

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

**April 12, 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

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. 255 Park Avenue(ZB-2009-101) – Special Permit: To allow a Personal Wireless Service Facility:** Robert Longden, Don Haes and David Bogasian, representatives for Clear Wireless LLC, petitioner, presented the plan to install additional personal service wireless facilities in an BG-3 zone. Mr. Longden stated that this is a co-location with other wireless facilities to install 6 panel antennas and 6 backhaul antennas on an 11-story building that will be no more than 10 feet in height and will be lower than the existing equipment penthouse and other antennas. He stated that the additional equipment is needed to fill a gap in coverage. He further stated that the RF is within the FCC guidelines, that rooftop access is limited to authorized personnel and that the color of the installation will match existing equipment. Theodore Kostas presented information regarding RF. He questioned if the existing antennas on the roof are legal. He stated that he was unable to find building permits for some of the existing carriers. He also stated that he has health concerns with the wireless facilities. Missy Kasalis stated that the FCC does not monitor RF emissions. She further stated that the area is being bombarded by wireless facilities, with locations at 5 Suburban Road and on the highrise on Pleasant Street. Jim Connolly stated that he was concerned with the increase uses and that the affects of long term exposure to RF is unknown. He stated that the telecommunications act gave ‘carte blanc’ to the wireless carriers. Mr. Kostas cited various studies such as the University of Utah in 1997 showing how RF penetrates into the heads of children, a study in Stockholm Sweden where children exposed to RF from cell phone use got leukemia, and that the IAFF opposes cell phone tower near fire stations. Mr. George stated that the ordinance requires that the applicant show that there is a gap in coverage and that health effects are not a finding that the board can make to prevent a carrier from

installing equipment. Mr. Haes stated that he presented his report at a neighborhood meeting and he described the type of antennas and the propagation from the antennas. Mr. Freilich asked where the funding for the research on RF came from and if there are differences in the preparation and reporting of standards between the U.S. and Europe. Mr. Haes responded that there is funding from the industry, government and private funding. He further stated that the European Union has adapted the IEEE and FCE standard for the general population and that the U.S. does not have the highest exposure to RF. Mr. Abramoff stated that the health issue is beyond the control of the board, but that he does not see a lack in coverage as he referred to the map and then asked if the lack in coverage could be altered by increasing power at another location. Mr. Haes stated that changing the transmission might cause the facilities to work harder and the efficiency of the site might be compromised. Mr. Bilotta questioned how close to the maximum is this facility. Mr. Haes stated that if you consider putting all the carriers that are licensed in Massachusetts on this site, it would still be in compliance. He further stated that he did not agree with many of the studies that were cited earlier and that he does not believe that RF seeks out a child's head. He then provided a study that indicated a mistake was made regarding children. Upon a motion by William Bilotta and seconded by Andrew Freilich, it was voted 5-0 by Lawrence Abramoff, David George, 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 Lawrence Abramoff, David George, William Bilotta, Vadim Michajlow and Andrew Freilich to grant the following waivers:

- City Wide Map
- Label Distances and Contours on Vicinity Map
- Color of the proposed PWSF on a color board
- Show vegetative landscape plan
- Balloon Test
- Noise Filing Requirements
- Federal Environmental Requirements – Environmental Assessment
- Plan to Measurable Scale
- Letter from Dept. of Public Health

Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Vadim Michajlow 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 it is in accordance with the final approved site plan submitted and the final approved photo simulation package.
- That roof access be limited to authorized personnel.
- That warning signs be posted at the roof access and at the equipment cabinet.

2. **37 (aka 49) Pleasant Valley Drive (ZB-2010-001) – Special Permit: Expansion or change of a pre-existing non-conforming use/structure.** Robert Longden, representative for Clear Wireless LLC, petitioner, presented the plan to install additional personal service wireless facilities in an RG-5 zone. He stated that this facility is a co-location with other facilities and that on 3/1/10, T-Mobile received approval for its wireless facility. He stated that the coverage map demonstrates that there is a gap in coverage in this area. He said that the equipment is less than 5 feet in height. He stated that the RF report shows that the aggregate RF is lower than the FCC limits, which are the standards for approval. He also said that the site is appropriate in that the area will not be further affected, there is no hazard to pedestrians and that the facility will not be more non-conforming than what is already on the roof. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Vadim Michajlow, 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, Vadim Michajlow and Andrew Freilich to grant the following waivers:

- 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.
- Plan to measurable scale and property lines for subject property.
- Approval letter from Massachusetts Department of Public Health.
- 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 (if applicable).
- Contours at each two feet AMSL (Above Mean Sea Level) for the subject property and adjacent properties within 300 feet.
- City-wide Map showing other existing Personal Wireless Service Facilities in the City and outside the City within one mile of its corporate limits.

- 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.
- 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, Andrew Freilich, Vadim Michajlow, and William Bilotta 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 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 and the photo simulation package received January 5, 2010 dated December 16, 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.
 - That roof access be limited to authorized personnel.
 - That warning signs be posted at the roof access and at the equipment cabinet.
3. **525 Pleasant Street (ZB-2010-011) – Variances: for relief of 1989 square feet from the gross dimensional requirement and for relief of 6 feet of relief from the rear yard setback requirement:** Item #4 was taken up contemporaneously. Michael Sowydra, representative for Stephen Hopkins, applicant, presented the plan. He stated that Parcel A on the submitted plan will serve as a land bridge between the property at 525 Park Avenue and that parking lot to the rear. He said that the parcel currently has an easement and that the variances are necessary so that the ownership of the property can be transferred. He stated that the easement is long term but that Mr. Hopkins is looking for stability and flexibility. He said that the transfer of the property also resolves a liability issue for the DiGregorio's. He further stated that the location of the land bridge between the Hopkins property and the

parking lot is unique to the parcel. Mr. Abramoff stated that the needs of both businesses seem to be helped. Mr. Freilich asked if there was a plan for outdoor café seating. Mr. Hopkins stated that he was considering outdoor seating. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Vadim Michajlow, Andrew Freilich and William Bilotta 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, Andrew Freilich, Vadim Michajlow, and William Bilotta to approve the Variances for relief of 1989 square feet from the gross dimensional requirement and for relief of 6 feet of relief from the rear yard setback requirement with the condition that the plans of 1/15/10 by HS&T as revised on 4/12/10 to depict the landscaping at the corner of Park Avenue and Pleasant Street at 266 Park Avenue labeled Exhibit A and dated 4/12/10.

NEW BUSINESS

4. **525 Pleasant Street (ZB-2010-011A) – Special Permit: Expansion or change of a pre-existing non-conforming use/structure.** This item was taken up contemporaneously with Item #3. Upon a motion by Lawrence Abramoff and seconded by Andrew Freilich, it was voted 5-0 by David George, Lawrence Abramoff, Vadim Michajlow, Andrew Freilich and William Bilotta 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, Vadim Michajlow and Andrew Freilich to approve the Special Permit for Expansion or change of a pre-existing non-conforming use/structure with the condition that the plans of 1/15/10 by HS&T as revised on 4/12/10 to depict the landscaping at the corner of Park Avenue and Pleasant Street at 266 Park Avenue labeled Exhibit A and dated 4/12/10.

5. **1183 Main Street (ZB-2010-005) – Special Permit: To allow a Limited Residential Hospice House use in an RG-5 zone and a Variance for Relief from a requirement in Note 10 of Table 4.1 of the Zoning Ordinance which states that a Limited Residential Hospice House may have a maximum of 10 bedrooms and a maximum of 16 residents in order to permit a total of 19 bedrooms and 19 residents.** Mark Donohue, representative for Eastern Orthodox Management Corp, petitioner, presented the plan. He stated that the Special Permit is required because of the residential zone and the variance is required because the number of beds exceeds the maximum allowed in the zoning ordinance. He stated that the property was formerly used as a nursing convalescent home which had 30 beds. He said that the use is the same as the previous use and there will be no effect on the neighborhood. Mr. Freilich questioned if this is a licensed hospice and if there will also be a nursing home use. Mr. Donohue responded that the applicant wants the nursing home use but cannot provide the parking at this time. Mr. Kelly stated that a parking plan approval will be required, if the parking lot is being altered. Mr. Donohue stated that there will be no change to the parking lot and that scaled plans will be submitted. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Vadim Michajlow, Andrew Freilich and William Bilotta to close the public hearing. Upon a motion by Andrew Freilich and seconded by Lawrence Abramoff it was voted 5-0 by David George, Lawrence Abramoff, Vadim Michajlow, Andrew Freilich and William Bilotta to re-open the public hearing. 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 close the public hearing. Upon a

motion by Lawrence Abramoff and seconded by Vadim Michajlow, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Vadim Michajlow and Andrew Freilich to approve the Special Permit to allow a Limited Residential Hospice House use in an RG-5 zone and a Variance for Relief from a requirement in Note 10 of Table 4.1 of the Zoning Ordinance which states that a Limited Residential Hospice House may have a maximum of 10 bedrooms and a maximum of 16 residents in order to permit a total of 19 bedrooms and 19 residents with the following conditions: 1) A scaled parking plan showing details of parking spaces be submitted prior to the issuance of a building permit and 2) parking lot plan with zoning analysis be submitted that includes the uses on site.

6. 1250 Grafton Street (ZB-2010-012) – Special Permit to allow a motor vehicle display and sales lot in a BL-1 zone. George Russell, petitioner and owner, presented the plan for a vehicle display and sales lot for 5 cars. Mr. Russell presented the board with a copy of the petition with signatures of those in favor of the petition. Ms. Gentile presented a letter from an abutter in opposition. Mr. Russell stated that he has parking for the office use and the display lot. He stated that he installed landscaping and that there will be no repair work on site and that the business is internet based. He said that the internet will be used to advertise the vehicles and then an appointment will be made to see the car. Mr. George referred to a letter from an abutter in opposition because he was concerned with wetlands, noise and a hang out for people. Mr. Russell said that he had installed landscaping and moved an apple tree to the side of the lot to make it more appealing. He stated that the hours of operation will be 9:00 AM to 5:00 PM, there will be no signs and no new lighting. 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 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, Vadim Michajlow and Andrew Freilich to approve the Special Permit to allow a motor vehicle display and sales lot in a BL-1 zone with the following conditions:

- 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.
- 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.

7. 184 Austin Street (ZB-2010-014) – Special Permit to allow a non-accessory residential parking lot in an RG-5 zone. Arthur Mooradian, owner and petitioner, presented the plan for a 14-space non-accessory parking lot for residential use. He stated that the parking will be used for tenants of his buildings across the street. Mr. Abramoff commented that it appeared as though parking was difficult and that the lot appears to be existing. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 5-0 by David George, Lawrence Abramoff, Vadim Michajlow, Andrew Freilich and William Bilotta to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Vadim Michajlow, it was voted 5-0 by Lawrence Abramoff, David George, William Bilotta, Vadim Michajlow and Andrew Freilich to approve the Special Permit to allow a non-accessory residential parking lot in an RG-5 zone with the following conditions:

- Parking lot constructed to the final approved parking plan.
- Parking lot to have a semi-annual landscaping maintenance program.

Other Business

Decisions: The Board signed decisions.

Adjournment

Chair George adjourned the meeting at 7:47 pm.