

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

**January 28, 2013**

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

**Zoning Board Members Present:** Andrew Freilich, Chair  
Lawrence Abramoff, Vice-Chair  
Vadim Michajlow  
William Bilotta  
Kola A. Akindele

**Zoning Board Members Absent:** Timothy Loew

**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 5:30 PM. Mr. Freilich stated that this was Mr. Akindele's last meeting and that he thanked him for his 2 ½ years of service on the Board. Mr. Fontane presented Mr. Akindele with a Certificate of Appreciation on behalf of the City Manager and thanked him for his dedicated service on the Zoning Board of Appeals.

**APPROVAL OF THE MINUTES**

Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta, the Board voted 5-0 to accept the December 17, 2012 and January 7, 2013 minutes.

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

**1. 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:** 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

The applicant submitted a request for a postponement to the March 25, 2013 meeting the extending the decision deadline to April 30, 2013. Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta, the Board voted 5-0 to approve the applicant's request.

### **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.

## **2. 37 Fruit Street and 59 William Street (ZB-2012-076)**

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

Petitioners: Christopher and Marjorie Bruce

Present Use: Two buildings used for residential and commercial uses

Zone Designation: BO-1.0 (Business, Office) (37 Fruit Street) and RL-7 (Residential, Limited) (59 William Street)

Petition Purpose: Amendment to the Special Permit granted by the Zoning Board in January 2012 to remove the condition (condition #15) that the Special Permit expires within one year

Christopher Bruce, owner, requested a postponement to the February 11, 2013 Zoning Board meeting. Upon a motion by Mr. Abramoff and seconded by Mr. Michajlow, the Board voted to postpone the hearing to February 11, 2013.

### **List of Exhibits.**

Exhibit A: Special Permit/Variance Application – 37 Fruit Street; 59 William St; received December 24, 2012 prepared by Christopher Bruce.

- Exhibit B: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 37 Fruit Street, 59 William Street dated January 23, 2013.
- Exhibit C: Two Enforcement Orders from Amanda Wilson, Director of Housing/Health Inspections- Inspectional Services to Christopher Bruce, owner for 37 Fruit Street dated December 12, 2011.
- 1.) Two Enforcement Orders from Amanda Wilson, Director of Housing/Health Inspections- Inspectional Services to Christopher Bruce, owner for 59 William Street dated December 12, 2011
  - 2.) Two Enforcement Orders from John Kelly, Building Commissioner to Christopher Bruce, owner, 37 Fruit Street and 59 William Street dated December 16, 2011.
- Exhibit D: Special Permit and Variance – Findings of Fact and Decision for 7 Fruit Street & 59 William Street (MBL 02-046-00036).
- Exhibit E: Letter from Nancy Tran, Division of Planning & Regulatory Services to Christopher Bruce, dated December 3, 2012.
- Exhibit F: Email from Amanda Wilson, Director of Housing/Health Inspections- Inspectional Services to Nancy Tran, Division of Planning & Regulatory Services, dated January 10, 2012.
- Exhibit G: Email from Katie Donovan, Division of Inspectional Services to Abby McCabe, Division of Planning & Regulatory Services, dated January 23, 2013.

## **NEW BUSINESS**

### **3. 16 Birch Street (ZB-2012-074)**

- Special Permit: Relief of the dimensional and parking requirements (Article IV, Section 9, A(4)) under the residential conversion section of the Zoning Ordinance.
- Petitioner: Adam Gaval
- Present Use: Three-family residence (previously a two-family)
- Zone Designation: RG-5 (Residential, General)
- Petition Purpose: Relief of the dimensional and parking requirements under the residential conversion section of the Ordinance (Article IV, Section 9, A (4)). The Zoning Ordinance allows residential structures in existence on March 21, 1989 to be converted to provide additional dwelling units under certain conditions.

Hussein Haghanizadeh from HS&T Group, representing the owner Adam Gaval, stated that there is an existing three family residence located on the lot. The assessing records show this property as a three family residence but code has it listed as a two family. The petition is designate the house as a three family residence and for relief of two parking spaces. Mr. Haghanizadeh stated that no construction will take place as the third floor was already converted into a dwelling unit, which has been inspected by an engineer and meets code.

Mr. Fontane, Director of DPRS, referred to staff's memo that said that if approved, DPRS recommends that 6 copies of the final revised plan be updated as described below and submitted to DPRS prior to the issuance of the Certificate of Occupancy with the following suggested conditions of approvals:

- That there be no changes to the external appearance of the structure except for new doors, windows, fire escapes, and / or stairways.
- That the structure and use are operated in substantial accordance with the final approved plan.
- That there be no parking on the east side of the building in the side yard setback.
- That the fence along the easterly property line be repaired and maintained in good condition.

Mr. Fontane stated that a variance is not needed because the dimensional relief requested is covered under this special permit.

Mr. Michajlow asked how long the applicant has owned the property and how long it has been used as a three family. Mr. Haghanizadeh stated that Mr. Gaval has owned it for less than a year and it has been used as a three family since before he purchased it. Mr. Haghanizadeh also stated that the previous owner did the conversion without attaining the necessary permits but Mr. Gaval is taking the necessary steps to make this a legal three family residence.

Mr. Abramoff stated that he would change the first condition to say that there be no changes to the external appearance of the structure except for new doors, windows, fire escapes, and / or stairways outside of routine maintenance and repair.

Mr. Kelly, Building Commissioner, asked if there was someone presently living in the third floor apartment and Mr. Haghanizadeh stated that there was. Mr. Kelly stated that prior to the issuance of a Certificate of Occupancy he would inspect the work to ensure it meets code.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Michajlow, the Board voted 5-0 to approve the petition subject to the condition in the DPRS memo but amending the first one to say that there be no changes to the external appearance of the structure except for new doors, windows, fire escapes, and / or stairways outside of routine maintenance and repair.

### **List of Exhibits.**

- Exhibit A: Special Permit Application; received December 18, 2012; prepared by Adam Gaval.
- Exhibit B: Plan of Land 14 – 16 Birch Street; dated October 16, 2012 and signed by the Planning Board on November 14, 2012; prepared by HS&T Group, Inc.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 16 Birch Street –

**4. 721 - 731 Main Street and 722 - 724 Main Street (ZB-2012-075)**

Variance: Relief of 4 parking spaces  
Special Permit: To modify the parking layout with respect to the number of parking spaces and the 5-ft landscape buffer (Article IV, Section 7).  
Petitioner: Vinh Tran  
Present Use: Single-story mixed use building with nine (9) associated off-street parking spaces (721-731 Main Street); Accessory parking lot with 24 parking spaces (722-724 Main Street)  
Zone Designation: BG-3 (Business, General), Arts Overlay zoning district  
Petition Purpose: Renovate the building at 721-731 Main Street to add retail space in the basement. The petitioner seeks relief of four (4) parking spaces in the form of a Special Permit in accordance with Article IV, Section 7 which allows for the Zoning Board to grant relief of up to 10% of the required off-street parking spaces and relief of four (4) parking spaces in the form of a Variance. The petitioner also seeks relief from the 5-ft landscape buffer requirement.

Attorney Todd Rodman stated that he was representing the applicant Vinh Tran and introduced Michael Andrade, the project engineer. Mr. Rodman stated that the applicant was requesting relief of four parking spaces by special permit and relief of four parking spaces by variance. This relief is needed because the applicant is renovating the basement of the existing building to create 5,700 SF of storage space, 352 SF of office space, and 1,600 SF of retail space; all uses which are allowed by right in the BG-3 zoning district. These uses, combined with the existing ones, will require 42 parking spaces. The applicant is supplying a total of 34 parking spaces between what is on the main lot and the accessory parking located at 722-724 Main Street. Mr. Rodman stated that as part of the project Mr. Tran plans to clean up the façade, install more uniform signage, and pave and re-stripe the accessory parking. This project is also scheduled to go before the Planning Board on February 6, 2013 for Parking Plan approval.

Mr. Rodman stated that the applicant received a copy of the letter from Kathryn Zingg Hunter, President/CEO YMCA to Andrew Freilich, ZBA Chair and that the applicant agreed to the improvements stated in the letter. Also, Mr. Rodman stated that the applicant is amenable to the condition in the DPRS memo but asked that condition #2 be tweaked because one of the hatched areas referred to was the loading space for the handicapped space provided. Mr. Tran did not have a problem complying with the condition on the side that did not have the handicapped space.

Mr. Fontane referenced staff's memo that said that if approved, it is respectfully recommended that:

- 1) The area at the corner of Main Street and Hermon Street, currently designated for snow storage, is converted to a landscaped area in compliance with the Zoning Ordinance (1 tree min 3.5" caliper and shrubs);

- 2) The two currently designated snow storage areas along Main Street at 722 (aka 724) Main Street parcel, are converted to a landscaped area in compliance with the Zoning Ordinance (1 tree min 3" caliper with shrubs each). The snow storage can be extended to the rear lot line to compensate for the reduction in the front;
- 3) Excess snow is removed off-site;
- 4) The ash tree in the rear of 722 Main Street parcel be retained;
- 5) Chain-linked gate across the driveway to the west of 721-731 Main Street parcel is removed to provide unencumbered access to the handicapped space in the rear;
- 6) Six (6) copies of revised plans are submitted to the Division of Planning & Regulatory Services prior to issuance of the Building Permit, reflecting conditions of approval;
- 7) The parking area be constructed in substantial accordance with the final approved parking plan.

He stated that condition #2 could be amended to allow Mr. Tran to keep the handicapped parking space intact. Mr. Fontane informed the Board that the YMCA has asked that the applicant provide a vegetated (grass & trees) buffer on the YMCA's property on the eastern boundary of the YMCA's parking lot. In 2006, the YMCA received a Special Permit the Zoning Board and a Parking Plan Approval from the Planning Board in 2007 with a landscape buffer along the eastern property line. In 2008, the YMCA returned to the ZBA and Planning Board for an amendment to the earlier applications after discovering a 7-ft right-of-way (14-ft total width) along the eastern property line. The YMCA shifted the layout from the earlier plans and removed the landscape buffer along the south-east property line so the right-of-way could be maintained for access.

Mr. Rodman stated that the agreement between Mr. Tran and the YMCA was to provide the landscape buffer because the existing pavement on the 722-724 Main Street parking lot is encroaching on the YMCA property line. Mr. Tran agreed to pull back the pavement and in its place will install a 6 ft landscape buffer along the eastern border that YMCA will maintain. Mr. Rodman stated that doing this will not affect the size of the parking spaces.

Mr. Bilotta asked if a dumpster will be on-site. Mr. Rodman responded that there is one now on the corner of Main Street and Hermon Street and it will remain.

Jo Hart, Worcester resident, stated she was pleased that the property will get cleaned up but wondered if the applicant could keep the Honda sign. She also suggested that Mr. Tran move the church to the basement and create the retail space at ground level.

David Connell, YMCA's Regional Executive Director of the Main Street branch, stated he supported the project.

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. Michajlow, the Board voted 5-0 to approve the petition subject to the conditions in the DPRS memo amending condition #2 to state that the designated snow storage area along Main Street at 722 (aka 724) Main Street parcel, is converted to a landscaped area in compliance with the Zoning Ordinance (1 tree min 3" caliper with shrubs). And with the conditions agreed upon with the YMCA to (1) pave and strip hi sparking lot at 722-724 Main Street; (2) provide a vegetated (grass & trees) buffer (on Y's land)

between the western edge of his parking lot and the eastern boundary of the Y parking lot; and (3) to remove the existing fence along the northern and eastern perimeters of this parking lot.

### **List of Exhibits.**

- Exhibit A: Special Permit & Variance Application; received December 21, 2012; prepared by Vinh Tran.
- Exhibit B: Parking Plan; dated December 11, 2012; prepared by Graves Engineering.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 721-731 Main St & 722 (aka 724) Main Street; dated January 23, 2013
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Zoning Board of Appeals; re: 721-731 Main St & 722-724 Main Street, Special Permit Petition – ZB-2012-075; dated January 23, 2013
- Exhibit E: Letter from Kathryn Zingg Hunter, President/CEO YMCA to Andrew Freilich, ZBA Chair Re: Application for Variance and Special Permit; Vinh Tran Property at 721-731 and 722-724 Main Street, Worcester, MA; dated January 25, 2013.

### **DECISIONS FROM PRIOR MEETINGS**

There were no decisions to be signed.

### **ADJOURNMENT**

Upon a motion by Mr. Akindele and seconded by Mr. Abramoff, the Board voted 5-0 to adjourn the meeting at 6:18 p.m.