

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

May 19, 2014

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN CHAMBER

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

Zoning Board Members Absent: None

Staff Present: John Kelly, Inspectional Services
David Horne, Inspectional Services
Domenica Tatasciore, 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

Chair Abramoff called the meeting to order at 5:30 p.m.

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

1. 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~~, 5/5/14; Constructive Grant Deadline: ~~5/1/14~~, 5/20/14

Ms. Zhaurova stated that on May 6, 2014 staff received a request for Leave to Withdraw Without Prejudice given that the applicant purchased additional land and no longer needs the variance.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 5-0 to grant the Leave to Withdraw Without Prejudice.

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, revised April 30, 2014, May 15, 2014.
- Exhibit D: Request for Postponement and Constructive Approval Extension from Thang Nguyen, applicant to the Zoning Board of Appeals; dated March 13, 2014.
- Exhibit E: Request for a Leave To Withdraw Without Prejudice; e-mail on 5/7/2014; re: FW: Cancellation of zoning board hearing.

NEW BUSINESS

2. 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, 5/5/14, 5/19/14;

Constructive Grant Deadline: 5/22/14, 6/17/14

Attorney Jonathan Finkelstein, on behalf of the applicant, stated that Mr. Conlin purchased the property in March 2009 and at the time of purchase, there was a family living in each one of the three floors, thus Mr. Conlin believed it was a three-family. He stated that it was a private sale and no broker was involved. He stated that in November 2013 a zoning violation was reported to Inspectional Services who later found that no permit had been issued for the third floor unit. He stated that Mr. Conlin attempted to file for a building permit but Inspectional Services denied the building permit request and issued a cease and desist in January. Attorney Finkelstein stated that he filed for an appeal hoping to find evidence that would allow the applicant to use the third unit but that he found no such evidence to challenge the Building Commissioner's decision that the structure is a legal two-family structure. He stated that he did not want to withdraw his appeal because he wishes to preserve Mr. Conlin's right to appeal if evidence is later found that proves this was a grandfathered three-family structure.

Mr. Finkelstein stated that they are presently under a Housing Court order to vacate the unit and will be sending a notice to quit to the third floor tenant.

Ms. Zhaurova stated that the oldest zoning map on record is from 1973. She stated that this record shows that the property was zoned as RS-7 in 1973. She stated that additional dwelling units were allowed in 1973 by special permit but there is no record showing that a special permit was granted. She stated that the City's records show this property as a legal two family.

Mr. Kelly stated that this property has historically been a two-family.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to deny the requested Administrative Appeal; thereby upholding the decision of the Director of Code Enforcement on January 24, 2014 (Exhibit A) that the structure located at 301 Burncoat Street is a two-family dwelling and shall not be permitted to construct a third dwelling unit as such a use is not a permitted use in an RS-7 (Residential, Single Family), Zoning District under the current Zoning Ordinance regulations (per Article IV, Section 2, Table 4.1, Residential Use # 16).

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.
- Exhibit H: Requests for Postponements:
 - a) Dated April 4th to May 5th, 2014 meeting (by Atty. Finkelstein)
 - b) Dated May 5, 2014 to May 19th, 2014 meeting, with extension of the Constructive Grant Deadline to June 17, 2014

3. 0 (aka 71A) Pullman Street (ZB-2014-013)

- Special Permit: For waiver of the landscape buffer and screening requirement
- Special Permit: For relief of 5 parking spaces or 10% of the required parking
- Variance: For relief of 17 parking spaces from of parking requirements
- Petitioner: Seven Hills Ventures, Inc.
- Present Use: A vacant Lot

Zone Designation: MG-0.5 (Manufacturing, General)

Petition Purpose: To construct a 3,000 SF (100 seat) commercial building for use as a restaurant along with 28 off-street parking spaces and associated site improvements.

Public Hearing Deadline: 6/5/14

Constructive Grant Deadline: 7/10/14

James Labone, on behalf of Seven Hills Ventures, Inc., introduced project engineer, Michael Andrade, and Matthew Ormond, Principal of Seven Hills Ventures. Mr. Labone stated that the lot is currently a vacant undeveloped parcel and the intent is to build a restaurant. He stated that the project is to construct a single-story ~3,000 SF building for a 100 seat restaurant. He stated that they are providing 28 off-street parking spaces but that they are required to provide 50 spaces. He explained that they need a restaurant with this seating capacity in order to make this restaurant a viable investment but they cannot provide the required parking onsite given site constraints. He stated that Mr. Ormond expects that the restaurant will employ up to 30 individuals, while only 8 or 9 are expected on site at any time.

Mr. Labone stated that this project will be good for the area, which currently does not have a restaurant. He stated that the lot has been for sale for over 8 years. He stated that while they plan to open at 11:00 a.m., they expect the majority of their traffic to be after normal business hours when there will be plenty of on-street parking available on Pullman Street as well. Mr. Labone submitted an aerial map with the on-street parking marked, it was catalogued as Exhibit E.

Ms. Smith stated that in addition to the ~3,000 SF building the applicant proposes a 16' x 22' covered outdoor seating area along the western lot line. She stated that the proposal would render 67% of the site impervious. She stated that the applicant is seeking 44% relief of the required parking for a 100-seat restaurant (10% by SP, the remaining 34% by variance). She stated that the applicant is required to provide a 5 ft. buffer along the lot lines with properties owned by n/f 71 Pullman Street, LLC and n/f Pullman Street, LLC and has applied for a Special Permit for relief from strict compliance with this requirement. She noted that the applicant is providing a buffer that varies in width from 0 ft. to 4 ft. and requires relief of 1 ft. to 5 ft. at varying points throughout the parking area. She added that there are three trees required by the Ordinance along Pullman Street and the applicant has provided only provided one while along Brooks Street a minimum of three trees are required in the landscaping buffer where parking abuts the street, while the applicant has provided only one tree. She stated that the applicant indicated at the Planning Board hearing that they plan to plant the trees as required by the Ordinance.

Ms. Smith also stated that along Pullman Street, two trees exist, clustered, on the lot line to the southeast of the existing curb cut on Pullman Street, while no trees exist to the northeastern side of the curb cut. She stated that the applicant has not indicated if the trees to the southwest of the curb cut will be retained or if the trees will be planted to the northeast of the curbcut. She stated that the Ordinance requires a minimum of two trees, planted every 25 ft. on center along this easterly lot line. She stated that they indicated at the Planning Board hearing that they plan to plant two additional trees to the northeastern side of the curbcut and retain the existing trees to the South – more than what is required by the Ordinance. She stated that staff recommends a conditional approval as staff has not received revised plans showing such modifications to the proposed landscaping.

Ms. Smith stated, if approved, that Staff respectfully recommends the suggested Conditions of Approval listed on page 2 of the staff's review memo.

Mr. Michajlow stated that he believes the proposal is a great idea for the area but was concerned about the amount of relief requested. He asked if the hardship was not self-inflicted by making the building as large as proposed.

Mr. Lebone stated that the size of the structure was determined by the minimum number of seats required to make this a financially viable restaurant with the maximum amount of parking. He explained that they tried their best to minimize impacts and reduce the amount of relief requested. He stated that he believes the restaurant will be a great addition to the area and would make use of a parcel that does not lend itself to many uses that because of its size.

Mr. Wanat asked if the snow storage space will serve dual purpose. Mr. Andrade stated that it will be used for dumpster access to allow ample turning room and for snow storage.

Mr. Loew asked if the applicant has plans to create an entrance or exit from Brooks Street. Mr. Andrade stated that access from Brooks Street is not feasible due to the slope.

Ms. Tatasciore asked what the neighborhood businesses are, the proposed hours of operations, and whether or not they have communicated about using the abutting property for parking after dark.

Mr. Lebone stated that there is a car wash, fitness center, and a partially vacant building. He stated that his client started discussions with the fitness center but no agreement has been reached and that businesses in the area generally close by 5:00 pm.

Mr. Abramoff stated that he believed there would not be any traffic or parking issues since most of the business will be done in the evening.

Mr. Michajlow asked if the applicant had reviewed the conditions of approval suggested by staff. Mr. Lebone stated that they were amenable to the proposed conditions.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the petition with the following conditions of approval:

1. That the structure be constructed in substantial accordance with the final approved site plan dated March 24, 2014 and with the rendering prepared by Wadsworth & Associates Architects, dated 2/26/14.
2. That 8 copies of final revised plans are submitted to the Division of Planning & Regulatory Services prior to the issuance of a Building Permit showing the following:
 - a. Provide and annotate the book and page number of the access easement abutting Pullman Street;
 - b. Provide specifications for the proposed lighting;
 - c. That a minimum of three (3) trees are provided along Brooks Street and a minimum of two (2) trees are provided along Pullman Street; such shade trees shall be Non-Asian Longhorned Beetle susceptible species of a minimum of 3" caliper and be planted every 20-25 ft. on center;
 - d. Provide an updated landscaping table reflecting the additional trees;

3. That 6 copies of final revised elevation / renderings are submitted to DPRS prior to the issuance of a Building Permit showing:
 - a. Label height in stories;
 - b. Provide exterior materials; and
4. Provided it is in compliance with all governmental codes.

List of Exhibits:

- Exhibit A: 0 Pullman Street Application; received March 26, 2014; prepared by Graves Engineering.
- Exhibit B: 0 Pullman Street Plan; dated March 24, 2014; prepared by Graves Engineering.
- Exhibit C: Rendering; dated 2/26/2014; prepared by Wadsworth & Associates Architects.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 0 Pullman Street Variance & Special Permits; dated May 15, 2014.
- Exhibit E: Aerial Map of Pullman Street with marked on-street parking, received May 19, 2014.

4. 3 Burns Court (ZB-2014-014)

- Variance: For relief of height dimensional requirement (Article IV, Section 4, Table 4.2) to allow habitable third story
- Petitioner: South Worcester Neighborhood Improvement Corporation
- Present Use: A vacant Lot
- Zone Designation: RG-5 (Residential, General)
- Petition Purpose: To construct a three-story two-family residential dwelling, four off-street parking spaces along with associated site improvements
- Public Hearing Deadline: 6/5/14
- Constructive Grant Deadline: 7/10/14

Ron Charette, Executive Director of the South Worcester Neighborhood Improvement Corporation (SWNIC), introduced Dan Brainerd, Horne & Johnson. Mr. Charette stated that SWNIC's objective has been to rebuild rental housing in South Worcester. Mr. Charette stated that in the past they chose an area that was one of the community's safety hazards and built 25 units (140 Grand Street) and it has been very successful and well-populated. He stated that SWNIC's focus with this project is to bring families into the community and help repopulate the Canterbury Street School, which has had a declining population. He stated the project at 3 Burns Court will target families that have been moved into the shelter on Cambridge Street that are looking for affordable housing in the neighborhood where they live and work. He explained that the families will be case-managed by the staff at the Village of Cambridge to ensure they thrive. He stated that this will repopulate the school and provide a workforce for the South Worcester Industrial Park, once the structure is built.

Ms. Zhaurova stated that the applicant seeks to construct a three-story, two-family residential dwelling with four off-street parking spaces and associated site improvements. She stated that the project conforms to all the dimensional requirements except for the number of stories for a two-family (only 2.5 stories permitted, 3 stories proposed). She stated that the applicant had not submitted landscaping plans and if approved, staff recommends the conditions of approval, found on page 1 of staff's review memo.

Mr. Brainerd provided the Board with a copy of the landscape plan and submitted for the record as Exhibit G.

Mr. Abramoff stated that this was a difficult lot and he believed the design would fit in with the area.

Mr. Charette stated that they have plenty of parking, but auxiliary parking would be available at 140 Grand Street. He stated that he was amenable to the proposed conditions of approval.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, 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 findings of fact as modified by staff and the variance requested subject to the following conditions of approval:

1. Six copies (6) of revised plans be submitted with the following modifications:
 - a. Show curbcut and driveway from Burns Court;
 - b. Provide a landscaping plan;
 - c. At least one 3" minimum caliper Asian Longhorn Beetle-resistant shade tree be planted on the property fronting Armory Street in the front-yard setback;
 - d. Each side of the driveway remain as green space (not paved) and is labeled on the revised plan;
2. That the project is constructed in substantial accordance with the final approved plot plan.

List of Exhibits

Exhibit A: Variance Application; prepared by South Worcester Neighborhood Improvement Corporation; received April 1, 2014.

Exhibit B: Plan of Land, 3 Burns Ct; prepared by O'Driscoll Land Surveying Co.; dated February 29, 2012, revised July 24, 2012.

Exhibit C: Site Context Plan; prepared by Horne + Johnson / StepONE; dated April 1, 2014.

Exhibit D: Elevations and Floor Plan; prepared by Horne + Johnson / StepONE; dated March 14, 2014

Exhibit E: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 3 Burns Court – Variance Application; dated May 15, 2014.

Exhibit F: Email between Michelle Smith, DPRS and Dan Brainerd, Horne + Johnson / StepONE; re: 3 Burns Court Zoning Board of Appeals Variance; dated April 16, 2014.

Exhibit G: Landscaping Plans prepared by Horne & Johnson, received May 19, 2014.

5. 50 Water Street (aka 45 Water Street - intersection of Pond & Harding Streets) (ZB-2014-015)

- Variance: For relief of 28.93 ft. from the 120 ft. of frontage dimensional requirement in a BG-3.0 (Business, General) zoning district (Article IV, Section 2, Table 4.2)
- Petitioner: Bay State Investment Fund, LLC
- Present Use: A two-story brick building with ~3,185 SF of retail space on the first floor and ~3,185 SF of warehouse space on the second floor
- Zone Designation: BG-3.0 (Business, General) and within the Mixed Use Development District, Downtown/Blackstone Canal Sign Overlay District, and Blackstone Canal Parking Overlay Districts
- Petition Purpose: To renovate the second story and construct three dwelling units on the second floor.
- Public Hearing Deadline: 6/5/14
- Constructive Grant Deadline: 7/10/14

Attorney Donna Truex, representing the applicant, introduced Ed Murphy, manager of Bay State Investment Fund, LLC. Ms. Truex stated that the applicant wants to renovate the second floor to create 3 one-bedroom units. She stated that the building has frontage on Water Street, Harding Street & Pond Street and that there are storefronts on Harding Street and Water Street, which the petitioner is renovating to relocate his real estate business. She stated that the entrance for the dwelling units will be on Pond Street and that the parking lot will be located on 54 Water Street (entrance on Harding Street). Ms. Truex stated that the applicant will place whiskey barrels with flowers along Harding Street to create the landscape buffer needed since there is no buffer present at this time.

Mr. Abramoff asked if the parking and the landscaping were part of the submitted plans. Ms. Truex stated that they were not.

Ms. Smith stated that the applicant can build two dwelling units by right but that the applicant wants a third unit and that the first floor will serve as retail/offices. She stated that the use for the rear portion of the building had not been determined. She explained that 50 & 54 Water Street are under common ownership so both lots can be used to calculate zoning compliance based on the merger theory. She stated that the lot is pre-existing non-conforming; hence, the applicant is not required to provide landscaping but given that the parking lot abuts the structure staff suggested a landscaping strip or whiskey barrels with flowers to provide a visual buffer along Water Street.

Ms. Smith stated that the lot on 54 Water Street, while not striped, is intended to be used as accessory parking. She stated that because of the overlay districts they are not required to provide additional parking, other than what currently exists, but staff recommended striping the lot.

If approved, staff respectfully recommends the suggested Conditions of Approval that are located on page 2 of the review memo.

Mr. Michajlow asked how the applicant plans to deal with the trash/dumpster.

Mr. Murphy stated that they use a waste management company that picks up the trash weekly. He stated that they will determine if they need a dumpster once a tenant leases the rear portion and if they end up needing one, the dumpster will be placed on a landing that currently exists on the Pond Street side of the parking lot.

Mr. Loew asked how the apartments will be laid out and if they plan to have a rooftop deck/patio. Mr. Murphy stated that two apartments will face Pond Street and one will face Harding Street. He stated that they have to go before Historical Commission but they plan to have rooftop access only to service the existing billboard and mechanicals.

Mr. Abramoff stated that the project seems to be in harmony with the neighborhood.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and the petition with the following conditions of approval:

1. Provide a landscaping strip in the parking area located at 54 Water Street, along the Water Street lot line (where there are no curb cuts);
2. If provided, label the location of any proposed dumpsters and provide screening with a minimum 6 ft. stockade variety fence; and
3. Provide to-scale plan of land or request a waiver from the application requirement;
 - a. Staff would not recommend a waiver for a to-scale plan as the relief sought is for a Variance and therefore the relief should be confirmed.
4. Label parking spaces on the plan;
5. Revise floor plans to reflect “third floor plan” for the plan of the third floor of the structure;
6. That the structure be constructed in substantial accordance with the final revised plot plan dated and with the submitted floor plans prepared by Dixon Salo Architects, dated 7/11/2013.

List of Exhibits:

- Exhibit A: 50 & 54 Water Street Application; received 4/1/14; prepared by Bay State Investment Fund, LLC.
- Exhibit B: 50 & 54 Water Street Plan; dated 7/24/13; prepared by Andrews Survey & Engineering, Inc.
- Exhibit C: Rendering; dated 7/11/13; prepared by Dixon Salo Architects.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 50 aka 45 Water Street Variance; dated May 15, 2014.

6. 517 Park Avenue (ZB-2014-017)

- Special Permit: To allow a food service use with a drive-through in a BG-2.0 (Business, General) zoning district (Article IV, Section 2, Table 4.2, Business Use #6)
- Special Permit: To modify the parking layout with regard to the required drive-through length (240 ft. required, ~110 ft. provided)
- Petitioner: Walid Nahas, of WSA Real Estate LLC
- Present Use: A ~759 SF (15 seats) food-service establishment with a ~121 ft. drive-through lane, covered outdoor seating area (32 seats), and 19 space surface parking lot
- Zone Designation: BG-2.0 (Business, General)
- Petition Purpose: To expand the existing structure on the property to ~2,208 SF (21 seats), remove the covered outdoor seating area, re-configure the layout of the parking area, and shorten the drive-through lane to ~110 ft.
- Public Hearing Deadline: 6/18/14

Norman Hill, on behalf of the applicant, introduced Walid Nahas and Bill Hammill of WSA Real Estate, LLC. Mr. Hill stated that this site has been used as a donut shop with a drive-through for 27 years. It was determined that the site needs two special permits: the first because there is no record of this site being approved for a drive-through; and the second because the applicant has to shorten the drive-through by 11 feet. He stated that they are not changing the length but rather the location position of the service window in order to allow a car to exit the service window without exiting directly onto the street.

Mr. Hill stated that the existing café has two structures which house a total of 47 seats (15 indoor seats and 32 outdoor seats) until the renovations will yield a café with 21 seats. He stated that the site is zoned for this type of use and is surrounded by mostly commercial uses. He indicated that the hours of operation will be from 5:00 am to 9:00 pm and the parking would be restriped but otherwise remain as is. He stated that they are providing the required number of parking spaces.

Ms. Smith stated that the existing restaurant is ~759 SF with a ~480 SF covered outdoor seating area. The proposed addition will include demolition of a portion (front and northeasterly) of the existing building, resulting in a 2,208 SF structure, replacing the outdoor seating and providing a total of 21 seats. She stated that the applicant had not indicated that any screening for the existing dumpster is proposed, therefore staff recommends screening be provided for the dumpster. She stated that while the landscaping on site is an existing non-conformity, the Board cannot require the applicant to provide landscaping where the landscape Ordinance would typically require it, however, staff would recommend the addition of trees and green space where possible.

Ms. Smith stated that existing on the site is a 19 space parking lot and drive though and the proposed re-configuration of the parking area will result in 19 retained spaces with additional impervious areas on the site. She stated that the “squawk box” is located to the rear of the proposed structure ~70 ft. from the nearest residential property and is not proposed to be re-located as part of the changes to the property. She noted that along the northeastern lot line where the property abuts 513 Park Ave, the landscaped buffer is partially paved and the neighbor appears to be using it as part of their driveway. She stated that staff is concerned that there is an easement, although one has not been found in the Registry of Deeds, or because of historical use, requiring a condition regarding the required landscaping buffer would result in the abutting property not being

able to access the rear of their lot. She stated that staff respectfully recommends continuation to allow the law department to resolve the issue of the encroaching driveway and to allow staff to review the revised plans submitted.

Mr. Loew asked if there was an issue with the fees. Ms. Smith stated that staff was unable to calculate the fees accurately without the dimensions of the drive-through area and that staff will follow up with the applicant and the engineer for the missing information and additional fee.

Mr. Wanat stated that it was great that they were consolidating the existing three curb cuts to just two, but he asked if they were one-way. Mr. Hill stated that they were not but his client is willing to make them one-way.

Mr. Hill stated that he was amenable to the conditions of approval wanted to address the abutting neighbor's driveway. He stated that when they paved their driveway, they paved right to his client's fence, which is setback about 5' from the property line. Mr. Hill stated that his client will notify the neighbor and relocate the fence which should still leave plenty of space for the neighbor to access his property, and for the applicant to provide the required landscaping buffer.

Mr. Abramoff stated that he would suggest that a condition be added that traffic does not back up to the public way. Mr. Hill stated that they would accept that condition.

Ms. Smith stated that if the applicant is confident they can provide the landscape buffer then staff would require a continuation. She noted that the Board could also add conditions that the supplemental fee be paid and that the Findings of Fact for Modification of parking layout be submitted.

Mr. Abramoff stated that they would include a condition to provide a landscape buffer on the northeast side of the property and to verify the parking calculations.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 5-0 to approve the following additional conditions: that circulation is to be one-way throughout the entire site; provide a minimum 5 ft. landscaped buffer along the northeastern lot line with property owned by n/f Weatherspoon (aka 513 Park Avenue); that the outstanding application fee is paid; that the applicant provide the Findings of Fact for Modification of parking layout to staff; that staff verify the calculations with regards to the required parking; and that traffic not back up onto the public right of way known as Park Avenue. The Board also approved the findings of fact as modified by staff and the petition with the following conditions:

1. That the applicant provide 6 Copies of final revised plans to DPRS prior to the issuance of a Building Permit showing the below conditions of approval and annotations;

Parking and Circulation:

2. That traffic not back up onto the public right of way known as Park Avenue;
3. That circulation is to be one-way throughout the entire site;
4. Label Circulation (specifically direct traffic to the drive-through and escape / exit lane) and the site striped accordingly;
5. Correct parking spaces to be the required size (8 ft. x 16 ft. for compact parking spaces; 9 ft. x 18 ft. for regular parking spaces);
6. Correct parking table and requirements;

7. Label the length of the drive-through;
8. Handicap placards be provided in addition to striping on-site;

Landscaping & Screening:

9. Provide a landscaping table;
10. Provide a minimum 5 ft. landscaped buffer along the northeastern lot line with property owned by n/f Weatherspoon (aka 513 Park Avenue);
11. Provide additional landscaping (minimum two, 3” caliper shade trees of a non-Asian Longhorned Beetle variety be planted every 20-25 ft. on center) along the northeastern lot line where property abuts that owned by n/f Weatherspoon (aka 513 Park Avenue);
12. Re-locate the additional tree provided along the NW lot line with Park Avenue to be located on the applicant’s property;
13. Show the exact location of the drive-through window and label the distance from the northern lot line along Park Avenue;
14. Label existing and proposed vegetation;
15. Label areas that are to remain as green space, and not be paved, as such;
16. Label and screen the existing dumpster with a min. 6 ft. stockade variety fence enclosure;
17. Label fencing types;
18. That the structure be constructed in substantial accordance with the final revised plot plan and with the submitted rendering prepared by AA Design dated 10/30/2013 on file with the City of Worcester; and
19. Provided it is in compliance with all governmental codes.

List of Exhibits

- Exhibit A: 517 Park Avenue Application; received April 15, 2014; prepared by WSA Real Estate, LLC.
- Exhibit B: 517 Park Avenue Plan; dated November 18, 2013; prepared by Land Planning, Inc.
- Exhibit C: 517 Park Avenue Rendering; dated October 30, 2013; prepared by AA Design.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 517 Park Avenue Special Permit; dated May 15, 2014.

7. 185 Park Avenue (ZB-2014-019)

- Special Permit: To allow Motor Vehicle Service, Repair, Garage & Display in a BL-1.0 Zone (Article IV, Section 2, Table 4.1)
- Special Permit: To allow an Automobile Re-fueling Station in a BL-1.0 Zone (Article IV, Section 2, Table 4.1)
- Special Permit Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Structure (Article XVI, Section 4)
- Petitioner: Mohamed Realty, LLC
- Present Use: An automobile re-fueling station and repair garage along with associated off-street parking spaces; The structure on the premises is existing non-conforming with regard to the rear yard setback (~6.1 ft. provided, 20 ft. required).
- Zone Designation: BL-1.0 (Business, Limited) and RL-7 (Residential, Limited)
- Petition Purpose: To construct a ~600 SF addition for a new service garage bay, to convert the existing service bays into a convenience store, along with associated site work
- Public Hearing Deadline: 6/19/14

Attorney Jonathan Finkelstein introduced Tarak Yateim, applicant, and Hal Choubah, engineer. Mr. Finkelstein stated that the property is currently used as a refueling station with a convenience store and repair garage with three service bays. He stated that he seeks to construct a ~600 SF garage addition for one service bay along the easterly side of the ~2,400 SF building at 185 Park Avenue. He stated that the existing 3 repair bays are proposed to be replaced with an expansion of the convenience store, which is an allowed by-right use and thus not part of Board's consideration. He stated that no changes are proposed to the nine off-street parking spaces currently provided on the premises but that they will reconfigure the layout to provide a handicapped space with a ramp that leads to the building. Mr. Finkelstein stated that they are amenable to making changes to the landscaping plan as suggested by staff. He stated that the existing structure on site is nonconforming with respect to rear-yard setback (~6.1' provided, 20' required) and that the proposed structure meets setback requirements and will not further intensify the existing nonconformity.

If approved, Ms. Zhaurova recommended the conditions of approval, located on page 1 of staff's review memo.

Mr. Wanat asked if there is an existing handicapped space in the lot now. Mr. Finkelstein stated that there was not, but one is proposed with all required signage and the handicapped ramp.

Mr. Abramoff asked if there was a rendering and Hal Choubah showed the Board the renderings stating that the structure will look more like a Cape Cod style home, its more in harmony with the surrounding neighborhood.

Mr. Loew asked about the hours of operation. Mr. Finkelstein stated that the present business is open from 5:00 am to 2:00 am but the proposed convenience store would be open around the clock.

Mr. Abramoff asked about the lighting. Mr. Choubah stated that most of the lighting comes from the canopy which is existing and will remain intact. He stated that the new structure will have wall

packs installed on the side and the back but they will make sure light does not spill over onto the abutting properties. Ms. Zhaurova stated that she recommended that the Board set a metric that the applicant must meet, such as that light does not spillover more than ½ a foot candle.

Mr. Abramoff stated that he would place a condition that the lighting must be approved by staff so that it doesn't infringe on the neighborhood.

Mr. Kelly asked if they were proposing a 6 ft. stockade fence. Mr. Choubah stated that they will replace the existing fence along Dover Street and on the west side of the property and are providing arborvitaes as a buffer between the business and the residential dwellings abutting it.

Beverly Bennett, 64 Dover Street, stated that she was concerned about the traffic and the noise it will create. She was also concerned with the extended hours. She stated that they need to clean up Dover Street citing a pile of leaves that had been there for months and hurts curb-appeal opposite her property and business.

Mr. Finkelstein stated that there will be a 6 ft. stockade fence installed that will alleviate some of Ms. Bennett's concerns.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the additional condition that the lighting provided has no spillover in excess of ½ foot candle and the findings of fact as modified by staff and the petition with the following conditions of approval:

1. That six (6) copies of final revised plans be submitted to the Division of Planning & Regulatory Services addressing the issues below and that the project is constructed in substantial accordance with those plans and staff's recommendations if the Board is amenable.
2. Provide appropriate signage and pavement markings (right turn arrow, thermoplastic application preferred) to designate right-turn only exit from the northeasterly driveway (closest to the Park Avenue and Institute Road intersection); and
3. Red Maple trees are susceptible to Asian Longhorned Beetle. Please propose alternative species and revise the Proposed Landscape Layout (Sheet 4) and landscape schedule;
4. Apply for a Common Victualer License with the License Commission.

List of Exhibits

- Exhibit A: Variance Application; prepared by Mohamed Realty LLC; received April 15, 2014.
- Exhibit B: Proposed Garage Bay, 185 Park Avenue Plan; prepared by Choubah Engineering Group, P.C; dated November 6, 2013; received April 15, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 185 Park Avenue – Special Permit Applications; dated May 14, 2014.
- Exhibit D: Letter of Concern from Konstantina Lukes; re: 185 Park Avenue - Zoning Board of Appeals Special Permit Filing; dated May 8, 2014.

8. 166-172 Stafford Street (ZB-2014-020)

Special Permit Amendment: Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming use of a similar nature (Article XIV, Section 4, C, 2)

Petitioner: 85 Green Street Limited Partnership

Present Use: A ~24,754 SF industrial building previously used as a truck-terminal / distribution center

Zone Designation: RL-7 (Residential, Limited)

Petition Purpose: To amend the previously granted Special Permit (Final Action on November 27, 2007) to use the existing building for Light Manufacturing and Retail Sales (Article IV, Table 4.1, Manufacturing Use #5 and Business Use #26, respectively)

Public Hearing Deadline: 6/20/14

Attorney Robert Longden, on behalf of the applicant, introduced Joseph Bafaro and Herbert Raznik, owners, and Chris Keenan, engineer. He stated that his client requested to amend the previously granted Special Permit for 166-172 Stafford Street to use the ~24,700 SF building on site for Light Manufacturing and Retail Sales uses. He stated that the existing structure was previously utilized as a truck-terminal/distribution center and is presently vacant. The property is located within the RL-7 (Residence, Limited) district which consists primarily of single-family residences, but across the street is a BL-1.0 zoning district and a MG-2.0 zoning district. He stated that this is a pre-existing non-conforming use.

Mr. Longden stated that on October 29, 2007, the Zoning Board granted, with conditions, Special Permits for expansion or change of a pre-existing nonconforming use, requested by 85 Green Street Limited Partnership for the following uses: Business Use #18 – Office, general; (2) Business Use #19 – Office, Professional; and (3) Business Use #29 – Wholesale business or storage. He stated that the building has been vacant for years and the owners have been unable to attract tenants because no one was willing to wait for the owners to obtain the necessary special permit amendments.

Mr. Longden stated that the owners have found a tenant, Image Production Services, which will use the building as a warehouse. He explained that they are located at 1051 Southbridge Street in Worcester and they would like to move their operations from Southbridge Street to the Stafford Street location. Mr. Longden stated that they are requesting light manufacturing because Image production Services does assembly of their goods onsite.

Mr. Longden stated that the hours of operation proposed are 8:00 am to 5:00 pm, Monday through Saturday. He noted that deliveries will occur only during business hours and that there but there only be trucks onsite once a day. He stated that they expect to employ approximately 20 employees and have sufficient parking to accommodate their needs since the site has 64 parking spaces and an existing loading space.

Mr. Longden stated that the memo stated that “it is staff’s determination that proposed Manufacturing Use #5 and Business Use # 26 are nonconforming uses of a similar nature to existing Manufacturing Use #7 because the proposed uses are lawfully permitted (i.e. by-right or by SP) in the following zoning districts in which the existing uses are fully permitted (i.e. by-right) –MG-0.5, MG-1 & MG-2.” He stated that the building will not be expanded or changed and that the site design will be the same in regards to fencing and landscaping.

Mr. Longden stated that they held a neighborhood meeting on May 13, 2014 and there were only three attendees, who had no opposition to the change in use. He stated that the neighbors want to see the property occupied and put to use to avoid the detriment of having a vacant building in the neighborhood.

The proposed site is consistent with the prior uses of the property and will not be a detriment to the neighborhood. Mr. Longden stated that he believed the proposal will enhance economic development in Worcester. Mr. Longden stated that his clients were amenable to the conditions suggested by staff.

Mr. Abramoff asked when the building was built and Mr. Longden answered that it was built in 1960.

Ms. Zhaurova stated that the applicants are requesting a Special Permit Amendment for an Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming use of a similar nature. She stated that according to the Zoning Ordinance definition section, a use of a similar nature is defined as “a change in a privileged nonconforming use to a nonconforming use of a similar nature is a change to any other use that would lawfully be permitted in the same zoning district in which the first use would fully be permitted.” She stated that if approved, staff recommends the conditions of approval, located on page 1 of the review memo.

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

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and the petition with the following conditions of approval:

1. The site complies with the plans submitted on file with the Division of Planning & Regulatory Services
2. That min 6-ft tall stockade fence and plantings along the northerly portion of the site abutting residential uses is provided within 3 months of the Board’s approval (in compliance with the plans);
3. Additional landscaping is provided along Eureka Street (all-season planter boxes are acceptable);
4. And any other conditions of approval relating to hours of operations and deliveries that the Board may find pertinent following the applicant’s response to the questions posed by staff (below) and the Board, if any.

List of Exhibits

- Exhibit A: Special Permit Amendment Application; prepared by 85 Green Street Limited Partnership.
- Exhibit B: 166-172 Stafford St Plan; prepared by Quinn Engineering, Inc.; dated October 16, 2007; last revised March 13, 2014; received April 16, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 166-172 Stafford Street – Amendment to Special Permit Application; dated May 15, 2014.

RECESS

Mr. Abramoff called a five minute recess.

9. 0 Quinsigamond Avenue (formerly 40 Quinsigamond Avenue) MBL 05-022-0102B (ZB-2014-021)

- Special Permit: For waiver of the landscape buffer and screening requirements
- 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: For relief of 10% of the required parking or 15 parking spaces
- Special Permit: For waiver of 2 of the 3 required loading spaces
- Petitioner: Worcester Regional Transit Authority
- Present Use: Vacant land currently used for construction materials storage
- Zone Designation: MG-2.0 (Manufacturing, General)
- Petition Purpose: To construct a two-story ~137,320 SF footprint building to be used as a bus storage and maintenance facility with 135 surface parking spaces, with a 10,000 gallon diesel fuel tank inside the building and a 5,000 gallon gasoline vehicle fueling station to the rear, exterior to the building, along with associated site work

Public Hearing Deadline: 6/18/14

Stephen O’Neil, 35 Bonybrook Road, stated that the Worcester Regional Transit Authority (WRTA) received a \$39 million grant in 2012 and the Commonwealth of Massachusetts is contributing another \$16 million towards this facility. Mr. O’Neil stated that the site they are currently operating out of on Grove Street is too small and farther from the Hub at Union Station. Mr. O’Neil introduced Neal DePasquale, project engineer.

Mr. DePasquale stated that DPW assigned an address to this site as 42 Quinsigamond Avenue. He stated that the site was a former gas manufacturing and has been abandoned by NSTAR for decades. He stated that the WRTA is purchasing 11 acres of the site and is proposing to build a 150,000 SF two-story building. He stated that the purpose of the building is to maintain and operate their fleet, thus the first floor is comprised of three sections: storage, service lanes (for fueling and cleaning), and maintenance bays (lifts, paint booth, body shop). The second floor will house their administration and dispatch operations. He stated that the vehicles will pull out of the facility between 5:00 am and 6:00 am through the main entrance/exit point (across Endicott Street).

Mr. DePasquale stated that the buses return to the site around 8:00 pm through the service lanes to be fueled (diesel) and then into storage. He stated that the vans are fueled by gasoline and the pump is located outside the building. Mr. DePasquale specified that there are two 10,000 gallon diesel fuel tanks and one 5,000 gallon gasoline tank proposed and that all the tanks are outside the building and underground.

Mr. DePasquale stated that they are requesting relief for landscaping because this is an existing NSTAR facility and NSTAR is retaining a portion of the property and onsite there are a number of high-pressure gas lines. He stated that they are proposing landscaping with hearty Asian

Longhorned beetle resistant and drought-resistant plants but will not be able to space them as dictated by the Zoning Ordinance, but instead in areas where there are no gas lines.

Mr. DePasquale stated that they have two main lots, located on the non-secure part of the site. He stated that there is a proposed community meeting room and that the parking area will serve that room and as overflow for Crompton Park.

Mr. DePasquale showed renderings of what the building and landscaping will look like.

Ms. Zhaurova asked the applicant what the correct number of parking spaces provided would be. She stated that the plans show 136 but the applicant states 135. She explained that parking is calculated by gross floor area (GFA) so 1 space is required per 1,000 SF for a manufacturing use. She stated that 136 spaces are required. Mr. DePasquale stated that they were able to pick up a few more spaces and will have 139 spaces based on the proposed square footage. Ms. Zhaurova stated that given that fact the third requested special permit may not be needed.

Mr. Abramoff asked if the office space and community room were taken into account when the parking calculation was done and Ms. Zhaurova stated that she was unsure if staff was aware that there would be office space and a community room upstairs.

Mr. Kelly stated that a parking plan will be needed in which the applicant shows the parking for the manufacturing use, the office use, and the community room. Mr. O'Neil stated that the community room will be used in off hours, so there will be plenty of parking. Mr. Abramoff stated that the manufacturing space needed 136 spaces and the office spaces required another 43 spaces that was a total of 179 spaces without accounting for the community meeting room, thus the appropriate relief has not been advertised. Ms. Zhaurova stated that it was up to the applicant; they could choose to continue the hearing and allow staff to advertise the correct amount of relief or they can reduce the spaces accordingly, etc.

Ms. Zhaurova asked Mr. Kelly if the office space would be incidental to the manufacturing use or is it a separate use that requires parking. Mr. Kelly stated that it would be incidental to running the manufacturing and the assembly room would also be incidental to the entire operation.

Mr. Abramoff stated that the site would require a variance in addition to the special permit for relief of 10% of the required parking. Ms. Zhaurova affirmed this.

Jo Hart, Worcester resident, stated that she believed they should only be providing parking for their employees and receive a variance for the rest.

Mr. Abramoff stated that the variance needs to be tied to a requirement in the Zoning Ordinance and that parking was calculated by the square footage no the number of employees, which can change at any moment.

Mr. O'Neil stated that they would like to request a continue to June 16, 2014.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to continue the item to June 16, 2014.

List of Exhibits

Exhibit A: Special Permit Application; prepared by STV Incorporated; received April 15, 2014.

- Exhibit B: Worcester Regional Transit Authority Bus Maintenance and Operations Facility Plan; prepared by STV Incorporated; dated and received April 15, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: [subject heading]; dated May 14, 2014.
- Exhibit D: Project Review from District Chief John Powers, Worcester Fire Department to the Zoning Board of Appeals; re: 40 Quinsigamond Avenue; undated.

OTHER BUSINESS:

10. Communications

- a. Notice Served re: 73 Downing Street Complaint (Worcester Superior Court Case No. 14-0539 D) – No Comments.

APPROVAL OF THE MINUTES

Upon a motion by Mr. Wanat and seconded by Mr. Michajlow, the Board voted 5-0 to approve the minutes for January 13, 2014 and February 3, 2014.

11. Signing of Decisions from prior meetings

The following decisions were signed:

- 40 Quinsigamond Ave (ZB-2014-013)
- 135 Goddard Memorial Drive (ZB-2014-008)
- 16 Tatman St (ZB-2014-016)
- 981 Grafton St (ZB-2014-007)

ADJOURNMENT

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 5-0 to adjourn at 7:51 P.M.