

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

**March 1, 2010  
WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM**

**Zoning Board Members Present:** David George, Chair  
Leonard Ciuffredo  
Lawrence Abramoff  
Andrew Freilich  
William Bilotta

**Staff Present:** Joel Fontane, Division of Planning & Regulatory Services  
Ruth Gentile, Division of Planning & Regulatory Services  
John Kelly, Department of Inspectional Services

**REGULAR MEETING (5:30 PM)**

**CALL TO ORDER**

Chair George called the meeting to order at 5:30 PM.

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

**Other Business:** Mr. Joseph O'Brien, Mayor, acknowledged that this is Board member Ciuffredo's last meeting. He thanked him on behalf of the city and presented the key to the city for his years of service and also for his participation in the Brown Square Civic Association. Board members, George, Abramoff and Bilotta also thanked Mr. Ciuffredo for his 8 ½ years of service and his help in welcoming each of them to the Board over the years.

**Minutes:** Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 4-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, and William Bilotta to approve the minutes of 1/25/10 as amended.

Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 4-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, and William Bilotta to approve the minutes of 2/8/10 as amended.

Signed decisions.

**Scrivener's Error:** Ms. Gentile presented the scrivener's error for 39 Jolma Road.

**The decision reads:** "That no equipment storage be within 10 feet of the Personal Wireless Service Facility structure,"  
but should read:

“That no equipment storage be within 10 feet of the fence enclosing Personal Wireless Service Facility structure.” Upon a motion by Leonard Ciuffredo and seconded by Lawrence Abramoff, it was voted 4-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, and William Bilotta to accept the scrivener’s error for 39 Jolma Road for an Amendment to Special Permit to allow a personal wireless service facility.

- 1. 52 Country Club Boulevard (ZB-2010-001) – Special Permit: Expansion or Change of a Pre-existing non-conforming use/structure for a Personal Wireless Service Facility:** Robert Longden, representative for Clear Wireless LLC, petitioner, requested continuance of the item to April 12, 2010 to allow time to re-advertise the item due to an addressing error, resulting in a notification error. Upon a motion by Leonard Ciuffredo and seconded by William Bilotta, it was voted 4-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, and William Bilotta to grant the petitioner’s request to continue the hearing to April 12, 2010 and extend the public hearing deadline to May 5, 2010.

Mr. Freilich enters at 5:50 P.M.

- 2. 845 Main Street (ZB-2009-093) – Special Permits: To allow a drive-through for a donut shop, to modify parking/loading and landscaping requirements and to modify parking/loading requirements to allow no escape lane for the drive through in an RG-5 zone and BL-1.0 zone:** Attorney Robert Branca and Ken Strom, representatives for J&M Batista Family, LLC. , petitioner, presented the plan to purchase 6500 sf. from the abutting school parcel to beautify the school and their parcel to include a landscaped wall and a landscaped buffer along the rear of the property. Mr. Branca stated that the Planning Board recommended that the construction being during the summer months when the children are not in school. Mr. Strom stated that land is being acquired from Worcester Central Catholic school and that the existing site is being redeveloped to accommodate a drive-through, service windows and escape lane. In order to construct the full escape lane, a zone change is required. The Board was concerned about the need for the special permits if a zone change is approved. Mr. Strom stated that the special permit for a drive-through would be required, that the special permit to modify landscaping requirements, as there is an area in the landscape buffer that is not five feet wide and the special permit for the escape lane is needed as there is only five feet and ten feet is required. Mr. Fontane clarified that the Special Permits are needed even if the zone change is ultimately approved, but that the Board’s approval allows the applicant to construct the plan as presented. The board was concerned with the amount of landscaping that was proposed. Mr. Abramoff stated that the corner was an eye sore and that this plan would help with improving it. Mr. Freilich was concerned that if the Special Permits were approved, a zone change would not be needed. Mr. Fontane clarified that the zone change and the Special Permits would make the lot fully compliant. Mr. Ciuffredo was concerned that the board had requested comments from DPW&P and had not received them. Mr. Fontane stated that the DPW&P had reviewed the plans under site plan review and that the comments were regarding curb cuts and storm water management. Upon a motion by Lawrence Abramoff and seconded by Lawrence Abramoff, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich to approve the Special Permits to allow a drive-through for a donut shop, to modify parking/loading and landscaping requirements and to

modify parking/loading requirements to allow no escape lane for the drive through in an RG-5 zone and BL-1.0 zone with the following conditions: 1) if a zone change is approved, the applicant must file an amended site plan; 2) the zone change petition may not be withdrawn; 3) a semi-annual program to maintain landscaping and fencing be performed; 4) ivy is to be planted on the wall between this property and the school property.

Atty. Spillane, representative for the applicant of the 240 Main Street application came up to the podium and informed the Board that Sponsor Spot had changed its name to Worcester Sign Company. Staff and further clarified the change and the contents of the notice. The Board determined and agreed that the notice was not defective.

**3. 240 Main Street (ZB-2009-094) – Special Permit: To allow a non-accessory sign in a BG-6 zone.** Atty. Michael Spillane, representative for Worcester Sign Company presented the plan to construct a non-accessory wall sign. He stated that the location was on an existing wall of the building and that a vinyl structure is attached to a bracket system. He said that the sign meets the square footage requirements of 1200 sf., as one sign is 500 sf. and the other is 300 sf. Atty. Spillane indicated that he wanted to address the Planning Dept's negative comments on the application. Mr. George stated that he typically we go to the Board for comments first. He indicated that staff comments are non-binding on the Board. Atty. Spillane said beauty is in the eye of the beholder. He further stated that safety issues are a factor and that they are trying to locate run down buildings with good visual presence and that the signs are inviting and make the city vibrant. The Evidence of how advertising can encourage commercial activity is compelling. The Planning Dept. is operating on evidence as well not to be discounted either. I would want to see a larger sign on that building. Call it the band aid approach. Putting it over the eyesore. Mr. George indicated that he would like to hear from the Board. Mr. Ciuffredo stated that wallsapes are pleasing and have a place. He further stated that the city is working on a sign ordinance and the he believed this petition and the others are trying to get ahead of the new ordinance. Troubling to him. He indicated that the size of the proposed wallsapes was overwhelming. He questioned why there were no photo simulations for these signs. Was it an effort to make it seem less than was it really is. He also stated that while the signs may show vibrancy advertising for another business not located on site may also show a sign of desperation. He further stated that, if all the sign petitions that are before the Board tonight, are approved, the downtown would be overwhelmed. There is a place for wallsapes but not necessarily the way the applicant proposed. Atty. Spillane respects the process and notes that right across from the court house there are no signs.

Mr. Abramoff indicated that he was having difficulty visualizing the proposal and agreed that photo simulations were needed. I do not know what an 800SF sign means. For him to make a good educated decision he would need to see it. Atty. Spillane indicated bigger would be better. Beauty is in the eye of the beholder. Mr. George indicated that he wanted to hear more from the Board. Mr. Freilich stated that he is pro-business and sees merit to the signs, but does not think he can support the petition in light of the fact that there is going to be a new sign ordinance that will address these issues more. There is some merit in this petition but cannot support it until the City comes out with the new ordinance. Atty. Spillane said that they hope to be contributor to the process and bringing everyone onto the same page will be important. Mr. George indicated that there would be a public participation process to consider the sign ordinance and that the sign industry would be welcome. Mr. Freilich said

that given the context he wanted to give the opportunity for the petition to be withdrawn until the sign ordinance is adopted. Mr. Spillane stated that they want the petition to stand on the merits of the application. Mr. Abramoff said that he still wanted to see photo simulations and that they could continue the matter. Mr. Freilich stated that the photo simulations would not change his mind on the matter. Mr. Abramoff indicated that he could support a petition on that building that is tasteful and properly sized so as not to overwhelm the building. Atty. Spillane said that the ordinance will not be out for some time and that it would not affect them.

Mr. George stated that the board could vote the petition this evening based on its merits, but that the new sign ordinance will address this type of sign specifically be more thoughtful regard size and visual components and may be more favorable to this type of sign. Mr. Freilich said that he expressed concern at a previous meeting about the time needed to finish development of the ordinance and that Mr. Fontane indicated that they are working on this diligently. Atty. Spillane asked the Chairman if he could confer with his client for five minutes. Mr. George consented to the request. Mr. Ciuffredo addressed Councilor Lukes and told her that the Board had been inundated with these types of request and that he believed that a moratorium should be considered until the sign ordinance could be completed. Mr. Abramoff asked Mr. Fontane about the new ordinance. Mr. Fontane stated that the proposed ordinance addresses accessory and non-accessory signs and that it does incorporate a form based formula based element that captures a relationship to a building. Instead of a one size fits all, it takes into account the context and the neighborhood. Mr. Kelly indicated that the new ordinance will relate to building height and length through a formula. Mr. Bilotta said who gets the money for the sign? Atty. Spillane came back to the podium from speaking with his client and explained the relationship between building owner and his client. He characterized it as a bandaid approach. He said it is going to take a long time to adopt an ordinance and it will be to the detriment of the city. Mr. George discussed how the Board was going to approach the hearings for the multiple applications before the Board from Worcester Sign Company. He said that they would not open all concurrently but that we would accept the testimony from this item for the others as well. Atty. Spillane said he agreed.

Mr. Abramoff asked whether the applicant had reviewed the three recommendations on page 6 of 7 from staff to the Board regarding this application let me read them to you.

- 1) that the total permitted sign area for non-accessory signs on the northern face of the building not exceed 272SF, an area that is more closely aligned with staff's recommended wall sign regulations for both accessory and non-accessory wall signs based on best practice research.
- 2) That the non-accessory sign remain a static sign and contain no digital signage.
- 3) That any existing accessory and non-accessory signage on site, including temporary signage be brought into compliance with the Zoning Ordinance prior to issuance of a building permit.

Atty. Spillane said he would have to review those and that number three could mean a lot of things. Mr. George said he thought that the Board was getting ahead of itself discussing conditions. Mr. Abramoff said they are suggested conditions from staff if the Board were to approve the applications. Mr. George said asked if Atty. Spillane wanted to take a few

minutes to confer with the client if you would like to so we can get an understanding if those would be a problem later on in the hearing.. Atty. Spillane stepped away from the podium.

Mr. Fontane indicated that staff has comments on the findings of the applicant. Mr. George said before we get to a review of the findings he asked Atty. Spillane how his client would like to proceed and said that the Board should vote them together. Mr. George said that they will open each of the hearings separately. Mr. Abramoff said that there are three recommendations from staff and asked if Atty. Spillane has reviewed them. And asked if the applicant would be amenable to them. Mr. George referred to page 6 of 7 of staff's memo regarding conditions of approval. Mr. Freilich asked when the new ordinance would be completed. Mr. Fontane said that staff will be transmitting the zoning ordinance recommendation in April followed by a comment period and then a special meeting of the Planning Board, probably in June. Mr. George asked what the applicant thought of the conditions of approval. Atty. Spillane said that the size limitation imposed by condition one (272SF) does not follow his client's business model and would not be marketable. You go bigger or you go home. He also said that his client was not proposing a digital sign nor will it as condition two addresses. Lastly, the third condition was open ended and that the company always wants to comply with the Zoning Ordinance. Mr. Freilich withdrew his motion to close the public hearing after Mr. George indicated that there was more testimony to take on the matter. Mr. George asked for the administration's comments on the application and asked if the audience had any comments on the matter. Norma Conley spoke and wanted to know when the public hearings on the sign ordinance would take place. Mr. George said yes and explained that the administration has been working on a rewrite of the sign ordinance and that there would be opportunity to comment and asked Mr. Fontane. Mr. Fontane clarified that a legal ad would be placed in the paper and that neighborhood groups would be notified and that it would be posted on the city's website. George Maldonado stated that he owned property at 629 Chandler Street and that the income he would receive from allowing these signs to be installed would help with paying property taxes and other fees to help maintain his property. Keith Scott was concerned about the size and type of signs and what type of advertisement and what is the intent of these signs. Mr. George stated that the sign would be a vinyl sign attached to the building. He said that the board cannot regulate content of the sign. He further said that they are signs advertising businesses elsewhere and they are very large. Mr. George asked Mr. Fontane for the administration's comments.

Mr. Fontane presented staff's comments regarding the findings of fact. He said that Staff does not recommend approval of Special Permit for the proposed non-accessory sign because of its location in the downtown historic business corridor on a historically significant building. Moreover, the size of this non-accessory sign is not in keeping with the character of this area – a downtown business street. Mr. Fontane went on to say that as the Board mentioned earlier, staff is nearing completion of a year long effort to develop an omnibus sign Zoning Ordinance amendment that, in addition to addressing accessory signs, specifically addresses non-accessory wall and roof signs.

What we have learned from our research is that one of the most challenging aspects of regulating signs is striking a balance between preserving neighborhood character and meeting the needs of business. For every study that demonstrates the economic benefits of various sign types and sizes for property and business owners, there are opposing studies

positing the economic and health benefits of limiting signage in an effort to reduce visual clutter and sign “noise”.

Moreover, we conclude from our research that it is easier to prevent sign clutter today than to advocate for its removal tomorrow. When considering criteria for Special Permit for a non-accessory sign use, the Board should consider the context within which the sign is proposed as it relates to its dimensions, and whether a non-accessory sign is appropriate for a given location. While accessory signs are vital to businesses, non-accessory signs are not. It is important to note that, as was said, the Zoning Board of Appeals cannot regulate content of signs, and therefore cannot consider the applicant’s proposed clients or proposed content of signs. Mr. Fontane then said that he was going to summary staff comments regarding the applicant’s proposed findings of the applicant.

Staff contend that vibrant streetscapes are primarily a function of the interaction among the active facades of buildings, uses within those buildings, and the presence of pedestrian oriented spaces that include both active and passive components rather than the presence of large non-accessory sign. Signage, is an important element of streetscapes but should not be the dominating feature of any streetscape, particularly in historic downtown corridors such as this one. While the applicant cites Manhattan (Times Square) as the ultimate standard for signage, it is important to note that recent discussions related to sign regulations in large cities, including New York, Los Angeles and Philadelphia, increasingly include discussions calling for a reduction in visual clutter in response to signage overload particularly in areas adjacent to neighborhoods and key cultural institutions. Even the City of Houston, known for its lack of zoning controls, now prohibits new billboards in its city. Moreover, Manhattan is an aberration, not the norm, and the amount of signage found there is not appropriate for the City of Worcester.

In terms of Neighborhood character and social structure the proposed 300SF and 500 SF signs for a total of 800 SF is larger, in total, than billboards typically constructed along high speed (50-55MPH limited access) highways such as I-290, Route 146 and I-90 and is therefore out of context and will overwhelm proposed location and cause visual clutter and distraction. By way of example, a typical billboard along these highways that I referenced is 672SF. The speed limit on Main Street is 30MPH, but the average speed is significantly below that speed limit roughly ~20-25MPH due to the number of traffic lights and pedestrian crossings downtown. Therefore, there is no need for a sign to be anywhere near as large as what is proposed at this location to ensure legibility or to convey the message it is trying to convey. Based on research from the American Planning Association, entitled Street Graphics and the Law, funded, in part, by sign industry, signs that are 35-50 SF in area are legible on streets where vehicles are traveling at 25-30MPH and where a sign can be viewed from 200'. Even the sign industry's Model Sign Code, indicates that ~200 SF is a reasonable size for wall signs in a downtown district. Legibility can be achieved with significantly small sign area.

Unlike along limited access highways, non-accessory signs along downtown commercial corridors such as this location compete with local businesses' signs as well as instructional and wayfinding signs particularly when mounted on the side of a building near ground level and, therefore, it is appropriate to limit the number, size and location of non-accessory sign uses such as these, and, in our opinion, are not appropriate for this location.

The proposed non-accessory sign is located on an historic building (see Exhibits detailing this) and is within the view corridor of valuable historical and architectural assets including City Hall and several other historic buildings. The deterioration of a building's brickwork should be repaired not covered with a sign. The sign proposed will detract from the architectural features of the building it is located on and the character of the Main Street corridor in general. Covering historic buildings with vinyl banners will not in and of itself create a more vibrant district. Even the best signs will not lead to vibrant streetscapes by themselves. Public and private efforts with respect to building orientation, active facades and landscaping and park location and design, including limiting excessive signage, contribute far more in that respect. Non-accessory signs are just one of many signs that could be permitted in this area. Limiting the number and size of non-accessory signs is appropriate to preventing these signs from overwhelming the other positive elements of this area and lead to visual clutter.

Although not recommended by staff, we did include three conditions that should the Board choose to approve this application we would advocate these conditions of approval in staff's memo.

Mr. Fontane went on to say that staff has provided separate comments on findings for each of these applications and that they have do have considerable overlap but that we can take them up as we get to each of the items on the agenda. Mr. George said that we will treat that as he discussed earlier. Thank you for the administrations position on this issue. Mr. George asked if the applicant have any comments on what was just presented by staff. Atty. Spillane said I advocate that the Board not adopt any findings of fact so as not to detract from any type of public argument that would be obtained in the future. I argue that it would have a

deleterious impact on all community groups' discussion on the matter. I said that what was presented was subjective. And what I have said could be said to be subjective. I think it would be better left to a series of debates and association meetings that would contribute to an ordinance that make sense. I think it would be destructive if the ZBA if finding of fact would be used against this submission. Mr. George said that you cannot have it both ways and if you would like findings to be made we have presented options to you for that course of action. However, if we vote we need to provide findings of fact or it would be arbitrary I do not think that would be a good idea. Atty. Spillane said that he would stipulate that there would be no appeal. That would not be something that I would ground an appeal on. We want to have an understanding about what it is this sign ordinance would have. That is the goal. Mr. George said that is what the public process is about but that has not happened yet. Atty. Spillane then said that in the interest of time that if the ZBA is to adopt the findings of fact that the board needs to realize that the City of Worcester has to move into the modern era. Mr. George said we look forward to the process and look forward to sign industry input. Mr. Fontane said that the Board has to make findings of fact and that he advocates that the Board consider those comments of staff. Atty. Spillane said that findings of fact are only needed for appeal and that he would stipulate for the record that there would be no appeal it would only stifle public debate but I defer to the Board. Mr. Fontane I advocate that the applicant consider a leave to withdraw if that is case. Mr. George said that the Board has indicated that option.

Mr. George said we are not debated the sign ordinance to come we are working within the framework of the existing ordinance and we are fully prepared to do so and we need to make findings. Atty. Spillane said if the Planning Board would refrain from using the findings of fact in any future public debate would be acceptable to the applicant. Mr. George said that the comments in staff's memo are particular to this sign and this location and the current ordinance and that discussion regarding their relevance to the new ordinance would take place in the proper forum. Atty. Spillane asked if the applicant could submit an opposition memo. Mr. George indicated that that would be a request for a continuance and then there would only be a four member Board as mentioned before. Atty. Spillane stated how about we object to the specific findings made by the Planning Board in lieu of the applicant's findings on the matter. Mr. George said that the comments of staff are non-binding and that he made an independent finding.

Mr. George stated that the board must determine if the adverse affects of the sign outweigh its benefits and are consistent with the general spirit of the Zoning Ordinance. He further said that the issue regarding traffic is relevant to the zoning ordinance. He stated that he was concerned with the safety of signs as the sign would be distracting in an area where drivers need to pay attention and make lane changes or use exits and entrances. His general concern is traffic safety in that area of the City and that these signs would be a distraction. Mr. George said when he is driving on that street you need to pay attention it is narrow in spots, you have cars trying to parallel park, pulling in an out you have cars trying to lane change, traffic lights and signalization and that kind of distraction is not welcome and I need to pay full attention. If it is lit at night that is another factor it makes it visible. I agree with the administration's findings. The other issue is the aesthetic, especially when there are policy documents in place that identify issues one of which was need to regulate signage. A group of people, as read in the materials provided, got together and created a plan that reflects citizen input and the plan should be respected. As they discussed with the asthetics I agree.



He also said that there are policy documents that identify a plan for this area of the city and he believes that the size of the signs create a negative effect.

Atty. Spillane referred back to the opening statement with regard to signage. In this day and age drivers are used to the distraction on the road, I pointed to Las Vegas if that were the case there would be numerous accidents on the road. If folks did not like signs outside of the court house or thought they were ugly then one could identify with the Chairman's finding of fact but as the petitioner's advocate I do not I think a lot of other folks would tend to agree as well. But I think that will be fostered in the community debate. The number one reason to approve these signs is safety. Folks that go outside particularly in that corner of Main Street if they are looking at a banner that is reflecting light off of it would discourage criminal activity in that area it would encourage pedestrians to come out.

Mr. Freilich was concerned and asked that if the ordinance changed, and this petition has been denied, would the petitioner then be allowed to re-petition prior to the two year limit. Mr. Fontane said yes, if there were a change in the ordinance that was substantive you could have a repetitive petition. So long as there is a substantive change in the petition.

Mr. George said before closing the hearing he wanted to know whether the Board was accepting the administration's recommendations regarding this issue. Mr. Freilich, Mr. Abramoff and George agreed that they do. Mr. Ciuffredo said that he concurs with all of the administration's finding of fact and believes that the Board should adopt them. Board members, George, Ciuffredo, Freilich, Abramoff and Bilotta concurred with staffs' recommendations for the findings of fact. Mr. Bilotta said there was nothing in the application to show the size so he could understand it. Mr. Spillane said that was fair. Mr. George said so you are looking for a photo-simulation and that there was not enough information for you to make a positive decision on this? Mr. Bilotta said that's correct.

Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the public hearing.

Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 1-4 by Lawrence Abramoff, (David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich voting no) to approve the Special Permit to allow a non-accessory sign in a BG-6 zone with the condition that a rendering drawn to scale submitted which in its sole judgment is tasteful.. Mr. George asked if there was a motion to reconsider. None were made. Mr. George indicated that there was no need to have a motion to deny it is a dead issue. Mr. Abramoff said it was denied.

4. **414-416 Main Street (ZB-2009-095) – Special Permit: To allow a non-accessory sign in a BG-6 zone.** Mr. George called this item. Atty. Spillane said that for the sake of efficiency that he would submit the same testimony. Mr. George agreed. Mr. Fontane indicated that there were several points that were specific to the other sites. Mr. George said that the Board will adopt the findings of staff for these matters. Brian Thomson said our goal is to have a visually appealing wall void from the messages which today we find unappealing. A new billboard the size of 1,100SF would be intrusive and abuts our parking lot. All signage should be compatible and a billboard a block from City Hall would be detrimental. Would

like to see the signs there removed and wall be repainted and repaired and returned as an inviting asset to the City. He said Commerce Bank as an abutter and community citizen strongly oppose the proposed variance. Atty. Spillane said that Commerce Bank is saying that no signs can be placed there. Mr. George said that he will let Commerce speak for itself. Mr. Abramoff asked about the scale of the drawing. Atty. Spillane said that the drawing is to scale. George Photakis, owner of the Owl Shop, said that he knows that the wall looks terrible but who can afford to take care of it. He explained that he has three signs one is a memorial for his son. And the others have a permit one deals with bankruptcy. He said that is the objection that the Bank has. Frontage of his building is only 20ft. I have no other choice but to leave that up there. He has permission and a license for these signs. Mr. George said that enforcement is another forum. Mr. Abramoff asked the applicant that this sign appeared to be oversized when compared with the building. Would the applicant consider a smaller area? This is 1,100SF. Atty. Spillane indicated that it depends how much. It depends on the buyer. Ultimately, the bigger the better with regard to these smaller buildings. Mr. Freilich said that 30% of the building would still be exposed and in disrepair. It has some merit, but I think that you need to modify the building also. I will not be supporting this petition the way it is being presented now until the sign ordinance comes out. As it sits right now I will not be supporting this petition. Atty. Spillane one of the keys to reforming this ordinance is how big non-accessory signs will be. As the gentlemen mentioned before it could help owners to support their building. Eminent domain could be used by the City. Mr. George said the Board did not say anything about eminent domain land taking at all. Atty. Spillane said I agree. Mr. George referred to the findings of fact and his additions. Upon a motion by Andrew Freilich and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 1-4 by Lawrence Abramoff, (David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich voting no) to approve the Special Permit to allow a non-accessory sign in a BG-6 zone subject to a rendering to scale submitted to this Board, which in its sole judgment, is tasteful. Mr. George said your petition has not been approved and then asked if there was a motion for reconsideration. None was made and he declared the matter resolved.

5. **255 Park Avenue (ZB-2009-101) – Special Permit: To allow a personal service wireless facility.** Robert Longden, representative for Clear Wireless LLC, petitioner, requested continuance of the item to April 12, 2010 to have a full five member board at the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich to grant the petitioner's request to continue the item to April 12, 2010 and that the hearing be the first item on the agenda for April 12, 2010.
6. **64 Water Street (ZB-2009-096) – Special Permit: To allow a non-accessory sign in a BG-3 zone.** Atty. Spillane said he would rest on the argument based on the other two applications. He then said that after speaking with his client, that he wants to be able to appeal and that he did not want to limit his ability to do so. Mr. George said that is fine and that he did not think that you could do that anyway. He then said that the Board would stipulate the same findings incorporating the information from the administration as specific to this site and incorporating his own findings as well. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence

Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 1-4 by Lawrence Abramoff, (David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich voting no) to approve the Special Permit to allow a non-accessory sign in a BG-3 zone subject to the conditions Mr. Abramoff read before. Mr. George said your petition has not been approved and then asked if there was a motion for reconsideration. None was made and he declared the matter resolved.

- 7. 154 Main Street (ZB-2009-097) – Special Permit: To allow a non-accessory sign in a BG-6 zone.** Atty. Spillane said he would rest on the arguments from the other applications 240 Main, 64 Water and 414 Main St. Mr. George said that the Board stated it would do the same and modify its findings for this site as indicated by staff’s memo and incorporating his own findings as well. Upon a motion by Andrew Freilich and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 1-4 by Lawrence Abramoff, (David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich voting no) to approve the Special Permit to allow a non-accessory sign in a BG-6 zone subject to conditions previously indicated. Mr. George said your petition has not been approved and then asked if there was a motion for reconsideration. None was made and he declared the matter resolved.
- 8. 37 Pleasant Street (ZB-2009-100) – Special Permit: To allow a non-accessory sign in a BG-6 zone.** Atty. Spillane said he would rest on his arguments from the other applications 240 Main, 64 Water, 414 Main St and 154 Main Street. Mr. George said that the Board stated it would do the same and make the same comments and the specific modify of its findings for this specific site as indicated by staff. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 1-4 by Lawrence Abramoff, (David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich voting no) to approve the Special Permit to allow a non-accessory sign in a BG-6 zone with the condition as outlined in previous applications. Mr. George said your petition has not been approved and then asked if there was a motion for reconsideration. None was made and he declared the matter resolved.
- 9. 114 Randolph Road (aka 100-240 Barber Avenue) (ZB-2009-107) – Special Permit: To allow a personal service wireless facility.** Robert Longden, Mark Morrone and Michael Hawthorne, representatives for Clear Wireless, LLC, presented the plan to allow a personal wireless service facility. Mr. Longden stated that there are four existing carriers, Sprint, T-Mobile, MetroPCS and Fibertower on the existing monopole. He stated that Clear Wireless is installing a triangular array of three (3) panel antennas at a height of 170 feet and 3 backhaul antennas at a height of 174 feet, an equipment cabinet inside a fenced compound. He stated that there are no immediate abutting residential properties and that the four conditions in staff’s memo are acceptable. He said that the use is existing and that a new generator is not proposed. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by Lawrence Abramoff, David

George, William Bilotta, Leonard Ciuffredo and Andrew Freilich to grant the following waivers. 1) Design Filing Requirements: Balloon Test: “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; 2) Plan to measurable scale and property lines for subject property; 3) Approval letter from Massachusetts Department of Public Health; 4) Vegetative cover on the subject property and immediately abutting adjacent properties; 5) Contours at each two feet AMSL (Above Mean Sea Level) for the subject property and adjacent properties within 300 feet; 6) City-wide Map showing other existing Personal Wireless Service Facilities in the City and outside the City within one mile of its corporate limits; 7) 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; 8) Federal Environmental Filing Requirements; 9) Lighting; 10) Noise filing requirements. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich to approve the Special Permit to allow a personal service wireless facility with the following conditions:

- 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.
- That an affidavit, signed by the applicant, be submitted that states that the applicant agrees to match the paint of the proposed equipment 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.
- 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 period of at least two years, and be adjusted for inflation upon term renewal – every two years. The provisions of said bond shall be to the satisfaction of the Director of Planning & Regulatory Services.
- That the structure is constructed in substantial accordance with the with the site plan submitted on December 28, 2009 and the photo simulation package dated November 10, 2009 prepared by Chappell Engineering Associates, LLC and submitted by Clear Wireless LLC on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.

**10.25 West Chester Street (ZB-2009-108) – Special Permit and Variance: To allow a personal service wireless facility.** Board member Leonard Ciuffredo recused himself. Fran Parisi, representative for MetroPCS, presented the plan for a Special Permit to allow a

personal service wireless facility and a variance for relief of 16 feet from the height requirement. He said the facility will be on the Mercy Center and there will be six antennas mounted inside a 51-foot stealth flue that will not extend more than 10' above the existing mechanical penthouse and an equipment cabinet. He further stated that the roof can only be accessed through a hatch and that signage will be installed on the ladder to the roof. He stated that signs must be installed because the equipment is shielded and it cannot be seen. Upon a motion by Andrew Freilich and seconded by William Bilotta, it was voted 4-0 by Lawrence Abramoff, David George, William Bilotta and Andrew Freilich to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by Lawrence Abramoff, David George, William Bilotta and Andrew Freilich to grant the following waivers. 1) Vicinity Plan showing: Vegetative Cover, Distances at grade from the proposed PWSF to each building on the vicinity plan, Contours at each two feet for the subject property; 2) City Wide Map; 3) Landscape Plan; 4) Balloon Test; 5) Environmental Assessment including approval letter from the Massachusetts Dept. of Public Health. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 4-0 by Lawrence Abramoff, David George, William Bilotta and Andrew Freilich to approve the Special Permit to allow a personal service wireless facility and a variance for relief of 16 feet from the height requirement with the following conditions:

- The applicant show compliance with noise level requirements; specifically the requirement that noise levels not exceed 50dba at the base of the building. The applicant submit a noise deadening or noise mitigation plan and submit a revised noise study showing compliance within two months of issuance of the building permit or installation date.
- That the applicant submit revised application pages (page 3, Certification of Compliance with Worcester Revised Ordinances, address of noise study) as suggested above.
- That the applicant provide information regarding security for the rooftop facilities including whether or not roof access is secured and/or what signage is provided near the facilities or near any public roof top access.
- 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.
- 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 period of at least two years, and be adjusted for inflation upon term renewal – every two years. The provisions of said bond shall be to the satisfaction of the Director of Planning & Regulatory Services.
- That an affidavit, signed by the applicant, be submitted that states that the applicant agrees to match the paint of the proposed equipment 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.

- That the structure is constructed in substantial accordance with the with the final approved site plan submitted and the photo simulation package dated July 8, 2009 prepared by Chappell Engineering Associates and submitted by Atty. Francis Parisi on behalf of applicant, MetroPCS on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.

## **NEW BUSINESS**

**11. 37 Pleasant Valley Drive (aka 49 Pleasant Valley Drive) (ZB-2010-004) – Special Permit: Expansion or Change of a Pre-existing non-conforming use/structure for a Personal Wireless Service Facility:** Amy White, representative for Lincoln Street Realty presented the plan for a Special Permit: Expansion or Change of a Pre-existing non-conforming use/structure for a Personal Wireless Service Facility. She stated that the facility will be on an apartment building called Lincoln Village 2 with existing Personal Wireless Service Facilities. They are going to install three (3) panel antennas on a ballast rooftop mount on the northerly section of the rooftop, install one (1) additional equipment cabinet, and mount a booster to an existing equipment cabinet, relocate one (1) existing antenna façade mounted on the north face of the penthouse to the east face of the penthouse and rotate one (1) antenna which is currently mounted on the northeast corner of the penthouse to face east. The Board was concerned with access to the roof and stated they wanted the rooftop access be locked and signage installed. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich to grant the following waivers: 1) The proposed location of all existing and future PWSF in the City; 2) A vicinity plan showing: Vegetative cover on the subject property and immediately abutting adjacent properties, Proposed security barrier, indicating type and extent as well as point of controlled entry, Distances, at grade, from the proposed PWSF to each building on the vicinity plan, Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet; 3) Design filing requirements, Colors of the proposed PWSF represented by a color board, Landscape Plan; 4) Balloon test; 5) Noise Filing Requirement; 6) Federal Environmental Filing Requirement. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich to approve the Special Permit for expansion or change of a pre-existing non-conforming use/structure for a personal service wireless facility with the following conditions:

- 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.

- That an affidavit, signed by the applicant, be submitted that states that the applicant agrees to match the paint of the proposed equipment 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.
- That prior to the issuance of a building permit, a study, certified and signed by an acoustical engineer, stating that noise measurements of the existing and existing plus proposed noise levels at the property are accurate and meet the Noise Standards of the Ordinance, be submitted to the Division of Building and Zoning and the Division of Planning & Regulatory Services.
- 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 period of at least two years, and be adjusted for inflation upon term renewal – every two years. The provisions of said bond shall be to the satisfaction of the Director of Planning & Regulatory Services.
- That the structure is constructed in substantial accordance with the site plan submitted and the photo simulation package dated December 19, 2009 prepared by E.G. Advanced and submitted by T-Mobile Northeast LLC on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.
- That roof access be restricted and locked and signs be installed at the roof access and at the base of the equipment.

**12.3** Maywood Street (ZB-2010-006) Variance for relief of 29 feet from the required 50-foot setback to the abutting properties in an IN-S Zoning District for construction of a visitor's center building. Robert Longden, presented the plan to construct a 3200 sf. free-standing visitor's center for receptions and presentations. He stated that the requested relief is similar to relief that has been received in the past. He said that the project comes under the Dover Amendment. He also stated that there is no additional parking requirement for this project and that parking for this use will be provided in the adjacent parking lot. He further stated that he objects to the proposed condition by the Planning staff to install two new trees on the Maywood Street side of the property. He said that the Stoddard Building is across Maywood Street and that it is the architecturally the oldest structure on the campus and that the new visitor's center will be designed with large glass windows that will look out to the Stoddard Building. He said that the intent of the design is to connect the visitor's center with the campus and have an unrestricted view. Mr. Ciuffredo stated that renderings were not included in the application. Mr. Longden said that the building would be constructed to the renderings being presented tonight. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Leonard Ciuffredo and Andrew Freilich to approve the Variance for relief of 29 feet from the required 50-foot setback to the abutting properties in an IN-S Zoning District for construction of a visitor's center building according to rendering submitted.

## **Adjournment**

Chair George adjourned the meeting at 9:35 pm.