

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

**June 21, 2010  
WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM**

**Zoning Board Members Present:**

David George, Chair  
Lawrence Abramoff  
Andrew Freilich  
William Bilotta  
Vadim Michajlow  
Kola Akindele

**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**

- 1. 10 Claremont Street (ZB-2010-017) - Special Permit: to allow a lodging house in an RG-5 zone and Variance for relief of 3 parking spaces from the off-street parking requirement.** Ms. Gentile stated that staff had received a letter from the applicant requesting Leave to Withdraw. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to grant the petitioner's request for Leave to Withdraw. Exhibit - Withdrawal letter from Richard Magdis, dated 6/21/2010.
  
- 2. 440 West Boylston Street/ 1 Summerhill Avenue (ZB-2010-021) - Special Permit: Expansion or change of a pre-existing non-conforming use/structure for 1 Summerhill Avenue and Special Permit: Expansion or change of a pre-existing non-conforming use/structure for 440 West Boylston Street.** Ms. Gentile stated that staff had received a letter from the applicant requesting Leave to Withdraw in order to redefine their plans. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to grant the petitioner's request for Leave to Withdraw. Exhibit – Withdrawal letter from Donald O'Neil dated 6/18/2010.

**UNFINISHED BUSINESS**

**3. 44 Byron Street (ZB-2010-013) – Special Permit: Expansion or Change of a pre-existing non-conforming use/structure for a Personal Wireless Service Facility:** Jonathan McNeal, representative for Edwidge Development Trust, presented the plan to remove existing antennas and cylinder and add a radio cabinet and antennas behind a new screen wall that will conceal them in an RG-5 zoning district. Mr. McNeal stated that the fenced area would be fiberglass material, painted to match and that 6 more antennas would be added to the 3 existing antennas. He further stated that the antennas are needed as calls are being dropped and that more coverage is required. Upon a motion by Lawrence Abramoff and seconded by Vadim Michajlow, it was voted 5-0 by David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to grant the following waivers:

1. Vicinity plan

- Show the following on a one-inch-equals-forty-feet scale plan:
- Vegetative cover on the subject property and immediately abutting adjacent properties.

2. City-wide Map

- Provide 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. (Most likely the applicant will only provide a map of all existing PWSF from their carrier, as they claim that they do not have access to the information on coverage by other carriers – see #4 below.)

3. Design Filing Requirements

- 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.
- 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.
- Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- 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.

4. Noise Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed Personal Wireless Service Facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night).

#### 5. Federal Environmental Filing Requirements

Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to approve the Special Permit for Expansion or Change of a pre-existing non-conforming use/structure for a Personal Wireless Service 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 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 dated February 15, 2010 prepared by Vertical Resources Group Inc. and submitted for New Cingular Wireless, PCS, LLC by its manager, AT&T Mobility, on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.

- 4. 108 Canterbury Street (ZB-2010-016) – Special Permit & Variances: Special Permits for Expansion or Change of a pre-existing non-conforming use/structure and relief of one parking space from the off-street parking requirement and variances for relief of 7 feet from side yard setback requirement and for relief of 9.7 feet of relief from the rear yard setback requirement:** Robert Boyd and William Randell, representative and petitioner, presented the plan to construct a one-story 560 square foot building for storage attached to the existing structure for the retail use that is currently on the site. Mr. Boyd stated that the structure is a three-story structure, consisting of the first floor retail business and the second and third floor dwelling units with no changes to the existing 8-space parking lot. Mr. George inquired as to the purpose of the storage. Mr. Randell said that the structure was to be used for empties and a self insert machine for recycling. The Board was concerned that the parking lot was not striped; there was no designated parking for the residential tenants and no handicapped parking spaces. Mr. Randell stated that the parking lot was to be seal coated and striped, there are no designated residential parking spaces and that the tenants have only one car and therefore parking is not a problem. Mr. Kelly stated that a handicapped parking space is required for parking lots of 15 or more spaces. Upon a motion by Lawrence Abramoff and seconded by Vadim Michajlow, it was voted 5-0 by David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to

close the hearing. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to approve the Special Permit for Expansion or Change of a pre-existing non-conforming structure, the Special Permit for relief of 1 parking space from the off-street parking requirement and Variances for relief of 9.7 feet from the rear yard setback requirement and 7 feet from the side yard setback requirement with the following conditions:

- The structure be constructed in substantial accordance with the final revised plot plan dated 4/19 /10 and with the submitted rendering dated May, 2010 drawn by S.C.T.
- The proposed structure is to be non-habitable.
- Planters be placed along Walpole Street and Grand Street, as is shown on the plan and maintained with seasonal plantings.

- 5. 666 Lincoln Street (ZB02010-020) - Special Permit: To allow retail sales in an ML-0.5 zoning district and Special Permit: To allow a drive-through in connection with a food service use.** Jonathan Finkelstein, Kevin Quinn and George Cadette, representatives and petitioner, presented the plan for a 1,200 SF Dunkin Donuts restaurant with a conforming drive-through lane and a 1,000 SF retail portion of the site. Also, proposed is pedestrian access to the site, an outdoor seating area for the Dunkin Donuts, landscape screening, a screened dumpster, two free-standing static pole signs, and 13 off-street parking spaces. Mr. Quinn stated that the 315 foot drive-through lane will enter from the northern portion of the site and will use existing curb cuts. Mr. Finkelstein stated that there are other uses on the property and that the parking calculations are for the whole site and the least amount required, but is sufficient for the uses, while limiting the impervious surfaces. He further stated that there are no blank walls and the parcel will be landscaped. Mr. Quinn referred to a revised landscaping plan received by staff on June 17, 2010 and said that based on staff comments, further changes including diversified species would be made. Mr. Fontane stated that site plan approval is required and that the DPW&P will review the plan for drainage calculations. Mr. Abramoff was concerned with pedestrian access and was informed that pedestrian access to the site is from Plantation Street. Mr. Freilich was concerned that people will not be able to get out of their parking space with the way the drive-through lane is configured. Mr. Quinn stated that the design separated the parking spaces from the drive-through lane as well as the entrances and exits and there is a single point of access. Mr. Michajlow inquired about the amount of patio seating and the type of proposed landscaping between the drive-through and the patio. Mr. Fontane stated that patio seating does not require additional parking spaces and that staff wanted to be assured that people use the walkway and that there are plantings. Mr. Finkelstein stated that the landscaping would be revised for the Planning Board review on June 30, 2010. Mr. George inquired about how people would access the retail area from their cars and how the loading bay or space will operate. Mr. Quinn stated that people will walk to the rear of their cars and through the parking area to get to the retail store and that the loading area has been located in the least intensive area of the parking lot and that the loading door cannot be accessed by the public. Mr. Freilich was concerned that pedestrians will walk into the drive-through lane into oncoming traffic. Mr. George inquired if the lot was going to be subdivided. Mr. Finkelstein stated that there would be an Approval Not Required Plan and that it will meet the zoning requirements. Mr. Fontane stated that staff had received revised plans on 6/17/10 that showed new trees of ALB resistant species and that in reference to the natural environment findings of fact; the applicant stated that there will be reduced impervious surfaces. Judy Gransfort stated that she is a neighbor and expressed concern with how the site may

exacerbate the current issue of pedestrians using grass strip abutting the Lincoln Street parcel do not use the paved sidewalk side of the street. She further said that cars race through the intersection at Plantation and Lincoln Streets and there should be dedicated turning lanes. Mr. Quinn stated that it was a concern to them and it informed their decision on where to locate their crosswalk and they did not put any crossing lanes from Lincoln Street. He said there is no sidewalk on their side of the street and no plans to install one, as this is a city street and people should cross at the intersection. Mr. Cadette stated that he does not want to install a fence as it would be ugly. Mr. George said that the Board would be amenable to something other than a fence and Mr. Bilotta suggested plantings with thorns. Pam Dunbar stated that traffic is a problem in the area and it backs up from light to light. Mr. Quinn stated that this is a heavy traffic area and the proposed use is not intended to be a destination but a service for customers already passing by. He further that 240+ lane is longer than required and there is sufficient parking. Jo Hart stated that she is an active pedestrian and agrees that this is not a pedestrian friendly site and questioned why a business would not want two access points and that the business would increase if it was more pedestrian friendly. Mr. Quinn reiterated that pedestrians could use existing sidewalks and crosswalks. Mr. Freilich was concerned with the hours of operation, delivery times and the hours of lighting. Mr. Quinn stated that the proposed hours of operation are from 5:00 AM to 12:00 AM and that the lighting would be turned off when the business was closed. Mr. Cadette stated that deliveries would be made after peak hours which would be after 9:30 AM. He further stated that the deliveries take about a minute with the use a pallet jack. Upon a motion by Andrew Freilich and seconded by Vadim Michajlow, it was voted 5-0 by David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Vadim Michajlow, it was voted 5-0 by David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to approve the Special Permits for retail sales in an ML-0.5 zoning district and to allow a drive-through in connection with a food service use with the following conditions:

- That the five foot buffer along the drive through lanes, include, at a minimum, perennial grasses or low lying shrubs along the length. Staff is amenable to retaining pedestrian connectivity between the existing building at 666 Lincoln Street and the proposed development.
- That the structure be constructed in substantial accordance with the revised rendering prepared by Aharonian & Associates Architects submitted June 14, 2010.
- That applicant provide a physical and visual buffer from the drive through lanes to the patio area by a combination of shrubs, perennial grasses and/or low wall or low fence.
- Revised landscaping table showing a minimum three (3) different deciduous ALB-resistant tree species be submitted.
- The final revised Definitive Site Plan should be revised to show the following:
  - Existing crosswalks in Lincoln and Plantation Streets
  - Label proposed lot line.
  - Label access aisle width (which is 24' and conforming).
- That the applicant demonstrate that the proposed development will not negatively impact off-street parking compliance of existing use at 666 Lincoln Street.

- A low wall, fence or shrub barrier or similar non-passable be placed along the perimeter of the escape lane beginning on Lincoln Street side and extending to the crosswalk.
- A note added to the plan that plantings will be in accordance with the landscaping plan submitted on 6/17/2010.
- A note added to the plan that Deliveries to be limited from 10:00 AM to 5:00 PM with a flag signal to alert approaching vehicles.
- Landscape maintenance plan be performed every six months.

That the proposed structure be constructed in substantial accordance with the final approved Definitive Site Plan approved by the Planning Board and the final revised rendering including proposed sign package.

**Recess: 7:00**

**Reconvene 7:10**

**6. 115 & 117 Highland Street, 55 North Ashland Street, 1, 5 and 9 Ormond Street (ZB-2010-023) – Special Permit: Expansion or Change of a pre-existing Non-Conforming Structure/Use (parking for food service with alcohol) Special Permit: To modify parking layout including landscaping buffer requirements and Variance for Relief of 5.6 feet from the side yard setback requirement.** Joe Boynton, Gwen Ashboth and Steven John, representatives and petitioner, presented the plan to expand the Boynton Restaurant by 900 square feet for an additional 36 seats and to expand the parking lot to provide 18 additional parking spaces at 9 Ormond Street. The petitioner is proposing to provide additional parking spaces to comply with the parking requirements for the restaurant expansion (1 parking space per 2 seats for 36 seats) and to modify the existing parking layout and landscaping. Mr. Boynton stated that a 6 foot fence will be installed on the property lines shared with the Worcester Housing Authority and that 3 curb cuts will be closed which will provide more on-street parking in the neighborhood. He stated that the parking plan was approved by the Planning Board on June 2, 2010 and that there was considerable more landscaping and a bicycle rack added. Mr. John indicated that there was a three-family dwelling on Ormond Street that was demolished and pointed out the location. Mr. Bilotta asked what is proposed for the former handicapped ramp area and was informed that there would be a designated handicapped parking space and a lift installed for handicapped access. He further stated that he wanted a six month landscape maintenance program as a condition of approval. Mr. Boynton said that it was already a requirement in the Zoning Ordinance and that he was the one that proposed that amendment. Upon a motion by Lawrence Abramoff and seconded by Vadim Michajlow, it was voted 5-0 by David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow 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 David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to approve the Special Permit for Expansion or Change of a pre-existing Non-Conforming Structure/Use (parking for food service with alcohol), the Special Permit To modify parking layout including landscaping buffer requirements and the Variance for Relief of 5.6 feet from the side yard setback requirement with the following conditions:

- That the structure and the parking lot be constructed in substantial accordance with the final approved Parking Plan approved by the Planning Board and in accordance with the

submitted rendering prepared by J.R. Associates Design Services dated September 3, 2009.

**7. 4-6 May Street (ZB-2010-022 & 024) - Special Permit: To expand or change a pre-existing, nonconforming use and Variance for Relief of three (3) off-street parking spaces.** Morris Bergman, representative, presented the plan to retain the existing one bay automotive repair garage and convert another building on site into a retail establishment to be three separate stores (total of 4,000 SF). The applicant requested relief of three parking spaces and proposes to provide 14 of the required 17 for both uses on site. He stated that the petitioner has invested \$150,000.00 into the building improvements and that the applicant had previously been granted a Special Permit for expansion or change but the Special Permit has lapsed and was not extended; therefore it is before the Board as a new petition. He said that this is a walkable neighborhood and the employees of the garage walk to work and that no repair cars are stored on-site. He further said that the development will enhance the neighborhood and that they avoided putting parking in the RG-5 zone adding to the challenge on site. He also stated that the applicant has a pending petition for parking plan approval before the Planning Board. Upon a motion by William Bilotta and seconded by Vadim Michajlow, it was voted 5-0 by David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow 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 David George Lawrence Abramoff, William Bilotta, Vadim Michajlow and Andrew Freilich to approve the Special Permit to expand or change a pre-existing, nonconforming use and Variance for Relief of three (3) off-street parking spaces with the following conditions:

- The access aisle width conform to 24' requirement.
- The development is constructed in accordance with the final approved Parking Plan by the Planning Board and in substantial accordance with the submitted rendering by John Riel, dated 4/13/2006.
- And with the initial condition from the 2007 Special Permit approval that the landscaping buffer between 6 May Street and the abutting property be retained.

## **NEW BUSINESS**

**8. 10 Meade Street (ZB-2010-030) – Variance for relief of 5 feet from the frontage requirement.** Don O'Neil, representative for Toan Bui, petitioner, presented the plan to restore the single-family detached dwelling to a two-family detached dwelling, demolish the existing single car garage and construct the required four off-street parking spaces. Mr. O'Neil stated that there are no changes proposed to the existing structure and that it was constructed with two furnaces, gas meters and entrances. He said that the structure is not practical as a single-family with 6 bedrooms and that the layout provided is more like a two-family dwelling. He further stated that there was no intention to further subdivide the property. Mr. Fontane stated that they could get an Approval Not Required plan in the future as the lot has sufficient frontage for a single-family dwelling. Upon a motion by William Bilotta and seconded by Vadim Michajlow, it was voted 5-0 by David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow 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 David George, Lawrence Abramoff, William Bilotta, Vadim Michajlow and

Andrew Freilich to approve the Variance for relief of 5 feet from the frontage requirement with the following conditions:

- The structure (parking area) is constructed in substantial accordance with the submitted plot plan.
- The rear yard remain grass and all mature trees remain as labeled on submitted plan.
- The lot not be further subdivided or developed without an amendment to this variance.

**Other Business:**

**Approval of Minutes:**

Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 3-0 to approve the minutes of March 1, 2010.

Upon a motion by Lawrence Abramoff and seconded by Vadim Michajlow, it was voted 5-0 to approve the minutes of March 22, 2010.

Upon a motion by Lawrence Abramoff and seconded by Vadim Michajlow, it was voted 5-0 to approve the minutes of April 12, 2010.

Upon a motion by Lawrence Abramoff and seconded by Vadim Michajlow, it was voted 4-0 to approve the minutes of May 3, 2010.

Upon a motion by William Bilotta and seconded by Vadim Michajlow, it was voted 2-0 to approve the minutes of May 24, 2010.

***Scrivener's Error:*** Ms. Gentile presented the scrivener's error for 1250 Grafton Street.

**The decision reads:**

“At a meeting of the Board on April 12, 2010 and on motion duly made and seconded, it was voted 5-0 by Board members David George, Lawrence Abramoff, Vadim Michajlow, Andrew Freilich and William Bilotta to approve the requested Special Permit to allow a motor vehicle display and sales lot in a BL-1 zone with the following conditions:

- Proposed signs will be compliant with the Zoning Ordinance's sign provisions.
- In and Out signs will be installed per DPW comments.
- Landscaping, compliant with all the Zoning Ordinance's landscaping provisions, will be planted in the landscape buffers along all lot sides.
- The proposed trees will be Asian Long horned Beetle resistant species.
- Six (6) copies of the final revised plans are submitted to the Division of Planning and Regulatory Services with the following:
  - Label existing and proposed landscaping.
  - Label existing and proposed signage and lighting.
- The display lot will be constructed in substantial accordance with the final revised plot plan submitted to the Division of Planning and Regulatory Service.



- The motor vehicle sales and display lot will be reviewed and approved administratively by the director of Department of Inspectional Services.
- Existing landscaping will be retained.
- There will be no storage of vehicles other than the five (5) vehicles for sale.
- Business hours will be from 9:00 AM to 5:00 PM
- Vehicles for sale are labeled as such.
- No repairs may be done on-site.
- Parking lot will have a semi-annual maintenance program.

And provided it is in accordance with plot plan submitted on file with the City of Worcester and in compliance with all governmental codes.”

***but should read:***

“At a meeting of the Board on April 12, 2010 and on motion duly made and seconded, it was voted 5-0 by Board members David George, Lawrence Abramoff, Vadim Michajlow, Andrew Freilich and William Bilotta to approve the requested Special Permit to allow a motor vehicle display and sales lot in a BL-1 zone with the following conditions:

- The motor vehicle sales and display lot shall be reviewed and approved administratively by the director of the Department of Inspectional Services.
- Business hours of operation for the motor vehicle display lot shall be 9:00 a.m. to 7:00 p.m.
- Motor vehicles for sale on site shall be labeled as such.
- There shall be no motor vehicle repair on site.
- There shall be no storage of vehicles on site other than the five (5) motor vehicles for sale. This condition shall not be construed to preclude the use of the three (3) off-street parking spaces for use by employees and customers of the site as shown on the submitted plot plan.
- The gravel parking lot shall be maintained.
- All proposed signs shall be in compliance with the Zoning Ordinance’s sign regulations.
- Six (6) copies of final revised plans shall be submitted to the Division of Planning and Regulatory Services showing the following:
  - Label existing landscaping on site.
  - Label existing and proposed signage.
  - Label existing lighting.
  - Provide a note on the plan indicating that the gravel parking lot shall be maintained.
  - Provide a note on the plan that existing landscaping shall be maintained.
- The motor vehicle display lot shall be constructed in substantial accordance with the final revised plot plan submitted to the Division of Planning and Regulatory Services and any additional conditions of approval required by the administrative review of the parking lot by the Department of Inspectional Services.

Upon a motion by Lawrence Abramoff and seconded by Vadim Michajlow, it was voted 5-0 by David George, Lawrence Abramoff, Vadim Michajlow, Andrew Freilich and William Bilotta to accept the scrivener’s error for 1250 Grafton Street for Special Permit to allow a motor vehicle display and sales lot in a BL-1 zone.

**Decisions:** The Board signed decisions.

**Adjournment**

Chair George adjourned the meeting at 7:47 pm.