

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

**January 25, 2010**

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

**Zoning Board Members Present:** David George, Chair  
Leonard Ciuffredo  
Lawrence Abramoff  
Andrew Freilich  
William Bilotta

**Staff Present:** Joel Fontane, Division of Planning & Regulatory Services  
Luba Zhaurova, Division of Planning & Regulatory Services  
John Kelly, Department of Inspectional Services

**REGULAR MEETING (5:30 PM)**

**CALL TO ORDER**

Chair George called the meeting to order at 5:37 PM.

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

- 1. 255 Park Avenue (ZB-2009-101) – Amendment to Special Permit:** Robert Longden, representative for Clear Wireless LLC, petitioner, requested continuance of the item to February 8, 2010 meeting. The Board opened the hearing. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to grant the petitioner's request to continue the hearing to February 8, 2010.

**NEW BUSINESS**

- 2. 102 Russell Street (ZB-2009-103) - Extension of Time for a Variance: 15 feet of relief from the side yard setback requirement and Extension of Time for a Special Permit: Expansion or change of a pre-existing nonconforming use/structure:** Demitrios Vasiliadis, representative for Greek Orthodox Community of Worcester, St. Spyridon, Inc, the petitioner, and Chairman of the Church's Building Committee, is seeking an extension of time for the previously approved Variance for 15 feet of relief from the side yard setback and previously approved Special Permit for expansion or change of a pre-existing nonconforming use/structure to renovate and expand the church building and make improvements to the existing parking lot. Mr. Vasiliadis stated that the petitioner is working with the architect and will prepare a bid in a couple of months. He stated that he is not aware of any concerns from abutters. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff,

## UNFINISHED BUSINESS

3. **5 Bedford Avenue (ZB-2009-091) - Variance: Relief of 250 square feet from the gross dimensional requirement and Variance: Relief of 2.5 feet from the frontage requirement:** Thomas F. Doucette of PAJ Engineering, representative for petitioner, is seeking to construct a single-family detached dwelling. Mr. Bilotta asked whether the land has been surveyed. Mr. Doucette responded that he surveyed the land twice. Mr. Ciuffredo stated that he is opposed to the petition because he believes there are too many properties in the City for sale and not enough buyers. Mr. Doucette responded that a specific family wants to move into the proposed house which would be built to their specifications. Chair George asked whether the family would be living there or if there is a possibility of them selling it. Mr. Doucette stated that this possibility exists. Mr. Abramoff asked if the petitioner met with the neighbors and heard any opposition. Mr. Doucette stated that there are many three-family homes in the area and that he knows of no opposition to the proposal. He stated that he believes there is support for the project because currently the lot is vacant and overgrown with vegetation. Mr. Fontane stated that the plan submitted included a note "Plot layout and plan developed from records on file in the City of Worcester and the Worcester County Registry of Deeds in Worcester MA" therefore leading staff to believe that the plan was not a certified plan. Mr. Doucette distributed to the Board two letters dated January 25, 2010 and October 29, 2007 demonstrating that the property was surveyed twice. He also distributed rear view and side view building elevations (Exhibit A). Mr. Bilotta asked whether Mr. Doucette would stamp and sign the plan certifying that it is a land surveyed plan. Mr. Doucette said yes. Mr. Kelly stated that even if the petitioner receives a waiver from the certified plot plan requirement, per Building Permit requirement, he would still need to submit as-built certified plot plan showing that the setback dimensional requirements are met and showing foundation location. Mr. Freilich expressed his support for the petition and said that he believes the proposed house would fit in with the neighborhood, especially since the front of the house will be facing Bedford Street. Mr. Abramoff also stated his support for the petition and endorsed staff's recommended conditions of approval. Chair George stated that finding #1 with respect to taxes is not a statutory piece. Mr. Doucette explained that if the house gets built, than it can be put on a tax roll. Chair George stated that while he does not usually support variance petitions for residential dwellings given excess of such dwellings in the City, and due to the land overcrowding considerations, he would support this variance as it is minimal and constitutes only a 5% relief from both gross dimensional requirement and the frontage requirement. Mr. Abramoff also noted that construction of the house would also provide jobs. Upon a motion by Leonard Ciuffredo and seconded by Lawrence Abramoff, it was voted 5-0 by David George, Lawrence Abramoff, Leonard Ciuffredo, Andrew Freilich and William Bilotta to close the public hearing. Upon a motion by Lawrence Abramoff and seconded by William Bilotta, it was voted 4-1 with David George, Lawrence Abramoff, Andrew Freilich and William Bilotta voting yes and Leonard Ciuffredo voting no to approve the variance for relief of 250 square feet from the gross dimensional requirement and variance for relief of 2.5 feet from the frontage requirement with the following conditions:

- At least one Asian Longhorned Beetle-resistant shade tree species is planted in the front yard setback.
- Six copies of final revised plans are submitted to the Division of Planning and Regulatory Services prior to issuance of a Building Permit showing a shade tree in the front yard setback and stamped and signed by a certified land surveyor or an engineer.
- Constructed in accordance with the rendering and final revised plans submitted to the Division of Planning and Regulatory Services.

**4. 28 Garden Street (ZB-2009-060) - Special Permit Amendment: To allow a non-accessory sign (billboard) in MG-2.0 zone:** Robert Longden, representative for Lamar Outdoor Advertising Company, the petitioner, is seeking to rebuild an existing single-pole, non-accessory sign by replacing two (2) existing faces with two (2) 14'x48' digital faces and replace the existing monopole with two (2) monopoles. Also present were Kelly Barrett and Bob Messer of Daktronics. Chair George asked that the testimony is kept brief, since this continued item was heard already twice. Mr. Longden described the supplemental materials submitted to the Board that included locations of 4 digital billboards in Providence, RI as well as 30-day 4 traffic reports for 4 digital billboards. He stated that traffic reports from the four pilot programs in Lawrence, Stoneham, and Foxboro showed no evidence of crash increase. Mr. Longden stated that he asked Edward Farley of Mass Highway Department to be present at the meeting, that Mr. Farley declined the invitation and said that the pilot program relied on the experience of the other 44 states. Mr. Bilotta asked how Mass Highway selected pilot locations. Mr. Longden responded that Mass Highway did not select its own locations, but rather selected locations from the list of possible sites provided by billboard companies. Mr. Bilotta asked whether Lamar Outdoor Advertising would consider other sites. Mr. Longden responded that other sites along I-290 are more challenging, and that the proposed location provides the best site visibility and the best site lines.

Ms. Barrett made a slide presentation to the Board providing information about Daktronics digital technology, brightness controls, and digital billboard benefits to the community. She stated that there was no statistical evidence of increase of car crashes after installation of digital billboards. She then showed three videos of driving past digital billboards on a highway in Rhode Island. She stated that the images on the proposed billboards would be displayed 10-seconds apart with less than 1-second transition time and no video capabilities.

Mr. Ciuffredo referred to the Mass Highway letter that recommended the billboard with reservations. He also expressed concern for the selected site where drivers often need to cross two lanes in order to exit the highway. Lastly, Mr. Ciuffredo added that the City is wrapping up sign ordinance amendment and suggested the petitioner comes back to the Board when the amendment is ordained. Ms. Barrett stated that in order to qualify for a pilot program the billboard would have to be erected by April of 2010 and therefore the petitioner cannot wait until the sign ordinance amendment ordination. Mr. Longden suggested conformance with the new sign ordinance as a condition of approval amenable to the petitioner. Mr. Ciuffredo stated his concern with the traffic safety because research shows that less than 20% of all crashes are actually reported, and the so-called 'near-misses' are not.

Mr. Bilotta restated his reservations about the location of the sign.

Mr. Freilich stated that he was hesitant at first about the petition, but is now leaning favorably because he sees the need for this type of signage for the public safety

announcements. He stated he would support the petition with a condition of approval suggested by Mr. Longden that would make the proposed billboard conform with the new sign ordinance. Mr. Freilich stated that he would like to discuss the billboard brightness controls and the amount of white space on the billboard. Ms. Barrett responded that while lighters colors are brighter, the brightness levels of the Daktronics billboards are adjusted to be uniform regardless of the color. She suggested that this could be a condition of approval, and that she would be amenable to a 10-14 second delay between images.

Mr. Longden described four 30-day traffic studies in Lawrence and Stoneham. He stated that similarly to the proposed billboard, those billboards were located along major arteries with significant traffic and often near exit lanes. He said that the studies showed no increase in traffic crashes and therefore the billboards are safe. He also mentioned that other municipalities approved similar billboards through the Zoning Board of Appeals. He added that Massachusetts is the first state to have a pilot program for digital billboards. He disputed information from the studies cited in staff's memo demonstrating that digital signs are inherently dangerous and distracting. He stated that the proposed billboard represents best practices and that the petitioner is amenable to complying with future sign ordinance amendments. He then distributed three letters of support.

Maryl Kowalski asked who will pay for the billboard. Chair George responded that the advertising company would finance it. He then stated that he opposes the petition because he believes that the billboards distract drivers and there are already too many of them in the City.

Mike Schaus of the local ReDiscover company spoke in support of the petition stating that the proposed billboard would give him flexibility of advertising to his clients on a short notice.

Michael Lanava of the Worcester Chamber of Commerce spoke in support of the petition. He stated that there appears to be a lack of billboard inventory in the City and that he believes digital billboards will bring the cost of advertising down which would benefit small businesses in the area.

Chair George stated that in his opinion driver distraction is a better criteria of measuring digital billboard impact than the actual crash data, because advertisements are designed to draw an eye to them. He stated that he does not think the selected site is safe and that safety should override all other considerations. He also stated that he anticipates the new sign ordinance to have provisions for digital billboard use. Mr. Fontane stated that staff is considering several regulation alternatives for digital billboard such as digital-non-digital billboard exchange program for the purpose of reducing visual clutter. He added that the amendment development is in its final stages. Chair George stated that he is not comfortable with the proposed condition of approval that the proposed billboard will meet the requirements of the upcoming sign ordinance, as no one yet knows what it will be. In his opinion.

Mr. Longden stated that the petitioner is proposing to replace a static billboard sign with a digital one, thus not increasing the total number of billboard signs. He then proposed to amend the petition by only seeking to replace the static billboard with digital billboard on the eastbound side of I-290. He also added that at the intersection of I-290 and I-190 there is a C.

K. Smith animated billboard sign that City approved and that a BSC Group's traffic study showed no impact on the crashes at that site as well. Chair George responded that the accessory sign Mr. Longden is referring to did not need a Special Permit from the Board and that the Board would probably not approve it. Mr. Longden stated that distractions due to digital billboards and near-misses the Board is referring to are speculative in nature and that the greatest driving distractions are text-messaging and talking on cell-phones.

Mr. Freilich asked Mr. Fontane when the new sign ordinance will come into effect. Mr. Fontane responded that he hopes to present the amendment in the spring, but that typical process duration for an amendment ordination is 4-6 months. Mr. Freilich stated his support for the project, said that it could benefit small businesses, and recommended that the Board accepts the petitioner's suggested conditions of approval. He also added that unlike texting in the car, seeing the billboard while driving is still within the forward line of site. Ms. Barrett stated that studies have shown that digital billboard where images change every 2 seconds are not safe, and reiterated that the proposed billboard would have a transition timeframe of 0.5 seconds. Mr. Freilich asked how long each customer on average can rent space. Ms. Barrett responded 2-3 weeks. Mr. Freilich asked whether digital billboards might potentially be restricted along I-290 in the upcoming ordinance amendment. Mr. Fontane responded that he cannot comment on this, that a policy discussion among the stakeholders and policy makers will answer these questions, but that the City does not have an anti-sign policy. Mr. Freilich asked whether there is an advantage or disadvantage for the City to participate in the pilot program. Mr. Longden responded that the pilot program takes 12-24 months, and that by not approving the proposal, the City would lose an advantage of benefiting small businesses and would lose the capacity for public announcements such as amber alerts for missing people. Mr. Freilich asked whether the owner is willing to take the risk of having to take down the billboard in case the new sign ordinance would not allow any in that location. Chair George pointed out that the upcoming ordinance amendment would be deliberated at the public meetings by the public, City Council subcommittee and the City Council itself. Mr. Freilich restated his support for the project, and said that the ordinance process is lengthy, and that the Board should make a decision now given the benefits of the billboard for small businesses, wellbeing of the City, and given the fact that the owner would accept financial responsibility.

Chair George stated that unlike Personal Wireless Service Facilities, which are regulated at the federal level and override local decision making, digital billboards are regulated on a local level thus giving the Board the rights to deliberate on the matter. Mr. Ciuffredo proposed to approve a billboard on the eastbound section of I-290 only. Mr. Bilotta asked information about maintenance and security of the proposed billboard. Ms. Barrett stated that the billboard will have a security 4 level. Mr. Bilotta stated that in general he would be in favor of a digital billboard, but not in the selected location.

Mr. Abramoff stated that he does not like to consider safety issues that are beyond his area of expertise. He pointed to some studies that demonstrated safety of the digital billboards, but stated that he did not want to assume reasonability if someone got hurt. He stated that the risks involved should be mitigated by a condition of approval stating compliance with the new sign ordinance.

Mr. Fontane stated that the business case for digital billboard signs was not properly demonstrated and that there are questions that will need to be answered such as how much cheaper it would be for a client to advertise on a digital board, the number of business

owners that are currently using billboards for their advertising needs, and how much more effective digital billboards are than the static ones. Mr. Fontane recognized that as new technology develops, the costs will drop. He noted that while there are studies providing evidence for both sides of the issue, all of them also have flaws, therefore, the reason for approving this petition, if the Board decided to do so, should not be based on possible notion of presence of sound data. He stated that the intent of the upcoming sign amendment is to appropriately regulate, rather than prohibit, signs.

Mr. Longden asked if the Board members would indicate to him how they would be voting. Mr. Ciuffredo and Chair George stated that they would be voting no. Mr. Bilotta stated he would vote no, unless the proposed billboard would be in a different location. Mr. Longden requested a Leave to Withdraw.

Upon a motion by William Bilotta and seconded by Leonard Ciuffredo, it was voted 5-0 by David George, Lawrence Abramoff, Andrew Freilich, William Bilotta, and Leonard Ciuffredo to grant the petitioner's request for Leave to Withdraw Without Prejudice relative to a requested Amendment to Special Permit to allow a non-accessory digital billboard sign in an MG-2.0 zoning district.

The Board took a recess 7:30 – 7:40 pm.

- 5. 280 May Street (ZB-2009-099): Special Permit to allow a Personal Wireless Service Facility and a Variance for relief of 37 feet from the height requirement:** John Markus Pinard, representative for T-Mobile Northeast LLC, petitioner, is seeking a Special Permit and a Variance to allow 4 rooftop antennas mounted on an existing chimney and 4 antennas mounted on a “faux” chimney and an equipment cabinet on the ground in an area enclosed by a stockade fence. Also present were Simon Brighenti, an attorney, Scott Heffernan, Radio Frequency Engineer, and Richard Levit, Temple Emanuel property chairman. Mr. Freilich commended the petitioner for a clear presentation and application package and stated his support for the project with conditions suggested by staff. Mr. Abramoff referred to the Law Department memo dated December 31, 2009 stating that according to the FCC regulations, the petitioner needs to demonstrate to the Board a gap in service coverage. Mr. Heffernan stated that there are two criteria by which gap coverage is measured – in-vehicle coverage and in-house coverage. The proposed antennas would both enhance in-house coverage around Worcester State College and will off-load network traffic from the neighboring heavy in-vehicle traffic sites. Mr. Heffernan added that there is no more space inside cupola for additional antennas, because there are three antennas there already. Mr. Bilotta suggested that maintenance plan be a condition of approval. Mr. Brighenti stated that he would work with the property owner on this issue and would respond if there are any complaints. Mr. Ciuffredo thanked the petitioner for making an effort to mask the antennas and then asked Mr. Levit whether a point of saturation for PWSF installations has been determined. Mr. Levit said that he was not sure, and that the reason behind PWSF installation is that Temple Emanuel needs funds, but that at this point he is not aware of any other carriers that are interested in this location. He added that the building is important to the community and therefore the placement and the looks of the PWSF are considered carefully. Mr. Freilich asked why the 4 antennas that are proposed to be mounted to the existing chimney can not be masked as well. Mr. Heffernan responded that the peak of the roof would be in a way of the signal, and that enlarging the chimney to mask the antennas would not look good visually. Mr. Ciuffredo asked Mr. Fontane to remember when working on the amendment to the

- That the applicant shows compliance with noise level requirements; specifically the requirement that noise levels not exceed 50dba at the base of the building.
- 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.
- 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 period of at least two years, and be adjusted for inflation upon term renewal – every two years. The provisions of said bond shall be to the satisfaction of the Director of Planning & Regulatory Services.
- That an affidavit, signed by the applicant, be submitted that states that the applicant agrees to match the paint of the proposed equipment as closely as practicable to the existing materials within the area of the installation, 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.
- That the signage regulations recommended in the EBI RF study specifically on page: Mitigation Site Control Options be installed and so noted on a final revised plan.
- That the structure is constructed in substantial accordance with the final approved site plan submitted and the photo simulation package on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.
- That the PWSF is in compliance with maintenance regulations in terms of appearance, shrubbery, and fence around the surrounding equipment.
- That the PWSF is built to design plan submitted and agreed to by Division of Inspectional Services with respect to masking of antennas on the roof.

## **NEW BUSINESS**

- 6. 100 Front Street (ZB-2009-102): Amendment To Special Permit: To allow Personal Wireless Service Facility:** Attorney Robert Longden, representative for Clear Wireless LLC, petitioner, is seeking an Amendment to a Special Permit to allow Personal Wireless Service Facility. Also present were Paul Reed, Site Acquisition Specialist for NB&C, LLC and

- The PWSF is constructed and installed in accordance with submitted plans dated December 8, 2009.
- 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.



- That an affidavit, signed by the applicant, be submitted that states that the applicant agrees to match the paint of the proposed equipment as closely as practicable to the existing materials within the area of the installation, 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.
- 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 period of at least two years, and be adjusted for inflation upon term renewal – every two years. The provisions of said bond shall be to the satisfaction of the Director of Planning & Regulatory Services.
- That the structure is constructed in substantial accordance with the site plan submitted and the photo simulation package prepared by Network Building and Consulting, LLC and submitted by Clear Wireless LLC on file with the City of Worcester and in compliance with all governmental codes and the City of Worcester Zoning Ordinance.
- That notice signs are posted at the roof access and at the installation point.

**7. 175 Clover Street (ZB-2009-104): Variance: 32 feet of relief from the frontage**

**requirement:** Brian LaForte, petitioner, is seeking to subdivide the lot and construct a single-family dwelling on the second lot and access through Dixon Avenue. Mr. LaForte stated that in December of 2009 he invited the abutters to discuss the petition and that all but two invited abutters attended the meetings. He stated that while he knows of one abutter objecting to the project due to potential runoff issues, the land slope will require a Site Plan Approval and this issue can be addressed there. He stated that he is planning to construct a house in order retire there with his wife. Mr. Ciuffredo asked staff whether in case the Board grants frontage relief the applicant can build more than one residential dwelling due to a large lot size. Mr. Fontane responded that the Board can condition their approval on constructing just one single-family dwelling and added that in case the petitioner would like to build more than one dwelling, he would either need to seek more relief for frontage requirement or would need to build a subdivision road to obtain frontage.

Marilyn Czajkowski of 10 Dixon Avenue stated that she has lived at this address since 1972, that her property abuts City of Worcester’s Conservation Commission land that has a wetland and a stream, and that Dixon Avenue is a private dead-end street. Chair George asked the petitioner if he will need to file for a Conservation Commission review. Mr. LaForte responded yes. Ms. Czajkowski stated that she is concerned that clearing during construction will create erosion issues and wanted to ensure that her house would be protected. Chair George responded that erosion issues are addressed by the Planning Board during Site Plan Approval process. David Dansoucy of 6 Dixon Avenue expressed concern with drainage toward the end of Dixon Avenue. He also stated that he did not want to have more development, especially multi-family units, without ensuring first proper cul-de-sac and drainage systems. Ms. Czajkowski asked how Mr. LaForte was planning to extend gas line and sewer line to his property. Mr. LaForte responded that the town of Auburn will connect his water and sewer from Dixon Avenue and that the contractor will tunnel a pipe under the existing culvert. Mr. Fontane stated that accessing other lands is outside the purview of the Board.

Mr. LaForte clarified that the lot as shown on the abutter’s map does not reflect the fact that the lot has already been subdivided into two lots – 175 Clover Street and Dixon Avenue lot

and that the two lots are not currently held in common ownership. Mr. Fontane then withdrew his comment with respect to subdivision road.

Mr. Ciuffredo suggested that a condition of approval states that the property is only used for a single-family detached dwelling.

Chair George asked whether or not the front of the house would face Dixon Avenue. Mr. LaForte said yes and stated that he is deliberately proposing to build in the middle of the lot because he would like privacy which indicates that he is not intending to subdivide the land further.

Upon a motion by Mr. Abramoff and seconded by Mr. Ciuffredo, the Board voted 5-0 to close the public hearing. Upon a motion by Mr. Abramoff and seconded by Mr. Ciuffredo, the Board voted 4-1 (with Mr. Abramoff, Mr. Ciuffredo, Mr. Bilotta, and Mr. Freilich voting yes, and Chair George voting no) to approve the variance for 32 feet of relief from the frontage requirement with the following conditions:

- That the variance is granted for a single family residential dwelling, no more than 2-bedroom 2-bathroom.
- That construction is in substantial accordance with an approved definitive site plan and rendering.
- That six copies of the final plot plan are submitted delineating the exact area of the proposed driveway and a note is added to plot plan stating that each side of the driveway is to remain as green space and not be paved.

The Board took a recess 9:40-9:45 pm.

**9. 00, 15, 35 Tobias Boland Way (ZB-2009-106): Special Permit: To allow an automobile refueling station:** Attorney Mark Donahue, representative for Madison Worcester Holdings, LLC, petitioner, is seeking to construct an automobile refueling station of six (6) pumps with twelve (12) fueling stations in conjunction with Sam's Club facility. Also present was Matthew Smith, engineer. Mr. Donahue informed the Board that the petitioner will also be seeking a Site Plan Approval. He stated that the attendant station will not have a retail component. He also said that the petitioner is generally amenable to staff comments but prefers them to be part of the amendment to the Site Plan Approval. In response to request for more information on the fuel storage container, he stated that three 20,000 gallon underground storage tanks (UST) are proposed. They will be double-wall fiberglass tanks with leak detection system on a 24-hour basis. He stated that in the past the site had 10-15 underground storage tanks located closer to the banks of the Blackstone River than the proposed ones. Mr. Donahue then distributed a letter to the Board describing in more detail the proposed UST. He further stated that the proposed system meets or exceeds all federal regulations. Mr. Ciuffredo asked whether or not Fire Department had any comments with regards to this project. Mr. Fontane responded that he was not aware of any comments, but added that the Fire Department will have an opportunity to comment on the project at the Planning Board review stage. Mr. Fontane stated that staff had concerns with respect to the UST as they would be located so close to the floodplain and to the river. Mr. Smith stated that the client has experience installing and maintaining such UST, that they tanks are made of non-permeable fiberglass material, and that the primary design concern would be to anchor them properly in the ground as the high water table presents an issue. Mr. Ciuffredo asked whether the UST would be triple-walled as indicated

in the application. Mr. Donahue responded that the application statement was made in error and that the proposed tanks would be double-walled. Mr. Smith stated that triple-walled tanks are used rarely, usually in the well-head protection areas.

Mr. Smith demonstrated to the Board how the delivery truck would access the site and stated that there would be no more than one delivery a day, often in off-peak hours.

Conrad Decker of Drake Petroleum Company, Inc./Xtramart asked why the petitioner is planning 60,000 gallon capacity for the UST, as usually 20,000-30,000 are proposed. He also asked when construction is anticipated for the proposed use. Mr. Donahue responded that the construction is anticipated in the spring of 2010 and that the number of tanks is a standard operating procedure for Sam's Club.

Upon a motion by Mr. Abramoff and seconded by Mr. Ciuffredo, the Board voted 5-0 to close the public hearing. Upon a motion by Mr. Abramoff and seconded by Mr. Bilotta, the Board voted 5-0 to approve the proposed Special Permit to allow an automobile refueling station with the following conditions:

- That six (6) copies of final revised plot plans are submitted with the following changes:
  - Rename the plan to “Zoning Board of Appeals. Special Permit for Automobile Refueling Station.”
  - Designate two (2) parking spaces for employee parking and label as such on the plan and on the ground.
  - Label one entrance to the site and two exits from the site on the plan and on the ground.
  - Add “landscaping area” label to the landscaping buffer in the southern part of the site.
  - Landscaping for the proposed use (service areas) shall consist of minimum 10 trees (minimum three different Asian Longhorn Beetle resistant species), with a variety of shrubs and grasses planted in between. Minimum of two trees shall be planted in the landscaping buffer along Tobias Boland Way. The landscaping elements (trees, flowering plants, grasses) shall mimic or complement plantings along the Walmart portion of the site.
- That the applicant submits a reference standard to the Division of Planning and Regulatory Services demonstrating that the federal and state standards have been exceeded for the proposed Underground Storage Tank system.
- That canopy signs shall not exceed maximum square footage for signage allowed in the zone.
- That the structure be constructed in substantial accordance with the final revised plot plan, with the submitted rendering prepared by Shade Lawrence O'Quinn Architects, dated December 15, 2009, and with the final approved Amendment to Definitive Site Plan.

## **OTHER BUSINESS**

**Minutes:** Upon a motion by Mr. Bilotta and seconded by Mr. Ciuffredo, the Board approved December 21, 2009 and January 4, 2010 minutes, as amended.

**Decisions:** The Board reviewed and signed decisions.

**ADJOURNMENT**

Chair George adjourned the meeting at 10:30 P.M.