

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

October 17, 2011

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM

Zoning Board Members Present:

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

Staff Present:

Joel Fontane, Division of Planning & Regulatory Services
Luba Zhaurova, Division of Planning & Regulatory
Services
John Kelly, Department of Inspectional Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

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

UNFINISHED BUSINESS

1. **666 Lincoln Street (ZB-2011-033):** Attorney Jonathan Finkelstein, representative for Hartford Pike Realty, LLC, petitioner, stated that the petitioner is seeking to increase the total wall square footage on the southern side facing Lincoln Street by 32.97 SF for a total of 144.97 SF from what is permitted by-right (112 SF). The petitioner seeks a Special Permit to waive dimensional requirements for wall signage (Article IV, Section 6(J)). He stated that at the time the building was constructed, the sign ordinance amendment was being developed.

Mr. Fontane stated that given that the applicant is not utilizing the full extent of the signage allowed by the ordinance, notably freestanding and temporary signs along Lincoln Street, the additional area for this sign will not cause visual clutter or sign overload provided the following conditions of approval to mitigate the visual impact of exceeding the form-based wall area allotment for this side of the building:

- 32.97 SF of additional wall sign area is limited to the two proposed permanent wall signs and cannot be allocated to other wall signs on site.
- That no freestanding sign be installed along Lincoln Street.
- No digital display is permitted for the proposed wall signs.

- No further signage relief shall be granted for the food retail sales use on site (mini mart).

Attorney Finkelstein stated that his client would be amenable to these conditions of approval.

Mr. Bilotta was concerned with the fact that not all conditions of approval have been complied with for the site with respect to the previously granted Special Permit for retail sales in an ML-0.5 zoning district and to allow a drive-through use in connection with a food service use. Mr. Finkelstein stated that it was not an intentional oversight and suggested that a condition of approval is imposed stating that the applicant complies with all previously imposed conditions. Mr. Freilich was similarly concerned, and stated that a “safety sign” has not been yet installed.

Chair Abramoff was in favor of the petition. Mr. Fontaine referred the Board to the staff’s proposed revised findings of fact, as the rationale for the approval differed from the applicant’s. He stated that given that the applicant is not utilizing the full extent of the signage allowed by the ordinance, notably freestanding and temporary signs along Lincoln Street, the additional area for this sign will not cause visual clutter or sign overload provided staff’s proposed conditions of approval.

Upon a motion by Mr. Freilich and seconded by Mr. Michajlow, the Board voted 5-0 to close the Public Hearing. Upon a motion by Mr. Freilich and seconded by Mr. Michajlow, the Board voted 4-1 (with Mr. Bilotta voting no, and Mr. Akindele abstaining as an alternate member), to accept the petitioner’s findings of fact as amended by staff as the Board’s own, and to approve the requested Special Permit to waive dimensional requirements for wall signage (Article IV, Section 6(J)) with the following conditions of approval:

- That all conditions of approval granted for the previous Special Permit for retail sales in an ML-0.5 zoning district are complied with prior to the issuance of a permit and signage being installed;
- That 32.97 SF of additional wall sign area is limited to the two proposed permanent wall signs and cannot be allocated to other wall signs on site;
- That no freestanding sign or temporary sign be installed along Lincoln Street;
- That no digital display is permitted for the proposed wall signs;
- That no further signage relief shall be granted for the food retail sales use on site (mini mart).

List of Exhibits.

- Exhibit A: 666 Lincoln St- Special Permit Application; received July 5, 2011 prepared by Jonathan Finkelstein on behalf of Hartford Pike Realty LLC.
- Exhibit B: Definitive Site Plan –Sheet 1 - 666 Lincoln St, dated April 26, 2010; revised June 9, 2011; received July 27, 2011; prepared by Quinn Engineering.
- Exhibit C: Elevation Package – Dunkin Donuts – 666 Lincoln St, dated May 16, 2011; received July 27, 2011; prepared by Viewpoint Sign & Awning.
- Exhibit D: 666 Lincoln St. - Schematic Site Plan & Details, December 8, 2010; received July 27, 2011 prepared by Aharonian & Associates, Inc. architects.

- Exhibit E: Elevation: 666 Lincoln St. - Tribe Mural Graphics; re: Wall Sign Special Permit; 666 Lincoln St., dated May 16, 2011; received July 27, 2011, prepared by Viewpoint Sign and Awning.
- Exhibit F: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 666 Lincoln St; dated August 4, 2011, updated 8/26/11, 9/16/11, 10/14/11 & 10/17/11.
- Exhibit G: DPRS Marked-up Rendering – Reduced Wall Sign Area for the Proposed Commercial Mural on Southern Façade; 666 Lincoln St. Special Permit.
- Exhibit H: Fred the Baker Mural elevation, submitted by email Jonathan Finkelstein to DPRS staff August 4th, 2011.
- Exhibit I: Sign Ordinance Amendment to the Worcester Zoning Ordinance, ordained April 26, 2011.
- Exhibit J: Page from *A Framework for On-Premise Sign Regulation -Model Regulatory Guidelines*. Alan Weinstein. Street Graphics and the Law. March 2009.
- Exhibit K: Supplemental Site Line / Mural Rendering Received, undated, unsigned, August 22, 2011, submitted by Jonathan Finkelstein.
- Exhibit L: Request to Zoning Board of Appeals to postpone item from August 29, 2011 to September 19, 2011.

2. **266 Chandler Street (ZB-2011-040):** Attorney John Shea, representative for Webster Five Cents Savings Bank, stated that the petitioner is seeking to amend the previously granted Special Permit (approved on November 8, 2010) for a drive-through bank/credit with two drive-through lanes and one escape lane by proposing a drive-through bank/credit with three drive-through lanes and relief from the required 180-ft drive-through lane length requirement. This proposed lane would serve as a partial (non-conforming) escape lane onto Abbott Street. Mr. Shea stated that he surveyed banks with drive-through in the area and that many do not have escape lanes, such as TD Banknorth on Park Avenue with 4 drive-through lanes and no escape lane, Commerce bank with 3 lanes, Bank of America with 3 lanes, and People’s United Bank with 3 drive-through lanes. He stated that he does not believe an escape lane is an industry’s standard, as stated by the previous chair of the Board for the 2010 hearing. Mr. Shea stated that most queue lengths would have no more than 6 cars, while the provided length would accommodate close to 25 cars in total among the three lanes.

Mr. Bilotta was opposed to the petition and stated that he believed the outer lane was too tight and that the cars would back out of it. He asked why the escape lane provision was put in the Zoning Ordinance. Mr. Fontane stated that the City passed an ordinance amendment in 2003 in reaction to the nuisance and safety concerns associated with vehicle queues extending onto public streets for drive-through establishments. Based on the DPW&P research into the matter, an ordinance amendment regulating the queue lengths and escape lengths was ordained and included such uses as food establishments, banks and pharmacies. Mr. Fontane stated that he believed that the petitioner well established that drive-through lane lengths required by the ordinance are not necessary for this type of the service, especially through the traffic analysis that demonstrated that there would be no queuing off-site. He stated that his understanding of the intent of the ordinance is to prevent undue queuing and to promote efficiency and convenience for the customers. Mr. Bilotta stated that if the escape lane backs up, then it would cut exit to Everett Street.

Mr. Freilich and Mr. Michajlow were amenable to the applicant's proposal. Mr. Freilich stated that he believed the site was "an eyesore" and it is a positive redevelopment.

Upon a motion by Mr. Freilich and seconded by Mr. Michajlow, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Freilich and seconded by Mr. Akindele, the voted 4-1 (with Mr. Bilotta voting no and Mr. Loew abstaining as an alternate member) to approve the requested Amendment to the Special Permit for non-residential use allowed only by Special Permit (Article IV, Section 2, Table 4.1), specifically with regards to removing the condition that the outer drive-through lane be solely used as an escape lane, with the following conditions of approval:

- 1) That six (6) copies of final revised plans are submitted annotating the outer lane as a drive-through lane (and not escape lane) and labeling its length;
- 2) That the structure be constructed in substantial accordance with the final approved Parking Plan.

List of Exhibits

- Exhibit A: Amendment to the Special Permit Application with exhibits, received 7/26/2011.
- Exhibit B: Amendment to the Special Permit Plan; prepared by JH Engineering Group, LLC; dated 9/14/2010; received 7/26/2011.
- Exhibit C: Zoning Board of Appeals Minutes of the November 8, 2010 meeting.
- Exhibit D: Memorandum from Division of Planning and Regulatory Services to the Zoning Board of Appeals; re: 266 Chandler Street (ZB-2011-040); dated August 26, 2011; Revised August 29, 2011 & October 17, 2011).

3. **750 Pleasant Street (ZB-2011-044)** - Special Permit to allow a personal service shop in an RL-7 zoning district (Article IV, Section 2, Table 4.1): Mr. Fontane stated that upon further review of the submitted application materials, and based on the testimony received, it has been determined by the Building Commissioner that the proposed use of the building as described more closely meets the definition of a professional office (Use #19 - Table 4.1) than a personal services use (Use #27 - Table 4.1). Mr. Kelly confirmed. Mr. Fontane referred to the Exhibit D - the 2007 North American Industry Classification System (NAICS) which doesn't include acupuncture as a personal services use category. Chair Abramoff stated that real estate, accounting, attorney office and other similar uses are already located along Pleasant Street. Mr. Fontane stated that this is part of an overall "business creep" into this residential zone, and that the Zoning Ordinance that prohibited new professional offices from opening up was intended to address this situation. Attorney Bergman representing some of the abutters asked that the Board denies the petition.

Mr. Fontane stated that the petitioner indicated to staff that he found a more appropriate location in a business zone, that he will not be attending the Board's meeting and is not seeking to withdraw the petition.

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the board voted 4-0 to close the Public Hearing.

Upon a motion by Mr. Loew and seconded by Mr. Bilotta, the Board voted 0-4 (with Mr. Freilich abstaining because he was not present at the previous hearing, and Mr. Akindele

abstaining as an alternate member) to approve the request for a Special Permit to allow a personal service shop in an RL-7 zoning district (Article IV, Section 2, Table 4.1). The motion did not carry and the Special Permit was not approved, because the proposed use of the building, as described, meets the definition of a Professional Office use (Use #19 - Table 4.1), and not the definition of Personal Service use (Use #27 - Table 4.1). Professional Office uses are not permitted in RL-7 (Residential, Limited) zoning districts.

List of Exhibits.

- Exhibit A: Special Permit Application; received 8/17/2011; prepared by Jadranka Perk.
- Exhibit B: A waiver request from the petition to the Zoning Board of Appeals; dated 8/16/2011; prepared by Alan Perl.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 750 Pleasant Street; dated 9/16/2011 updated October 14, 2011.
- Exhibit D: The 2007 North American Industry Classification System (NAICS) definition of personal services.

4. **779 Main Street (ZB-2011-041):** Arthur Mooradian, petitioner, stated that he is seeking to operate a restaurant in the existing building, construct a drive through and provide off-street parking. He stated that the site used to belong to Sunoco, was contaminated and since cleaned-up. He stated that a potential client wants to operate a family-style restaurant with a pick-up window for the phone call-in orders on site. He was not amenable to the staff's recommendation to move the pick-up windows to the end of the building. Chair Abramoff asked what the anticipated seating number would be. Mr. Mooradian stated about 88 people. Mr. Freilich was concerned that if approved and the client changes, the anticipated traffic might change as well. Chair Abramoff stated that he doesn't "like to micromanage someone's business" and that if the car will back up onto a street, then the business would not be successful and wouldn't survive. Mr. Mooradian stated that there is a heavy car traffic on Main Street already. Mr. Michajlow was concerned with the proposed project. Mr. Kelly asked the petitioner if it was feasible to install a call box window in the southern corner of the building. Mr. Mooradian was amenable to that. Mr. Freilich suggested that two parking spaces are dedicated to clients waiting for pick-up orders. Mr. Mooradian was amenable to that.

Jo Hart stated that she wished the petitioner made the project "a special place". She stated that the building "ruins the character and that it is "a throw-away".

Mr. Bilotta asked the petitioner about snow removal. Mr. Mooradian stated that it will be trucked off-site for large storm events, and pushed back to rear of the site, not within the landscape buffer, along Lagrange Street during regular snow storm events.

Upon a motion by Mr. Freilich and seconded by Mr. Bilotta, the Board voted 5-0 (with Mr. Loew abstaining as an alternate member) to close the public hearing.

Upon a motion by Mr. Freilich and seconded by Mr. Michajlow, the Board voted 5-0 (with Mr. Loew abstaining as an alternate member) to approve the requested Special Permit to allow food service with a drive-through; and a Special Permit to modify parking / landscaping requirements (Article IV, Section 7) with the following conditions of approval:

- 1) That the location of the order window be moved southerly to the southern corner of the building to provide additional drive through length and be so noted on revised plans;
- 2) That two off-street parking spaces are designated close to the order pick-up window for the overflow of the drive-through orders taking more than 3 minutes;
- 3) That a 6-month landscaping maintenance plan is provided to the Division of Planning & Regulatory Services and adhered to;
- 4) That the drive-through service be operated in such a manner as to minimize vehicle queue length to less than or equal to the on-site capacity;
- 5) That data be collected for this location on a daily basis, in 15 minute intervals, regarding the number of transactions and the number of vehicles; and that said data be made available upon request by the Building Commissioner to aid in the determination of whether queue length exceeds on-site capacity and to determine peak hours of operation;
- 6) Should the Building Commissioner determine that queue length exceeds on-site capacity or that the drive-through use causes a disruption to traffic flow and safety, a police detail shall be hired during peak hours of operation or drive through service shall be closed;
- 7) That the site be constructed in substantial accordance with the final approved Parking Plan addressing issues identified in this memo;
- 8) That street trees are replaced along Main Street as agreed upon by the applicant as a mitigation strategy for reduced landscaping on site;
- 9) That snow shall not be stored in the required five (5) foot landscape buffer areas;
- 10) That the applicant provide six (6) copies of a revised plan set to the Division of Planning & Regulatory Service prior to the issuance of the Building Permit showing the following updates/ modifications to annotations:
 - a) Show the new location for the order pick-up window in the southern corner of the building;
 - b) Label minimum 2 off-street parking spaces dedicated to the order pick-up overflow;
 - c) Retain proposed three (3) foot planting strip along Main Street and plant with ornamental grasses and/or perennials;
 - d) Provide a minimum of five (5) trees along the 5-ft landscape buffer along Lagrange St.;
 - e) Lower the concrete curb on the north-western portion of the site in the area of the handicap access aisle to allow wheelchair access to the adjacent sidewalk;
 - f) Label height of building on plan;
 - g) Provide a parking summary on the plan set;
 - h) Show location of all freestanding signs.

List of Exhibits.

Exhibit A: 779 Main St -Special Permit Application; received 7/27/2011 prepared Arthur Moordian.

- Exhibit B: 779 Main St -Preliminary Site Plan; dated 7/25/2011 prepared by Allen Paige, revised October 11, 2011, received October 12, 2011.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 779 Main St – Special Permits; dated August 26, 2011, revised October 14, 2011.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Zoning Board of Appeals, re: 779 Main St – Special Permits dated August 26, 2011, revised October 14, 2011.
- Exhibit E: Memorandum – Response to Zoning Board of Appeals Comments prepared by Arthur Mooradian, dated October 6, 2011.
- Exhibit F: Hydraulics Report, 779 Main Street. Prepared by Alton Engineering. Dated August 16, 2011.

The Board took a 5 minute recess.

5. **121 Providence Street (ZB-2011-042)** - Amendment to Special Permit: Expansion or change of pre-existing non-conforming structure and use (a Personal Wireless Service Facility) and an Amendment to Special Permit to allow a roof-mounted Personal Wireless Service Facility: Attorney Michael Dolan of Brown Rudnick LLP, representative for New Cingular Wireless, PCS, LLC by AT&T Mobility Corporation, stated that the petitioner is seeking to install 3 additional antennas with associated antenna equipment located in a room on the top floor of the building. He stated that the petition was properly re-advertised since the property changed its address from 25 Winthrop Street to 121 Providence Street. Per Mr. Bilotta's request, Mr. Dolan stated that he will match the paint of the proposed equipment as closely as practicable to the existing materials within the area of the installation. Mr. Freilich was opposed to this petition because in his opinion there is a proliferation of PWSFs on the roof, and that the proposed PWSF would not be well-masked and would look obtrusive. Mr. Dolan stated that the petitioner is sensitive to this issue and that going forward there will be better stealthing techniques employed. Mr. Freilich asked that staff provide the Board with stealthing alternatives of such facilities.

Upon a motion by Mr. Freilich and seconded by Mr. Bilotta, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Freilich and seconded by Mr. Loew, the Board voted 4-1 (with Mr. Freilich voting no and Mr. Akindele abstaining as an alternate member) to approve the requested Amendment to Special Permit: for expansion or change of a pre-existing non-conforming structure (a Personal Wireless Service Facility) and an Amendment to Special Permit to allow a roof-mounted Personal Wireless Service Facility in a BO-2.0 zoning district with the following conditions of approval:

- Six copies of final revised plans are submitted to the Division of Planning & Regulatory Service prior to the issuance of the Certificate of Occupancy / Use with the following changes:
 1. Provide plans to scale;

2. Demonstrate that the proposed antennas do not extend 10-ft above the building roofline or the penthouse roof line;
 3. Re-name the plans "121 Providence Street"
- *Cost of decommissioning*: That an affidavit, signed by a qualified professional, be submitted that provides an accurate and complete estimate of the costs of decommissioning and removal of the proposed PWSF, and that said affidavit be submitted to the Division of Building and Zoning and the Division of Planning & Regulatory Services prior to the issuance of a building permit;
 - *Paint color matching*: That an affidavit, signed by the applicant, be submitted that states that the applicant agrees to match the paint of the proposed equipment as 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;
 - *Surety Bond*: That prior to the issuance of a building permit, a surety bond, equal to the cost of decommissioning and removal of the proposed PWSF, be obtained. Said bond shall be for a term of at least two years, and be adjusted for inflation every two years. The provisions of said bond shall be to the satisfaction of the Director of Planning & Regulatory Services;
 - *Post-installation measurement of sound and RFP*: That post-installation measurements of the total noise and total Radio Frequency Radiation emitted by all PWSF on the building are taken by a certified noise and RF engineer; that results of these measurements demonstrate compliance with the Noise and Radio Frequency Radiation standards of the Zoning Ordinance and Federal Communication Commission Guidelines; and that these results are submitted to the Division of Planning & Regulatory Services and Department of Inspectional Services prior to the issuance of the Certificate of Use & Occupancy;
 - That the structure is constructed in substantial accordance with the final approved site plan and the photo simulation package on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.

Upon a motion by Mr. Freilich and seconded by Mr. Loew, the Board voted 4-1 (with Mr. Freilich voting no and Mr. Akindele abstaining as an alternate member) to approve the requested waiver from the following application requirements:

- Vicinity Plan: Vegetative cover on the subject property and immediately abutting adjacent properties. (Article IV, Section 12 (D)(7)(d)(iii)(aa))
- City-wide map showing the other existing Personal Wireless Service Facilities in the City and outside the City within one mile of its corporate limits. (Article IV, Section 12 (D)(7)(d)(ii))
- Design Filing Requirements: Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species. (Article IV, Section 12 (D)(7)(d)(iv)(ff))
- 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. (Article IV, Section 12 (D)(7)(d)(iv)(gg))

- o 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) (Article IV, Section 12 (D)(7)(d)(v)).

- Exhibit A: Special Permit Application – 121 Providence Street; received 7/27/2011; Prepared by New Cingular Wireless PCS, LLC by its manager, AT&T Mobility Corporation, including:
- Exhibit 2 – Report of Radio Frequency Engineer
 - Exhibit 3 – Radio Frequency Coverage Plot Map
 - Exhibit 4 – Photo Simulations
 - Exhibit 10 – Equipment Specifications
 - Exhibit 11 – Noise Letter
 - Exhibit 14 – Waiver Requests
 - Exhibit 15 – Maximum Permissible Exposure Study
- Exhibit B: Special Permit Plan – 25 Winthrop Street; dated 4/14/11; prepared by Vertical Resources GRP and SAI Communications, received 7/27/2011.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 121 Providence Street; dated 10/14/2011.
- Exhibit D: Special Permit Plan – 121 Providence Street; dated 4/14/11; revised; received 10/17/2011.
- Exhibit D: Revised application waiver requests; received 10/17/2011.

6. **342 Greenwood Street (ZB-2011-049):** Ibrahim Abdulmassih, petitioner, stated that he is seeking a Special Permit to modify dimensional requirements of accessory sign to allow 1.25 times the permitted sign area (Article IV, Section 6(D), Table 4.3.1, Note 27) – maximum 20 SF allowed by-right, 25 SF proposed; a Special Permit to modify dimensional requirements of accessory sign to allow 1.25 times the permitted sign height (Article IV, Section 6(D), Table 4.3.1, Note 27) – maximum 10 ft allowed by-right, 12.5 ft proposed; a Variance to seek relief of 7 SF from sign area dimensional requirements; and a Variance to seek relief of 1.5 ft from sign height dimensional requirements. He stated that he bought the property in May of 2010 and that he is seeking to maximize signage opportunities on his site. He stated that while his property is in a residential zone, the business zone is right across the street from him. He stated that the sign has a 30% area easement on it from the abutting property (at 0 Arnold Road, MBL 29-031-001-2), which is currently vacant.

Mr. Michajlow was not amenable to the variances because hardship is “strictly construed” and that the applicant, in his opinion, did not make good case for it. Mr. Fontane stated that

staff doesn't recommend the variances as staff believes a compelling case was not made for the requested relief, but that staff is in favor of the requested special permits. Mr. Michajlow asked if variance's general findings of fact are applicable to signs. Mr. Fontane stated that topography might be a relevant consideration as it was a case of a height variance for a freestanding sign granted for Walgreens.

Mr. Abdulmassih stated that the building on the property is set back 40-ft and therefore reduces building wall signage visibility. Mr. Fontane stated that the applicant could also place a 24 SF monument sign by right or a 30 SF monument sign by a special permit, which is more aesthetically pleasing and therefore is allowed more area by the ordinance. Mr. Abdulmassih stated that the sign would block visibility of cars. Mr. Fontane stated that such sign would need to be setback minimum 5-ft. Mr. Abdulmassih stated that the fence would be in a way and that a free-standing pole sign would be less prone to vandalism. He stated that he would paint or replace the fence, install landscaping, and re-pave the parking area. Chair Abramoff stated his support for the requested special permits. Mr. Abdulmassih stated that a monument sign would have him lose one of the accesses to his site.

Mr. Akindele asked how most of the petitioner's find him. Mr. Abdulmassih stated that currently most of them are by referral, but that he wants to increase his business's exposure to the drive-by traffic.

Mr. Fontane stated that staff supports the Special Permit given that the parcel is in the residential zoning district and that he does not believe there are many businesses competing in terms of signage in a residential zone.

Mr. Abdulmassih asked if his sign can be illuminated internally. Mr. Fontane stated no, given that the parcel is located in the residential zoning district.

Mr. Abdulmassih asked for continuance of the hearing in order to consider a possibility of a large monument sign.

Upon a motion by Mr. Freilich and seconded by Mr. Michajlow, the Board voted 5-0 (with Mr. Loew abstaining as an alternate member) to continue the hearing to the 11/21/2011 Zoning Board of Appeals meeting.

List of Exhibits.

Exhibit A: 342 Greenwood Street - Special Permit and Variance Application; received August 22, 2011, revised (with Variance information) September 6, 2011 prepared by Ibramim Abdulmassih.

Exhibit B: Plot Plan 342 Greenwood Street – original plan prepared by Builders Realty Network Inc. Applicant marked up plan; undated, unsigned.

Exhibit C: Sign Elevation Package – 342 Greenwood Street, dated February 15, 2011; prepared by Sign Techniques, Inc.

Exhibit D: Rendering of the proposed sign and photographs of the site; submitted by Ibramim Abdulmassih to the Zoning Board of Appeals on 10/17/2011.

- 7. 161 West Mountain Street (ZB-2011-049):** Attorney Michael Dolan of Brown Rudnick LLP, representative for New Cingular Wireless, PCS, LLC by AT&T Mobility Corporation, stated that the petitioner is seeking an Amendment to Special Permit for Personal Wireless Service Facility and a Special Permit for Extension or Change of Preexisting Nonconforming

Structure by removing the existing PWSF canister and installing 3 additional antennas behind a new screen wall on the roof with associated antenna equipment. He submitted revised plans showing that there will be a total of 6 antennas, not 9, on the roof from this carrier – 3 existing and 3 proposed, and that all these antennas will be screened. Mr. Freilich was in favor of the petition due to the screening proposed.

Upon a motion by Mr. Freilich and seconded by Mr. Bilotta, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Freilich and seconded by Mr. Loew, the Board voted 5-0 (with Mr. Akindele abstaining as an alternate member) to approve the requested Amendment to Special Permit for Personal Wireless Service Facility and a Special Permit for Extension or Change of Preexisting Nonconforming Structure with the following conditions of approval:

- That the applicant provide proof of installation of security barriers and roof signs at roof access points and on penthouse equipment in accordance with the recommendation made in the Maximum Permissible Study prepared by SAI Communications, dated July 21, 2011.
- *Cost of decommissioning*: That an affidavit, signed by a qualified professional, be submitted that provides an accurate and complete estimate of the costs of decommissioning and removal of the proposed PWSF, and that said affidavit be submitted to the Division of Building and Zoning and the Division of Planning & Regulatory Services prior to the issuance of a building permit;
- *Paint color matching*: That an affidavit, signed by the applicant, be submitted that states that the applicant agrees to match the paint of the proposed equipment as 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;
- *Surety Bond*: That prior to the issuance of a building permit, a surety bond, equal to the cost of decommissioning and removal of the proposed PWSF, be obtained. Said bond shall be for a term of at least two years, and be adjusted for inflation every two years. The provisions of said bond shall be to the satisfaction of the Director of Planning & Regulatory Services;
- *Post-installation measurement of sound and RFP*: That post-installation measurements of the total noise and total Radio Frequency Radiation emitted by all PWSF on the building are taken by a certified noise and RF engineer; that results of these measurements demonstrate compliance with the Noise and Radio Frequency Radiation standards of the Zoning Ordinance and Federal Communication Commission Guidelines; and that these results are submitted to the Division of Planning & Regulatory Services and Department of Inspectional Services prior to the issuance of the Certificate of Use & Occupancy;
- That the structure is constructed in substantial accordance with the final approved site plan and the photo simulation package on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.

Upon a motion by Mr. Freilich and seconded by Mr. Loew, the Board voted 5-0 (with Mr. Akindele abstaining as an alternate member) to approve the requested waiver from the following application requirements:

- Vicinity Plan: Vegetative cover on the subject property and immediately abutting adjacent properties. (Article IV, Section 12 (D)(7)(d)(iii)(aa))
- City-wide map showing the other existing Personal Wireless Service Facilities in the City and outside the City within one mile of its corporate limits. (Article IV, Section 12 (D)(7)(d)(ii))
- Design Filing Requirements: Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species. (Article IV, Section 12 (D)(7)(d)(iv)(ff))
- 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. (Article IV, Section 12 (D)(7)(d)(iv)(gg))
- 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) (Article IV, Section 12 (D)(7)(d)(v)).

List of Exhibits.

- Exhibit A: Special Permit Application – 161 West Mountain St.; received September 9, 2011 ; Prepared by New Cingular Wireless PCS, LLC by its manager, AT&T Mobility Corporation, including:
- Exhibit 2 – Report of Radio Frequency Engineer
 - Exhibit 3 – Radio Frequency Coverage Plot Map
 - Exhibit 4 – Photo Simulations
 - Exhibit 10 – Equipment Specifications
 - Exhibit 11 – Noise Letter
 - Exhibit 14 – Waiver Requests
 - Exhibit 15 – Maximum Permissible Exposure Study
- Exhibit B: Special Permit Plan; dated; prepared by Vertical Resources GRP and SAI Communications, received September 9, 2011; revised 10/12/2011.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re:161 West Mountain St; dated October 14, 2011.

8. **68 Hamilton Street (ZB-2011-052):** Steven Derito, petitioner, stated that he is seeking to add a residential dwelling to the building with 3 residential units and a commercial use (formerly a barber shop) by converting the commercial use to a fourth residential dwelling unit. He stated that he purchased it as a distressed property. Mr. Fontane presented a memo to the Board as last revised (Exhibit C). He stated that compliance with parking and landscaping buffer is part of the Special Permit consideration for this proposed 4-residential dwelling use.

He stated that the Zoning Ordinance exempts 1, 2, and 3-family uses from certain parking and landscaping requirements, but not the proposed 4-family dwellings. Mr. Fontane stated that the 3 spaces in the driveway would not count toward the required parking spaces for the use. Mr. Derito stated that he believed no more improvements to the parking area would be needed because the proposed use would be less intense than the barber shop. He stated that he would need \$30,000 to convert the property and that he cannot spend more resources on the recommended improvements. Mr. Fontane advocated for additional landscaping to be put in the rear of the property to shield the abutting residential properties from the parking area and to soften the parking area within the predominately residential area. He stated that he felt those were reasonable conditions of approval and that change of use requires the Board's review with an intent to bring the site into as much compliance with the Zoning Ordinance as possible. Mr. Fontane stated that the Board may also consider fencing along the abutting residential properties. He stated that he believed there was sufficient area on site not to create undue hardship to the petitioner. Mr. Bilotta suggested that landscaping is provided, but that the petitioner is allowed to plant in the spring. Mr. Derito was amenable to that.

Todd Mandella of 40 Caroline Street, an abutter, stated that the previous owner has removed mature trees along the lot line abutting his property thus removing the existing natural buffer between the 2 properties and that now the car headlights beam into his house's windows. He asked the Board to impose a condition that a fence and planting are installed on the petitioner's lot along the lot line with his property to remedy the situation and "to restore privacy". Mr. Fontane stated that while landscaping is a Zoning Ordinance requirement, the fencing is suggested but not required. Chair Abramoff stated that Department of Conservation and Recreation plants trees for free, thus reducing the cost of installation. Mr. Derito was concerned with the cost of maintaining the landscaping and suggested planting arborvitae trees instead. He was not amenable to fencing saying that it would be "too expensive" and would "put him over the edge" financially. Mr. Mandella stated that he would be amenable to a 4-ft, instead of a 6-ft, fence or slats in the already existing chain-linked fence which is "in a good shape".

Chair Abramoff stated that he would not approve the petition without landscaping and fencing, as discussed. Mr. Derito stated that he was amenable to fencing slats and planting trees minimum 25-ft on center, minimum 3.5-inch caliper.

Upon a motion by Mr. Freilich and seconded by Mr. Michajlow, the Board voted 5-0 to close the Public Hearing.

Upon a motion by Mr. Freilich and seconded by Mr. Akindele, the Board voted 5-0 (with Mr. Loew abstaining as an alternate member) to approve the requested Special Permit for Residential Conversion (per Article IV, Chapter 9(B)(2)) with the following conditions of approval:

- That the number of off-street parking spaces is reduced to a maximum of 10;
- That fencing slats are installed in the existing chain-linked fence along the eastern portion of the parking area, directly adjacent to the length of the abutting 40 Caroline Street property, to shield it from the vehicle headlights;
- That a five-foot landscaped buffer with minimum four (4) trees is provided along the eastern portion of the parking area that is landscaped in accordance with the Landscaping Design Standards (Article V, Section 5(C));

- That a five-foot landscaped buffer with minimum four (4) trees is provided along the western portion of the parking area that is landscaped in accordance with the Landscaping Design Standards (Article V, Section 5(C));
- That final revised plans are provided to the Division of Planning & Regulatory Services prior to the issuance of the Certificate of Occupancy with the changes, above;
- That the structure and use are operated in substantial accordance with the final approved plan.

List of Exhibits.

Exhibit A: Special Permit Application; received September 12th, 2011; prepared by 68 Hamilton LLC.

Exhibit B: Plot Plan; dated December 10, 2010; prepared by Jarvis Land Survey, Inc.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 66-68 Hamilton Street; dated 10/14/11; revised 10/17/11.

APPROVAL OF THE MINUTES

Approval of the minutes (August 8, 2011, August 29, 2011 & September 19, 2011) was held to allow the Board more time to review them.

OTHER BUSINESS

9. **Signing Decisions:** The Board signed 8 decisions from the previous meeting.

Adjournment: Chair Abramoff adjourned the meeting at 9 pm.