

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

**April 29, 2013**

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

**Zoning Board Members Present:** Andrew Freilich, Chair\* Arrived at 5:36 p.m.  
Lawrence Abramoff, Vice-Chair  
Vadim Michajlow  
William Bilotta  
Timothy Loew

**Zoning Board Members Absent:** None

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

**Board Site Views**

**CALL TO ORDER**

Vice-Chair Abramoff called the meeting to order at 5:31 p.m.

**APPROVAL OF THE MINUTES**

The minutes for 3/4/13, 3/25/13, and 4/8/13-All three sets were approved.

**REQUESTS FOR CONTINUANCES, POSTPONEMENTS, WITHDRAWALS**

**1. 61 Lafayette Street (ZB-2013-002):**

Variance: Relief of 2,899 SF of the 5,000 SF minimum lot area requirement (2,101 SF is proposed)

Variance: Relief of 2,872 S2 of the 5,000 SF minimum lot area requirement (2,128 SF is proposed)

Variance: Relief of 12.33 ft from the 40-ft frontage requirement (27.67-ft is proposed)

Variance: Relief of 12.34 ft from the 40-ft frontage requirement (27.66-ft is proposed)

Petitioners: Tom Hoang

Present Use: Vacant undeveloped land

Zone Designation: BG-3.0 (Business, General)

Petition Purpose: To construct a single-family semi-detached (duplex) dwelling on one lot that will be divided into two lots (lots 1R and 1L)

Hossein Haghanizadeh from HST Group appeared on behalf of the applicant, Tom Hoang and requested postponement of the item until the May 20, 2013 Zoning Board of Appeals meeting.

Upon a motion by Mr. Abramoff and seconded by Mr. Michajlow the Board voted 4-0 to continue the item until the May 20, 2013 Zoning Board of Appeals meeting and to extended the constructive grant deadline to June 19, 2013.

**List of Exhibits.**

- Exhibit A: Variance Application; received January 8, 2013; prepared by Tom Hoang.
- Exhibit B: Variance Plan; dated December 11, 2012; prepared by HS&T Group.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 61 Lafayette Street; dated February 6, 2013, revised April 22, 2013.

**2. 525 Lincoln Street (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: Commercial shopping center

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

Petition Purpose: Convert existing two-sided non-accessory freestanding billboard (672 SF per side) facing I-290 highway to a digital sign with same dimensions.

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow the Board voted 4-0 to postpone the item until the June 17, 2013 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:
  - Lease Agreement between the applicant and the owner; dated November 30, 1999
  - Lincoln Plaza Building Key Plan; dated August 8, 2005
  - Two photographs of the existing billboard sign
  - 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, revised September 14, 2012 and September 19, 2012, and December 11, 2012.
- Exhibit E: Postponement requests: to 10/15/2012 (dated 9/24/2012); to 11/19/2012 (dated 10/9/2012); to 12/17/2012 (dated 10/26/2012); to January 28, 2013 (dated December 11, 2012); to March 25, 2013 (dated January 23, 2013); to June 17, 2013 (dated March 29, 2013).

### 3. 28 Garden Street (ZB-2013-005):

- Special Permit: Convert both sides of a static face of the non-accessory freestanding billboard sign to a digital sign
- Petitioner: Clear Channel Outdoor
- Present Use: Railroad tracks next to I-290 and a non-accessory freestanding billboard with two static sides
- Zone Designation: MG-2.0 (Manufacturing, General)
- Petition Purpose: Convert both sides of the existing 672 SF static face of the non-accessory freestanding billboard sign to a digital sign

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow the Board voted 4-0 to postpone the item until the June 17, 2013 Zoning Board of Appeals meeting.

#### List of Exhibits.

- Exhibit A: Special Permit Application; received February 19, 2013; prepared by Clear Channel Outdoor.
- Exhibit B: Billboard Location Plan; undated.
- Exhibit C: Digital Display Installation Plan; dated December 14, 2012; prepared by Dana F. Perkins, Inc.
- Exhibit D: Engineering Plans of the proposed billboard; dated December 19, 2012; prepared by Quantum Structure & Design and GRC Engineering, Inc.
- Exhibit E: Structural and electrical plans; undated; prepared by Yesco Electronics.
- Exhibit F: Photographs of the billboard; undated.
- Exhibit G: Request for postponement to April 29, 2013; dated March 29, 2013.
- Exhibit H: Request for postponement to June 17, 2013; dated April 23, 2013.

5:36 p.m. – Mr. Freilich arrived for meeting and assumed chair.

Mr. Abramoff thanked Mr. Freilich for his seven years of service to the Zoning Board of Appeals.

Mr. Fontane thanked Mr. Freilich for his service to the City of Worcester and presented him with a certificate of appreciation from the City Manager.

**4. 7-11-15 Lancaster Street (ZB-2013-006):**

Special Permit: To allow a dormitory use (Business, Office)

Petitioner: Massachusetts College of Pharmacy and Allied Health Sciences

Present Use: Multi-family residential

Zone Designation: B0-1.0 (Business, Office)

Petition Purpose: Renovate the three low-rise existing buildings to construct a total of 18 residential dwelling units (36 total beds)

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow the Board voted 5-0 to postpone the item until the May 20, 2013 Zoning Board of Appeals meeting.

**List of Exhibits.**

Exhibit A: Special Permit Application; received February 19, 2013; prepared by Massachusetts College of Pharmacy, ATTN: Deborah A. O'Malley.

Exhibit B: Existing Conditions Site Plan; dated February 3, 2013; prepared by B&R Survey, Inc.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 7, 11 & 15 Lancaster Street; dated April 5, 2013.

Exhibit D: Request for Postponement from Atty. Mark Donahue, representative for Massachusetts College of Pharmacy and Allied Health Sciences to the Zoning Board of Appeals; dated April 1, 2013; and postponed to May 20, 2013 dated April 24, 2013.

**5. 284 Franklin Street (AKA 5 & 7 Arctic Street), 25, 26 & 45 Arctic Street, 14 & 23 Hygeia Street (aka 8 & 10 Hygeia Street and FKA 10 Plastics Street) (ZB-2013-010):**

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

Special Permit: To modify the parking lot with respect to the buffers and setbacks (Article IV, Section 7, Table 4.4 Note 5)

Petitioner: 45 Arctic Street LOC

Present Use: Vacant warehouse buildings

Zone Designation: BG-3.0 (Business, General), BCPOD (Blackstone Canal Parking Overlay District)

Petition Purpose: Amend original 2007 Special Permit to:

- Redevelop existing buildings into residential units (at 45 Arctic St) and commercial/retail units and parking for two sites at 14 Hygeia St (formerly 10 Plastics St)
- Convert vacant warehouses to create a total of 160 residential units for the following properties: 5-7 Arctic St (284 Franklin St) into 16 units; 25 Arctic Street into 32 units; 45 Arctic Street into 48 units; 14 Hygeia St into 64 units
- Provide a total of 200 parking spaces at 284 Franklin, 26 & 38 Arctic and 23 Hygeia streets
- Seek relief from 5-ft landscape buffer for the 71 space associated parking area at 26 Arctic St

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow the Board voted 5-0 to postpone the item until the May 20, 2013 Zoning Board of Appeals meeting.

Mr. Fontante stated he noticed the applicant was present and would like to go forward tonight.

Upon a motion by Mr. Bilotta and seconded by Mr. Loew the Board voted 5-0 to reverse the vote to postpone the item and take it up later.

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

Exhibit A: Special Permit Amendment Application; received March 5, 2013; prepared by 45 Arctic Street LOC.

Exhibit B: Proposed Conditions Plan; dated March 5, 2013; prepared by JH Engineering Group, LLC.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 284 Franklin St (AKA 5 & 7 Arctic St), 25, 26 & 45 Arctic St, 14 & 23 Hygeia St (AKA 8 & 10 Hygeia St and FKA 10 Plastics St); dated April 26, 2013.

#### **6. 1413 Grafton Street (ZB-2013-011):**

Special Permit: To allow a retail sales use (Business Use #26, Table 4.1) in the ML-0.5 and MG-0.5 zoning districts

Petitioner: 1413 Grafton Street Realty Trust

Present Use: Vacant undeveloped land

Zone Designation: BL-1.0 (Business, Limited), ML-0.5 (Manufacturing, Limited), and MG-0.5 (Manufacturing, General)

Petition Purpose: Construct a ~14,400 SF retail building, 48 associated off-street parking spaces, a loading space, and a 24 ft travel lane and driveway

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow the Board voted 5-0 to postpone the item until the May 20, 2013 Zoning Board of Appeals meeting.

**List of Exhibits.**

- Exhibit A: Special Permit Application; received March 25, 2013; prepared by John M. Richard.
- Exhibit B: Definitive Site Plan (sheets 1-8); dated March 15, 2013; prepared by Quinn Engineering.

**7. 428 Shrewsbury Street (ZB-2013-015):**

- Special Permit: To allow a Professional Office use (Business Use, # 19, Table 4.1) in the RG-5 zoning district
- Petitioner: Frank Fechner
- Present Use: Doctor's office (Business Use #19, Table 4.1)
- Zone Designation: RG-5 (Residential, General) and BG-3.0 (Business, General)
- Petition Purpose: Expand the existing professional office use to the existing garage and to construct an addition to connect the two buildings, and a total of sixteen (16) associated off-street parking spaces

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow the Board voted 5-0 to postpone the item until the May 20, 2013 Zoning Board of Appeals meeting.

**List of Exhibits.**

- Exhibit A: Special Permit Application; received March 26, 2013; prepared by Frank Fechner.
- Exhibit B: Definitive Site Plan; dated March 20, 2013; prepared by Quinn Engineering, Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 428 Shrewsbury Street (ZB-2013-015); dated April 26, 2013.

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**UNFINISHED BUSINESS**

**8. 2 Northboro Street (ZB-2012-053):**

Hossein Haghanizadeh from HST Group appeared on behalf of the applicant, Rodney Haddad, on a request for:

Amendment to the Special Permit: Extension, Alteration or Change of a Privileged Pre-Existing, Nonconforming Use— Allow a Use of a Similar Nature (Article XVI, Section 4)

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

Variances: Relief of 10 feet from the front yard setback dimensional requirement of 20 feet

Variances: Relief of 15 feet from the exterior side yard setback dimensional requirement of 15 feet

Petitioner: Rodney Haddad

Present Use: A dry-cleaning business

Zone Designation: RL-7 (Residential, Limited)

Petition Purpose: To convert the existing dry-cleaning business use (Manufacturing Use #12, Table 4.1) to a food service use (Business Use #7, Table 4.1) with 20 seats on the 1st floor and to construct a new second story to be used for food-service use related storage, with associated 10 off-street parking spaces.

Mr. Haghanizadeh stated they had been before the Board several times on a request to convert the existing dry-cleaning use to food service with 20 seats on the 1<sup>st</sup> floor and to construct a new second story to be used for food-service use related storage, with associated 10 off-street parking spots.

Mr. Haghanizadeh stated they have received approval to use the first floor as a deli but there is no basement in the building therefore Mr. Haddad needs the second story of the building for storage.

Mr. Haddad stated he wants to keep everything esthetically right but he needs the second floor to help his business.

Mr. Freilich asked Mr. Haddad if the catering business will run from the second floor and will extra staff and parking be needed for the catering business.

Mr. Haddad stated there would be no additional staff, and there will only be one van used for catering so there be no additional traffic impact.

Mr. Kelly stated that Mr. Haddad is seeking approval to expand 2,979 SF of pre-existing non-conforming structure by constructing a new second story for food service use related storage and Inspectional Services would consider that an accessory use but Mr. Haddad provided revised plans that showed that no more than 1475 SF will be accessory use. The plans only account for three rooms as accessory and staff believes that the offices should be included. Mr. Kelly stated that Mr. Haddad would need to work with the architect to reconfigure those rooms to meet what was allowed as non-accessory space.

Mr. Haghanizadeh stated that they had no problems with staff recommendations.

Mr. Michajlow asked what would happen if Mr. Haddad didn't get the second floor.

Mr. Haddad stated he needs the second floor in order to do this business.

Mr. Freilich asked Mr. Fontane that if variance was approved would it allow for other uses later on if catering business was to leave.

Mr. Fontane stated no because it would be for catering use and if it was to change then they would have to come back before the Board for that change of use.

John Riel, JR Associates stated he is architect and will have no problem working with Inspectional Services to reconfigure the plans to make it work.

Madeline Martin, an abutter, spoke in opposition. She stated this item has been going on for ten months and the original variance was far beyond the usage and now applicant is asking for more. Ms. Martin stated no answer has been given as to where his employees and customers will park and this business does not fit in a residential area.

Mr. Freilich stated they could put a year probationary period as one of the condition on the business and that business adhere to rules and regulations and Mr. Kelly would be responsible for making sure they adhered all conditions.

Mr. Loew asked about the parking at location.

Mr. Haddad stated that his employees will park at his godfather's house.

Mr. Loew asked if Mr. Haddad had written agreement with his godfather. Mr. Haddad sated he did.

Mr. Loew asked what happened if his godfather sold his house. Mr. Haddad stated he would buy the house.

Mr. Bilotta asked how many employees for the business. Mr. Haddad responded six including himself.

Mr. Abramoff asked how many parking spaces will there be. Mr. Haddad responded 10 spaces in rear to accommodate the number of seats for the restaurant.

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. Bilotta the Board voted 4-1, Mr. Bilotta voting no for a Variance for Relief of 0.12:1 Floor to Area Ratio (FAR) from the 0.5:1 FAR dimensional maximum in the RL-7 zone with the following conditions:

- Submit six copies of revised renderings addressing staff comments regarding annotations.
- The project is constructed in substantial accordance with plans on file with the Division of Planning & Regulatory Services
- Subject to an as built review to meet the accessory use guidelines as outlined by Commissioner John Kelly.
- That it is a conditional approval for one year from occupancy date for review by Zoning Board for compliance. Visual compliance with the accessory use guidelines and all the laws and regulations in the City of Worcester.
- That a yearly periodic maintenance schedule be put in place to maintain the landscaping.

Mr. Fontane stated that Board should also vote that it is only for an accessory use to the restaurant.

Upon a motion by Mr. Abramoff and seconded by Mr. Michajlow the Board voted 5-0 the following condition:

- That it is only an accessory use to the restaurant.



## List of Exhibits.

- Exhibit A: Variance & Special Permit Application prepared by Rodney Haddad; received August 14, 2012
- Exhibit B: Definitive Site Plan; dated August 13, 2012; prepared by HS&T Group, Inc.
- Exhibit C: Rendering; undated; received August 14, 2012, unknown preparer.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 2 Northboro Street (aka 298 Plantation Street); dated September 12, 2012, revised October 12, 2012, October 26, 2012, November 15, 2012.
- Exhibit E: Revised Zoning Determination Form; re: 2 Northboro Street; revised August 29, 2012.
- Exhibit F: Request for Continuation to October 29, 2012 from Kathryn Charron, HS&T Group, representative for Rodney Haddad, applicant to the Zoning Board of Appeals; dated October 11, 2012, received October 12, 2012.
- Exhibit G: Request for Continuation to November 19, 2012 from Kathryn Charron, HS&T Group, representative for Rodney Haddad, applicant to the Zoning Board of Appeals; dated October 23, 2012, received October 23, 2012.
- Exhibit H: Request for Continuation to December 17, 2012 from Kathryn Charron, HS&T Group, representative for Rodney Haddad, applicant to the Zoning Board of Appeals; dated November 7, 2012, received November 7, 2012.
- Exhibit I: Request for Continuation to March 4, 2013 from Kathryn Charron, HS&T Group, representative for Rodney Haddad, applicant to the Zoning Board of Appeals; dated December 10, 2012, received December 10, 2012.
- Exhibit J: Supplemental: Variance Application prepared by Rodney Haddad; received January 23, 2013.
- Exhibit K: Supplemental: Floor Plans prepared by Westerman Store & Equipment and J.R. Associates; dated December 28, 2012; received January 23, 2013.
- Exhibit L: Request for Continuation to March 25, 2013 from Lesley Wilson, HS&T Group, representative for Rodney Haddad, applicant to the Zoning Board of Appeals; dated and received February 25, 2013.
- Exhibit M: Email from Rodney C. Haddad – applicant to Abigail McCabe – Division of Planning & Regulatory Services re: Rod Haddad 2 Northboro St 298 Plantation St; received February 27, 2013.

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## NEW BUSINESS

### 9. 230 Park Avenue (ZB-2013-013):

Special Permit: To allow a bank with a drive-through (Business Use #4, Table 4.1)

- Special Permit: To modify the parking layout with respect to the drive-through and escape lane length and width (Article IV, Section 7)
- Special Permit: To modify number of required parking spaces up to a maximum of 10% (Article IV, Section 7 (A)(2))
- Special Permit: To modify landscape screening requirements for parking and loading areas (Article IV, Section 7)
- Variance: Relief of the minimum five property line setback for 2 free-standing signs (Table 4.3.1)
- Petitioner: Spencer Savings Bank
- Present Use: Vacant building formerly owned by the City and used as the Fire Alarm and Telegraph building
- Zone Designation: BG-3.0 (Business, General)
- Petition Purpose: Seek Special Permits for:
- Proposed bank use with a drive-through;
  - Relief of 1-ft width for drive-through and escape lanes (10-ft minimum required, 9-ft proposed);
  - Relief of 42-ft for the drive-through and escape lane length (180-ft minimum, 138-ft proposed);
  - Relief of seventeen (17) trees to modify the landscape screening and design standards requiring trees to be planted every 20 to 25-ft on center (Article V, Section 5 (c)) along the sidewalk edge and lot line
  - Relief of 4-ft to allow 2 proposed free-standing signs to be within the required 5-ft sign setback

Attorney John Spellane, representing Spencer Savings Bank along with Greg O'Connor from O'Connor Architects, Jim Madigan from Madigan's Construction and the president of the bank K. Michael Robbins appeared on behalf of the item.

Mr. Spellane gave an overview of the history of the building and stated this is a request to construct a 1,828 SF two-story addition on the rear of the existing building for use of the building as bank (operated by Spencer Savings Bank) and community meeting/function room to be operated by Preservation Worcester. Project work includes construction of two retaining walls, a 40 space off-street parking lot, a free standing drive up ATM structure, site grading, new drainage, sewer and water utilities, and landscaping improvements.

Mr. Spellane stated Spencer Savings Bank will be preserving a historic building which is in a state of severe decay and this restoration will save the building and put it on the tax role. The restored building will contain a 12,000 square foot meeting room that would be completely devoted to nonprofit and community based use.

Mr. Spellane stated the driveway would be via a redesigned traffic intersection at the corner of Park Avenue and Elm Street. The driveway access would be designed by use of a continuous loop created to service parking, the drive up structure, as well as egress from the site and will not disrupt existing park characteristics. The building will have adequate utilities, including water, sewer and electricity to maintain bank and community room use. Parking is designed to fit

within existing grades as much as possible. The existing stonewall will be rebuilt and will compliment the design of the park and create a neat, clean and safe public area.

Greg O'Connor reviewed the plans for the scope of the project.

Mr. Fontane stated this is a unique project for the City of Worcester and it is an important project and city has worked extensively with the applicant but applicant does require some relief for some of the landscaping. Mr. Fontane showed on the plans where two additional trees be planted and requested that a couple of interior trees be planted between the landscape island the main parking area.

Mr. Fontane stated there is fence along the retaining wall and believe it does not need to be any higher than 42 inches and staff would prefer it would be lower.

Mr. Kelly stated that one of the special permits is to modify the parking requirements from 44 spaces to 40 spaces.

Mr. Fontane stated that variance advertised is not needed.

Mr. Abramoff asked Mr. Fontane asked for clarification on height of fence. Mr. Fontane responded 42 inches.

Mr. Freilich stated he commends the architect and whoever designed the plans as they are well thought out.

Mr. Bilotta stated the landscaping proposed is beautiful.

Mr. Michajlow stated he agreed with Mr. Freilich and Mr. Bilotta.

Mr. Freilich asked what is going to happen in event that function room has event with more than 120 people and where would they park with only 40 parking spaces and no street parking.

Mr. O'Connor stated that large functions would most likely not happen during banking hours but if large function they would plan on valet parking and park at Doherty High School.

Deborah Packard, Director, Preservation Worcester, stated they have been concerned about this building for a long time and this is a good plan for this building and everyone collaborated and came up with plan that works for everyone.

Rick Miller, President, Friends of Newton Hill, stated they are in support of this project as this is for the betterment of the park and city in general.

Bill Bernard, city resident, stated he is in support of the project and that this is great for Newton Hill.

Jo Hart, city resident, stated this is not creative and it is desecrating the building by having a drive thru and having parking.

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. Bilotta the Board voted 5-0 to approval for:

**Special Permit:** To allow a bank with a drive-through (Business Use #4, Table 4.1) in the BG-3.0 (Business, General) zoning district.

Special Permit: To modify the parking layout with respect to the drive-through and escape lane length and width (Article IV, Section 7). Relief of 1 ft to allow the drive-through and escape lane width to be 9 ft when 10 ft is required. Relief of 42 ft from the drive-through and escape lane length for a 138 ft lane length when 180 ft is required.

Special Permit: To modify the number of required parking spaces up to a maximum of 10% (Article IV, Section 7 (A) (2)). Relief of four (4) parking spaces for a total of 40 parking spaces when 44 is required.

Special Permit: To modify the landscape screening requirements for parking and loading areas to be planted 20' – 25' on center (Article IV, Section 7 & Article V, Section 5, C,1). Relief of 9 trees in the landscape buffer.

with the following conditions of approval:

1. An additional two (2) street trees be installed along Park Ave. near the entrance to the site.
2. An additional two (2) trees be installed in the grass area between the main parking area and drive thru ATM lanes.
3. The dumpster be screened from view and include a solid board stockade enclosure;
4. A bicycle rack be installed near the building;
5. An additional crosswalk across the ATM drive thru lane is provided to make a better pedestrian connection from the interior parking spaces to the building's entrance;
6. The fence on top of retaining walls be the minimum height required;
7. Details (dimensions & illumination) for the free-standing signs proposed be provided<sup>1</sup>;
8. The plans to show the proposed crosswalk across Park Avenue from the north side of the Elm Street intersection on the layout plan;
9. The project be constructed substantially in accordance with the final approved site plan;
10. Two (2) revised copies of the plan are provided to the Division of Planning and Regulatory Services before the issuance of a building permit

and that the finding of facts of fact be approved and waiver of a modification to the interior landscaping requirement.

Mr. Fontane stated his recommendation was that the waiver for interior not be waived.

Mr. Abramoff stated they will remove the request for the waiver.

### **List of Exhibits.**

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<sup>1</sup> Shown as monument signs on plans provided.

- Exhibit A: Special Permit Application packet; received March 25, 2013; prepared by Spencer Savings Bank.
- Exhibit B: Proposed Spencer Bank Definitive Site Plan; dated November 27, 2012, revised March 19, 2013; prepared by Graves Engineering, Inc. Renderings by Gregory J. O'Connor Associates; dated March 20, 2013.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 230 Park Avenue – Special Permit – Spencer Savings Bank; dated April 26, 2013.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Zoning Board of Appeals; re: 230 PARK AVENUE Special Permit Petition ZB-2013-013; dated April 26, 2013.
- Exhibit E: City of Worcester Parks Department Light Specification; dated 11/6/12

## **RECESS**

A five minute recess was called at 7:10 p.m. by the Board. The meeting was called back to order at 7:15 p.m.

### **10. 85 Lake Avenue North and 55 Mohican Road (ZB-2012-054):**

- Special Permit: To allow a single-family attached dwelling use (Residential Use #12, Table 4.1)
- Petitioner: Zayda Vallejo
- Present Use: Single-family residential dwelling
- Zone Designation: RL-7 (Residential, Limited)
- Petition Purpose: Demolish the existing single family dwelling and to construct a single-family attached dwelling with 4 units on the two lots

Robert O'Neil along with the applicant Zayda Vallejo and John Reil, the architect, appeared on behalf of the petition.

Mr. O'Neil stated that the proposal is to demolish the existing single-family dwelling and to construct a single-family dwelling with 4 units on the two lots. Each unit will have three bedrooms and a two car garage.

Mr. O'Neil stated the application had been before the Board before and the Board had suggested that the driveway access be in the rear of the building and plans being presented tonight show that amendment and eight three ½ caliper maples as well as holly shrubs will be planted.

Mr. Fontane asked if the buildings on the plan are staggered. Mr. O'Neil stated the buildings are staggered four feet.

Mr. Abramoff asked if the corrections requested by Planning Staff have been included on the new plan. Mr. O'Neil stated they have.

Mr. Fontane stated staff recommends approval.

Jo Hart, city resident, asked if garages are not going to face forward and Board stated that was correct.

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. Bilotta the Board voted 5-0 to approve the Special Permit: To allow a single-family attached dwelling use (Residential Use #12, Table 4.1)

with the following conditions of approval:

- That the existing 18” Maple Tree at the corner of Mohican Road and Lake Avenue North be retained
- That the areas surrounding the driveway remain green space;
- Update the proposed building location plan to include:
  - A note that the lot lines shown are “proposed lot lines”
  - Include the proposed building height in the zoning chart
- That the project be constructed substantially in accordance with the final approved plans.
- That trees planted must be ALB resistant.

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

- Exhibit A: Special Permit Application; received August 14, 2012; prepared by Zayda Vallejo.
- Exhibit B: Existing and Proposed Conditions Plan on Land # 85 Lake Avenue North & 55 Mohican Road; dated July 23, 2012; revised on March 28, 2013; prepared by Robert D. O’Neil Jr.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 85 Lake Avenue North and 55 Mohican Road (MBL 6-003-46-48 & 46-003-0047A) dated September 21, 2012; and revised on October 12, 2012, March 1, 2013 and April 26, 2013.
- Exhibit D: Request for Continuance Form dated October 5, 2012; signed by Donald J. O’Neil.
- Exhibit E: Proposed Building Location Plan, Revised September 2012, prepared by Robert D. O’Neil Jr.
- Exhibit F: Postponement Form dated December 12, 2012.
- Exhibit G: Proposed Building Location Plan # 85 Lake Avenue North Worcester, MA for Zayda Vallejo; prepared by Robert D. O’Neil, Jr.; dated July 23, 2012; revised on February 11, 2013 and revised on February 12, 2013.
- Exhibit H: Elevation and Floor Plans for Robert & Zayda Vallejo Lake Avenue, Worcester, MA; prepared by J.R. Associates Design Services; Sheets A-1, A-

2, A-3, A-4; revised on March 1, 2013 and March 5, 2013; received on April 12, 2013.

Exhibit I: Fire Department Comments; re: 85 Lake Avenue North; received April 19, 2013.

#### 11. 67 West Boylston Street (ZB-2013-007):

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

Petitioner: Sanat Patel

Present Use: Gas station, convenience store, food service with a drive-through

Zone Designation: BG-3 (Business, General) and RL-7 (Residence, Limited)

Petition Purpose: Construct a 348 SF addition onto the side of an existing ~2,800 SF commercial building, add seven new parking spaces (for a total of 18), create a drive-through escape lane as well as install new drain and stormwater management modifications

Attorney Todd Rodman appeared on behalf of the applicant, Shri Nathji Realty, LLC, along with Sandat Patel one of the corporate members and Michael Andrade of Graves Engineering.

Mr. Rodman stated this is the site of a Yankee Food Mart with a Dunkin Donuts drive-thru and proposal is to construct 348 SF addition onto the side of an existing 2,800 SF commercial building, add seven new parking spaces (for a total of 18), create a drive-through escape lane as well as install new drain and stormwater management modifications.

Mr. Rodman stated there was a question from staff with regard to the drain connection and he has spoken with DPW and that item has been resolved.

Mr. Fontane stated that staff recommends approval.

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. Bilotta the Board voted 5-0 to approve the

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

with the following conditions of approval:

- That a total of four (4) final revised plans<sup>2</sup> be submitted to the Division of Planning & Regulatory Services addressing following:
- Planning Board conditions of approval from its March 20, 2013 meeting<sup>3</sup>;

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<sup>2</sup> For Zoning Board, & Conservation Commission files and staff (Planning Board revisions submitted on March 22, 2013).

<sup>3</sup> Planning Board conditions:

That six (6) copies of final revised Definitive Site Plan are submitted to the Division of Planning & Regulatory Services prior to the release of the decision with the following items included:

- Updated drainage calculations
- That a planter be installed in the area south of the new addition to prevent parking in the area between the addition and Gifford Drive.
- That at least 6 mature shrubs be installed above the new retaining wall along the abutting properties

**List of Exhibits.**

- Exhibit A: Special Permit Application; received February 19, 2013 prepared by Attorney Todd Rodman.
- Exhibit B: Definitive Site Plan; dated 1/28/2013; prepared by Graves Engineering.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 67 West Boylston Street; dated April 4, 2013.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Worcester Planning Board; re: 67 West Boylston Street; dated March 14, 2013.

**12. 116 Belmont Street (ZB-2013-008):**

- Special Permit: To allow a roof mounted Personal Wireless Service Facility (Table 4.1, General Use # 15)
- Petitioner: AT&T Mobility (New Cingular Wireless PCS, LLC)
- Present Use: Four story office building
- Zone Designation: BL-1.0 (Business, Limited)
- Petition Purpose: Install exterior roof mounted Personal Wireless Facility with 12 panel antennas, amplifiers, cables, fiber and other associated antenna equipment within a new proposed equipment room

Michael Dolan appeared on behalf of the applicant, AT&T Mobility (New Cingular Wireless PCS, LLC). Mr. Dolan stated he proposal is to install exterior roof mounted Personal Wireless Facility with 12 panel antennas, amplifiers, cables, fiber and other associated antenna equipment within a new proposed equipment room. Mr. Dolan stated the applicant is requesting the following requirement waiver requests:

1. Vicinity plan - Vegetative cover on the subject property and immediately abutting adjacent properties.
2. City-wide Map - Provide a city-wide map showing other existing Personal Wireless Service Facilities in the City and outside the City within one mile of its corporate limits.
3. Design Filing Requirements
  - a. Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
  - b. 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.

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▪ That the non-compliant temporary signs be removed on the retaining wall and windows



4. Noise Filing Requirements - a statement certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Ordinance (max 50 decibels at ground level at the base of the building closest to the antenna or at any neighboring structure).

Mr. Fontane stated staff agrees with the request for waivers and staff recommends approval.

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. Bilotta the Board voted 5-0 to approve Special Permit: to allow a roof mounted Personal Wireless Service Facility (Table 4.1, General Use # 15) and waiver requests with the following conditions of approval:

- That the structure is constructed in substantial accordance with the submitted site plans (prepared by SAI and dated 10/19/12); and the photo simulation package (prepared by Caron Assoc. and Design and ProTerra Design Group LLC, dated 10/24/2012) submitted by AT&T Mobility; on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.
- That access to the roof is restricted and signage is posted warning of the Radiofrequency.
- **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;
- **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/site 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;

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

Exhibit A: Special Permit Application; received 3/4/2013; prepared by AT&T Mobility, including:  
Maximum Permissible Exposure Study – Theoretical Report; prepared by SAI; dated March 9, 2013 and March 26, 2013.  
Radio Frequency Coverage Plot Map

Photo Simulations  
Request for Waivers  
AT&T & FCC License  
Letter of Authorization  
DPH Policy Memorandum  
Equipment Specifications  
Memo re: noise from ProTerra Design Group, LLC, dated March 1, 2013

- Exhibit B: Special Permit Plan; dated 10/19/2013; prepared by SAI & ProTerra Design Group, LLC.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 116 Belmont Street (ZB-2013-008); dated April 26, 2013.
- Exhibit D: E-mail from Michael R. Dolan of Brown Rudnick LLP; re: 116 Belmont Street - co-location; dated 4/15/2013.

**13. 70 Elm Street & 46 Cottage Street (ZB-2013-009):**

- Special Permit: To allow a professional office use in RG-5 zoning district (Table 4.1, Business Use # 19)
- Special Permit: To modify the parking lot layout with respect to the loading space requirement and the access aisle width
- Special Permit: To allow up to 50% for compact parking spaces (Article IV, Section 7, Table 4.4, Note 3)
- Petitioner: 70 Elm Street Property, LLC
- Present Use: Vacant commercial office building
- Zone Designation: BO-1.0 (Business, Office) and RG-5.0 (Residence, General)
- Petition Purpose: Modify parking lot layout with waiver requests for waiving required loading space and reducing access aisle width to 22 ft, and to have 50% of the parking spaces be compact

Attorney Todd Brodeur on behalf of the applicant, 70 Elm Street Property, LLC along with proposed owner of the property, Dr. Sam L. Cori, Michelle Tuck from Tuck & Tuck, and Norman Hill from Land Planning, civil engineer.

Mr. Brodeur stated the project proposed to demolish both the office building and garage in order to construct a 12,315 SF office building, 59 parking spaces and associated site improvements and proposal is to have a medical/dental in the building.

Norman Hill and Michelle Tuck gave an overview of the project on the plans.

Mr. Brodeur stated that this project had gone before Historical Commission but was denied but hopes to go back before that Board to shorten the one year wait portion. Mr. Brodeur stated they will also need to go before Planning Board and Conservation for project approvals.

Mr. Fontane stated the city is excited to see this re-use of the building but staff is recommending the five foot buffer around the parking lot and to make up for the trees that will be lost staff recommends seven additional trees be planted and that two be in the interior lot.

Mr. Kelley stated it is a great design and will be great improvement for the neighborhood.

Mr. Abramoff stated it should be built in substantial accordance with plans presented at meeting tonight.

Mr. Bilotta asked whether the ground cover going to be in the shade or sun.

Ms. Tuck stated most of the ground cover will be under the trees but some will be along the parking lot entrance.

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. Bilotta the Board voted 5-0 to approve the Special Permit: To allow a professional office use in RG-5 zoning district (Table 4.1, Business Use # 19)

Special Permit: To modify the parking lot layout with respect to the loading space requirement and the access aisle width

Special Permit: To allow up to 50% for compact parking spaces (Article IV, Section 7, Table 4.4, Note 3) with the following conditions of approval:

- Provide seven additional trees<sup>4</sup>
  - Two trees by the westerly property line, immediately south of the proposed building;
  - Two trees by the southwesterly property line, along the 12 proposed parking spaces and dumpster
  - One tree near the southerly property line, along the 10 proposed parking spaces parallel to Cottage Street
  - Two trees near the easterly property line, along the 11 proposed parking spaces parallel to West Street
- Update landscaping table to reflect quantity and species change
- Provide parking table listing number of required, existing and proposed parking by type (i.e., standard, compact and handicap)
- Provide dimensions of the existing sign to be redone<sup>5</sup>
- Provide lighting detail regarding location, size and arrangement
- That it be built in substantial according to the plans.
- That two trees be planted in the interior of the lot.

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<sup>4</sup> Trees shall be planted every (20) to twenty-five (25) feet on center. Trees to be planted shall have at least three (3) to three and one-half (3 ½) inches in diameter when measured six (6) inches above ground. Zoning Ordinance Article V, Section 5, C, 1, i.

<sup>5</sup> Ensure that it all signs are compliant with the Zoning Ordinance, Article IV, Section 6.

**List of Exhibits.**

- Exhibit A: Special Permit Application; received March 5, 2013; prepared by National Association of Government Employees.
- Exhibit B: Site Redevelopment Plan; dated February 28, 2013; prepared by Land Planning, Inc.
- Exhibit C: Floor Plans and Elevations; dated March 4, 2013; prepared by Tuck+Tuck Architects.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 70 Elm Street and 46 Cottage Street; dated April 26, 2013.

**14. 284 Franklin Street (AKA 5 & 7 Arctic Street), 25, 26 & 45 Arctic Street, 14 & 23 Hygeia Street (aka 8 & 10 Hygeia Street and FKA 10 Plastics Street) (ZB-2013-010):**

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

Special Permit: To modify the parking lot with respect to the buffers and setbacks (Article IV, Section 7, Table 4.4 Note 5)

Petitioner: 45 Arctic Street LOC

Present Use: Vacant warehouse buildings

Zone Designation: BG-3.0 (Business, General), BCPOD (Blackstone Canal Parking Overlay District)

Petition Purpose: Amend original 2007 Special Permit to:

- Redevelop existing buildings into residential units (at 45 Arctic St) and commercial/retail units and parking for two sites at 14 Hygeia St (formerly 10 Plastics St)
- Convert vacant warehouses to create a total of 160 residential units for the following properties: 5-7 Arctic St (284 Franklin St) into 16 units; 25 Arctic Street into 32 units; 45 Arctic Street into 48 units; 14 Hygeia St into 64 units
- Provide a total of 200 parking spaces at 284 Franklin, 26 & 38 Arctic and 23 Hygeia streets
- Seek relief from 5-ft landscape buffer for the 71 space associated parking area at 26 Arctic St

Jeff Howland from JHC Engineering appeared on behalf of the petitioner, 45 Arctic Street LLC, DOK Realty and Hygeia Realty on a request to amend a Special Permit approved in 2007 for the redevelopment of existing buildings into residential units and commercial/retail space with parking at 45 Arctic Street and 14 Hygeia Street (formerly 10 Plastics Street).

Below is the summary of the changes of the Amendment and the proposal for development of more residential units and parking. In summary, the petitioner is proposing to convert 4 vacant warehouses to residential use by constructing a total of 160 residential units (3 high-rise residential dwellings and 1 low-rise multi-family residential dwelling) with associated 200 off-street parking spaces.

<b>Table 1. Summary of the proposal.</b>				
<b>Parcel</b>	<b>Current Use</b>	<b>2007 Approval</b>	<b>Current Proposal</b>	<b>Non-conformities</b>
45 Arctic Street	Vacant 4-story brick warehouse	36 residential dwelling units	48 residential dwelling units	
14 Hygeia St (aka 8-10 Hygeia St; fka 10 Plastics St)	Vacant 5-story concrete warehouse	Parking garage for 97 parking spaces (3 stories); retail/commercial space	64 residential dwelling units	
284 Franklin St (aka 5/7 Arctic St)	Vacant 2-story brick warehouse	n/a	16 residential dwelling units and 42 parking spaces	Potentially – non-compliant landscaping for interior parking spaces. Determination will have to be made once landscaping plans are submitted.
25 Arctic Street	Vacant 4-story brick warehouse	n/a	32 residential dwelling units	
23 Hygeia Street	Vacant land	n/a	36 parking spaces	
26 Arctic Street	Vacant land	n/a	51 parking spaces	One of the required 5-ft landscaped buffers (western property line) is not provided. The applicant has applied for relief from this requirement.
38 Arctic Street	Vacant 1-story block garage	n/a	71 parking spaces	Missing 5-ft landscaped buffer along the eastern property line. The applicant has applied for relief from this requirement. 19 parking spaces are designed to allow the cars to back out onto a street – not an allowed arrangement per Zoning Ordinance.
Total			160 residential dwelling units and 200 parking spaces	

Mr. Howland stated they have received staff comments and have redesigned the plans to address staff comments.

Mr. Howland stated that 178 parking spaces, eight of which will be handicapped, will be provided for the project.

Mr. Howland stated relative to meeting the requirement that project meets the 10% recreational area requirement they are going to take the alleyway between 14 Hygeia Street and 45 Arctic Street and create a walking path. Inside three of the buildings will be fitness centers where the total property is 134,000 and they will provide 14,000 square of recreational will include the fitness centers and the walking path.

Mr. Fontane stated staff was going to recommend postponement but Mr. Howland had addressed the concerns relative the open space.

Mr. Freilich stated the mark up plan presented to the Board tonight needs to be provided to Division of Planning & Regulatory & Services.

Mr. Fontane asked if all landscape buffers would conform. Mr. Howland said all except the one that abuts National Grid property.

Mr. Kelly asked if this would be residential only. Mr. Howland stated residential only.

Mr. Michajlow stated a Special Permit was granted in 2007 but nothing had happened with the property and asked why. Mr. Howland stated due the downturn in economy project was not developed.

Mr. Michajlow asked how trash removal will work. Mr. Howland stated there will be three dumpsters for the four buildings that will be screened and fenced.

Mr. Fontane asked why no interior dumpster is being proposed. Mr. Howland responded the plans are for exterior dumpsters.

Mr. Michajlow asked about the snow storage. Mr. Howland responded some on site but excess snow would be moved off site.

Mr. Loew asked how many bedrooms for each unit. Mr. Howland stated they are all one bedrooms.

Mr. Bilotta asked if Inspectional Services checks buildings for containments before construction starts.

Ed Escobar, stated he was the project manager for the site and they have a done a site assessment three times.

Jo Hart, city resident, stated there is gridlock on streets now and this will add more traffic.

Mr. Fontane asked the Board to ask again if applicant could look at putting in interior dumpsters.

Mr. Howland stated they could take a better look and see if they could be done.

Mr. Fontane stated he would request that Board impose that as a condition of approval.

Upon a motion of 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. Bilotta the Board voted 5-0 to approve to Amend original 2007 Special Permit to:

- Redevelop existing buildings into residential units (at 45 Arctic St) and commercial/retail units and parking for two sites at 14 Hygeia St (formerly 10 Plastics St)
- Convert vacant warehouses to create a total of 160 residential units for the following properties: 5-7 Arctic St (284 Franklin St) into 16 units; 25 Arctic Street into 32 units; 45 Arctic Street into 48 units; 14 Hygeia St into 64 units
- Provide a total of 200 parking spaces at 284 Franklin, 26 & 38 Arctic and 23 Hygeia streets
- Seek relief from 5-ft landscape buffer for the 71 space associated parking area at 26 Arctic St

with the following conditions of approval:

- That the trash for the 64 and 48 units building be handled internally.
- That project is built subject to final approved plans and that plans include at least three fitness centers and open space.
- That the parking lot that was eliminated from backing out into the street includes five foot buffer.
- That applicant provides an agreement between the owners of 14 Hygeia, 24 Arctic Street and 45 Arctic Street that the alleyway green space can be used by all residents.
- That external dumpsters be shown on the plan.
- Six (6) copies of final revised Definitive Site Plans are submitted to Division of Planning & Regulatory Services that comply with parking, landscaping, and open space provision requirements of the Zoning Ordinance.

**List of Exhibits.**

- Exhibit A: Special Permit Amendment Application; received March 5, 2013; prepared by 45 Arctic Street LOC.
- Exhibit B: Proposed Conditions Plan; dated March 5, 2013; prepared by JH Engineering Group, LLC.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 284 Franklin St (AKA 5 & 7 Arctic St), 25, 26 & 45 Arctic St, 14 & 23 Hygeia St (AKA 8 & 10 Hygeia St and FKA 10 Plastics St); dated April 26, 2013.

**15. 335 Chandler Street (ZB-2013-012):**

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

Petitioner: Lawrence J. Abramoff

Present Use: Office and food service/restaurant uses

Zone Designation: BL-1.0 (Business, Limited) and RL-7 (Residence, Limited)

Petition Purpose: Amend the 2007 Special Permit to remove two conditions of approval in order to allow the space to be occupied by other tenants for office space

Mr. Abramoff recused himself and left the room.

Attorney Todd Rodman appeared on behalf of JM, 335 Chandler Street Realty Trust. Mr. Rodman stated the petition purpose is to remove the two conditions of approval of the Special Permit approved on January 22, 2007 and recorded in Book 41007, Page 377, which specifically stated:

- (1) Special Permit is for this particular tenant, MSPCC, only; and
- (2) If property is transferred or sold to 501C3 or other nonprofit entity, Special Permit is no longer valid and a new application must be submitted..”

Mr. Rodman stated these conditions should be removed as they do not relate to the use of the land which is requirement for a Special Permit.

Mr. Fontane stated staff recommends approval.

Mr. Michajlow stated he agrees conditions should be removed as beyond scope of Board.

Upon a motion by Mr. Michajlow and seconded by Mr. Bilotta the Board voted 4-0 to close the public hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew the Board voted 4-0 to approve the removal of the two conditions on the Special Permit with the following conditions: that space is used for a similar use.

### **List of Exhibits.**

- Exhibit A: Special Permit Amendment Application; received March 25, 2013; prepared by Lawrence J. Abramoff. Includes a Zoning Board of Appeals Decision; dated February 13, 2007.
- Exhibit B: Plan of Land; dated January 31, 1992; stamped received December 22, 2006; prepared by Allen F. Paige, Professional Engineer.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 335 Chandler Street; dated April 26, 2013.

Mr. Abramoff rejoined the meeting.

### **16. 477 Lake Avenue (ZB-2013-014):**

Amendment to Special Permit: Expansion, alteration or change of a privileged pre-existing nonconforming uses and structures (Article XVI, Section 4) with respect to the structure

Variance: Relief of 6.7-ft from the 8-ft side yard setback requirement for the proposed construction of a deck (1.3-ft side yard setback proposed on the west side)

Variance: Relief of .8-ft from the 8-ft side yard setback on the east side requirement for the proposed construction of a deck (7.2-ft side yard setback proposed on the east side)

Variance: Relief of 15-ft from the 65-ft frontage requirement.

Variance: Relief of 2 off-street parking spaces.

Jay Gallant, architect for the project, appeared on behalf of the applications, Mark F. Aho and Debra A. Mudge. Mr. Gallant stated request to amend the 2012 approval from the Zoning Board.



The petitioner seeks to demolish and reconstruct the single-family residence within the same footprint to add a third floor and install a basketball court in the front yard set back. Relief of two parking spaces is also sought because there are no existing off-street parking spaces.

Mr. Gallant stated that his reason for coming back before the Board is that they realized after meeting with Mr. Kelly on what they had originally proposed that it would not work well and they were advised to come back before the Board.

Mr. Freilich asked Mr. Fontane why this was coming back before the Board. Mr. Fontane stated that applicant made a decision to demolish the existing and build a new structure.

Mr. Kelly stated that in older homes when you try to lift them up it is more cost effective to take it down and build it new and applicant tried to first lift the house and after starting the project discovered it wasn't feasible.

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

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

Amendment to Special Permit: Expansion, alteration or change of a privileged pre-existing nonconforming uses and structures (Article XVI, Section 4) with respect to the structure

Variance: Relief of 6.7-ft from the 8-ft side yard setback requirement for the proposed construction of a deck (1.3-ft side yard setback proposed on the west side)

Variance: Relief of .8-ft from the 8-ft side yard setback on the east side requirement for the proposed construction of a deck (7.2-ft side yard setback proposed on the east side)

Variance: Relief of 15-ft from the 65-ft frontage requirement.

Variance: Relief of 2 off-street parking spaces.

with the following conditions of approval: that the structure be constructed in substantial accordance with the final approved site plan prepared by Quinn Engineering, Inc. dated March 11, 2013.

Upon a motion by Mr. Abramoff and seconded by Mr. Michjlow the Board voted 5-0 to approve the findings of fact submitted by the applicant and revised by staff.

### **List of Exhibits.**

Exhibit A: Special Permit and Variance Application; received March 26, 2013; prepared by Mark F. Aho & Debra A. Mudge.

Exhibit B: Site Plan; dated March 11, 2013; prepared by Quinn Engineering, Inc.

Exhibit C: Elevations, Floor Plan and Existing Images; dated March 25, 2013; prepared by Gallant Architecture + Construction.

Exhibit D: Structural Observation Report by Scott E. Nelson, P.E. of Structural Response, LLC re: 477 Lake Avenue; dated and received April 25, 2013.

Exhibit E: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 477 Lake Avenue; dated April 25, 2013.

#### **17. Public hearing to Amend the Zoning Board of Appeals' Rules and Regulations:**

- Amend Article II, Section I to insert new subsection 1.2 to include new submission requirements for all board applications and plans to require submissions in electronic format (PDF).
- Amend Article II, Section I to insert new subsection 1.3 to include new submission requirements for Special Permit applications for Non-Accessory Billboard Signs to include collision data for the zone of visibility.

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta the Board voted 5-0 to approve the amendment to the Zoning Board of Appeals' Rules and Regulations.

#### **DECISIONS FROM PRIOR MEETINGS**

- 721-731 & 722-724 Main Street Decision – Scriveners errors - Signed

#### **ADJOURNMENT**

Upon a motion by Mr. Abramoff and seconded by Mr. Michajlow the Board voted 5-0 to adjourn the meeting at 8:50 p.m.