

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

December 17, 2012

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM

Zoning Board Members Present: Andrew Freilich, Chair
Lawrence Abramoff, Vice-Chair
Vadim Michajlow
William Bilotta
Timothy Loew

Zoning Board Members Absent: Kola Akindele

Staff Present: Joel Fontane, 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 5:31 PM.

APPROVAL OF THE MINUTES

Upon a motion By Mr. Loew and seconded by Mr. Bilotta, the Board voted 5-0 to approve the following minutes: 11/26/12, 10/15/12, 9/24/12, 7/16/12, 6/25/12, and 4/23/12.

REQUESTS FOR CONTINUANCES, POSTPONEMENTS, WITHDRAWALS

1. 2 Northboro Street (ZB-2012-053)

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

On December 10, 2012, the applicant requested a continuance to the March 4, 2013 meeting and an extension of the constructive grant deadline to April 12, 2013 in order to submit floor plans and provide time for advertisement of an additional variance request for Floor Area Ratio. Upon a motion by Mr. Abramoff and seconded by Mr. Loew, the Board voted 5-0 to continue the item to March 4, 2013 subject to the applicant providing stamped envelopes and a new abutter's list by February 4, 2013.

List of Exhibits.

Exhibit A: Variance & Special Permit Application; received August 14, 2012; prepared by Rodney Haddad.

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.

2. 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) in the RL-7 zoning district.

Petitioner: Zayda Vallejo

Present Use: A single-family residential dwelling at 85 Lake Avenue North and undeveloped lot at 55 Mohican Road

Zone Designation: RL-7 (Residential, Limited).

Petition Purpose: To demolish the existing single family dwelling and to construct a single-family attached dwelling with 4 units on the two lots

Attorney Don O'Neill stated that the petitioner is requesting a continuance to the March 4, 2013 meeting to allow more time to provide the information requested by the Board on September 24, 2012. Upon a motion by Mr. Abramoff and seconded by Mr. Loew, the Board voted 5-0 to continue the item to March 4, 2013 subject to the applicant providing stamped envelopes and new abutter's list by February 4, 2013.

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; 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.
- 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.

3. 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: 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

Ms. Feliciano stated that the applicant submitted a request to postpone the hearing to January 28, 2013. Upon a motion by Mr. Abramoff and seconded by Mr. Michajlow, the Board voted 5-0 to postpone to January 28, 2013.

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, revised September 14, 2012 and September 19, 2012, and December 11, 2012.

NEW BUSINESS

4. 39 Belcourt Road (ZB-2012-061)

- Variance: Relief of 35 ft from the 70 ft frontage dimensional requirement for the proposed lot
- Petitioner: Worcester Affordable Housing, LLC
- Present Use: Existing single-family detached dwelling
- Zone Designation: RL-7 (Residential, Limited)
- Petition Purpose: Subdivide the lot and construct a two-family detached dwelling on the proposed lot. The petitioner is seeking relief from the 70 ft frontage dimensional requirement for the new lot proposed with 35 ft of frontage on Belcourt Road

Attorney Don O'Neil stated that the applicant seeks to subdivide the 22,500 SF property with an existing 1,260 SF single-family dwelling located at 39 Belcourt Road and construct a 2,100 SF semi-detached dwelling with two garages in the proposed rear parcel. The petitioner is seeking 35' of relief from the 70' frontage dimensional requirement for the proposed lot. Mr. O'Neil stated that the parcel has 175ft of frontage on Roslyn Road, which is a public way but has never been constructed. In order to use the frontage on Roslyn Road, the street would have to be constructed to city standards and because of the ledge condition the cost would be excessive. Mr. O'Neil stated that the proposed dwelling is facing Roslyn Road in case the street gets developed in the future. Also, if they turn the house, the lot would require even more grading.

Mr. Fontane stated that if approved, it is recommended that six (6) copies of final revised plans be submitted to the Division of Planning & Regulatory addressing the following:

- The structure be repositioned to face Belcourt Road;
- Update the Variance Plan to note 1-car garage per dwelling unit;
- One 3.5" caliper shade tree be planted in the proposed lot fronting Belcourt Road;
- Each side of the driveway remain as green space and not be paved;
- The open space on either side of the driveway be labeled on the revised site plan; and
- The applicant submit a new Approval Not Required Plan to the Planning Board.

Mr. Kelly stated that if the house is turned to face Belcourt Road it would still meet all required setbacks.

Mr. O'Neil stated that the existing property on 39 Belcourt Road will block the view of the proposed structure and he did not see the need to turn the house.

Mr. Abramoff asked who the owner was and if the dwellings proposed are intended for rent. Mr. O'Neil stated that the applicant was Worcester Affordable housing, LLC, a for-profit company, and confirmed that the units will be rental property.

Mr. Fontane stated that not having to develop the road is a huge savings to the applicant. Therefore, if there is an increase in cost due to the additional site work needed to orient the house facing Belcourt Road, it would still be considerably less money than bringing the road up to city standards.

Sandra Magaw stated that her mother lives at 43 Belcourt Road. She is representing her mother and the neighbors because they were unable to make the meeting. She stated that there are single family homes in the neighborhood, mostly elderly people that have lived there a long time. She stated the 39 Belcourt is in shambles; there are appliances in the yard, trees holding up the gutters. There are trees falling on her mother's property and Mr. Nigren, owner of 39 Belcourt Road, will not take responsibility for it.

Mr. Abramoff asked if there was a fence proposed. Mr. O'Neil stated that there was not a fence proposed but was amenable to that being a condition. Mr. Abramoff stated that he would like a 6ft privacy fence be installed from Belcourt Road to the end of the lot.

Mr. Abramoff asked the applicant if he had a problem maintaining the house at 39 Belcourt Street. Mr. O'Neil stated that two months ago there was a kitchen fire in the house and the appliances were in the yard waiting for the insurance assessor. He also stated that they have already been removed.

Ms. Magaw also stated that there seems to be a daycare operating at 39 Belcourt. Mr. Kelly stated that the Department of Inspectional Services will check to see if they have all the necessary state licenses to operate. Mr. Kelly also stated that they will inspect the sanitary code housing issues.

Mr. Abramoff asked the applicant if he will maintain the homes as if he was living next door and Mr. Nigren stated he will. Mr. Bilotta asked about the trees that fell on the abutter's property. Mr. Nigren stated that he told Ms. Magaw that he cannot clean up what falls on someone else's property and he cleaned up what fell on his property.

Mr. Michajlow stated that he did not have a problem with the position of the house as proposed.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Loew, the Board voted 4-1 (Mr. Bilotta voting no) to approve the petition subject to the following conditions:

- That six (6) copies of final revised plans be submitted to the Division of Planning & Regulatory addressing the following:
 - The structure be repositioned to face Belcourt Road;
 - Update the Variance Plan to note 1-car garage per dwelling unit;
 - One 3.5" caliper shade tree be planted in the proposed lot fronting Belcourt Road;
 - Each side of the driveway remain as green space and not be paved;

- The open space on either side of the driveway be labeled on the revised site plan; and
- The applicant submit a new Approval Not Required Plan to the Planning Board.
- 6ft stockade fence be positioned along the eastern border from Belcourt Road to the rear of the property of the new house
- Remove trash, downed trees, clear any unsightly maintenance problems,
- Maintain both properties in a neat and orderly fashion prior to the issuance of a building permit.

There was also a friendly amendment by Mr. Abramoff that the structure is built substantially in accordance with the plans on file with the City. Upon a motion by Mr. Abramoff and seconded by Mr. Loew, the Board voted 5-0 to accept the friendly amendment.

List of Exhibits.

- Exhibit A: Variance Application; received September 12, 2012; prepared by Worcester Affordable Housing, LLC.
- Exhibit B: Plan for Variance; dated September 11, 2012; prepared by B&R Survey, Inc.
- Exhibit C: Rendering; dated October 8, 2012; prepared by Acropolis Residential Design & Drafting; received October 25, 2012.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 39 Belcourt Road; dated October 26, 2012, revised November 16, 2012.
- Exhibit E: Request for Postponement and Extension of Constructive Approval Deadline from Atty. Don O’Neil, representative for Worcester Affordable Housing, LLC, applicant to the Zoning Board of Appeals; dated November 15, 2012, received November 16, 2012.

5. 545 Salisbury Street and 5, 7, & 9 Flower Hill Drive (ZB-2012-065)

- Modification: The applicant is requesting a modification to an existing Comprehensive Permit.
- Petitioner: Illyrian Gardens, Inc.
- Present Use: A 72 unit low-rise building with 72 associated off-street parking spaces for low and moderate elderly residents allowed by a Comprehensive Permit granted in 1988.
- Zone Designation: RS-10 (Residential, Single-Family)
- Petition Purpose: The applicant seeks to modify the existing Comprehensive Permit to reconfigure the property boundaries by removing excess land to create two new parcels (Parcel B and Parcel C).

Mr. Fontane stated that staff consulted with the law department because we do not receive comprehensive permits often. He stated that a simple majority will carry a decision; a motion does not need four votes to pass. The Board is not required to approve an amendment to a comprehensive permit because more than 10% of the City’s housing stock is affordable and under housing restrictions. Mr. Fontane also stated that the Board should deliberate on the removal of land from the comprehensive permit. Land removed from any comprehensive permit

will be subject to the zoning requirements. The land proposed to be removed will need to meet the requirements of the RS-10 zone, the most restrictive zone in the City.

Mr. Fontane also stated that the city does not have any local ordinance regarding comprehensive permits. The Board, having made the determination that the change requested is substantial, must determine whether the changes proposed are consistent with local needs. In this case, will the resulting increase in density and the reduction of open space be consistent with reasonable local needs for the open space and buffering?

Mr. Freilich asked Mr. Fontane why this triggered a comprehensive permit modification instead of a special permit or variance application. Mr. Fontane explained that when Illyrians Garden was built the City was not up to the required 10% of housing with affordable housing restrictions, which triggered a comprehensive permit subject to MGL Chapter 40B.

Don O'Neil, representing Illyrian Gardens, stated this is a 3.6 acres parcel and after the modification it will be 2.68 acres. Per DPRS recommendation, they notified the abutters and had a meeting at the Albanian church about approximately 6 weeks ago. Only 4 or 5 abutters showed up and they did not have any objection with what was proposed.

Mr. O'Neil stated that the plan with Parcel B (Flower Hill Drive) is to separate it into three single family lots and sell them. The other 14,000 SF parcel (Parcel C) is surrounded on all sides by the Albanian Orthodox Church and Illyrian Gardens. There are no neighbors to that parcel. The plan is to construct an additional six free-standing units for rental purposes. A portion of land from the Church will be used in conjunction with the 14,000 SF parcel. There is sufficient land to build the six units on church land but the units would have to be 2 stories in height to provide a more convenient floor plan.

Mr. Abramoff asked if the Board can condition an approval. Mr. Fontane stated that the Board would be taking the land out of the Zoning Board's purview and the land will be subject to land use regulations. Mr. Freilich asked if they should be handling each parcel as separate petitions and Mr. Fontane responded that the land is part of the same comprehensive permit. He also stated that the Board should not focus on what can be built there but on whether or not removing the land meets local needs.

Mr. Abramoff stated that it seems that it is in accordance with the previous conditions and asked if the six units will have similar occupancy as Illyrian Gardens. Mr. O'Neil stated that he expects it to be similar and also for church parishioners who want to live closer to their church.

Mr. Fontane asked if the six free-standing units are part of Illyrian Gardens. Mr. O'Neil stated that they will not be part of Illyrian Gardens but they will work in tandem.

Jo Hart, Worcester resident, stated that if the land was donated for this purpose it should be maintained for that purpose. She stated she believed that Illyrian Gardens should expand and build more units since they have a waiting list.

Mr. Freilich stated he was concerned and would not have had an issue if the petition was to expand Illyrian Gardens. He stated his intention was to remove Parcel B from the comprehensive permit for the intended use of 3 single family houses on Flower Hill Drive at market rate.

Upon a motion by Mr. Abramoff and seconded by Mr. Loew, the Board vote 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 modification to the comprehensive permit in accordance with the plans by removing parcel B & C.

List of Exhibits.

- Exhibit A: Special Permit Amendment Application; received October 16, 2012; prepared by Illyrian Gardens, Inc.
- Exhibit B: Proposed Amendment Configuration Plan; dated July 10, 2012; 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: [subject heading]; dated November 16, 2012.
- Exhibit D: Memorandum from the City of Worcester Deputy City Solicitor, Michael E. Traynor, to Abigail McCabe; re: Illyrian Gardens Comprehensive Permit dated October 22, 2012.
- Exhibit E: Zoning Board of Appeals Comprehensive Permit Decision from 1986, dated September 29, 1986.

RECESS

Upon a motion by Mr. Abramoff and seconded by Mr. Michajlow, the Board voted to have a five minute recess at 7:17 p.m. Chair Freilich reconvened the meeting at 7:24 p.m.

6. I-290 (near Route 146 and 45 McKeon Road) (ZB-2012-068)

- Special Permit: To convert both faces of the static non-accessory freestanding billboard sign to a digital sign (per Article IV, Section 6, L (2)(b) – Conversions from Static to Digital Display for Nonconforming Signs
- Petitioner: Lamar Advertising Company, Inc.
- Present Use: 1,200 SF two-sided non-accessory freestanding billboard sign facing I-290
- Zone Designation: MG-2.0 (Manufacturing, General) and BSOD (Blackstone River Parkway Sign Overlay District)
- Petition Purpose: Convert the existing sign to a 672 SF two-sided digital sign (proposed dimensions are 14' x 48')

Attorney Robert Longden, representing the applicant, introduced Chris Cockerill & Norm Lagasse from Lamar Advertising and Gus Dreyson, engineer from BSC group. Mr. Longden stated that the sign is presently a 1,200 SF sign and they are asking to convert it to a 672 SF digital sign. Due to the reduction in size the digital billboard is proposed to be six feet lower than the existing static sign. The billboard is located in the Providence & Worcester railroad right-of-way.

Mr. Longden stated that in the westbound direction: North of the sign location, the roadway consists of a three-lane freeway section for about 1,300 feet. Greater than 1,300 feet from the sign location, the roadway consists of four lanes where vehicles in the right lane must turn right

at Exit 12, and the adjacent lane splits over the Route 146 off-ramp and the through direction, and then continues as three through lanes.

Route I-290 continues westbound and south of the sign as three through lanes before navigating through a reverse curve towards Exit 11, Southbridge Street.

The new digital sign is preceded by a MassDOT-owned directional overhead sign located at the off-ramp to Route 146. This overhead structure is located approximately 1,300 feet north of the proposed digital sign. The above mentioned MassDOT overhead guide sign structure spans the three lanes of through traffic and the Route 146 on-ramp north of the proposed sign location, providing advance directional information to the drivers on I-290 and continuing to I-90 and I-395, as well as those exiting to Route 146 South.

The proposed digital sign becomes visible and readily distinguishable to the approaching motorists roughly 2,600 feet north of its location. There is also an additional advertising board on the northerly side of I-290 that is distinguishable for the same distance as the sign to be converted. Visibility is restricted by the overhead MassDOT sign located 1,300 feet north of the proposed sign.

Mr. Longden stated that in the eastbound direction: south of the sign location, I-290 Eastbound provides for three through lanes. A MassDOT-owned overhead highway sign is located approximately 1,000 feet south of the existing sign that is to be converted to digital. The on-ramp from Exit 11 (Southbridge Street) ends before the MassDOT sign, merging into the right lane. Where the new digital sign is to be located, three through lanes exist.

North of the proposed digital sign, I-290 Eastbound continues as three through lanes. About 1,100 feet north of the sign, the Route 146 northbound on-ramp becomes the fourth I-290 Eastbound through lane.

A MassDOT-owned directional overhead sign is located approximately 1,100 feet south of the proposed sign. This sign structure spans three lanes of traffic south of the subject sign, providing advance directional information to the drivers approaching the exits for Route 122 and Route 122A.

According to the applicant, the proposed digital advertising sign will become visible and readily distinguishable to the approaching motorists roughly 1,100 feet south of its location. Further north-east is an advertising board on the northern side of I-290 that does not become distinguishable until after the driver sees the proposed digital sign.

The location of the sign faces that are to be converted to digital advertising boards are located at a point along I-290 which is not in the immediate vicinity of a lane merge (such as an acceleration lane) or a major diverge point. It is noted that the Southbridge Street on-ramp is about 2,000 feet south of the proposed sign location, while the I-290/Route 146 diverge is 1,500 feet north (both about one third of a mile) from the sign. This conforms to the MassDOT-suggested guidelines for the installation and conversion of existing signs to Digital Advertising Boards along Massachusetts' Highways.

Mr. Longden also presented collision data for 2010 and 2011 for eastbound as well as the westbound traffic. The data was provided by Mass Highway Department.

Mr. Longden stated that he requested two waivers because he did not submit a Site Plan of Land or existing photographs taken within the last 30 days. He stated that he was requesting them because the proposed location of the billboard is located in the railroad's right-of-way, which stretches for several miles, and he believed the photographs and aerial images provided with the application were sufficient.

Mr. Fontane stated that staff had a question as to the proposed height change but Mr. Longden already covered in his presentation that the 6 ft reduction in height is due to the smaller sign face on the digital billboard. This should be found as a finding of fact and because the square footage of the existing billboard is being reduced, the billboard meets the signage overload test as well.

Mr. Fontane stated that the presentation was outstanding and the collision data was really helpful. If approved, staff respectfully recommends that the proposed digital sign is constructed in substantial conformance with the plans submitted on file with the Division of Planning & Regulatory Services and in compliance with all government codes with the following conditions.

- 1) That the applicant provide traffic accident analysis similar to the one presented in this application, each year, for three years.
- 2) That the applicant provide the total number of accidents for I-290 with the City of Worcester as a whole to provide the context from which to judge the accident data provided.

Mr. Fontane stated that he supports the applicant's waivers requested because the information submitted was sufficient.

Mr. Freilich asked the applicant why they did not ask for a bigger sign. Mr. Cockerill stated that 14'x48' is an industry standard and it makes it easier to change messages between billboards without having to resize them.

Mr. Freilich stated that this presentation packet should be the standard data packet submitted for a billboard and Mr. Fontane stated that they will have to amend the application and have the Board approve it but he agreed that the information submitted was very thorough.

Mr. Longden questioned why condition #1 was necessary because obtaining that data is expensive. Mr. Fontane stated that the condition could be changed requesting that the applicant provide the Division of Planning & Regulatory Services the contact, language, and source of information requested to compile crash data. Mr. Longden stated that he was amenable to that condition.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta, the Board voted 5-0 to approve the petition subject to the condition that the applicant provide the Division of Planning & Regulatory Services the contact, language, and source of information requested to compile crash data, that the findings of fact are accepted as modified by staff, and approving the waivers requested.

List of Exhibits.

- Exhibit A: Special Permit &/or Variance Application; received October 16, 2012; prepared by Lamar Advertising Company, Inc.
- Exhibit B: Aerial images entitled “Locus Map Interstate-290 in Worcester, Massachusetts”; dated October 12, 2012 (received on October 16, 2012), revised November 1, 2012 (received November 8, 2012); prepared by BSC Group.
- Exhibit C: Aerial images and information plan entitled “Collision Diagram for Interstate 290 for 2010 & 2011 Data”; dated November 1, 2012 received on November 8, 2012; prepared by BSC Group.
- Exhibit D: Plan entitled “Elevations, Plan, and Detail”; dated June 11, 2012; received on November 8, 2012; prepared by Redfern Engineering, LLC.
- Exhibit E: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: I-290 (near 146 and 45 Mckee Road); dated December 14, 2012.
- Exhibit F: Memorandum from Bonnie Polin, Chief Safety Analyst of MassDOT to Edward Farley, Director MassDOT Office of Outdoor Advertising; Re: Digital Advertising Board – Pilot Program; dated November 22, 2011.
- Exhibit G: Request for Continuation/Postponement/Leave to Withdraw from Lamar Advertising Company, Inc. to the Zoning Board of Appeals; dated November 15, 2012.

7. 477 Lake Avenue (ZB-2012-069)

- 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)
- Variance: Relief of 1 story from the 2+ maximum height in stories requirement for the proposed 3rd floor addition. The 2+ indicates a maximum of 2 habitable stories with a non-habitable attic and garage underneath, if provided
- Petitioners: Mark F. Aho and Debra A. Mudge
- Present Use: Single-family residence
- Zone Designation: RS-7 (Residential, Single-Family)
- Petition Purpose: To construct a deck to the side and rear of the existing structure that will be within the side yard setback; Construct a habitable attic/3rd floor with a height of 34.3-ft. (35-ft maximum height required)

Jay Gallant, architect for the project, stated that the owner seeks to construct a deck and a third story addition onto his existing single-family dwelling. The residence is a pre-existing nonconforming structure with respect to side-yard setbacks. The proposed additions will require a variance for height in habitable stories (2 allowed, 3 provided) but will not further encroach into the setbacks than what is present. Mr. Gallant stated that this change should create a two-story look from the street and a main entrance will be added to that façade.

Mr. Fontane asked the architect if the house with the additional floor will result in less than 35 ft. Mr. Gallant stated that it would be less than 35 ft. Mr. Fontane explained that the variance for the 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) is not needed and is covered under the special permit requested. The Board should vote for a Leave to Withdraw Without Prejudice on that variance and vote to refund the applicant the variance fee submitted with the application.

Mr. Fontane stated that staff modified the findings of fact and that in regards to the number of stories the area is largely compliant.

Mr. Bilotta asked if the applicant will go before the Conservation Commission for this project. Mr. Gallant stated that he would.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta, the Board voted 5-0 to approve a Leave to Withdraw Without Prejudice on the variance for the relief of 6.7-ft from the 8-ft side yard setback requirement because it is unnecessary.

Upon a motion by Mr. Abramoff and seconded by Mr. Loew, the Board voted 5-0 to approve the petition subject to the condition that it is constructed substantially in accordance to the plans submitted with the City and approving the findings of fact as modified by staff.

List of Exhibits.

- Exhibit A: Special Permit and Variance Application; received November 13, 2012; prepared by mark F. Aho & Debra A. Mudge.
- Exhibit B: Plot Plan; dated November 9, 2012; prepared by Jarvis Land Survey, Inc.
- Exhibit C: Elevations, Floor Plan and Existing Images; dated November 12, 2012; prepared by Gallant Architecture + Construction.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 477 Lake Avenue; dated December 14, 2012.

8. 248 Lincoln Street (ZB-2012-070)

- Special Permit: To allow automobile sales in the BL-1.0 Zoning District (Table 4.1, Business Use # 15 & 16)
- Petitioner: Namvar Mansouri
- Present Use: ~1080 SF two-bay automobile service building and a gas station
- Zone Designation: BL-1.0 (Business, Limited)
- Petition Purpose: To sell of motor vehicles and have four (4) vehicles on display on the premises.

Namvar Mansouri, owner, stated he was requesting a special permit to display four vehicles for sale on his lot.

Mr. Fontane stated that staff recommends approval with the following conditions:

- That no more than four cars be on display for sale at one time.
- That the parking lot and display area be restriped to clearly identify all parking spaces.
- That the car display area be setback a minimum of 5-ft and that the setback area be landscaped.

Mr. Mansouri stated he was amenable to those conditions.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Loew, the Board voted 5-0 to approve the special permit subject to the conditions in the DPRS memo and to a friendly amendment by Mr. Freilich that the cars for sale are not in the process of repair.

List of Exhibits.

- Exhibit A: Special Permit Application; received November 13, 2012; prepared by Namvar Mansouri.
- Exhibit B: Proposed Automobile Dealership Plan; dated November 4, 2012; prepared by Mahmood-Azizi, P.E.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 248 Lake Avenue; dated December 14, 2012.

9. 69 South Ludlow Street (ZB-2012-071)

- Special Permit: Expansion, alteration or change of a privileged pre-existing nonconforming uses and structures (Article XVI, Section 4) with respect to the use.
- Special Permit: To allow a use of a similar nature (sales and display of motor vehicles) in the RS-7 Zoning District (Table 4.1, Business Use # 15 & 15).
- Petitioner: James Padeni
- Present Use: ~1200 SF auto repair shop
- Zone Designation: RS-7 (Residential, Single-Family)
- Petition Purpose: To allow the sale of used motor vehicles and have nine (9) additional vehicles on display on the premises for a total of 15 vehicles (6 for the auto repair shop use) and a Special Permit to allow the expansion of the existing nonconforming use

James Padeni, owner of Foreign Car Specialties, stated that he has been leasing the property for 2 ½ years and is applying to sell cars on the premises.

Mr. Fontane stated that Mr. Padeni is looking to partner with another local business; one will do the repair work and the other will handle the car sales. Mr. Fontane stated that if approved, staff respectfully recommends the Board consider the following conditions of approval:

- The cars on display shall be setback a minimum of 5-ft from South Ludlow Street and Clover Street ;

- The 5-ft setback in front of the car display areas shall be landscaped and be densely planted with arborvitae, winged euonymous, Japanese holly or other recommended shrubbery to provide a landscape screening of the cars on display;
- The six foot fence along the rear and south property lines shall be maintained in good condition;
- The spaces for the cars on display shall be stripped;
- No more than nine (9) cars shall be on display at any one time; and
- The six (6) required parking spaces for the auto-repair use shall not be used for car sales and shall be clearly designated with striping.

Mr. Fontane asked the applicant if he planned to install additional lighting. Mr. Padeni stated that he plans to install a light on the light pole on the corner of South Ludlow and Clover Street that will shine into the lot. He also plans to install 100 Watt sensor floodlights on the wall of the building for security reasons and updated the plan to identify the proposed locations.

Mr. Fontane stated that the proposed lighting should not be detrimental to the neighborhood and there were no additional comments on the finding of fact submitted by the applicant.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotts, the Board voted 5-0 to approve the requested special permits subject to the conditions in the DPRS memo. Also, subject to the plan as modified by the applicant, and that the cars for sale are not in the process of repair.

List of Exhibits.

- Exhibit A: Special Permit Application; received November 13, 2012; prepared by James Padeni.
- Exhibit B: Proposed Site Plan; dated November 8, 2012, prepared by Daniel Myzyri for Foreign Car Specialties.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 69 South Ludlow Street (ZB-2012-071) dated December 17, 2012.

OTHER BUSINESS

10. Election of Officers

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta, the Board voted 4-0-1 to nominate Andrew Freilich to remain Chair.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 4-0-1 to nominate Larry Abramoff to remain Vice Chair.

DECISIONS FROM PRIOR MEETINGS

The decisions for 101 Randolph Road and 21 North Street were signed during this meeting.

ADJOURNMENT

The Board voted to adjourn the meeting at 8:39 p.m.