

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

**July 8, 2013**

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

**Zoning Board Members Present:** Lawrence Abramoff  
Vadim Michajlow  
Joseph Wanat  
Timothy Loew  
Robert Haddon

**Zoning Board Members Absent:** William Bilotta

**Staff Present:** Joel Fontane, Division of Planning & Regulatory Services  
Marlyn Feliciano, Division of Planning & Regulatory Services  
Katie Donovan, Department of Inspectional Services

**Board Site Views**

**CALL TO ORDER**

Chair Abramoff called the meeting to order at 5:32 p.m.

**REQUESTS FOR CONTINUANCES, POSTPONEMENTS, WITHDRAWALS**

**1. Tory Fort Lane (aka 30 Tory Fort Lane) (ZB-2013-021)**

**Special Permit:** To allow a Personal Wireless Service Facility in the RS-7 (Residence, Single-Family) zoning district

**Petitioner:** Massachusetts Electric Company d/b/a National Grid

**Present Use:** Existing Cooks Pond Electric Substation

**Zone Designation:** BL-1.0 (Business, Limited)

**Petition Purpose:** Install, operate, and maintain 3 WiMAX mounted antenna and 2 microwave antennas located on a 10' mast extension attached to a new 80' lattice tower that would replace the existing 55' wooden pole; Install signal cables from antennas to the a ground mounted equipment frame, and a radio/transceiver battery unit enclosure

**Public Hearing Deadline:** ~~6/20/13~~, 8/8/13

Mr. Abramoff stated that the applicant submitted a request to postpone to the July 29, 2013 meeting and extend the public hearing deadline to August 8, 2013. Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 5-0 to postpone the item to July 29, 2013 and extend the public hearing deadline to August 8, 2013.

## List of Exhibits.

Exhibit A: Special Permit Application; received April 16, 2013; prepared by Massachusetts Electric Company d/b/a national Grid that includes:

1. Location Map
2. Site Plan
3. Elevations
4. Existing conditions photographs
5. Equipment Brochure

Exhibit B: Postponement request to June 17, 2013; dated May 17, 2013; and to July 8, 2013; dated June 12, 2013; and request to postpone to July 29, 2013; dated July 8, 2013.

## 2. 65 Malden Street (MBL 32-003-0007A) (ZB-2013-025)

Special Permit: Expansion, alteration or change of privileged pre-existing nonconforming structure (Article XVI, Section 4)

Petitioner: Charles Wilmot

Present Use: One-story single-family residence

Zone Designation: RS-7 (Residence, Single-Family)

Petition Purpose: Construct a second story addition onto the existing nonconforming structure

Public Hearing Deadline: 8/8/13

Mr. Abramoff stated that the Board received a request for a Leave to Withdraw Without Prejudice and a fee waiver request from the applicant. Mr. Fontane stated that staff did not support the fee waiver because the applicant gave incomplete information to staff that affected the interpretation of what was needed and what would be allowed. Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to grant the Leave to Withdraw Without Prejudice. Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 0-5 to grant the fee waiver request. The motion did not pass, therefore, it was denied.

## List of Exhibits.

Exhibit A: Special Permit Application; received April 18, 2013; prepared by Charles Wilmot.

Exhibit B: 65 Malden Street; undated; no preparer listed.

Exhibit C: Rendering; undated; prepared by VICAD, LLC.

Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 65 Malden Street; dated July 3, 2013.

## **UNFINISHED BUSINESS**

### **3. 453, 453A, 455 Lincoln Street (ZB-2013-026)**

Special Permit: To allow a motor vehicle sales and display (Business Use # 15 & 16, Table 4.1)

Petitioner: Therich Besong and Wilmarc Charles

Present Use: 3,967 SF building used for a food service establishment and office space

Zone Designation: BL-1.0 (Business, Limited)

Petition Purpose: Add motor vehicle sales office (Business Use # 26 – Retail Sales, Table 4.1) and outdoor display area for eight (8) motor vehicles

Public Hearing Deadline: 6/22/13

Mr. Therich Besong and Wilmarc Charles were present for this application. Mr. Besong stated that they engaged a certified planner who drew the plan to scale and showed parking and display spaces. Mr. Abramoff stated that the easement states there should be a 15 ft. right-of-way but the plans only show a 12 ft. right-of way and it would not be appropriate to approve something that will violate the easement.

Mr. Fontane stated that the applicant does not have enough parking to meet all the requirements and to have the number of display spaces they are seeking without getting a variance from the Board first. They would be allowed to do only one display space in addition to the one that is allowed by right. They have 18 parking spaces and 17 are required for the existing office space and the restaurant. Mr. Fontane also recommended that the handicapped space should be moved closer to the building.

Mr. Abramoff asked what is in the lower level of the building. The applicants responded that there is a 3 car garage in the lower level. Mr. Abramoff asked if that garage could be used to sell cars. Ms. Donovan stated that they could use the interior parking for required parking or use it for display spaces.

Helen Granache, 25 Prudential Street resident and owner of Rudy's Auto Service Center (455 Lincoln St # A, Worcester, MA 01605), stated that she had a certified easement map noting the 15 ft. right-of way on the applicant's property granting access to her property. She stated she is concerned because her customers complain that the right-of-way is blocked constantly. She also stated that they have a 10 ft. sign easement at the front of the property for placing their sign to their business in the back; she didn't want that blocked either.

Mr. Abramoff stated that allowing the applicants to use the three indoor garage spaces should not impact the right of way but they can place conditions such as: painting the right-of-way, posting signs stating "no parking in the right of way", removing the snow offsite, and placing no parking spaces in the right-of way to help improve the situation.

Mr. Loew stated that parking should be shifted closer to Commerce Bank in order to have the 15 ft right-of-way.

Mr. Michajlow stated that he wants to see the revised plans before voting on this matter. Mr. Haddon concurred.

Mr. Abramoff stated that the applicants need to show plans with enough space for the right-of-way of 15ft, showing the display spaces within the garage. Revised plans need to be submitted to the office a week before the next meeting.

Mr. Charles requested a continuation to the July 29, 2013 meeting. Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to continue the meeting to July 29, 2013.

List of Exhibits.

- Exhibit A: Special Permit Application for 453, 453A and 455 Lincoln Street; prepared by Wilmarc Charles and Therich Besong; received April 18, 2013.
- Exhibit B: Plan for 453-455 Lincoln Street; dated May 25, 2013; prepared by the applicant; received May 28, 2013.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 453, 453A and 455 Lincoln Street; dated June 14, 2013; revised July 3, 2013.
- Exhibit D: Parking Plan for 453-455 Lincoln Street; prepared by Viacad LLC; dated June 25, 2013; received June 28, 2013.
- Exhibit E: Easement Deed for Andrews Avenue; dated May 30, 1990, record May 31, 1990.

**NEW BUSINESS**

**4. 184 Highland Street and 2 Einhorn Road (ZB-2013-014)**

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

**Special Permit:** To allow a dormitory use (Residential Use #3, Table 4.1) in the RG-5 zoning district

**Special Permit:** To modify the parking layout with respect to the 5-ft landscape buffer (Article IV, Section 7)

Petitioner: D&E Realty LLC

Present Use: Two single-family dwellings

Zone Designation: RG-5 (Residence, General)

Petition Purpose: Convert the dwellings to a dormitory for a total of 39 occupants (21 occupants at 184 Highland St and 18 at 2 Einhorn Rd) with thirteen (13) off-street parking spaces (7 at 184 Highland St and 6 at 2 Einhorn Rd)

**Public Hearing Deadline:** ~~5/30/13, 6/17/13~~, 8/8/13

Alternate Timothy Loew recused himself from this matter.

Attorney Todd Brodeur introduced the civil engineer Normal Hill, owner of the property David Bahbouta, and Becker College's Senior Vice President & CFO Dr. David Ellis. Mr. Brodeur stated that the project's purpose is to convert the two dwellings to a dormitory for a total of 39 occupants with thirteen (13) off-street parking spaces. Becker would be leasing and running

them as a dormitory use. Mr. Brodeur stated that the two properties are currently owned by two separate LLCs and would be combined under one if the petition is approved by the Board.

Mr. Brodeur stated that the floor plans were submitted to the DPRS office today. Mr. Hill stated that the project will be served by city sewer/water, both buildings will have new wiring, and 7 parking spaces will be added to the site to be compliant with Zoning Requirements. He also stated that there will be no increase in water runoff.

Dr. Ellis stated that Becker College's enrollment has grown, students want to live in student housing. The buildings will be staffed by professional staff members 24/7. Dr. Ellis stated that the college has made an effort to enhance the look of all their properties in Worcester and that they're willing to move the snow offsite and from the street to aid with the parking. He also stated that Becker students have a conduct code they have to abide by and that the college is very strict regarding enforcing it.

Mr. Fontane stated that the definition of a dormitory is that an educational institution owns and/or operates the facility. A letter was received by Becker's Director of Facilities stating that there is a lease in place and that Becker will "control" the dormitory but staff asks that it be reworded to say that it will be "operated" by Becker College. Mr. Fontane stated that staff checked the density of the proposed use in the area. He stated that a reduction of the number of beds would help preserve the character of the neighborhood as well as reduce the number of parking spaces required on the Highland Street corner. Also the applicant must be aware that the properties can only be used as a dorm as long as they are owned and/or operated by an educational institution.

Mr. Wanat asked if the applicant plans to have a dumpster on site and if they will be removing trees as a result of the parking. Mr. Brodeur responded that the buildings will be cleaned and trash will be removed on a daily basis and there will be no need for a dumpster on site. He also stated that 2 or 3 mature trees will need to be removed in order to install the angled parking along Highland Street. He stated that Becker does not want to over-park the site and is willing to eliminate the parking in the front yard area. They submitted a special permit and variance for parking relief application already in case that's what the Board decides.

Mr. Brodeur stated that the college is willing to reduce the number of occupants to 34 total, 33 students and 1 professional staff. It would help also with the number of parking spaces needed. Mr. Abramoff asked how many students housed there would have vehicles and Mr. Brodeur stated that the campus is within walking and biking distance.

Greg Doerschler, 5 Einhorn Road resident, stated that he was concerned about losing owner-occupied single family homes in the neighborhood since there are two lodging houses on Einhorn Road already. He stated that the neighborhood is feeling under siege by students in the area. He also stated he is concerned with students congregating in the parking lot and making noise and also about the loss of the mature trees, which will change the character of the neighborhood.

Gary Henrich, 4 Einhorn Road resident, stated that his property is a two family home and he can have 3 unrelated people in each apartment and that is what should be done with these 2 buildings. He stated that he was concerned about guest parking. He also stated he was against the proposed number of occupants and had concerns with snow storage.

Larry Quinn, 3 Einhorn Road resident, stated he was concerned with parking because snow and leaves make parking on the street almost impossible. He stated that he believed this proposal would change the character of the neighborhood. He was also concerned with how this would affect his property value. He stated that he was upset that the tree was removed without a

hearing. He also stated that his next door neighbor, Robert Haggerty, asked him to express the same concerns on his behalf as he wasn't able to be present.

Rainer Reichel, 38 Dover Street resident, stated that he was concerned with the trees that are proposed to be removed. He wanted the applicant to keep the mature trees on the properties.

Attorney George Kiritsy stated he was representing Mr. Chirchigno, property owner for 178-187 Highland Street. Mr. Kiritsy stated that his client has both residential and business concerns with this proposal. He stated that the on-street parking in the area is overtaxed and cannot handle an additional 34 residents. He stated that he is concerned with traffic, noise, and parties and that this will affect his client's business and residents.

Harry Kyros, 177 Highland Street resident, stated that the Becker students that drive to the campus and park in the area and the Worcester Tennis Club all contribute to making this area very difficult in terms of on-street parking. He would support the project if they reduced the number of occupants.

Mr. Abramoff stated that he is also concerned with overcrowding.

Mr. Brodeur stated that the residents will be regulated and supervised by the college. He stated that Becker does not feel it needs the required number of parking because of the other college-owned lots that the students can park on.

Mr. Haddon asked if Becker has restrictions on who can have cars. Dr. Ellis stated that Becker does not prohibit underclassmen from having cars. He stated that they can arrange to have students that don't have vehicles live in these properties but they also have control over making students park on existing Becker lots.

Mr. Michajlow stated that he believed the number of occupants was too high.

Mr. Brodeur stated that the investment necessary to these two locations require a certain number of students.

Mr. Wanat stated that he was concerned with so many students having to cross Highland Street to get to the school.

Mr. Abramoff asked what the by-right alternatives are. Mr. Fontane stated that the proposed use requires a Special Permit. By-right uses in the RG-5 zoning district include single-family, two-family, three-family, and multi-family residential dwellings. Given the size of the lots and location of the existing buildings, the applicant could convert the 2 single-family to 2 two-family dwellings (the lots comply with area and frontage dimensional requirements), but a Special Permit for Pre-Existing Non-Conforming Structure would still be needed due to the existing setback non-conformities. Two two-family dwellings could accommodate up to 12 unrelated individuals (no more than 3 per dwelling unit) in accordance with the Zoning Ordinance.

Mr. Abramoff stated he wanted more time to consider the matter. Mr. Michajlow stated that the applicant should meet with the neighbors again to allay their concerns. Mr. Wanat stated that he is concerned with the density and the parking layout.

Mr. Brodeur asked the Board to table the item to the end of the meeting to discuss other options with his client.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 4-0 to table the matter. (please see below for the continuation – Item #6)

**List of Exhibits.**

- Exhibit A: Special Permit Application; received March 26, 2013; amended June 17, 2013 (received June 19, 2013); prepared by D & E Realty LLC.
- Exhibit B: Special Permit Plan; dated February 28, 2013, last revised June 13, 2013; prepared by Land Planning, Inc.
- Exhibit C: Floor Plans; dated 1/4/2013; prepared by R. C. Searles, Associates.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 184 Highland Street (ZB-2013-014); dated May 17, 2013, last revised July 5, 2013.
- Exhibit E: Postponement request to June 17, 2013; dated May 20, 2013.
- Exhibit F: Postponement and Public Hearing Extension request to July 8, 2013; received June 13, 2013.
- Exhibit G: Letter of Opposition from Robert M. Hagearty; received July 3, 2013.

**5. 32 Westview Road (ZB-2013-032)**

- Variance:** Relief of 3.1 ft of the 8 ft side yard setback (4.9 ft provided)
- Petitioner: Jeffrey and Nancy Plante
- Present Use: Single-family residence
- Zone Designation: RS-7 (Residence, Single-Family)
- Petition Purpose: Construct a 12' x 12' addition onto the north side of the existing dwelling

**Public Hearing Deadline:** 8/8/13

**Constructive Grant Deadline (Variance):** 9/12/13

Jeffrey and Nancy Plante were present for this matter. Mr. Plante stated that the proposal is to put a 12' x 12' addition off of their kitchen.

Mr. Fontane stated that the rest of the addresses on the block are largely compliant with their setback requirements and suggested staff proposed a few alternatives as outlined in the DPRS memo.

- Dimensions of the proposed addition may be reduced to 12' x 8.' This would provide the minimum 8' side-yard setback required within the RS-7 district and not require relief.
- It also appears that the addition may be reconfigured from 12' x 12' to 17' x 8.5' along the northerly side of the existing dwelling. This modification would provide an 8.5' side-yard setback and not require relief.
- Alternatively, the proposed addition may be relocated to the building's rear without encroaching within required setbacks.

Mr. Fontane asked the applicants if there is an existing driveway, because if they do it looks like it is encroaching in their front yard setback.

Mr. Abramoff asked the applicant if they considered relocating the expansion. Mr. Plante stated that it would be a financial hardship because all the electrical, plumbing, cabinetry, and windows are in the back and they would need to spend a considerable amount of money in order to move everything. He also stated that they would extend the existing driveway (that only fits one vehicle) to where the expansion will start in order to fit two vehicle and not encroach on the setback. Mr. Plante stated that he discussed this with his neighbor and he is amenable to all the changes.

Mr. Loew asked what the addition would look like. Mr. Plante stated that it will be a 12' x 12' addition with a slider door to the deck. It will be sided to match the house.

Mr. Abramoff suggested that the Board should condition that the addition should have a consistent design with the existing house.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the petition with the conditions of approval that the design be consistent with the design of the current property, that the driveway be extended to eliminate parking in the front yard setback, and that landscaping screening be installed along the sidewalk edge and side lot lines where the parking, work or service area of a proposed project abuts a street, public park or residential property.

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

- Exhibit A: Variance Application; received June 4, 2013 prepared by Jeffrey and Nancy Plante.
- Exhibit B: Existing Conditions & Proposed Building Addition Plans; dated May 20, 2013, prepared by Robert D. O'Neil.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 32 Westview Road – Variance Application; dated July 3, 2013.

#### **6. 184 Highland Street and 2 Einhorn Road (ZB-2013-014)**

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

**Special Permit:** To allow a dormitory use (Residential Use #3, Table 4.1) in the RG-5 zoning district

**Special Permit:** To modify the parking layout with respect to the 5-ft landscape buffer (Article IV, Section 7)

**Petitioner:** D&E Realty LLC

**Present Use:** Two single-family dwellings

**Zone Designation:** RG-5 (Residence, General)

**Petition Purpose:** Convert the dwellings to a dormitory for a total of 39 occupants (21 occupants at 184 Highland St and 18 at 2 Einhorn Rd) with thirteen (13) off-street parking spaces (7 at 184 Highland St and 6 at 2 Einhorn Rd)



**Public Hearing Deadline:** ~~5/30/13, 6/17/13~~, 8/8/13

Continued from Item #4.

Todd Brodeur stated that his client is sensitive to the issue of density and parking. Becker is also willing to limit the amount of students to those who have a parking sticker. They would also be willing to reduce the number of occupants to 30.

Mr. Fontane stated that the 10 parking spaces meet Zoning requirements for 30 occupants.

Mr. Abramoff asked what Becker's behavioral standards are. Dr. Ellis stated there is no smoking allowed, strict no drinking under 21 policies, and students must maintain good academic standing. There is a disciplinary process if a student violates the rules and Becker strives to be a good neighbor. There is also 24 hour access controls in each residence hall and there is control as to who comes and goes.

Mr. Abramoff advised that the college should have another neighborhood meeting where they cover all of the rules with the neighbors. He stated that he would like to see an additional 3 Asian Long-horned Beetle resistant trees with a 3.5" caliper. He asked to see revised plans with the additional trees and modified parking layout.

Mr. Brodeur asked for a continuance to July 29, 2013.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 4-0 (Mr. Loew recused himself) to continue the matter to July 29, 2013.

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

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

The decisions from the previous meeting were signed.

#### **APPROVAL OF THE MINUTES**

The minutes for June 17, 2013 were held.

**ADJOURNMENT**

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to adjourn the meeting at 7:44 p.m.