

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

April 7, 2014

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

Zoning Board Members Present: Vadim Michajlow, Vice-Chair
Joseph Wanat
Timothy Loew
Robert Haddon

Zoning Board Members Absent: Lawrence Abramoff, Chair

Staff Present: John Kelly, Inspectional Services
David Horne, Inspectional Services
Stephen Rolle, Division of Planning and Regulatory Services
Luba Zhaurova, Division of Planning & Regulatory Services
Michelle Smith, Division of Planning & Regulatory Services

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Vice Chair Vadim Michajlow called the meeting to order at 5:30 PM. He explained that there was a four member board present and in order for a petition to be approved, it would require a unanimous vote by the Board.

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

1. 597 Mill Street (ZB-2013-044)

Special Permit: To allow a Personal Wireless Service Facility (PWSF) (per FCC regulation – Jobs Act, § 6409, a)

Variance: Relief of the height dimensional requirement (40-ft max.) and ‘fall zone’ setback for ground-mounted PWSF (Article IV, § 12, C, 3, e & f)

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

Present Use: Tatnuck Electric Substation

Zone Designation: BL-1.0 (Business, General)

Petition Purpose: Install a 90-ft tall ground-mounted PWSF facility (monopole) with three (3) Worldwide Interoperability for Microwave Access (WiMAX) antennas and two (2) microwave antennas at 597 Mill Street transmission structure as part of National Grid’s Smart Grid Pilot Program. As part of the proposal, the applicant is also proposing signal cables from the antennas to a ground

mounted equipment frame, where radio/transceiver and battery unit enclosures will be installed on a 35 SF concrete pad

Public Hearing Deadline (Special Permit): ~~11/7/13, 12/2/13, 1/13/14,~~ 3/17/14

Constructive Grant Deadline (Variance): 11/07/13

Bill Jones, National grid representative, stated that he submitted a written request to continue the item to the next meeting.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to continue the item to May 5, 2014. Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to extend the constructive grant deadline for the variance to May 20, 2014.

List of Exhibits:

- Exhibit A: Special Permit Application; received 9/3/2013; prepared by Massachusetts Electric Company.
- Exhibit B: National Grid Tatnuck Substation Plan; dated 8/2/2013; prepared by National Grid.
- Exhibit C: Division of Planning and Regulatory Services Memorandum, re: 597 Mill Street; dated October 16, 2013; revised December 2, 2013.
- Exhibit D: Emails from Elizabeth Mason, Attorney for National Grid, re: 597 Mill Street; dated November
- Exhibit E: Postponement letter from National Grid, re: 597 Mill Street; dated December 2, 2013.

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

Special Permit: To allow a Personal Wireless Service Facility

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, 7/8/13, 7/29/13, 9/9/13, 9/30/13, 10/21/13, 12/2/13, 1/13/14,~~ 3/17/14

Bill Jones, National grid representative, stated that he submitted a written request to postpone the item to the next meeting.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 4-0 to continue the item to May 5, 2014.

3. 721-731 & 722-724 Main Street (ZB-2014-002)

Extension of Time for:

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

Special Permit: To reduce the number of required parking spaces by 10% (4 parking spaces)

Petitioner: Vinh Tran

Present Use: A single story mixed use building with nine associated off-street parking spaces located at 721-731 Main Street and an accessory parking lot with 24 parking spaces located at 722-724 Main Street

Zone Designation: BG-3.0 (Business, General) and AOD (Arts Overlay)

Petition Purpose: To allow a six month extension of time for the above listed Variance and two Special Permits which were previously approved by the Zoning Board of Appeals on January 28, 2013, with final action date on February 12, 2013

Ms. Zhaurova stated that the applicant submitted a request to Leave to Withdraw the extension of time for the Special Permit because it was found that the authority to extend special permits lies with the Building Commissioner. The applicant also requested a fee refund and staff supports the refund.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to grant the Leave to Withdraw and to refund the fees to the applicant for the special permits.

List of Exhibits:

Exhibit A: Extension of Time Application; prepared by Vinh Tran; received January 21, 2014.

Exhibit B: Parking Plan; prepared by Graves Engineering, Inc.; dated December 11, 2012, revised March 1, 2013.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board; re: 721-731 & 722-724 Main Street; dated 2/24/14, revised 4/2/14.

Exhibit D: Letter from John Kelly, Building Commissioner to Todd Rodman, Atty. for Vinh Tran re: Request for Six-Month Extension of Special Permits, 721-731 and 722-724 Main Street; dated March 21, 2014.

Exhibit E: Leave to Withdraw Request from Todd Rodman, Atty. for Vinh Tran; re: 721-731 & 722-724 Main Street; dated March 24, 2014.

4. 4 Bird Street (ZB-2014-006)

Special Permit: To allow a Single-Family Attached Dwelling in an RL-7 (Residential, Limited) zoning district (Article IV, Section 2, Table 4.1)

Petitioner: Normand R. Champigny

Present Use: A vacant lot

Zone Designation: RL-7

Petition Purpose: To construct a two-story single-family attached dwelling with 3 dwelling units and 6 associated off-street parking spaces

Public Hearing Deadline: 4/17/14

Normand Champigny requested a postponement to allow time to address staff's comments and to refine the proposed site layout.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to postpone the petition and the public hearing deadline to May 5, 2014.

List of Exhibits:

Exhibit A: 4 Bird Street Application; received February 11, 2014; prepared by Norman Champigny.

Exhibit B: 4 Bird Street Plan; dated February 11, 2014; prepared by GRAZ Engineering, LLC.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 4 Bird Street Special Permit; dated April 2, 2014.

Exhibit D: 4 Bird Street rendering; received March 31, 2014.

5. 301 Burncoat Street (ZB-2014-007)

Administrative Appeal: Of the Cease and Desist Order issued by the Commissioner of Department of Inspectional Services (Article II, Section 6, A, 1).

Petitioner: Bernard J. Conlin III

Present Use: A two-family detached dwelling

Zone Designation: RS-7 and within the Water Resource Protection District (GP-3)

Petition Purpose: To appeal the Cease and Desist Order of the Inspectional Services Commissioner dated November 19, 2014 and denial of building permit dated January 24, 2014 which asserted that an illegal third dwelling unit has been created on the third floor of the structure

Public Hearing Deadline: 4/17/14

Constructive Grant Deadline: 5/22/14

Attorney Jonathan Finkelstein, representing the applicant, stated that his client, the applicant, would prefer to be heard by a five member board so they are requesting a postponement to May 5, 2014.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to postpone the petition and the public hearing deadline to May 5, 2014.

List of Exhibits:

Exhibit A: Administrative Appeal Application; received February 11, 2014; prepared by Bernard J. Conlin, III.

Exhibit B: Denial of the Building Permit #BP-2013-103 from the Department of Inspectional Services for Bernard Conlin; re: 301 Burncoat Street; dated January 24, 2014.

Exhibit C: Cease and Desist letter from the Department of Inspectional Services for Bernard Conlin of 301 Burncoat Street; dated November 19, 2013.

- Exhibit D: Registry of Deeds documents associated with this property (Book 6769 Page 314, Book 22373 Page 070, Book 22373 Page 073).
- Exhibit E: Assessing Property Cards for 301 Burncoat Street (MBL 36-006-00001), subject of this application, and 301 Burncoat Street (MBL 36-006-00002).
- Exhibit F: Preliminary Injunction Court Order for 301 Burncoat Street; dated February 18, 2014
- Exhibit G: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 301 Burncoat Street (ZB-2014-007) (MBL 36-006-00001); dated April 2, 2014.

6. 981 Grafton Street (ZB-2014-009)

- Special Permit:** Extension, Alteration or Change of a Privileged Pre-Existing Nonconforming Structure (Article XVI, Section 4).
- Petitioner:** Jackson Grafton, LLC
- Present Use:** A ~4,454 SF auto service and repair garage with 6 service bays and 24 associated off-street parking spaces
- Zone Designation:** BG-2.0
- Petition Purpose:** To construct a 1,072 SF addition to the southeastern side of the building to provide two additional service bays and tire storage and seeks to re-configure the parking lot to create two additional parking spaces (for a total of 26 spaces). The existing building is nonconforming with regard to the rear yard setback dimensional requirement.

Public Hearing Deadline: 5/8/14

Ms. Zhaurova stated that staff received a written request for postponement to May 5, 2014 to allow the petition to be heard by a five member board.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 4-0 to postpone the petition to May 5, 2014.

List of Exhibits

- Exhibit A: 981 Grafton Street Application; received February 4, 2014; prepared by Jackson Grafton, LLC.
- Exhibit B: 981 Grafton Street Plan; dated March 3, 2014; prepared by RJ O’Connell & Associates, Inc.
- Exhibit C: Rendering; dated February 10, 2014; prepared by SN Consulting Group.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 981 Grafton Street Special Permit; dated April 2, 2014.
- Exhibit E: Site Plan with applicant’s annotations showing proposed interior landscaping, received March 31, 2014.

7. 40 Quinsigamond Avenue (ZB-2014-003)

- *Special Permit:** For waiver of the 5 ft. landscape buffer and screening requirement where parking abuts a street.
- Special Permit:** To allow accessory storage of flammable liquids/gasses/explosives (Article IV, Table 4.1, Manufacturing Use #1) in a MG 2.0 Zone
- Special Permit:** To allow an automobile refueling station (Article IV, Table 4.1., Business Use #17) in an MG 2.0 Zone
- Petitioner: innovative Natural Gas (iNATGAS)
- Present Use: Undeveloped land used for natural gas pipe storage
- Zone Designation: MG-2.0 (Manufacturing, General)
- Petition Purpose: To construct and operate a large capacity compressed natural gas refueling station with two fueling areas including fueling dispensers, canopy and accessory storage of fuel, along with associated site improvements

* Newly advertised

Ms. Zhaurova stated that staff received a written request for postponement (for newly advertised waiver) and continuance (for the petitions previously opened) to May 5, 2014 to allow the petition to be heard by a five member board and to allow the Fire Chief to make the determination regarding the re-fueling station and the applicability of the requirements for such a use to be “manned”. This is a postponement for the newly advertised special permit regarding landscaping and a continuance for the two special permits for which a hearing had previously been opened.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to postpone the petition to May 5, 2014.

List of Exhibits

- Exhibit A: Special Permit Application; prepared by innovative Natural Gas (iNATGAS); received January 21, 2014.
- Exhibit B: Grading & Drainage Plan; prepared by Eaglebrook Engineering & Survey, LLC; dated January 17, 2014.
- Exhibit C: Locus Plan; prepared by Eaglebrook Engineering & Survey; dated February 10, 2014.
- Exhibit D: Supplemental Locus Plan; prepared by Eaglebrook Engineering & Survey; dated February 10, 2014.
- Exhibit E: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 40 Quinsigamond Avenue – Special Permits Application; dated February 21, 2014; revised April 2, 2014.
- Exhibit F: Email and supplemental information from Michael Manning, applicant to Nancy Tran, DPRS re: 40 Quinsigamond Avenue – Additional information for ZBA; dated February 20, 2014, including:
- a) Permit Site Development Plans; prepared by Eaglebrook Engineering & Survey, LLC; dated January 17, 2014; received February 14, 2014;
 - b) Vehicle Access Plan;

- c) Equipment specifications for iNATGAS – Worcester CNG Station
- d) Draft Emergency Response Plan for iNATGAS, LLC; prepared by iNATGAS, LLC; dated February 10, 2014

Exhibit G:

- a) Project Review Sheet from John P. Powers, Fire Department re: 40 Quinsigamond Ave; undated.
- b) Memorandum from the Worcester Fire Department’s District Chief John P. Powers to the Zoning Board of Appeals; re: iNATGAS CNG Refueling Station Special Permit Hearing; dated February 24, 2014.
- c) Memorandum from the Worcester Fire Department’s District Chief John P. Powers to the Zoning Board of Appeals; re: iNATGAS CNG Refueling Station Special Permit Hearing 40 Quinsigamond Ave; dated March 26, 2014.

Exhibit H: AVSG Webpage Print-outs; 2/21/2014. <http://cngnewengland.com/>

8. 9 Richards Street (ZB-2014-004)

Variance: Relief of 1 ft. from the 55 ft. frontage dimensional requirement (Article IV, Table 4.2)

Petitioner: Thang Nguyen

Present Use: A vacant lot

Zone Designation: RG-5

Petition Purpose: To construct a two-family detached dwelling on the property with an attached two-car garage and provide 2 off street parking spaces along with associated site work.

Public Hearing Deadline: ~~3/27/14~~, 4/7/14

Constructive Grant Deadline: 5/1/2014

Tim Callahan, Whitinsville, MA resident, requested a postponement to May 5, 2014 on behalf of the applicant.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 4-0 to postpone the item to May 5, 2014 and extend the constructive grant deadline for the variance to May 20, 2014.

List of Exhibits

Exhibit A: Variance Application; prepared by Thang Nguyen; received January 29, 2014.

Exhibit B: Variance Plot Plan (with rendering); prepared by Hawk Consulting, Inc.; dated January 24, 2014.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 9 Richards Street; dated April 2, 2014.

Exhibit D: Request for Postponement and Constructive Approval Extension from Thang Nguyen, applicant to the Zoning Board of Appeals; dated March 13, 2014.

UNFINISHED BUSINESS:

9. 12 Laurier Street (ZB-2013-056)

Variance: Relief of 4.8 ft. from the 8 ft. side-yard setback dimensional requirement for a single-family detached dwelling in a RS-7 Zoning District (Residence, Single Family)

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

Petitioner: William Lepage

Present Use: A single family detached dwelling

Zone Designation: RS-7.0

Petition Purpose: Petitioner seeks to construct a ~384 SF two car attached garage along the western side of the building.

Constructive Grant Deadline: 4/9/2014

William Lepage, 9 Second Ave in Dudley, MA, stated that the petition purpose was for a one car attached garage. He stated that the owner had a pre-existing non-conforming garage which was taken down last year because it was structurally unstable. He stated that the owner is looking to rebuild the garage.

Ms. Zhaurova stated that the petitioner seeks to construct a ~384 SF one car attached garage along the western side of the building which is non-compliant with the side yard setback. She reminded the Board that they had previously continued this item per staff's recommendation because the applicant did not provide the 2 required parking spaces. She stated that the applicant submitted supplementary findings of facts and a revised floor plan showing an additional overhead door at the rear of the proposed garage which allows access to the second required off-street parking space, just to the south of the structure.

Ms. Zhaurova stated that a neighborhood analysis showed that 60% of other dwellings in the immediate area are non-compliant with regards to the side yard setback and that such construction did not appear to be out of character.

Mr. Haddon stated that he thought it was unusual to go through a garage to access a parking space and asked if the garage could be shifted back to allow for a more conventional parking configuration in front of the garage. Mr. LePage stated that they would not be able to comply with the other required setbacks if the garage was constructed in that manner.

Mr. Kelly stated that while unconventional it would comply with Code requirements.

Mr. LePage stated that he was amenable to the conditions of approval staff proposed.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to close the hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 4-0 to approve the findings of fact as modified by staff, and the petition with the condition of approval that provided the project is constructed in accordance with the plot plan prepared by B&R Survey, Inc., dated September 8, 2013 and the revised floor plans prepared by William LePage, dated February 10, 2014 submitted on file with the City of Worcester and in compliance with all governmental codes and to extend the constructive grant deadline to May 20, 2014.

List of Exhibits

- Exhibit A: Variance and Special Permit Application; prepared by William LePage; received November 1, 2013; revision received 2/10/14.
- Exhibit B: Plan for Variance; prepared by B& R Survey, Inc.; dated September 8, 2013; received November 1, 2013.
- Exhibit C: Floor Plan and Details; prepared by William LePage; undated; received November 1, 2013; revision dated 2/11/14, received 2/10/14.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 12 Laurier Street; dated January 30, 2014; revised 2/19/14, 4/2/14.
- Exhibit E: Request for Postponement (2/13/14 to 2/3/14) from William LePage to the Zoning Board of Appeals; dated December 17, 2013; received December 31, 2013.
- Exhibit F: Request for Postponement (2/3/14 to 2/24/14-hearing; 2/25/14 to 4/9/14-constructive grant) from William LePage to the Zoning Board of Appeals; dated and received 2/3/14.

10. 55 Linden Street & 15 John Street (ZB-2014-005)

Special Permit: To allow professional office use in an RG-5 (Residential, General) Zone (Article IV, Section 2, Table 4.1)

Special Permit: To modify the landscaping requirements, with respect to the 5 ft. landscape buffer (Article IV, Section 7, A, 2)

Petitioner: Porras Realty Corp

Present Use: An existing professional 6,720 SF office building with 35 associated off-street parking spaces located at 55 Linden Street and vacant lot located at 15 John Street

Zone Designation: RG-5

Petition Purpose: To create five additional off-street parking spaces along with associated site improvements at 15 John Street (for a total of 40 parking spaces between the two properties) and to allow professional office use in an RG-5 (Residential, General) zone for property located at 55 Linden Street and 15 John Street

Public Hearing Deadline: 4/17/14

Attorney Jonathan Finkelstein introduced Arthur McCully, Victoria Porras, and Robert O'Neil. Mr. Finkelstein stated that in 2009 there used to be a three decker at 15 John Street that was demolished because of its deteriorating condition. He stated that the owners wanted to put in a parking lot and that the work had started but was stopped once they realized that they needed a special permit.

Mr. Finkelstein stated that they hope to construct five additional accessory off-street parking spaces and access stairs at 15 John Street associated with an existing office building at 55 Linden Street. He stated that both properties are located in the RG-5 (Residence, General) district and that no changes are planned for the Linden Street property. He stated that the property has a variance for use on record and since such relief is no longer compliant with the Zoning Ordinance, they applied for the Special Permit from the Board to clean up the approvals. He added that they are

seeking an additional Special Permit from the Board to modify the landscaping requirements, with respect to the 5' landscape buffer.

Robert O'Neil stated that he prepared the plans for this project. He stated that the purpose is to create an additional five parking spaces. He stated that they have built in a large snow storage and back up area to the site. He stated that the impervious area created will be approximately 2,700 SF and that a catch basin would capture runoff, tied to the City's drainage system. Mr. O'Neil stated that they are also proposing to install wooden stairs to allow access to the upper parking lot. He stated that there is an existing retaining wall that does not exceed 4 ft. in height and the proposed landscaping is what currently exists at 55 Linden Street.

Mr. O'Neil stated that staff suggested they provide a minimum 15' long landscape buffer with a mix of trees and shrubs along the front of 15 John Street to screen the parking area and the applicant is amenable to that. Mr. O'Neil stated that the request to provide a guardrail/fence or other approved protective measure on the retaining wall if over 4' is not required since the retaining wall is under 4'. He stated that there is an existing guardrail between the upper and lower parking lot and a stockade fence that bounds the other sides of the lot.

Mr. O'Neil stated that the landscaping bed at the rear of the property is 4'8", just under the required 5'. He stated that there are two existing handicapped spaces that are not currently labeled but they will label them and that they are amenable to the conditions of approval.

Ms. Zhaurova stated that the applicant is asking for waivers for two application requirements:

- Site plan showing and labeling abutters within 300'; and
- Site plan showing the entire 55 Linden Street site.

She stated that staff is amenable to both waiver requests. She clarified that the Variance for the use was granted in 1977 and it is no longer legal and that the special permit for the use would cure this non-conformity.

Mr. Kelly asked if the handicapped spaces have a level area to enter the building. Mr. O'Neil stated that they are already existing spaces, but did.

Ms. Zhaurova stated that the landscaping key should clarify that the landscaping is existing and should specify the species of trees onsite. Mr. O'Neil stated that he will update it as requested.

Mr. Wanat asked if the handicapped spaces were labeled and Atty. Finkelstein stated that they are not currently labeled but that will be remedied so as to comply with the Americans with Disabilities Act standards.

Upon a motion by Mr. Loew and seconded by Mr. Haddon, the Board voted to close the hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 4-0 to accept the findings of fact as modified by staff, approve the waivers requested, and approve the petition subject to the following conditions:

1. Submit six (6) copies of a revised plan with the following modifications including a note on the plans stating conditions of approval:
 - a) Provide a 5' wide, minimum 15' long, landscaping buffer along the front of 15 John Street (parallel to John Street) with a mix of trees and shrubs to screen the parking area;

- b) Revise plans to identify tree species on the plan, including a clear landscaping key, and distinguish between existing/proposed landscaping;
 - c) Provide a guardrail/fence or other approved protective measure on any retaining walls over 4’;
 - d) Indicate the quantity of handicapped parking spaces provided on site;
2. That the existing two handicap accessible parking spaces will be striped and signed in accordance with ADA regulations; and
 3. That the project be constructed in substantial accordance with the final revised plan submitted on file with the City of Worcester and in compliance with all governmental codes.

List of Exhibits

- Exhibit A: Special Permit Application; prepared by Porras Realty Corp; received February 11, 2014.
- Exhibit B: Existing Conditions Plan & Parking Lot Plan for #15 John Street; prepared by Malley Engineering Co., Inc.; dated October 21, 2013.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 55 Linden Street & 15 John Street – Special Permit Applications; dated April 2, 2014.

11. 104 Armory Street (ZB-2014-010)

Variance: For relief of 68.52 ft. from the 160 ft. of frontage dimensional requirement (Article IV, Section 2, Table 4.2).

Petitioner: South Worcester Neighborhood Improvement Corporation

Present Use: A vacant lot

Zone Designation: BL-1.0

Petition Purpose: To construct a two-story multi-family low-rise structure with four dwelling units and 8 accessory off-street parking spaces along with associated site improvements.

Public Hearing Deadline: 5/8/14

Constructive Grant Deadline: 6/12/14

Ron Charette, Executive Director of South Worcester Neighborhood Improvement Corporation (SWIC), stated that this parcel used to be known as the City Builders Lumberyard. He explained that when SWIC acquired 10 years ago, their goal was to create affordable rental units and they have built the property at 140 Grand Street. He stated that the goal is to bring families to the neighborhood and create permanent housing, so SWIC has partnered with the family shelter, Village at Cambridge, to develop units to be used specifically for residents of the shelter. He stated that Central Mass Housing Alliance will provide ongoing case management and that SWIC will provide the social service support that the families need.

Mr. Charette stated that this project will benefit the Canterbury Street Elementary School by bringing more children into the neighborhood and that they hope the South Worcester Industrial Park (SWIP) development will provide employment opportunities.

Ms. Zhaurova stated that the applicant seeks to construct a low-rise multi-family structure with four dwelling units and eight accessory off-street parking spaces on a vacant lot. The 68.52' frontage relief requested represents ~43% of the required dimensional requirement for the proposed residential use within the district (91.48' provided; 40' per dwelling unit, 160' total required). She indicated that the plans provided, while architectural, are to-scale and that the existing frontage is based on a plan prepared by a registered surveyor. She stated a copy of the surveyed plan of land is reduced in scale.

Ms. Zhaurova stated that 10% of the lot area is to be used for recreational purposes. She stated that the plans show the area in SF but do not clearly delineate the boundaries therefore revised plans will be required that show this requirement clearly. She stated that a rendering is needed and that some areas in the plans are shown as landscaped but the actual landscaping is not shown. She stated that some of the landscaping is required where the parking abuts a residential use. She referred the Board to the conditions of approval outlined in the staff memo.

Mr. Charette stated that the conditions of approval were acceptable. He stated that a community garden is proposed as well as a Bocce court for the use of the residents.

Mr. Michajlow stated that he thought the project would be great for the area. Mr. Loew agreed but wanted to see a rendering to ensure that the structure would fit with the character of the neighborhood.

Mr. Charette stated that it would be similar in design to 140 Grand Street and would blend well into the neighborhood with the selected colors and architectural features. He stated that the structures will have clapboard siding to resemble the three deckers that used to be in the neighborhood.

Mr. Kelly stated that he has worked with the architect that is on this project and the designs tend to be more contemporary in style and well-constructed.

Architect Dan Brainer, Horne & Johnson Architects, arrived and presented the renderings that showed elevations and landscaping.

Ms. Zhaurova stated that she needed time to review the plans to verify that the project is compliant with the 10% open space requirement.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to close the hearing.

Upon a motion by Mr. Loew and seconded by Mr. Haddon, the Board voted 4-0 to approve the petition subject to the conditions of approval in the staff memo.

List of Exhibits

Exhibit A: Variance Application; received [date]; prepared by [Applicant Name].

Exhibit B: Plan of Land Plan prepared by O'Driscoll Land Surveying Co.; dated November 11, 2009; and submitted March 4, 2014.

Exhibit C: Site Context Plan and Site Plan; prepared by Horne + Johnson/StepONE; dated and received March 4, 2014.

- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 104 Armory Street; dated April 4, 2014.
- Exhibit E: Renderings prepared by Dan Brainer, Horne & Johnson Architect, submitted April 7, 2014.

12. 21 Heywood Street (ZB-2014-011)

- Special Permit:** To allow a Personal Wireless Service Facility (PWSF) in the RG-5 Zoning District
- Petitioner:** Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless
- Present Use:** An apartment building within an area zoned RG-5 (Residential, General). In November 2013 AT&T Wireless was approved for a personal wireless service facility on the roof which is pending installation.
- Zone Designation:** RG-5
- Petition Purpose:** To mount four (4) directional panel antennas in three arrays on top of the existing roof penthouses of 21 Heywood Street. Also proposed on site are coax cables, a 30 kW generator on a concrete pad, and two HVAC units on the ground level. This facility will be one of two installations to replace an existing Personal Wireless Service Facility located at 25 Winthrop Street (St. Vincent's Hospital), which will consequently be removed.

Public Hearing Deadline: 5/8/14

Carl Gehring, representing Verizon Wireless (VW), introduced Carey Dever (VW Real Estate Department), Dr. Don Haes (Independent Health Physicist), Doug Sheadel (Acoustical Expert), and Keith Vellante (Radio Frequency (RF) Engineer). Mr. Gehring reviewed the application packet contents and stated that there is an existing installation on the roof of the old St. Vincent's Hospital building that needs to be decommissioned as Worcester Academy bought the building and want the installation removed. He explained that even if that site had remained, VW needs to split the service into two sites because there is not enough power produced by one installation to service everyone in the vicinity. Mr. Gehring stated that 21 Heywood Street is one site proposed as a replacement and that the Senior Center, nearby, will house the second site. He stated that VW will come back before the Board in the near future for approval on the second site. Mr. Gehring reviewed the coverage and topographical maps with the Board members.

Mr. Gehring stated that Dr. Haes' report shows that they are compliant with RF emissions and submitted an updated version of the report that accounts for the AT&T's installation as well as the proposed installation (Exhibit G). Mr. Gehring stated that their equipment will be inside the building but there are two aspects that could produce noise: HVAC condensers and an emergency stand-by power generator. He stated that Mr. Sheadel produced a report that concludes that VW will be compliant with City standards in regards to noise levels.

Mr. Gehring stated that they will have stealth shielding surrounding the exterior of the installation to ensure it blends in with the building.

Ms. Smith stated that the existing building on the property is a multi-family high-rise dwelling and that the applicant is proposing to construct an additional penthouse on top of an existing roof-top penthouse. She stated that the installation will be ~75' above ground level while the equipment cabinets will be in the basement. Ms. Smith stated that the location of the generator is not subject to a side-yard setback but that staff recommends a wooden stockade fence be installed surrounding the generator instead of the chain-link fence proposed. Ms. Smith asked about the timing for any generator testing and asked that it does not occur at the same time AT&T will test their generators.

Mr. Gehring stated that the generator testing can be programmed anytime the board wants.

Ms. Smith stated that the applicant requested several waivers which are listed in staff's memo. She stated that staff recommends approval of all waivers except the following:

- Architectural or graphic representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the Personal Wireless Service Facility.
- Equipment brochures for the proposed Personal Wireless Service Facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- Materials of the proposed Personal Wireless Service Facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

Ms. Smith stated that the applicant indicated that some of these shouldn't be required since the equipment will mostly be inside, but that ultimately it's up to the Board to decide if what was submitted was sufficient. She stated that if approved, staff recommends the City's standard conditions of approval for Personal Wireless Service Facilities and that:

1. That the structure is constructed in substantial accordance with the site plan and the photo simulation package dated January 29, 2014 prepared by Advanced EG Engineering Group and submitted by Verizon Wireless on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.
2. Any scheduled backup generator testing take place mid-day (12 noon) so as to minimize the disturbance to the tenants of the residential building and be off-set with the testing of any previously approved generators.
3. Provide equipment brochures, materials, and colors for all proposed equipment, antennas, mounts, etc.;
4. Provide a statement explaining how access will be restricted to the roof-top;

Landscaping:

5. Screen the proposed generator by a minimum 6 ft. wooden or simulated-wood stockade fence.

Mr. Loew stated that the applicant should provide the equipment brochures. He also asked if the applicant still needed to provide completed tax certification form also signed by the property

owner. Ms. Smith stated that she confirmed with the Law Department that the affidavit the applicant provided from the owner is sufficient; therefore that condition of approval is not needed.

John Provost, 4 Castle Street, stated that he has an electromagnetic hypersensitivity and is concerned about the effects this might have on the residents of the building and those within a ¼ mile radius.

Mr. Haes stated that the antennas proposed are not omnidirectional antennas; they are proposing directional antennas that are aimed at the horizon. He explained that the energy is coming straight out versus the energy hitting the ground is at a differential factor of 1,000, meaning there is not a lot of energy coming down to ground level. He stated that in his report he addresses the calculations within the building, where there would be emissions 400 times below than what is allowed by the FCC.

Mr. Provost stated that he has heard that the residents of the top floors of the Webster Tower allege an increase in cancer. He stated that he has seen studies in Germany that show increases in cancer within a ¼ mile of these installations.

Mr. Michajlow stated that a post installation measurement of these frequencies will be a condition of approval and that compliance is based on federal standards.

Mr. Haes stated that he has been a member of the International Committee on Electromagnetic Safety (ICES) for the past ~25 years, a group that publishes the IEEE American National guidelines and standards for exposure to radio frequency energy. He stated that as part of ICES, he has reviewed these studies and stated that there is no credible scientific evidence that these frequencies are carcinogenic, cancer promoting, or cancer initiating. He stated that the American Cancer Society, ICES, European Commission, Canadian Safety Code, and the World Health Organization all agree that this type of energy can cause cancer. He explained that this type of energy is different from ionizing radiation (ex. x-rays), which can cause cancer.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to close the hearing.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 4-0 to approve the petition subject to the following conditions of approval:

1. **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;
2. **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;
3. **Post-installation measurement of sound and RFR:** 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;

4. That the structure is constructed in substantial accordance with the site plan and the photo simulation package dated January 29, 2014 prepared by Advanced EG Engineering Group and submitted by Verizon Wireless on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.
5. Any scheduled backup generator testing take place mid-day (12 noon) so as to minimize the disturbance to the tenants of the residential building and be off-set with the testing of any previously approved generators.
6. Provide equipment brochures, materials, and colors for all proposed equipment, antennas, mounts, etc.;
7. Access to the roof-top will be restricted;

Landscaping:

8. Screen the proposed generator by a minimum 6 ft. wooden or simulated-wood stockade fence;

and provided the project is in accordance with the plot plan, dated February 18, 2014 and renderings, dated 1/29/2014, submitted on file with the City of Worcester and in compliance with all governmental codes.

The Board approved waivers for the following application filing requirements (Article IV, Section 12, D, 7, d):

ii. Location Filing Requirements:

- 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.

iii. Siting Filing Requirements:

aa. A one-inch equals forty-feet vicinity plan showing the following:

- Vegetative cover on the subject property and immediately abutting adjacent properties.
- Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
- Distances, at grade, from the proposed Personal Wireless Facility to each building on the vicinity plan.

- Contours at each two feet AMSL (Above Mean Sea Level) for the subject property and adjacent properties within 300 feet.
 - All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
 - Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from “Sight Lines” subsection below
- bb. Sitting elevation or views at-grade from the north, south, east and west for a 50-ft radius around the proposed PWSF plus from all existing public and private roads that serve the subject property. Elevations shall be at either 1/4 in. equals 1 ft. or 1/8 in. equals 1 ft. scale showing the following:
- a. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
 - b. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot topographical contours.
- iv. Design Filing Requirements:
- ff. Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
 - gg. 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.
- vi. Radio Frequency Radiation (RFR) Filing Requirements: The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed Personal Wireless Service Facility, for the following situations (an actual in-the-field study should be done to measure existing RFR):
- aa. Existing, or ambient: the measurements of existing RFR.
 - bb. Existing plus proposed Personal Wireless Service Facilities: maximum estimate of RFR from the proposed Personal Wireless Service Facility plus the existing RFR environment.

List of Exhibits:

Exhibit A: 21 Heywood Application; received 3/11/2014; prepared by Gehring & Associates, LLC.

- Exhibit B: 21 Heywood Plans; dated 2/18/2014; prepared by GE Advanced Engineering Group.
- Exhibit C: 21 Heywood Renderings; dated 1/29/2014; prepared by GE Advanced Engineering Group.
- Exhibit D: Waivers Requested re: 21 Heywood Street; dated March 3, 2014 and received March 31, 2014; Supplemental received April 7, 2014.
- Exhibit E: Calculations and certificate of projected RFR re: 21 Heywood Street; received March 13, 2014.
- Exhibit F: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 21 Heywood Street Special Permit; dated April 4, 2014.
- Exhibit G: Updated calculations and certificate of projected RFR re: 21 Heywood Street; received April 7, 2014.
- Exhibit H: Diesel Engine-Generator and Heating & Cooling Equipment Brochures; received April 7, 2014.
- Exhibit I: Atlantic Concealment CellCore Panel Datasheet Brochure; received April 7, 2014.

OTHER BUSINESS:

13. Communications – No comments were made on the following communications:

- a. Environmental Notification Form, 40 Quinsigamond Avenue – Proposed Worcester Regional Transit Authority Vehicle Maintenance and Operations Facility
- b. Superior Court Notice of Complaint for Judicial Review; re: 3 Homer Street Variance Petition, Plaintiffs v. City of Worcester Zoning Board of Appeals (14-0512A); dated March 14, 2014; received March 17, 2014.
- c. Superior Court Notice of Complaint and Appeal; re: 73 Downing Street Administrative Appeal, Plaintiffs v. City of Worcester Zoning Board of Appeals (14-0539D); dated March 20, 2014; received March 20, 2014.

14. Signing of Decisions from prior meetings

No decisions were signed.

APPROVAL OF THE MINUTES:

The January 13, 2014 minutes were not available.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to approve the March 17, 2014 minutes with no edits.

ADJOURNMENT

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 4-0 to adjourn at 7:09 pm.