

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

**August 27, 2012**

**WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM**

**Zoning Board Members Present:**

Andrew Freilich, Chair  
Lawrence Abramoff, Vice-Chair  
William Bilotta  
Vadim Michjlow  
Timothy Loew

**Staff Present:**

Joel Fontane, Division of Planning & Regulatory Services  
Deborah Steele, Division of Planning & Regulatory Services  
Marlyn Feliciano, Division of Planning & Regulatory Services  
John Kelly, Department of Inspectional Services

**Board Site Views**

**CALL TO ORDER**

Chair Freilich called the meeting to order at 5:30 p.m.

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

**1. 557 West Boylston Street (ZB-2012-043):**

Special Permit: To allow a kennel use (Table 4.1, Business Use #12)  
Petitioners: Lynn Gremo & Dawn Rosenlund  
Present Use: 1,200 SF vacant building  
Zone Designation: ML-0.5 (Manufacturing, Limited)  
Petition Purpose: To open a dog day care and grooming business

Department of Planning & Regulatory staff had received email from applicant requesting a Leave to Withdraw for request for a Special Permit.

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 5-0 to approve the request for Leave to Withdraw for a Special Permit at 557 West Boylston Street.

**List of Exhibits.**

- Exhibit A: Special Permit Application; received July 6, 2012; prepared by Lynn Gremo & Dawn Rosenlund.
- Exhibit B: Floor Plan; undated; unknown preparer.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 557 West Boylston Street; dated August 10, 2012, revised August 24, 2012.
- Exhibit D: Leave to Withdraw email from Lynn Gremo to Nancy Trann; re: 557 West Boylston Street; dated August 12, 2012.

**2. 28 Garden Street (ZB-2012-041)**

- Special Permit: To convert a south-facing static face of the non-accessory freestanding billboard sign to a digital sign.
- Petitioner: Lamar Advertising Company
- Present Use: Railroad tracks next to Interstate I-290 and a non-accessory freestanding billboard with two static sides
- Zone Designation: MG-2.0 (Manufacturing, General)
- Petition Purpose: To convert the existing south-facing 672 SF static face of the non-accessory freestanding billboard sign to a digital sign

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to postpone the item until the September 17, 2012 Zoning Board of Appeals meeting and extend the constructive grant deadline until October 17, 2012.

**List of Exhibits.**

- Exhibit A: Special Permit Application; received June 12, 2012; prepared by Lamar Advertising Company.
- Exhibit B: Special Permit Plan; dated March 11, 2009, revised June 8, 2012; prepared by BSC Group.

- Exhibit C: Request to postpone the hearing to August 13, 2012; submitted by Lamar Advertising Company; dated July 16, 2012.
- Exhibit D: Marked aerial photograph entitled “Locus of I-290 Lamar Sign at 28 Garden Street in Worcester, Massachusetts” and “Collision Diagram 2010/2011 Data”; prepared by BSC Group; dated August 7, 2012.
- Exhibit E: A traffic study prepared by BSC Group entitled “Lamar Unit # 97-025 EB”; dated August 8, 2012.
- Exhibit F: MassDOT Memorandum re: “Digital Advertising Board – Pilot Program”; dated November 22, 2011.
- Exhibit G: Driver Visual Behavior in the Presence of Commercial Electronic Variable Message Signs (CEVMS), Summary of Conclusions;
- Exhibit H: A booklet from Lamar Outdoor Advertising Company answering common questions about digital displays (“Technically Speaking”).
- Exhibit I: Letters of Support:
- a. American Red Cross; dated August 2, 2012
  - b. Resmini Law Associates; dated August 6, 2012
  - c. PriMedia; dated August 7, 2012
  - d. Sheppard Leger Nowak, Inc.; dated August 7, 2012
  - e. The Advertising Council; dated August 7, 2012
  - f. Boys Town New England; dated August 7, 2012
  - g. CareNet Pregnancy Center of RI; dated August 8, 2012
  - i. The Salgi Esophageal Cancer Research Foundation; dated August 13, 2012
  - j. Seven Hills Foundation & Affiliates; dated August 21, 2012
- Exhibit J: Excerpts from the proposed revisions to the 700 CMR 3.00: Control And Restriction Of Billboards, Signs And Other Advertising Devices regarding 3.17: Requirements for Electronic Sign Permits; Massachusetts Department of Transportation’s Office of Outdoor Advertising; <http://www.massdot.state.ma.us/highway/Departments/OutdoorAdvertising.aspx>; accessed August 9, 2012.
- Exhibit K: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 28 Garden Street – Special Permit; dated August 10, 2012.
- Exhibit L: Letter from Bowditch & Dewey to Zoning Board of Appeals; re: Lamar Advertising Company – 28 Garden Street, Worcester, MA – Application for Special Permit for Conversion to Digital Sign; dated August 24, 2012.

**3. 1350 Main Street (ZB-2012-044):**

- Special Permit: Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Use (Article XVI, Section 4)

Special Permit: Modification of Parking and Loading Requirements (Article IV, Section 7 A(2)) with respect to one (1) loading space

Variance: Relief of 6.44 ft from the 10 ft side yard setback dimensional requirement for the proposed lot with an existing structure in a BL-1.0 zone

Variance: Relief of 9.89 ft from the 20 ft side yard setback dimensional requirement for the proposed lot with an existing structure in a RS-7 zone

Variance: Relief of 20 ft from the 50 ft rear yard setback dimensional requirement for the proposed lot with an existing structure in a RS-7 zone

Variance: Relief of .45:1 Floor to Area Ratio (FAR) from the .4:1 FAR dimensional maximum for the proposed lot with the existing structure in a RS-7 zone.

Petitioner: Merrimack Health Group, Inc.

Present Use: Nursing home

Zone Designation: BL-1.0 (Business, Limited) and RS-7 (Residential, Limited)

Petition Purpose: To demolish sections of the existing building; construct two (2) new additions – a 6,616 SF wing with 3,300 SF occupied basement along Main Street and 26,472 SF wing with a 3,600 SF unoccupied basement at the property’s rear; reconfigure parking and construct three (3) new spaces; expand/construct retaining walls; and install landscaping.

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to postpone the item until the September 17, 2012 Zoning Board of Appeals meeting and extend the constructive grant deadline until October 17, 2012.

**List of Exhibits.**

- Exhibit A: Special Permit & Variance Application; received July 11, 2012; prepared by Parsons Hill Realty LLC.
- Exhibit B: Plans:
- i. “Parsons Hill – Additions & Renovations”; dated June 10, 2012; prepared by Architectural Consulting Services
  - ii. Existing and Proposed Conditions; dated July 11, 2012; prepared by Meridian Associates;
  - iii. Exterior Elevations; dated July 5, 2012; prepared by Architectural Consulting Services
  - iv. Photometric Plan; dated July 9, 2012; prepared by Reflex Lighting;
- b) Parsons Hill Renderings; received July 11, 2012.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 1350 Main Street (ZB-2012-044); dated August 10, 2012; revised August 24, 2012.

**4. 525 (aka 525-545) Lincoln Street (ZB-2012-049):**

Special Permit: To convert both faces of the non-accessory freestanding billboard sign to a digital sign.

Petitioner: Clear Channel Outdoor

Present Use: A commercial shopping center with a two-sided monopole non-accessory freestanding billboard sign (672 SF per side) in the rear of the property facing I-290 interstate highway

Zone Designation: zoned BG-4 (Business, General), RS-7 (Residential, Single-Family), and WR (GP-3) (Water Resource Protection Overlay District)

Petition Purpose: To convert the existing sign to a digital sign with same dimensions

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to postpone item until the September 17, 2012 Zoning Board of Appeals meeting.

**List of Exhibits.**

Exhibit A: Special Permit Application; received July 23, 2012; prepared by Clear Channel Outdoor, including the following attachments:

- i. Lease Agreement between the applicant and the owner; dated November 30, 1999
- ii. Lincoln Plaza Building Key Plan; dated August 8, 2005
- iii. Two photographs of the existing billboard sign
- iv. Digital billboard structural plan; prepared by Yesco Electronics; undated; received July 23, 2012.

Exhibit B: Digital Display Installation Plan; prepared by Dana F. Perkins, Inc. of Consulting Engineers & Land Surveyors; dated July 5, 2012.

Exhibit C: Structural Plan; prepared by GRC Engineering, Inc. and Quantum Structure & Design; dated September 21, 2011.

Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 525 (aka 525-545) Lincoln Street (ZB-2012-049); dated August 24, 2012.

**New Business**

**5. 65 Oneida Avenue (ZB-2012-039):**

Attorney Morris Bergman, representing John McCabe, appeared on behalf of the petition for

**Variance:** Relief of 15 ft from the 65 ft frontage dimensional requirement for the proposed lot with the existing dwelling on it.

**Variance:** Relief of 15 ft from the 65 ft frontage dimensional requirement for the proposed lot with the proposed dwelling on it.

**Variance:** Relief of 2,000 SF from the 7,000 SF gross dimensional requirement for the proposed lot with the existing dwelling on it.

**Variance:** Relief of 2,000 SF from the 7,000 SF gross dimensional requirement for the proposed lot with the proposed dwelling on it.

Attorney Bergman stated that Mr. McCabe would like to divide the lot into two separate lots in which one would contain the existing home and other lot would accommodate a new house to be built in size and design to be consistent with the existing house and the other homes in the neighborhood.

Mr. Bergman stated there are nine homes in the area of Mr. McCabe's proposal and at least 50% of the homes in the vicinity have similar frontage. Mr. Bergman stated this development was created in 1917 and presented a subdivision plan that showed the neighborhood when it was called Bedford Heights in 1917 and in 1917 there were overwhelming lots similar to Mr. McCabe's, 5000 square feet of land and 50 feet of frontage.

Mr. Bergman stated that Mr. McCabe bought the property in 2002. When Mr. McCabe bought the property it was listed as two separate lots until 2005 when the City began taxing the property as two separate lots but the City on its own merged the two lots. Attorney Bergman stated that the front picture on the Department of Planning & Regulatory memo page one there is picture of the area and Mr. Bergman stated that picture would be the most relevant section of the neighborhood as picture shows the homes in closest proximity to Mr. McCabe's lot. There are nine homes in close proximity and of the nine, five of the nine are 5,000 SF of land size and 50 feet of frontage which does not include Mr. McCabe.

Mr. Bergman stated that a home in that area would create additional taxes for the City and Mr. McCabe is willing to comply with conditions listed in staff's memo.

Mr. Bergman stated that Mr. McCabe reached out to the neighborhood to come to some type of agreement regarding the proposal but that did not happen.

Mr. Bergman stated that in 1992 the Zoning Board of Appeals granted a variance for relief of frontage (50-ft provided) and area requirements (for 5,000 SF provided) for the parcel at 35 Oneida, yet the home was never constructed and the variance lapsed.

Mr. Bergman stated this project would fit into the neighborhood and increase taxes and there is a history of approving variances at location so he would request the Zoning Board of Appeals approve the applicant's request.

Chairman Freilich asked Mr. Bergman provide documentation that lot was two separate lots.

Mr. Bergman provided copies to the Board.

Mr. Fontane stated with regard to the two lots being combined into one that is a common practice in Assessing when the property is owned in common ownership but for the purpose of zoning requirements you look at both lots to determine zoning compliance so there maybe a legacy lot there from over 100 years ago but that does not imply that is it buildable.

Chairman Freilich asked if the zoning lot size changed over the years and they were held in separate in ownership would that allow them to build on it.

Mr. Fontane stated that would not be correct as zoning changes over time and person could find themselves owning piece of property that due to zoning changes in no longer a buildable lot.

John Kelly from Inspectional Services stated he had no comments.

Mr. Abramoff asked when Mr. McCabe purchased the property.

Mr. Bergman stated property was purchased by Mr. McCabe and another party in 2002 and in 2003 it was transferred just to Mr. McCabe.

Mr. Abramoff asked whether it was purchased in one transaction.

Mr. Bergman stated it was purchased in one transaction with both lots stated on the deed.

Mr. Abramoff asked if rendering had been submitted.

Mr. Bergman stated that had been submitted.

Mr. Abramoff asked how many square feet at 65 Oneida.

Mr. Bergman stated the existing house is consistent with other houses in the neighborhood and the proposed house will be consistent with other homes in neighborhood.

Mr. Abramoff asked how many bedrooms in existing home.

Mr. Bergman stated three bedrooms.

Chairman Freilich asked if it was typical of the City to assess a lot that wasn't considered buildable.

Mr. Fontane stated every lot is taxed.

Mr. Bergman stated the City merged the lot in 2005.

Mr. Fontane stated that has to do with title history.

Mr. Bergman stated that Mr. McCabe has done nothing on his own to create the one lot.

Mr. Bilotta asked whether the merging of the two lots took place after the second party transferred interest to Mr. McCabe.

Mr. Bergman stated no that occurred two years after that transaction.

Councilor Tony Economou stated he is in opposition to the proposal. He stated to go forward and create a non-conforming lot in this area would be detriment to the neighborhood. The home would be shoehorned in and would take away value away from existing neighborhood.

Anthony Jarvis, an abutter, stated this would reduce the value of the properties in the existing neighborhood.

William Ernest, an abutter, stated if this home is built he would lose all privacy in his home.

Louis Hofford, an abutter, stated he is in objection to the proposal and he would lose all privacy in his home.

Paul Korpinen, an abutter, stated he is in objection to the proposal and his concern would be the reduction in property value and the amount of traffic that would increase if new home was built.

Joseph Kittredge, an abutter, stated he is in objection because only two of the fifteen houses on the street have that type of frontage. Mr. Kittredge stated allowing this request would endanger children in the neighborhood as there would be increased in traffic.

Kenneth Foley stated he lives in the neighborhood and is in opposition as he has lived in the neighborhood for over 40 years and he would like the neighborhood to stay the way it is.

Mr. Bergman stated he understands the concerns of the neighbors but in the past Zoning Board of Appeals approved variances in this area.

Chairman Freilich asked if they approved this project there would be eight other properties that could apply for relief of the 2,000 square feet.

Mr. Fontane stated in the immediate area that would be correct.

Mr. McCabe stated in bought property in 2002 and he made a lot of improvements to the home and there was a separate lot and he would like to build a new house on that lot and he could install a stockade fence for privacy of his neighbors.

Mr. Fontane stated that based on staff's report there maybe other non-conforming lots in the neighborhood but they may have been built during time when zoning allowed it.

Mr. Fontane stated when you look at Oneida the majority of lots in neighborhood appear to comply with the gross dimensional requirement and frontage requirement. The location is located in a RS-7 zone which is the second most restrictive zoning district.

Mr. Fontane stated that staff disagrees with applicant's findings of fact that lot size is similar to what is being proposed dominate the neighborhood. The majority of lots along Oneida Avenue comply with the area and frontage minimum dimensional requirements. Only 3 of the 14 lots along Oneida Avenue in the vicinity of 65 Oneida Avenue parcel are non-conforming with respect to area and frontage.

John Kelly from Inspectional Services stated he had no comments.

Chairman Freilich stated that the Board has to use their best discretion as to whether this proposal would fit into the neighborhood and that he went to visit the location and felt that putting a additional home would be too tight and his feeling would be that the house would detract from the neighborhood.

Upon a motion by Mr. Billotta and seconded by Mr. Michajilow the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Abramoff and seconded by Mr. Michajlow the Board voted 1-3-1, Mr. Michajlow voting to approve, Mr. Bilotta, Mr. Loew and Chairman Freilich voting no and Mr. Abramoff vote to abstain from the vote to approve the requested:

**Variance:** Relief of 15 ft from the 65 ft frontage dimensional requirement for the proposed lot with the existing dwelling on it

**Variance:** Relief of 15 ft from the 65 ft frontage dimensional requirement for the proposed lot with the proposed dwelling on it

**Variance:** Relief of 2,000 SF from the 7,000 SF gross dimensional requirement for the proposed lot with the existing dwelling on it

**Variance:** Relief of 2,000 SF from the 7,000 SF gross dimensional requirement for the proposed lot with the proposed dwelling on it

**The motion failed and the requested variances were denied.**

**List of Exhibits.**

Exhibit A: Variance Application; received June 11, 2012; prepared by John E. McCabe.

Exhibit B: Variance Plan; dated January 27, 2009, last revised 6/9/2011; prepared by George Edward Smith III.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 65 Oneida Avenue, revised July 13, 2012.

Exhibit D: Worcester Registry of Deeds Plan Book 31, Plan 18 for lots 181 and 182 (dated 1917).

Exhibit E: Plan of Section B – Bedford Heights, not dated.

**6. 14 Doran Road (fka 79 Sears Island Drive) (ZB-2012-048):**

Jason LeBeouf of JML Construction appeared on behalf of the application for:

**Special Permit:** Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Structure (Article XVI, Section 4)

**Variance:** Relief of 3.9-ft from the side yard setback dimensional requirement

Mr. LeBeouf stated he bought the property out of foreclosure about three years ago and has renovated the property and now has a buyer and the buyer has requested he construct a ~548 SF attached garage on the eastern side of the dwelling.

Mr. Fontane stated that this modification will allow the addition to meet dimensional requirements and avoid intensifying the existing structure's nonconformity and the proposed garage addition does not alter the property's existing use and will provide the minimum two off-street parking spaces required for single-family residential dwellings within the RS-7 zoning district.

Mr. Abramoff said of review of the property shows that quite a bit of money went into the renovations.

Mr. Kelly requested that if approved that it be constructed to floodplain requirements.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to approve the request for:

**Special Permit:** Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Structure (Article XVI, Section 4)

**Variance:** Relief of 3.9-ft from the side yard setback dimensional requirement with the following conditions of approval:

- 1) That six copies of revised plans be submitted with the following modifications:
  - a. Print plans at 1:1 scale
  - b. Provide green space on both sides of the proposed driveway and label the materials to be used
- 2) Minimum one 3” caliper shade tree be planted on the lot in the vicinity of the garage off-setting an increase in impervious surface;
- 3) That structure be built according to current floodplain requirements;
- 4) That the project is constructed in substantial accordance with the final approved plot plan.

#### **List of Exhibits.**

Exhibit A: Variance & Special Permit Application; received July 23, 2012; prepared by JML Contracting Corp.

Exhibit B: Site Improvement Plan; dated July 3, 2012; prepared by Allen F. Paige, Consulting Engineering.

Exhibit C: Rendering; dated May 16, 2012; prepared by J.W. Melick – Design.

Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 14 Doran Road (fka 79 Sears Island Drive); dated August 24, 2012.

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#### **7. 265 Grafton Street (ZB-2012-038):**

Attorney Peter Keenan appeared on behalf of the petitioners Michael V. Marino and Brian Marino, Trustees of First Westborough Realty Trust on a request for:

**Special Permit:** To allow a food-service with a drive-through (Table 4.1, Business Use #6)

**Special Permit:** To allow retail sales in MG-2.0 (Table 4.1, Business Use #26)

**Special Permit:** To modify parking layout with respect to landscape buffer (Article IV, Section 7)

The petitioners wish to demolish the existing building on site and construct a 7,425 SF building with 63 off-street parking spaces for a food-service with a drive-through use (allowed by a Special Permit), a food service use (allowed by-right), and retail/office space use (allowed by a Special Permit).

Mr. Keenan stated that this had appeared at last Zoning Board meeting and item was continued by the Board to obtain additional information.

Mr. Keenan stated when application appeared before Board in July the proposal was to demolish an existing building and provide a new warehouse building, a Dunkin Donuts, a second restaurant and some retail use and total square footage was going to be 7,500 SF and that required three Special Permits.

Mr. Keenan stated after the first discussion with the Board and additional meeting with Planning staff they have reduced the building size to 5840 SF by reducing the tenant space. The proposed second restaurant will be moved to the back of the building. They have eliminated employee parking due to the reduced uses. There will be a 9,600 SF warehouse and office space building. They have eliminated 3,200 SF of retail space.

Mr. Keenan stated they will be requesting leave to withdraw for Special Permit to allow retail sales. They will also be petitioning the City Council to remove on-street parking along the property's frontage to improve traffic safety.

Bill Hannigan from Hannigan Engineering stated that they have met with staff and they have reduced the square footage of the building. Mr. Hannigan showed revisions on a plan. Mr. Hannigan stated these changes should address the Board's concerns from initial meeting. They have revised the plans to increase the area of the outdoor seating area from 10\*12 to 12\*12. They have connected the sidewalk (next to the dumpster) to the sidewalk wrapped around the building in the rear to allow pedestrian access to the building. There will be seven parking spaces in front.

Mr. Hannigan stated the new building has decreased in size and showed a plan of new building. The Dunkin Donuts is 92 feet and the future restaurant business will be 44 feet long. The back parking will have seven spaces as recommended by DPW as they requested the parking be changed to 60 degree so that traffic flow will still be counter clockwise around the site.

Mr. Hannigan stated they have created a two way entrance as it will eliminate concern about wrong way drivers coming out the wrong way and it helps with the traffic entrance number at the exit lane.

Jim Winn stated he is professional engineer in Massachusetts and was going to review the plans for the Board.

Mr. Winn stated the revised plan will allow for a much better fit for the site. The reconfiguring of the eastern site drive to allow exiting movements will allow for more efficient movements on the site and exiting the site. This will reduce queuing and delays.

Mr. Winn stated according to their study they have assumed that 70 percent of the site generated traffic will use the drive-through lane during the weekday AM peak hours, 30

percent will use the drive-through during the weekday PM peak hour, and 50 percent will use the drive-through lane during the Saturday peak hour.

Mr. Winn stated with regard to DPW comment that there be a single entrance/exit driveway that due to the shape it is difficult to create that driveway and by having a single driveway you would have to pull the building back and that would not be pedestrian friendly.

Chairman Freilich stated the new plan drastically reduces the impact to the street and thanked the applicant for going back and revising their proposal. However, he still had some concerns relative to traffic on Grafton Street.

Mr. Fontane stated that there were some changes by staff to improve the building and reduce the impact on Grafton Street.

Mr. Fontane stated the applicant has supplied some renderings and that the style of the building chosen by applicant will compliment the area as there will be windows along Grafton Street so there will be visual access to the building.

Chairman Freilich asked Mr. Hannigan to show on the rendering where Mr. Fontane was referring to.

Mr. Fontane stated they had spoken with the applicant about providing visual access and from an urban design standpoint it improves safety and marketability of the pedestrian environment.

Mr. Fontane stated that putting the building in the back and having only one entrance would not be best from urban design point of view.

Mr. Fontane stated there are no concerns for additional restaurant or the building for storage but with regard to stacking and queing he has reviewed the traffic study and it stated that the lane will accommodate 119 vehicles in the queue but believes it should be 11.9.

Mr. Fontane stated that DPW did weigh in on the traffic analysis but does not know if DPW has seen the most updated traffic study provided by the applicant.

Mr. Fontane stated that DPW has requested applicant petition the City to remove on-street parking along the property's frontage to improve traffic safety and that Board should make that condition of approval.

Mr. Fontane stated DPW had concern relative to the driveway and he feels there is a need for two driveways especially at the eastern entrance. That was initially a one way in which is preferred over the two way by DPW.

Chairman Freilich asked Mr. Hannigan if DPW has reviewed the applicant's most recent updates.

Mr. Hannigan stated that DPW has not reviewed the most recent letter but his staff had spoken with DPW and one comment from DPW was if they could not do one entrance then take the westerly entrance and try to slide it further to the east.

Chairman Freilich asked for clarification that if it is DPW position that there be one entrance point.

Mr. Fontane stated yes DPW had that comment.

Chairman Freilich stated his fear would be that you would come into driveway and queuing lane backs up in 7:00 a.m. and the traffic lane does back up what effect does that have on traffic backing up onto Grafton Street. If there isn't a constant flow where people can get in and out there will be a problem. Chairman Freilich stated he did not mind the double entrance to the driveway.

Mr. Fontane asked Mr. Hannigan to show on the plan where the queuing lane would be.

Mr. Hannigan showed on the plan how 14 cars could be accommodated in the queuing lane.

Mr. Abramoff stated that if people see a 14 car back up they will not wait.

Mr. Fontane stated people will easily have visibility to the traffic lane and can go park instead of waiting in queue.

Chairman Freilich asked Mr. Fontane what they need to make a decision on as DPW has not seen the updates.

Mr. Fontane stated DPW will want the driveway separated more.

Mr. Fontane stated if the Board is okay with the two way that would be up to the Board to decide.

Mr. Fontane stated with regard to the free standing sign it is 25 ft which is for 3 or more tenants on site. The maximum freestanding accessory sign height for 2 tenants is 20-ft in this zone. Mr. Fontane stated the sign height will need further review by Inspectional Services.

Mr. Kelly asked if applicant had elevation schematic of the rear building.

Mr. Hannigan stated they have not submitted that.

Mr. Kelly asked if it is single story building and office space.

Mr. Hannigan stated it 9600 SF and 8700 of which will be storage and 900 will be office manager space.

Mr. Kelly stated there are 6 spaces with the use and that storage space is accessory to Dunkin Donuts.

Mr. Hannigan stated that would be correct.

Mr. Kelly just reminded the applicant they if they want to expand the office space they will need more parking spaces.

Mr. Loew asked what the hours would be for the drive thru.

Mr. Fontane stated that he suggests the Board set a performance standard at property line and that staff recommends external speaker for food service ordering is not to exceed 50 decibel at the property line abutting residential uses.

Mr. Loew asked about the western side of the building it still looks generic and asked if a faux dormer be put up.

Mr. Abramoff suggested four windows.

Mr. Hannigan stated they will be willing to be put in some additional aritectural features.

Upon a motion by Mr. Abramoff and seconded by Mr. Michjlow the Board voted 5-0 to close the public hearing.

Mr. Michjlow stated he was very happy with the changes that have been made to the proposal.

Mr. Abramoff stated on plan the south elevation it does show a door.

Mr. Hannigan stated that is in an alcove that is set back and if someone orders something at drive thru and it is not ready the car can pull into wait.

Mr. Abramoff asked if door faces Grafton Street.

Mr. Hannigan stated that is correct.

Chairman Freilich asked if the overflow truck parking will that be considered overflow parking and will there be sign posted showing delivery times so if customer parks there will know they could get blocked in.

Mr. Hannigan stated that deliveries are scheduled at non busy times.

Chairman Freilich asked if whether there would be signs posted stating delivery times or no parking during delivery times.

Mr. Hannigan stated they could label it as truck parking.

Mr. Abramoff stated that those parking spaces are in the far back and people would use as last resort.

Chairman Freilich asked if applicant just put up delivery signs up to make customer aware.

Mr. Hannigan stated there will be a sign stating that dumpster pick up will between 6:00 a.m. and 9:00 a.m.

Mr. Abramoff stated he likes the new traffic plan and by reducing the retail to the proposal they have reduced the intensity on the site. They have moved the conflict with Cumberland Farms further away and they have consolidating there office and storage functions which will be bring more jobs to the city.

Mr. Bilotta asked what the warehouse would look like.

Mr. Hannigan stated it would be a pre-fab metal building.

Mr. Bilotta asked if building match the color tone of the other buildings.

Mr. Hannigan stated he believed so.

Mr. Bilotta asked if there would be any windows.

Mr. Hannigan stated he believed there would windows for the office space area.

Mr. Bilotta asked what would be in the back.

Mr. Hannigan stated it would just be landscaping.

Mr. Bilotta asked if it would be fenced in.

Mr. Hannigan stated he believes there is already fence there.

Chairman Freilich reminded the applicant to have visible stops signs at crosswalks so cars stop for pedestrians in the crosswalk.

Mr. Abramoff asked if applicant had increased the outdoor seating area, connected the crosswalk to the sidewalk wrapped around the building in the rear to allow pedestrian to access the building and provided a four foot crosswalk as requested by staff.

Mr. Hannigan stated that all had been done and is shown on the current set of plans.

Mr. Bilotta asked that owner perform daily trash pick up of all Dunkin Donuts logo litter and that a landscaping on site is maintained minimum every three months.

Upon a motion by Mr. Abramoff and seconded by Mr. Michjlow the Board voted 5-0 to approve the

**Special Permit:** To allow a food-service with a drive-through (Table 4.1, Business Use #6)

**Special Permit:** To modify parking layout with respect to landscape buffer (Article IV, Section 7)

with the following conditions of approval:

- That a greater separation will be created on the westerly driveway subject to approval of the Department of Public Works;
- That the applicant petitions the City to remove on-street parking along the property's frontage to improve traffic safety;
- That the external speaker for the food service ordering is not to exceed 50 decibel at the property line abutting residential uses;
- That the proposed solid wall fence abutting residential properties is at a minimum 6-ft tall;
- That the owner performs daily trash pick up of all Dunkin Donuts logo litter within a 750-ft radius from the center of the property;
- That at least four (4) window elements be installed on the west elevation of the property;
- That the landscaping on site is maintained minimum every three months in accordance with Article V, Section C(1)(b)(iv);
- That six (6) copies of final revised plans and renderings be submitted to the Division of Planning and Regulatory Services prior to issuance of a Building Permit addressing staff's comments (above) and Board's comments, if any;
- That the structure be constructed in substantial accordance with the building rendering submitted on file with the Division of Planning & Regulatory Services and with the final approved Definitive Site Plan as approved by the Planning Board and in compliance with all governmental codes.

Upon a motion by Mr. Abramoff and seconded by Mr. Michjlow the Board voted 5-0 to allow Leave to Withdraw for request for:

**Special Permit:** To allow retail sales in MG-2.0 (Table 4.1, Business Use #26).

**List of Exhibits.**

- Exhibit A: Special Permit Application; received June 11, 2012; prepared by Michael V. Marino and Brian Marino, Trustees of First Westborough Realty Trust.
- Exhibit B: Site Plan; dated May 10, 2012, revised August 8, 2012 & August 22, 2012; prepared by Hannigan Engineering, Inc.
- Exhibit C: Drainage Analysis; dated May 10, 2012; prepared by Hannigan Engineering, Inc.
- Exhibit D: Traffic Impact & Access Study; dated March 21, 2012 & revised August 8, 2012; prepared by Ron Muller & Associates.
- Exhibit E: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 265 Grafton Street; dated July 11, 2012.
- Exhibit F: Memorandum from the City of Worcester Department of Public Works & Parks to the Zoning Board of Appeals; re: 265 Grafton Street; dated July 13, 2012, revised August 22, 2012.
- Exhibit G: Audio level sound measurement document received July 16, 2012 and dated July 16, 2012.
- Exhibit H: Site utility plan, received July 16, 2012 and dated May 10, 2012.
- Exhibit I: Site grading plan, received July 16, 2012 and dated May 10, 2012.
- Exhibit J: Proposed Dunkin Donuts freestanding sign, received July 16, 2012, no date on document.
- Exhibit K: Request for postponement received July 16, 2012 from Attorney Peter Keenan and received July 16, 2012.
- Exhibit L: Rendering of the proposed building and signage; dated August 9, 2012; prepared by Aharonian & Associates, Inc.
- Exhibit M: Letter from Hannigan Engineering to DPRS; re: 265 Grafton Street; dated August 8, 2012.
- Exhibit N: Letter from Jason T. Adams of McMahon Transportation Engineers and Planners to Luba Zhaurova, Senior Planner; re: Review of Dunkin Donuts/Retail Project; dated August 17, 2012.
- Exhibit O: Plan from Hannigan Engineering, 265 Grafton Street, dated May 10, 2012.
- Exhibit P: Revised plan for 265 Grafton Street received from Hannigan Engineering.

Chairman Freilich called for a break from 7:30 p.m. to 7:35 p.m.

**8. 638 Chandler Street (ZB-2012-051):**

Attorney Robert Seder along with the applicant Lawrence Noon appeared on behalf of the petition for:

**Special Permit:** To allow a food service establishment that includes consumption/sale of alcoholic beverages (Business Use #8)

Mr. Seder stated proposal is to operate a 3,600 SF food service facility serving/alcohol with a 100-seat capacity at a former Friendly's location.

Mr. Seder stated location is in a strip plaza and there is 140 parking spaces. The restaurant will have 100 seats with 18 seats dedicated for bar seating which will only be 18% of seating area.

Mr. Seder stated Mr. Noon has run restaurants in the past in Fort Myers and this new restaurant would be an addition to the neighborhood as there is no restaurant in the immediate area.

Chairman Freilich asked if there was a drawing showing the proposed interior of the restaurant.

Mr. Seder stated that has not been done yet as they wanted to wait until Zoning Board of Appeals and License Commission had acted on the proposal and once those approvals have been received drawings will be drawn up.

Councilor Michael Germain appeared in support of the applicant's petition.

Mr. Fontane stated this is not a barroom. This will be restaurant with a bar and if Zoning Board of Appeals approves the applicant will still need to apply to License Commission for approval.

Mr. Fontane stated the Board may want to consider conditions on outdoor seating, hours of operation and the amount of bar seating.

Mr. Kelly stated if the application is approved the applicant would need to submit plans to Inspectional Services to obtain a building permit.

Mr. Abramoff stated he feels alcohol would be necessary for the business model for this restaurant to succeed and the License Commission has enough regulations to ensure that operation obeys the rules and does not feel there should be any additional restrictions on hours then what is already regulated by law.

Chairman Freilich stated he had concerns with the houses abutting the property and would not want to see any use in the rear of the building and asked if applicant intends to do any outside seating and would like to see hours restricted and does not want to see restaurant turn into after hours nightclub.

Mr. Noon stated he would not have any problems with conditions.

Mr. Michjilow stated this would be benefit the neighborhood greatly.

Mr. Abramoff asked if applicant had problem with condition that no outdoor seating in rear of building.

Mr. Noon stated that would not be a problem as that where the dumpster and employee parking is located.

Chairman Freilich asked what Mr. Noon would like for operating hours.

Mr. Fontane stated that liquor licenses can stay open to 2:00 a.m. so the Board would need to specify the hours.

Chairman Freilich states he fully supports the petition for restaurant and hours should reflect that type of business.

Mr. Fontane stated the Board needs to be clear about what the conditions on hours should be.

Chairman Freilich asked Mr. Noon what would give him hours that would allow him to be successful business.

Mr. Noon stated Monday thru Thursday 11:00 p.m. Friday and Saturday, 12:30 and Sunday due to football he would request Midnight.

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Abramoff and seconded by Mr. Michajlow the Board voted 5-0 to approve the

for:

**Special Permit:** To allow a food service establishment that includes consumption/sale of alcoholic beverages (Business Use #8)

with the following conditions of approval:

- The bar seating is limited to 18;
- No outdoor seating or other retail activity allowed at rear of the building;
- Hours of Service:  
Monday thru Thursday there will be no service after 11:00 p.m.  
Friday thru Saturday there will be no service after 12:30 a.m.  
Sunday there will be no service after Midnight.

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

#### **List of Exhibits.**

Exhibit A: Special Application; received July 23, 2012; prepared by Gregory Lavelle.

Exhibit B: Site Plan; undated; unknown preparer.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 638 Chandler Street; dated August 24, 2012

Exhibit D: Email Correspondence between Luba Zhaurova (DPRS staff) and Michael Traynor (Deputy City Solicitor, City of Worcester); re: 638 Chandler Street (ZBA2012-051) Question about legal notice; dated August 23, 2012.

Exhibit E: Email Correspondence between the Lawrence Noon (Applicant) and Nancy Tran (DPRS staff); re: 638 Chandler Street - Need Clarification; dated August 24, 2012.

### **9. 140 Higgins Street (ZB-2012-040):**

Attorney Steve Madaus appeared on behalf of the Petitioner, Lutco International, Inc. on a petition for:

**Special Permit:** Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Structure (Article XVI, Section 4) with respect to the rear yard setback (*previously advertised*)

**Variance:** Relief of 14-ft from the 25-ft rear yard setback dimensional requirement (*an additional variance required for the proposed project*)

Mr. Madaus stated the petition is to construct a 6,835 SF addition with associated 25-off-street parking spaces. Current location is existing machine shop and business has improved and they need to expand. Mr. Madaus stated this is a manufacturing district and the abutting property is a railroad track and not any housing. Mr. Madaus stated that due to soil conditions there are wetlands along Weasel Brook that limit where the expansion of the building can go and they are requesting tonight approval for the Special Permit and the Variance applications.

Mr. Fontane stated that one finding suggested for the Variance was that it appears that the applicant may shift the proposed addition 14' west in order to meet the 25' rear yard setback dimensional requirement and avoid intensifying the existing structure's nonconformity. The relocation, however, would place the addition of 5' from the 30' non build wetland buffer (Weasal Brook) and prevent access from Higgins Street to the required parking spaces on the property's southern end. Therefore, reconfiguration of the addition with the same footprint (6,835 SF) is not possible without relief and/or encroachment into the 30' no build wetland buffer.

Mr. Abramoff asked what Lutco manufactured and will this create new jobs.

Mr. Madaus stated parts for tractor trailers and maybe one or two new jobs.

Mr. Abramoff stated that he said he saw no problems with application.

Mr. Bilotta stated that he had concerns that project would be too close to the Conservation land and asked what precautions applicant is going to take to make sure building does not encroach that land.

Chairman Freilich stated according the memo submitted the applicant has received approval from the Conservation Commission.

Mr. Madaus stated they have received Order of Conditions from Conservation Commission and Site Plan approval from Planning Board and the applicant will obey the conditions placed on site by the Boards.

Mr. Bilotta stated he just wants applicant to abide by all the conditions placed on the site.

Mr. Kelly stated that Inspectional Services does routine checks on sites and ensure that site is in compliance.

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to approve the

**Special Permit:** Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Structure (Article XVI, Section 4) with respect to the rear yard setback

**Variance:** Relief of 14-ft from the 25-ft rear yard setback dimensional requirement (

with the following conditions of approval:

- That the landscaping on site is maintained minimum every six months in accordance with Article V, Section C(1)(b)(iv);

and provided the project is constructed in accordance with the approved Definitive Site Plan submitted on file with the City of Worcester and in compliance with all governmental codes.

**List of Exhibits.**

Exhibit A: Variance & Special Permit Application; received July 13, 2012; prepared by Atty. Stephen Madaus.

Exhibit B: Parking Plan; dated June 12, 2012; prepared by Graves Engineering Inc.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 140 Higgins Street; dated July 13, 2012, revised August 10, 2012, August 24, 2012.

Exhibit D: Request for Postponement; re: 140 Higgins Street; dated July 16, 2012; received from Atty. Stephen Madaus.

Exhibit E: Request Postponement of Item and Public Hearing; re: 140 Higgins Street; dated August 13, 2012; received from Atty. Stephen Madaus

**10. 12 Aitchison Street (ZB-2012-045:**

Attorney Joseph Boynton along with the petitioner, Nicholas R. Amorello on a petition for

**Special Permit:** Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Use (Article XVI, Section 4)

**Special Permit:** Modification of Landscaping Requirements for Parking/Loading (Article IV, Section 7) – requesting a waiver of a landscaped 5-ft buffer

**Variance:** Relief of 7 off-street parking spaces from the parking requirement (minimum 17 required for the proposed use)

**Variance:** Relief of 37.5 ft from the frontage dimensional requirement for the proposed lot with an existing

structure on it (minimum 160 ft for the proposed 4 residential units

Presently located on the premises is a three-story building used by the Columbus Civic Association and two residential dwelling units.

Petitioner seeks to continue the club use and divide the two residential units into four one bedroom units.

Mr. Boynton stated they will be able to acquire ten off street parking spaces.

Mr. Boynton stated the building will be brought up to code and provide more attractive housing and request approval of the Special Permits and Variances.

Mr. Fontane stated that of the 10 parking spaces provided for the four dwelling units and club, seven will be parallel parking stalls along the northern property line and staff recommends that stall #1 be relocated adjacent to #10 in order to prevent backing out onto Aitchison Street.

Chairman Freilich stated he had viewed the site and hopes that landscaping will be cleaned up.

Mr. Michjlow asked how many people from social club would need parking spaces when it is operating.

Mr. Boynton stated 10-12 but they have arrangement with bank next door to park next door at the bank when bank is not open. The club is usually open Friday evenings and Sunday morning.

Mr. Bilotta stated he agreed with Chairman Freilich about keeping up the property up in order to attract quality tenants.

Mr. Loew stated he agreed with Chairman Freilich and Mr. Bilotta's comments.

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Abramoff and seconded by Mr. Michajilow the Board voted 5-0 to approve the

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|------------------------|--|
| <b>Special Permit:</b> | Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Use (Article XVI, Section 4)  |
| <b>Special Permit:</b> | Modification of Landscaping Requirements for Parking/Loading (Article IV, Section 7) – requesting a waiver of a landscaped 5-ft buffer                                 |
| <b>Variance:</b>       | Relief of 7 off-street parking spaces from the parking requirement (minimum 17 required for the proposed use)  |
| <b>Variance:</b>       | Relief of 37.5 ft from the frontage dimensional requirement for the proposed lot with an existing structure on it (minimum 160 ft for the proposed 4 residential units |

with the following conditions of approval:

- That six (6) copies of a final revised plan are submitted prior to the issuance of a Building Permit addressing the following:
- Relocate stall #1 next to #10 in order to prevent backing out onto Aitchison Street;
- Provide more spacing (lengthwise) between parallel parking stalls #2 - #7;
- Landlord is to cut the grass on a regular basis;
- The landlord is to clean trash around area of property and keep property in a clean orderly condition;
- Dedicate the area (hatch mark) between the bocce court and stall #1 to allow parallel parked cars to maneuver inside the lot and exit onto Aitchison Street;
- Provide fencing between N/F Boston & Albany Railroad Company and the property

and provided they are in accordance with the site plan submitted on file with the City of Worcester and in compliance with all governmental codes.

**List of Exhibits.**

Exhibit A: Variance & Special Permit Application; received July 12, 2012; prepared by Nicholas R. Amorello.

Exhibit B: Variance Plan; dated July 1, 2012; prepared by HS&T Group, Inc.

Exhibit C: Elevation & Floor Plan; dated September 3, 2012; prepared by J.R. Associates.

Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 12 Aitchison Street; dated August 10, 2012, revised August 24, 2012.

Exhibit E: Request for Postponement; re: 12 Aitchison Street; dated August 13, 2012; received from Atty. Joe Boynton.

**11. 43 Lancaster Street (ZB-2012-047):**

Gregory Lavalley, petitioner, applied for

**Special Permit: To allow Professional Office (Business Use #19) in the RG-5 zoning district.**

Petitioner seeks to convert the residential dwelling on the first floor to a 300 SF Professional Office (Business Use #19). The rest of this unit's area 1,200 SF will serve as storage and interior circulation.

Mr. Lavalley stated he built 43 Lancaster Street and completed it last year and he has current business that he like to relocate to first floor of the building.

Mr. Abramoff asked that would be the type of business.

Mr. Lavelle stated corporate benefits and no one would be coming into the building.

Chairman Freilich stated Mr. Lavelle has done a great job upgrading the property and does not see any problem with petition.

Mr. Fontane stated 300 SF will be office space on first floor but would like to know what will happen with the remaining 1,200 SF area space on first floor.

Mr. Lavelle stated a kitchen area, two bathrooms and rest will be storage.

Mr. Kelly stated he had no comments.

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to approve the

**Special Permit: To allow Professional Office (Business Use #19) in the RG-5 zoning district.**

with the following conditions of approval:

- 1) Submit revised plans drawn to-scale, prepared and stamped by a registered engineer.
- 2) Provide a floor plan of the first floor showing proposed office area and uses for the remaining space.
- 3) That first floor will have no residential use.
- 4) Provide a 5' buffer with appropriate landscape screening between the parallel parking spaces on the property's southerly end<sup>1</sup>

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

**List of Exhibits.**

Exhibit A: Special Permit Application; received July 17, 2012; prepared by Gregory Lavelle.

Exhibit B: Foundation as-built (Plot Plan); dated December 7, 2009; prepared by Land Planning, Inc.

Exhibit C: Rendering; dated January 12, 2009; prepared by Paquette Builders.

Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 43 Lancaster Street; dated August 24, 2012.

**12. 0 Millbury Street (ZB-2012-050):**

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<sup>1</sup> Except for Single-Family Detached, Single-Family Semi-Detached, Three-Family Detached and Two-Family Detached uses, parking areas shall be set back a minimum of five (5) feet from boundary lines...[and] be appropriately landscaped in accordance with the landscape design standards set out in Article V, Section-5(C). (Note 5. Setbacks, Buffers and Landscaping, (a)).

Landscape screening shall be required along the sidewalk edge and side lot lines where the parking, work or service area of a proposed project abuts a street, public park or residential property. (Article V, Section-5 (C), 1, a.

Michael Maurello on behalf of Clear Channel Communications appeared on behalf of the application for:

**Special Permit:** To convert both faces of the static non-accessory freestanding billboard sign to a digital sign (per Article IV, Section L(2)(b) - Conversions from Static to Digital Display for Nonconforming Signs).

The present use is 672 SF two-sided static non-accessory freestanding billboard sign and they are petitioning to convert existing sign to digital sign with same dimensions.

Mr. Maurello stated they will remove six poster panel billboards in the immediate vicinity and submitted a copy to the Board.

Mr. Fontane stated this is City of Worcester first digital billboard and the City has adopted the digital sign ordinance regarding non-accessory signs for City that provides operating standards. The City of Worcester requires 1,000 SF between digital signs and with any billboard it requires two approvals, the City of Worcester Zoning Board and the Outdoor Advertising Board.

Mr. Fontane stated that staff has reviewed the site and has provided the Board traffic information and staff does not feel there is additional need for additional traffic study for this site.

Mr. Fontane stated that height of the billboard would be determined by the Board but the height would not be more than minimum necessary.

Mr. Fontane stated staff had proposed finding to Note 8 to Table 4.3.3, which states: "Non-accessory billboard signs and/or their supporting sign structures shall not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with the driver's visibility of approaching, merging or intersecting traffic," staff believes information provided by the applicant demonstrates sufficiently that the proposed digital billboard will not negatively impact vehicular safety because the driving environment in the vicinity of the proposed billboard is not considered complex.

Mr. Fontane stated that with regarding to the Special Permit Approval Criteria for Accessory/Non-Accessory Signs the applicant has not completed that and encourages the Board to go through the findings with the applicant.

Mr. Fontane stated with regard to the traffic Findings of Fact staff had the following comments:

The driving environment is not considered complex due to the following factors:

- a. Route 146 in the vicinity of the proposed billboard has 2 lanes and a speed limit of 50 miles per hour;
- b. The billboard is not intrusive as it is sufficiently setback min ~200-ft as measured from the pole to the closest driving lane on Route-146;
- c. North-bound: While north-bound Exit 12 is in the near proximity of the billboard (~220-ft), the ramp is straight and long (parallel to the

traffic flow of 146 for about 1,000 ft before turning off), with an excellent line of sight. (The nearest exit from 146 southerly of the billboard is about 4,000 ft.)

- d. South-bound: The nearest lane merge is ~1,200 ft from the billboard on the south-bound side of Route 146.
- e. The proposed digital sign can and will be operated in accordance with the operational standards of Section 6(G) of the Zoning Ordinance.

Chairman Freilich asked if Clear Channel was the petitioner that presented for the sign at corner of 190 and 290?

Mr. Fontane stated the denial was for Murray Advertising,

Chairman Freilich asked what the state is considering for linear buffer zone?

Mr. Fontane stated the state is considering is 2,000 but City of Worcester is less restrictive.

Chairman Freilich stated this decision will be precedent setting and does think it is good idea but with conditions and asked what would be the duration of time for sign to change.

Mr. Fontane stated ten seconds.

Chairman Freilich asked if the Board will have to analyze the time on every billboard that comes before the Board.

Mr. Fontane stated the standard that has been to look at where billboard is located and direction on where billboard is visible and see how complicated is the surrounding area and the Department of Planning & Regulatory Services will make an advisement to the Board and if complex environment the applicant may have to obtain third party review at their own expense.

Chairman Freilich asked if applicant offered to remove the six signs or did City request that.

Mr. Maurello stated that Clear Channel offered to remove them in communities in order to obtain new signs as they want to work in collaboration with communities.

Mr. Fontane stated the Board should look at what is being proposed for the new sign and not look at what signs may be removed. He also reminded the Board that they cannot look at what is being offered by applicant in the way of free public service announcements. He stated it is nice that applicant offers that service but is not a land use consideration.

Chairman Freilich asked if that included Amber Alert?

Mr. Maurello stated not required but they offer all the time.

Mr. Loew asked whether they offer that services for other community events.

Mr. Maurello stated yes they do offer public service advertisement at no cost.

Mr. Loew stated for clarification asked whether signs being removed are removed completely.

Mr. Maurello stated yes the signs are removed completely.

Chairman Freilich stated he had concerns that all signs on billboards on 290 could become digital.

Mr. Fontane stated that would not be correct as only allowed within 1,000 feet between signs.

Mr. Michajlow stated that he has visited the site where the billboard would be located and he had concerns as there are residents behind these signs and does not how they could not see the lights shining.

Mr. Maurello stated he had taken photos and had submitted to the Board.

Mr. Michajlow stated from the photos it is difficult to determine how would not impact neighbors.

Chairman Freilich stated that the projection from these digital billboards is regulated now.

Mr. Fontane stated that is correct and that there is automatic dimming technology for these signs.

Mr. Abramoff stated that he needed to leave the meeting.

Chairman Freilich asked if he could close the hearing with Mr. Abramoff and then make the decision with Mr. Abramoff being present.

Mr. Fontane stated no that Mr. Abramoff would need to be present and Board could close the hearing and take a vote without taking any further testimony but the Board needs to determine Findings of Fact.

Mr. Abramoff stated without more detail the Board cannot approve.

Upon a motion by Mr. Abramoff and seconded by Mr. Loew the Board voted 5-0 to continue the petition for:

**Special Permit:** To convert both faces of the static non-accessory freestanding billboard sign to a digital sign (per Article IV, Section L(2)(b) - Conversions from Static to Digital Display for Nonconforming Signs).

to the September 17, 2012 Zoning Board of Appeals meeting.

- Exhibit A: Special Permit Application; prepared by Clear Channel Outdoor; received July 23, 2012 and including:
- a) ZBA's July 11, 2005 decision for 99 Ballard Street;
  - b) Quitclaim Deed Book 40479, Page 78
  - c) Photographs of the proposed billboard (6)
  - d) Photographs of the billboards off of Route 146 proposed to be removed (4)
  - e) Structural drawing of the proposed billboard; prepared by Yesco Electronics; undated; received July 27, 2012
- Exhibit B: Plan of land for the billboard location; prepared by Dana F. Perkins, Inc. of Consulting Engineers and Land Surveyors; dated July 19, 2012.
- Exhibit C: Memorandum from Division of Planning & Regulatory Services; re: 0 Millbury Street (MBL 31-017-00005) (ZB-2012-050); dated August 24, 2012.
- Exhibit D: Supplemental packet submitted by the applicant with additional findings of fact and responses to staff's comments; e-mailed August 27, 2012.
- Exhibit E:

Mr. Abramoff left the meeting at 9:14 p.m.

### **DECISIONS SIGNED**

### **ADJOURNMENT**

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow the Board 5-0 voted to adjourn the meeting at 9:15 p.m.