

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

September 19, 2011

WORCESTER CITY HALL, 455 MAIN STREET, LEVI LINCOLN ROOM

Zoning Board Members Present:

Lawrence Abramoff, Chair
Andrew Freilich, Vice-Chair (absent)
William Bilotta
Vadim Michajlow
Kola A. Akindele, Alternate Member (absent)
Timothy Loew, Alternate Member

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 Abramoff called the meeting to order at 5:30 PM.

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

1. **666 Lincoln Street (ZB-2011-033):** Attorney Jonathan Finkelstein requested a postponement of the Special Permit and an extension of the Public Hearing deadline in order to have five members of the Board to consider the petition. Upon a motion by Mr. Loew and seconded by Mr. Bilotta, the Board voted 4-0 to postpone the hearing to October 17, 2011 and to extend the Public Hearing deadline to October 18, 2011.
2. **266 Chandler Street (ZB-2011-040):** Attorney John Shea requested a postponement of the Amendment to the Special Permit and an extension of the Public Hearing deadline in order to have five members of the Board to consider the petition. Upon a motion by Mr. Loew and seconded by Mr. Bilotta, the Board voted 4-0 to postpone the hearing to October 17, 2011 and to extend the Public Hearing deadline to October 18, 2011.
3. **342 Greenwood Street (ZB-2011-049):** Ibrahim Abdulmassih, petitioner, requested a postponement of the Special Permits and the Variances in order to have five members of the Board to consider the petition. Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 4-0 to postpone the hearing to October 17, 2011.

UNFINISHED BUSINESS

4. **3 Lodge Street (ZB-2011-031) – Variance:** Items ZB-2011-031 and ZB-2011-050 were taken contemporaneously. Antoine Abeddy, representative for Andrew Ansara, petitioner, stated that the petitioner is seeking to construct a single-family detached residential dwelling at 3 Lodge Street and to subdivide the existing lot into two. He stated that he will be filing a Frontage Subdivision Approval with the Planning Board shortly. Mr. Abeddy stated that he is a relative of the petitioner and that he is planning to live at the newly constructed single-family dwelling. He presented to the Board Exhibits J, K and L.

Mr. Bilotta asked why the petitioner did not obtain Frontage Subdivision Approval from the Planning Board first. Mr. Fontane stated that the petitioner cannot apply for a frontage subdivision until a variance from frontage requirement is granted by the Zoning Board of Appeals.

Chair Abramoff asked whether the petitioner tried purchasing abutting land to make the lot more conforming. Mr. Abeddy stated no. Chair Abramoff asked when the lot was purchased by the petitioner. Mr. Abeddy said in 1980.

Andre Cassas, representative for the petitioner, referred to Exhibits K and L showing that the front elevation of the proposed dwelling will have architectural details. He stated that the left side of the house will be similar to the right side of the house, but will have 3 windows.

Mr. Michajlow asked why the proposed subdivision line is laid out in this fashion. Mr. Abeddy stated that it was the original subdivision line before the 2 parcels were legally merged.

Chair Abramoff stated that Department of Conservation and Recreation surveys individual properties and plants trees free of charge.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 4-0 to close the Public Hearing.

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 4-0 to approve the requested Special Permit for expansion or change of pre-existing non-conforming use of the future 144 Massasoit Road parcel; a Variance for relief of 1,619 SF from the gross area dimensional requirement; and a Variance for relief of 4.96 feet from the frontage dimensional requirement for the future 3 Lodge Street parcel with the following conditions of approval:

- That the left side of the house will have at least 3 windows;
- That the structure be constructed in substantial accordance with the final approved Definitive Frontage Subdivision and the submitted renderings prepared by Concord Lumber Corporation (dated 8/7/2011 for sheet A-1 and 12/18/2009 for sheet A-2);
- That at least one 3” caliper shade tree (Asian Longhorned Beetle resistant species) be planted in the lot fronting Lodge Street;
- That each side of the proposed driveway remain as green space and not be paved;
- That no Building Permit is issued until a Definitive Frontage Subdivision application is approved by the Planning Board splitting the lot into two parcels, in accordance with the relief granted by the Zoning Board of Appeals;

List of Exhibits:

- Exhibit A: Variance Application; received July 1, 2011; prepared by Andrew and Ann Ansara.
- Exhibit B: Variance Plan; dated June 14, 2011; prepared by B&R Survey, Inc..
- Exhibit C: Rendering of the proposed dwelling; dated June 14, 2011; prepared by B&R Survey, Inc.
- Exhibit D: Decision from the Zoning Board of Appeals denying a request for frontage and gross dimensional relief; August 3, 1987.
- Exhibit E: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 3 Lodge Street (ZB-2011-031); dated August 4, 2011, revised August 26, 2011 & September 16, 2011.
- Exhibit F: Legal Opinion from the City of Worcester Legal Department; re: 3 Lodge Street - request for a Legal Opinion re: common law doctrine of merger; dated 8/16/2011.
- Exhibit G: Zoning Determination Form from the Department of Inspectional Service for 3 Lodge Street / 144 Massasoit Road; received August 24, 2011.
- Exhibit H: Special Permit Application; received August 29, 2011; prepared by Andrew and Ann Ansara.
- Exhibit I: Request to Postpone by the hearing and to extend the public hearing deadline from 8/29/2011 to 9/19/2011; received 8/29/2011.
- Exhibit J: Plan of Land for 144 Massasoit Road and 3 Lodge Street; prepared by B&R Survey, Inc.; dated 9/19/2011.
- Exhibit K: Front elevation of the proposed dwelling at 3 Lodge Street; prepared by Concord Lumber Corporation; dated 8/7/2011.
- Exhibit L: Right side elevation of the proposed dwelling at 3 Lodge Street; prepared by Concord Lumber Corporation; dated 12/18/2009.

5. **3 Lodge Street and 144 Massasoit Road (ZB-2011-050) – Special Permit:** Items ZB-2011-031 and ZB-2011-050 were taken contemporaneously. See above.

NEW BUSINESS

6. **750 Pleasant Street (ZB-2011-044)** - Special Permit to allow a personal service shop in an RL-7 zoning district (Article IV, Section 2, Table 4.1): Jardanka Perl, petitioner, presented the petition. The petitioner is seeking to conduct a private practice of alternative therapies on 900 SF of the single-family residential dwelling. He stated that he believed there wouldn't be a significant increase in traffic as a result of the proposed use, given that Pleasant Street is already a busy street. He stated that he anticipates to have 2-3 employees, including himself and his wife, and does not anticipate more than 8 patients a day. He stated that he plans to

park in the garage in the rear of the property and he will be living in the dwelling and have an office on the first floor.

Mr. Fontane requested that the Board continue the item to the next hearing in order to provide staff time to consult internally on the Zoning Ordinance definitions of personal services vs. professional services as it might have a significant affect on permitting of the petition. Mr. Perl did not object to the continuance of the item.

Attorney Morris Bergman expressed opposition to the project on behalf of several abutters.

Upon a motion by Mr. Loew and seconded by Mr. Bilotta, the Board continued the hearing to October 17, 2011.

7. **157-159 Lake Avenue (ZB-2011-045):** Kevin Kieler of Brady Sunrooms, representative for Darleen O'Connor, petitioner, stated that the petitioner is seeking to construct a 140 SF sunroom in the rear of the single-family dwelling by extending the existing living room area 6-ft to the east (towards Lake Quinsigamond) and to construct 50-SF deck to the south of proposed sunroom extension (right hand side of house). He stated that Conservation Commission has issued a negative determination of applicability in July of 2011 for this project. He submitted sunroom construction drawings (Exhibit D) that demonstrated that the addition complies with the height requirements (per Exhibit C).

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the Board voted 4-0 to close the Public Hearing.

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow, the Board voted 4-0 to approve the requested Special Permit for Extension, Alteration, or Change of a Privileged Nonconforming Structure and a Variance for 6.5-ft from the Side Yard Setback with the following conditions of approval:

- That the proposed sunroom and deck be constructed in substantial accordance with the submitted plot plan prepared by Kevin Jarvis dated 8/15/2011;
- That a lattice is constructed between the proposed addition and the neighboring property;
- That no additional land be paved.

List of Exhibits.

Exhibit A: 157-159 Lake Avenue Application; dated 8/16/2011 received 8/17/2011, prepared by Darleen O'Connor and Kevin Kieler, Brady Sunrooms.

Exhibit B: 157-159 Lake Avenue Plot Plan; dated 8/15/2011; prepared by Jarvis Land Survey

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals re: 157-159 Lake Avenue dated 9/15/2011.

Exhibit D: Sunroom construction drawings prepared by Brady-Built for 157 Lake Avenue; dated 4/8/2011; submitted to the Board 9/19/2011.

8. **173 Mill Street (ZB-2011-047):** Special Permit and Variances: Attorney Paul M. Novak, representative for Speedway Auto Body, LLC, petitioner, stated that the petitioner is seeking a Special Permit for the expansion or change of pre-existing non-conforming use (motor vehicle service/repair); a Special Permit to allow a non-conforming use of a similar nature (motor vehicle sales); and a Variance for relief of 5-ft required landscaped buffer. He stated that the property owner has operated the auto-repair shop since 1970s. Mr. Michajlow asked if the Variance is necessary. Mr. Fontane stated that relief from landscaping buffer requirements can be achieved through a grant of a Special Permit instead of a Variance per determination of a Building Commissioner in February 2007. Mr. Novak requested a Leave to Withdraw Without Prejudice for the Variance.

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the Board voted 4-0 to close the Public Hearing.

Upon a motion by Mr. Loew and seconded by Mr. Bilotta, the Board voted 4-0 to approve the requested Leave to Withdraw Without Prejudice of the Variance for relief of 5-ft required landscaped buffer.

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the Board voted 4-0 to approve the requested Special Permit for the expansion or change of pre-existing non-conforming use (motor vehicle service/repair) and a Special Permit to allow a non-conforming use of a similar nature (motor vehicle sales) with the following conditions of approval:

- That the number of motor vehicles for sale on the premises be limited to three (3) as stated in the application;
- That the motor vehicles for sale be located as shown on the final revised plans;
- That no new permanent or temporary signs aside from price signs in the vehicles be permitted on site;
- That no new lighting be installed on site;
- That the petitioner complies with the 5-ft landscaped buffer on site in the area of the proposed three (3) motor vehicle spaces for sale or seek additional relief;

List of Exhibits.

- Exhibit A: 173 Mill Street Avenue Application; dated 8/18/2011 received 8/18/2011, prepared by Attorney Paul Novak.
- Exhibit B: 173 Mill Street Plot Plan; dated 8/13/2011; prepared by Quinn Engineering.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals re: 173 Mill St. dated 9/15/2011.
- Exhibit D: Letter to Zoning Board of Appeals from Joseph Mikeilian, former Building Commissioner, dated February 21, 2007

9. **175 Chester Street (ZB-2011-036)** - Amendment to Special Permit: Expansion or change of pre-existing non-conforming structure and use (a Personal Wireless Service Facility): Attorney Michael Dolan of Brown Rudnick LP, representative for New Cingular Wireless, PCS, LLC by AT&T Mobility Corporation, stated that the petitioner is seeking to install 3

panel antennas with associated antenna equipment on a City-owned water tower with existing personal wireless service facilities.

Kara and Bruce Stein, abutters, expressed opposition to the project. Mrs. Stein stated that equipment units on the ground close to her property line turn on about every 8 minutes and create a lot of noise. She stated that she complained about the noise to the City's Inspectional Services and the Department of Environmental Protection and that the officials came on site to test sound levels.

Robert and Marcela Jennings, abutters, expressed opposition to the project. Mr. Jennings stated that currently no sound barrier is erected between their property and 175 Chester Street property. She asked that the equipment cabinets are enclosed.

Mr. Dolan stated that the new proposed cabinet would not emit any noise, and that the HVAC cabinet emitting noise is not proposed to be enlarged. He stated that the petitioner will comply with all applicable laws, including the noise ordinance.

Mr. Fontane stated that the entire site, and not just the proposed PWSF, are in front of the Board for consideration. He asked Mrs. Stein what the results of the sound measurements were. Ms. Stein stated that they were 47 decibels inside her bedroom window.

Chair Abramoff recommended that compliance with the sound ordinance is demonstrated at the property line. Mr. Kelly stated that the local ordinance calls for no more than 50 decibels at the property line.

Mr. Dolan proposed to enclose the existing and proposed equipment cabinets in a wooden stockade fence with a noise-attenuating insulation which is at least the height of the cabinets.

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the Board voted 4-0 to close the Public Hearing.

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the Board voted 4-0 to approve the requested Amendment to Special Permit: Expansion or change of pre-existing non-conforming structure and use (a Personal Wireless Service Facility), with the following conditions of approval:

- That a sound-deadening membrane is installed inside the fence to surround all the existing and proposed Personal Wireless Service Facility cabinets on the ground next to the water tank;
- That Arborvitae trees are planted around the fence surrounding those cabinets;
- That a post-installation sound test is conducted at the nearest abutting property line for a time period long enough for the air conditioning unit to turn on at least two times; and that a sound level of no more than 50 decibels is registered at any time during this time;
- That six (6) copies of final revised plans to-scale are submitted to the Division of Planning & Regulatory Services.
- *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;

- *Paint color matching*: 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;
- *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;
- *Post-installation measurement of sound and RFP*: That post-installation measurements of the total noise and total Radio Frequency Radiation emitted by all PWSF on the building 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;
- That the structure is constructed in substantial accordance with the final approved site plan 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;

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 4-0 to approve the petitioner's request for application requirement waivers (Exhibit A-14, as revised).

List of Exhibits:

Exhibit A: Special Permit Application – 175 Chester Street; received 7/13/2011; Prepared by New Cingular Wireless PCS, LLC by its manager, AT&T Mobility Corporation, including:

Exhibit 2 – Report of Radio Frequency Engineer

Exhibit 3 – Radio Frequency Coverage Plot Map

Exhibit 4 – Photo Simulations

Exhibit 10 – Equipment Specifications

Exhibit 11 – Noise Letter

Exhibit 14 – Waiver Requests – revised 9/19/2011

Exhibit 15 – Maximum Permissible Exposure Study

Exhibit B: Special Permit Plan – 175 Chester Street; dated 5/9/11; prepared by Vertical Resources GRP and SAI Communications, received 7/13/2011.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 175 Chester Street; dated 9/16/2011.

10. **39 First Street (ZB-2011-038)** - Amendment to Special Permit: Expansion or change of pre-existing non-conforming structure and use (a Personal Wireless Service Facility): Attorney Michael Dolan of Brown Rudnick LP, representative for New Cingular Wireless, PCS, LLC by AT&T Mobility Corporation, stated that the petitioner is seeking to install 3 panel antennas with associated antenna equipment on a 13 story multi-family high rise dwelling with existing PWSFs.

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the Board voted 4-0 to close the Public Hearing.

Upon a motion by Mr. Bilotta and seconded by Mr. Loew, the Board voted 4-0 to approve the requested Amendment to Special Permit: Expansion or change of pre-existing non-conforming structure and use (a Personal Wireless Service Facility), with the following conditions of approval:

- That the petitioner submit a revised photo simulation more clearly annotating the proposed changes;
- *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;
- *Paint color matching*: 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;
- *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;
- *Post-installation measurement of sound and RFP*: That post-installation measurements of the total noise and total Radio Frequency Radiation emitted by all PWSF on the building 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;
- That the structure is constructed in substantial accordance with the final approved site plan 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;

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 4-0 to approve the petitioner's request for application requirement waivers (Exhibit A-14, as revised).

List of Exhibits:

- Exhibit A: Special Permit Application – 39 First Street; received 7/27/2011; Prepared by New Cingular Wireless PCS, LLC by its manager, AT&T Mobility Corporation, including:
- Exhibit 2 – Report of Radio Frequency Engineer
 - Exhibit 3 – Radio Frequency Coverage Plot Map
 - Exhibit 4 – Photo Simulations
 - Exhibit 10 – Equipment Specifications
 - Exhibit 11 – Noise Letter
 - Exhibit 14 – Waiver Requests – as revised 9/19/2011
 - Exhibit 15 – Maximum Permissible Exposure Study
- Exhibit B: Special Permit Plan – 39 First St; dated 7/2/11; prepared by Vertical Resources GRP and SAI Communications, received 7/22/2011.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 39 First St. dated 9/19/2011.
- Exhibit D: Revised Waiver Request, prepared by John Markus Pinard on behalf of AT&T, received by email September 19, 2011.

11. **25 Winthrop Street (ZB-2011-042)** - Amendment to Special Permit: Expansion or change of pre-existing non-conforming structure and use (a Personal Wireless Service Facility): Ms. Zhaurova stated that staff discovered that the parcel of interest is not 25 Winthrop Street but the adjacent 121 Providence Street (owned by a different entity). She recommended that the item is postponed to the next scheduled ZBA meeting in order to allow petitioner time to submit revised abutters' list, map and envelopes of abutters not yet notified, and to re-advertise the petition. Mr. Dolan requested a postponement to 10/17/2011 and extension of Public Hearing date to 10/18/2011.

Upon a motion by Mr. Loew and seconded by Mr. Bilotta, the Board voted 4-0 to postpone the hearing to 10/17/2011 and to extend the Public Hearing date to 10/18/2011.

12. **255 Park Avenue (ZB-2011-043)** - Amendment to Special Permit - Expansion or change of pre-existing non-conforming structure and use (a Personal Wireless Service Facility): Attorney Michael Dolan of Brown Rudnick LP, representative for New Cingular Wireless, PCS, LLC by AT&T Mobility Corporation, stated that the petitioner is seeking to install 3 panel antennas with associated antenna equipment on a 11-story commercial office building with existing personal wireless service facilities on the roof of the building.

Upon a motion by Mr. Michajlow and seconded by Mr. Bilotta, the Board voted 4-0 to close the Public Hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Bilotta, the Board voted 4-0 to approve the requested Amendment to Special Permit for expansion or change of pre-existing non-conforming structure and use (a Personal Wireless Service Facility) with the following conditions of approval:

- That the petitioner demonstrate that the height of the proposed PWSF does not exceed the height of the existing PWSF;
- That six (6) copies of final revised plans to-scale clarifying the height of the existing and proposed PWSF above the roofline are to be submitted to the Division of Planning & Regulatory Services;
- *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;
- *Paint color matching*: 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;
- *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;
- *Post-installation measurement of sound and RFP*: That post-installation measurements of the total noise and total Radio Frequency Radiation emitted by all PWSF on the building 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;
- That the structure is constructed in substantial accordance with the final approved site plan 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;

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 4-0 to approve the petitioner's request for application requirement waivers (Exhibit A-14, as revised).

List of Exhibits:

- Exhibit A: Special Permit Application – 255 Park Avenue; received 7/27/2011; Prepared by New Cingular Wireless PCS, LLC by its manager, AT&T Mobility Corporation, including:
- Exhibit 2 – Report of Radio Frequency Engineer
 - Exhibit 3 – Radio Frequency Coverage Plot Map
 - Exhibit 4 – Photo Simulations
 - Exhibit 10 – Equipment Specifications
 - Exhibit 11 – Noise Letter
 - Exhibit 14 – Waiver Requests – as revised 9/19/2011.
 - Exhibit 15 – Maximum Permissible Exposure Study
- Exhibit B: Special Permit Plan – 255 Park Avenue; dated 5/6/11; prepared by Vertical Resources GRP and SAI Communications, received 7/27/2011.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 255 Park Avenue; dated 9/16/2011.

13. **1029 Pleasant Street (ZB-2011-046)** - Amendment to Special Permit - Expansion or change of pre-existing non-conforming structure and use (a Personal Wireless Service Facility): Attorney Michael Dolan of Brown Rudnick LP, representative for New Cingular Wireless, PCS, LLC by AT&T Mobility Corporation, stated that the petitioner is seeking to replace the existing antenna canister with a new stealth chimney painted to match the building façade with an additional equipment cabinet on a rooftop of a high rise multi-family dwelling with existing personal wireless service facilities.

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow, the Board voted 4-0 to close the Public Hearing.

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow, the Board voted 4-0 to approve the requested Amendment to Special Permit for expansion or change of pre-existing non-conforming structure and use (a Personal Wireless Service Facility) with the following conditions of approval:

- o *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;
- o *Paint color matching*: 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;
- o *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;

- *Post-installation measurement of sound and RFP*: That post-installation measurements of the total noise and total Radio Frequency Radiation emitted by all PWSF on the building 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;
- That the structure is constructed in substantial accordance with the final approved site plan 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;

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 4-0 to approve the petitioner's request for application requirement waivers (Exhibit A-14, as revised).

List of Exhibits:

Exhibit A: Special Permit Application 1029 Pleasant Street; received 8/18/2011; Prepared by New Cingular Wireless PCS, LLC by its manager, AT&T Mobility Corporation, including:

Exhibit 2 – Report of Radio Frequency Engineer

Exhibit 3 – Radio Frequency Coverage Plot Map

Exhibit 4 – Photo Simulations

Exhibit 10 – Equipment Specifications

Exhibit 11 – Noise Letter

Exhibit 14 – Waiver Requests – as revised 9/19/2011

Exhibit 15 – Maximum Permissible Exposure Study

Exhibit B: Special Permit Plan – 1029 Pleasant St.; dated 4/25/11; prepared by Vertical Resources GRP and SAI Communications, received 8/18/2011.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 1029 Pleasant St. dated 9/19/2011.

Exhibit D: Revised Waiver Request - 1029 Pleasant St, prepared by John Markus Pinard, received by email, September 19, 2011.

14. **500 Salisbury Street (ZB-2011-048)** - Amendment to Special Permit (a Personal Wireless Service Facility): Attorney Michael Dolan of Brown Rudnick LP, representative for New Cingular Wireless, PCS, LLC by AT&T Mobility Corporation, stated that the petitioner is seeking to install three (3) additional antennas, camouflaged by a faux chimney with

associated antenna equipment located in a room on the top floor of the Assumption College's Living Learning Center Residence Hall. He stated that an additional, symmetrical, faux chimney will be constructed to conceal the proposed antennas.

Upon a motion by Mr. Bilotta and seconded by Mr. Michajlow, the Board voted 4-0 to close the Public Hearing.

Upon a motion by Mr. Michajlow and seconded by Mr. Loew, the Board voted 4-0 to approve the requested Amendment to Special Permit (a Personal Wireless Service Facility) with the following conditions of approval:

- *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;
- *Paint color matching*: 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;
- *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;
- *Post-installation measurement of sound and RFP*: That post-installation measurements of the total noise and total Radio Frequency Radiation emitted by all PWSF on the building 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;
- That the structure is constructed in substantial accordance with the final approved site plan 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;

Upon a motion by Mr. Loew and seconded by Mr. Michajlow, the Board voted 4-0 to approve the petitioner's request for application requirement waivers (Exhibit A-14, as revised).

List of Exhibits.

Exhibit A: Special Permit Application 500 Salisbury Street; received 8/18/2011; Prepared by New Cingular Wireless PCS, LLC by its manager, AT&T Mobility Corporation, including:

Exhibit 2 – Report of Radio Frequency Engineer

Exhibit 3 – Radio Frequency Coverage Plot Map

Exhibit 4 – Photo Simulations

Exhibit 10 – Equipment Specifications

Exhibit 11 – Noise Letter

Exhibit 14 – Waiver Requests – as revised 9/19/2011

Exhibit 15 – Maximum Permissible Exposure Study

Exhibit B: Special Permit Plan – 500 Salisbury St.; dated 4/25/11; prepared by Vertical Resources GRP and SAI Communications, received 8/18/2011.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 500 Salisbury St. dated 9/19/2011.

Exhibit D: Revised Waiver Request - 500 Salisbury St, prepared by John Markus Pinard, received by email, September 19, 2011.

OTHER BUSINESS

15. **96 & 98 Sears Island Drive (ZB-2010-048) Scrivener’s Error Decision:** Ms. Zhaurova stated that the Board has approved the petition on November 29, 2010 but that the decision referenced the incorrect property - 94 & 96 Sears Island Drive instead of 96 & 98 Sears Island Drive. She stated that proper abutters were notified and that the plan of land showed 96 & 98 Sears Island Drive. Upon a motion by Mr. Loew and seconded by Mr. Bilotta, the Board voted 4-0 to correct the decision as noted above.

Adjournment: Chair Abramoff adjourned the meeting at 8:07 pm.