and state excise taxes.

Jo Hart, Worcester resident, stated that 40 Quinsigamond Street is also the new location for the Worcester Regional Transit Authority so she asked clarification on how the site is being operated. She stated that she is concerned about all the additional traffic both businesses will generate. Mr. Kelly responded that the WRTA site abuts this property and that Department of Public Works & Parks is analyzing the traffic impacts of these uses.

Mr. Alizadeh stated that the Local Fire Chief signed off on the location on Lake Ave North back in 2003 and, while the fire departments in the City and surrounding towns have all been trained to handle any emergencies at this facility, no issues have occurred.

Mr. Abramoff stated that the applicant still needs to apply for the Special Permit for relief of the landscaping requirements.

Mr. Loew asked how this station would be monitored. Mr. Alizadeh stated that it will be monitored remotely by live cameras by his company and NSTAR Gas. He explained that there is also an Emergency Shutdown Device that, when pushed, in case of an incident, kills all power to the site, pages a technician, and calls the fire department to the site. He indicated that there have not been any incidents in the 11 years the other Lake Ave facility has been up and running for.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 5-0 to continue the item to April 7, 2014 to allow the applicant time to apply for additional Special Permit for relief from strict compliance with landscaping requirement, to address the issues and questions raised by staff, submit revised plans, to allow time for the Fire Department District Chief to provide recommendations with regards to safety, adequacy and operation of the proposed facility.

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.
- 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: Project Review Sheet from John P. Powers, Fire Department re: 40 Quinsigamond Ave; undated.
- Exhibit H: AVSG Webpage Print-outs; 2/21/2014. <http://cngnewengland.com/>

PUBLIC MEETING

7. 721-731 & 722-724 Main Street (ZB-2014-002)

Extension of Time for:

- Special Permit: To modify parking layout, with respect to the 5 ft. landscape buffer (Article IV, Section 7)
- Special Permit: To reduce the number of required parking spaces by 10% (4 parking spaces)
- Variance: Relief of 4 parking spaces
- Petitioner: Vinh Tran
- Present Use: A single story mixed use building with nine associated off-street parking spaces located at 721-731 Main Street and an accessory parking lot with 24 parking spaces located at 722-724 Main Street
- Zone Designation: BG-3.0 (Business, General) and AOD (Arts Overlay)
- Petition Purpose: To allow a six month extension of time for the above listed Variance and two Special Permits which were previously approved by the Zoning Board of Appeals on January 28, 2013, with final action date on February 12, 2013

Ms. Zhaurova stated that the state permit extension act does not apply as it applies to projects approvals valid between August 15, 2008 and August 15, 2012 while this project was approved in January 2013.

Attorney Todd Rodman, representing property owner Vinh Tran, stated that the Variance and Special Permits were approved about a year ago but has taken Mr. Tran longer than anticipated to secure bids and hire an architect to generate plans for the Inspectional Services, so he has run out of time under this approval.

Mr. Rodman stated that in the memo staff recommends approval of the Extension of Time for the Variance for 721-731 & 722-724 Main Street by 6 months to October 30, 2014 (maximum allowed time extension period in accordance with the Zoning Ordinance) and that the Special Permit Extension of Time be withdrawn to allow Mr. Kelly to approve the extension for good cause. He stated that the Zoning Board also has the authority (Zoning Ordinance Section 8, Article 2) to grant an Extension of Time for Special Permits.

Ms. Zhaurova stated that the Zoning Ordinance gives the authority to allow an extension for both commencement and completion of the authorized work under the Special Permit. She stated that the rules and regulations for the Board specify that they can only extend completion of a project, not commencement. She explained that Special Permit work should be commenced within a year and completed within two; both of those deadlines can be extended by the Director of Code Enforcement if he finds that it is for a good cause. She stated that the law department expressed that this consideration should be heard by the Director of Code Enforcement before it comes before the Board. Ms. Zhaurova stated that staff recommends approval for the extension for the variance.

Mr. Kelly stated that he must receive something writing in order to determine whether the extension is for good cause. Mr. Rodman indicated he would follow up with Mr. Kelly and requested the Special Permit hearings be continued to the next meeting to allow the petitions to be reviewed by Mr. Kelly.

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

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to approve the extension of time for the variance for six months provided the project is completed in accordance with site plans submitted on file with the City of Worcester and in compliance with all governmental codes.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to continue the extension of time request for the two special permits to April 7, 2014.

List of Exhibits

- Exhibit A: Extension of Time Application; prepared by Vinh Tran; received January 21, 2014.
- Exhibit B: Parking Plan; prepared by Graves Engineering, Inc.; dated December 11, 2012, revised March 1, 2013.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board; re: 721-731 & 722-724 Main Street; dated February 24, 2014.

OTHER BUSINESS

8. Communication

- a. 184 Highland Street Decision Appeal by Lawrence J. Quinn
No action was taken.

9. Signing of Decisions from prior meetings

Decisions were signed for the following petitions: 3 Homer Street (ZB-2013-060); 27 Shrewsbury Street (ZB-2013-059); 8 Blackstone River Road (ZB-2013-061); 61 Lafayette Street (ZB-2013-046) and 28 Wigwam Avenue (ZB-2013-054).

10. 8 Bluff Street (MBL 06-013-00013) – Variance Application

- Variance: Relief of 670 SF from the 5,000 SF minimum lot size dimensional requirements for a single family detached dwelling
- Variance: Relief of 3.5-ft from the 15-ft rear-yard setback requirement for a single family detached dwelling
- Petitioner: Mayank Patel
- Zone Designation: RG-5 (Residence, General)
- Present Use: Vacant lot
- Petition Purpose: Construct a single-family detached dwelling with two off-street parking spaces

Final Action Deadline: March 5, 2014

Ms. Zhaurova stated that the applicant's representative submitted a written request for a fee waiver and staff recommends that it be approved.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to approve the fee waiver.

List of Exhibits

- Exhibit A: Variance Application; prepared by Mayank Patel; received December 30, 2013.
- Exhibit B: Plan for Variance; prepared by B&R Survey, Inc.; dated December 6, 2013; received December 30, 2013.
- Exhibit C: Rendering Home Plans; prepared by Beyond Basics; dated December 3, 2013; received December 30, 2013.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 8 Bluff Street – Variance Application; dated January 28, 2014, revised February 21, 2014.
- Exhibit E: Leave to Withdraw and fee refund request from Atty. Don O'Neil; dated February 18, 2014; received February 20, 2014.

ADJOURNMENT

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to adjourn the meeting at 7:18 P.M.