

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

June 16, 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: Katie Donovan, Inspectional Services
Stephen Rolle, Division of Planning & Regulatory 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

Mr. Abramoff called the meeting to order at 5:30 pm.

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

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

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

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

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

Present Use: Tatnuck Electric Substation

Zone Designation: BL-1.0 (Business, General)

Petition Purpose: Install a 90-ft tall ground-mounted PWSF facility (monopole) with three (3) Worldwide Interoperability for Microwave Access (WiMAX) antennas and two (2) microwave antennas at 597 Mill Street transmission structure as part of National Grid’s Smart Grid Pilot Program. As part of the proposal, the applicant is also proposing signal cables from the antennas to a ground mounted equipment frame, where radio/transceiver and battery unit enclosures will be installed on a 35 SF concrete pad

Constructive Grant Deadline (Variance): ~~11/07/13~~, 5/20/14, 7/08/14

Ms. Zhaurova stated that on June 5, 2014, the applicant requested Leave to Withdraw Without Prejudice for the project because it found an alternative site that would achieve coverage over the same area.

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: Special Permit Application; received 9/3/2013; prepared by Massachusetts Electric Company.
- Exhibit B: National Grid Tatnuck Substation Plan; dated 8/2/2013; prepared by National Grid.
- Exhibit C: Division of Planning and Regulatory Services Memorandum, re: 597 Mill Street; dated October 16, 2013; revised December 2, 2013 and January 28, 2014.
- Exhibit D: Request for Postponements / Continuances:
- a) dated December 2, 2013;
 - b) dated and received January 23, 2014;
 - c) dated and received February 7, 2014 (for May 5, 2014)
 - d) dated and received April 30, 2014 (for June 16, 2014)
- Exhibit E: Supplemental application requirements information dated January 8, 2014, received January 13, 2014; submitted by Elizabeth Mason on behalf of National Grid.
- Exhibit F: Letters from the Public:
- a. From Lance McKee; re: Webmaster: Please forward to Lawrence Abramoff – Vice Chair Zoning Board of Appeals; dated October 15, 2013.
 - b. From Lance McKee; re: Moratorium on National Grid’s Worcester Smart Grid Pilot; dated November 19, 2013.
 - c. From Mauro DePasquale; re: NO to Ngrid’s Smart Meter Towers in Worcester; dated January 10, 2014.
 - d. From Elizabeth Proko; dated January 12, 2014.
 - e. From Lance McKee; re: Comments for consideration by the ZBA in their decision regarding approval of National Grid’s Smart Grid deployment; dated January 13, 2014.
 - f. From Curtis Bennett to Patricia Burke; re: Zone Meeting on Smart Meter Program; undated; received January 13, 2014.
 - g. T&G Article from Lance McKee; titled “Smart and safe technologies”; dated November 5, 2013; submitted January 13, 2014.
 - h. From Diane Whitmire; re: Chairman Abramoff with Attachments; dated January 14, 2014.
 - i. From John Dick of 61 Tory Fort Lane to City Solicitor; dated January 31, 2014.

- j. From Worcester OptsOut; re: Hand Delivered letter cc RE 1996 Telecom Act and National Grid data towers, etc.; dated February 2, 2014.
- k. From Patricia Burke:
 - a) Re: Smart Meter, documentation for comment at City Council Meeting 1/13-Patricia Burke; dated January 14, 2014.
 - b) Re: Recent Legal Briefs re: recall of dangerous devices affecting health of Maine's people; dated January 15, 2014.
 - c) Re: Smart meters 2 WCCA resources re: health; dated January 17, 2014.
 - d) Re: smart meters, new vs. old technology; dated January 22, 2014.
 - e) Re: Smart meters – Sheffield MA planning board; dated January 23, 2014.
 - f) Re: Smart meters outstanding article today January 23; dated January 25, 2014.
 - g) Re: Special overview Rebuttal of PUCT Report by KTW.pdf; dated January 30, 2014.
 - h) Re: Critique of Worcester MA Health Report concerning Smart Meters; dated February 13, 2014.
 - i) Re: SMART METERS – Nstar comment on DPU Docket 12-76 Smart Meters – Urgent; dated February 6, 2014.
 - j) Re: SMART METERS – National Grid testimony on DPU docket 12-76 – URGENT; dated February 6, 2014
 - k) Re: maine did a health survey; dated February 8, 2014
 - l) Re: Karl Maret on Smart Meters; dated March 09, 2014
 - m) Re: smart meter article in common ground; dated April 11, 2014.
 - n) Re: NY proposed smart meter legislation; dated April 24, 2014
 - o) Re: Tobacco Scientists for Smart Meters; dated May 16, 2014.
- l. From Claire Darie;
 - a. re: 6 Ignored 'smart' City Council Accepted Orders; dated January 17, 2014.
 - b. re: 'smart' network already succeeding per Bill Jones of Ngrid; dated January 28, 2014 and a response e-mail by Deb Moore; dated January 28, 2014.
 - c. Re: Tory Fort Lane Agenda Item; dated February 3, 2014.
 - d. Re: Tatnuck Towers Questions; dated February 13, 2014
- m. From Janet Johnson; dated May 14, 2014, received June 6, 2014.

- Exhibit G: Letter from Director of Smart Energy Solutions Program of National Grid to the City Council and City manager; titled “Smart Energy Solutions Program Informational Letter”; dated January 20, 2014.
- Exhibit H: Memorandum from Stephen Rolle to the Zoning Board of Appeals; re: Applicability of the Telecommunications Act of 1996 to the National Grid’s Smart Energy Solutions Pilot Program; dated Mary 5, 2014 with the following exhibits:
- Exhibit A: Law Department Opinion re: Applicability of the Telecommunications Act of 1996 & the Worcester Zoning Ordinance to National Grid Applications for Personal Wireless Service Facilities. May 5, 2014.
- Exhibit B: Public Notice re: WIRELESS TELECOMMUNICATIONS BUREAU OFFERS GUIDANCE ON INTERPRETATION OF SECTION 6409(a) OF THE MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT OF 2012, Federal Communications Commission. January 25, 2013.
- Exhibit I: Request for leave to Withdraw Without Prejudice; dated and received June 5, 2014.

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

- Special Permit:** To allow a Personal Wireless Service Facility
- Petitioner: Massachusetts Electric Company d/b/a National Grid
- Present Use: Existing Cooks Pond Electric Substation
- Zone Designation: RS-7 (Residential, Single Family)
- Petition Purpose: Install, operate, and maintain 3 WiMAX mounted antenna and 2 microwave antennas located on a 10’ mast extension attached to a new 80’ lattice tower that would replace the existing 55’ wooden pole; Install signal cables from antennas to the a ground mounted equipment frame, and a radio/transceiver battery unit enclosure
- Public Hearing Deadline: ~~6/20/13, 7/8/13, 7/29/13, 9/9/13, 9/30/13, 10/21/13, 12/2/13, 1/13/14, 3/17/14, 5/5/14, 6/16/14~~

Ms. Zhaurova stated that the applicant also requested Leave to Withdraw Without Prejudice for the project because it found an alternative site that would achieve coverage over the same area. 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: Special Permit Application; received 4/16/2013; prepared by Massachusetts Electric Company.
- Exhibit B: Special Permit Application Plan; received April 16, 2013; prepared by National Grid.

- Exhibit C: Division of Planning and Regulatory Services Memorandum, re: Special Permit Application; dated June 12, 2014 16.
- Exhibit D: Request for Postponements / Continuances:
- e) dated December 2, 2013;
 - f) dated and received January 23, 2014;
 - g) dated and received February 7, 2014 (for May 5, 2014)
 - h) dated and received April 30, 2014 (for June 16, 2014)
- Exhibit E: Supplemental application requirements information dated January 8, 2014, received January 13, 2014; submitted by Elizabeth Mason on behalf of National Grid.
- Exhibit F: Letters from the Public:
- n. From Lance McKee; re: Webmaster: Please forward to Lawrence Abramoff – Vice Chair Zoning Board of Appeals; dated October 15, 2013.
 - o. From Lance McKee; re: Moratorium on National Grid’s Worcester Smart Grid Pilot; dated November 19, 2013.
 - p. From Mauro DePasquale; re: NO to Ngrid’s Smart Meter Towers in Worcester; dated January 10, 2014.
 - q. From Elizabeth Proko; dated January 12, 2014.
 - r. From Lance McKee; re: Comments for consideration by the ZBA in their decision regarding approval of National Grid’s Smart Grid deployment; dated January 13, 2014.
 - s. From Curtis Bennett to Patricia Burke; re: Zone Meeting on Smart Meter Program; undated; received January 13, 2014.
 - t. T&G Article from Lance McKee; titled “Smart and safe technologies”; dated November 5, 2013; submitted January 13, 2014.
 - u. From Diane Whitmire; re: Chairman Abramoff with Attachments; dated January 14, 2014.
 - v. From John Dick of 61 Tory Fort Lane to City Solicitor; dated January 31, 2014.
 - w. From Worcester OptsOut; re: Hand Delivered letter cc RE 1996 Telecom Act and National Grid data towers, etc.; dated February 2, 2014.
 - x. From Patricia Burke:
 - p) Re: Smart Meter, documentation for comment at City Council Meeting 1/13-Patricia Burke; dated January 14, 2014.
 - q) Re: Recent Legal Briefs re: recall of dangerous devices affecting health of Maine’s people; dated January 15, 2014.
 - r) Re: Smart meters 2 WCCA resources re: health; dated January 17, 2014.
 - s) Re: smart meters, new vs. old technology; dated January 22, 2014.

- t) Re: Smart meters – Sheffield MA planning board; dated January 23, 2014.
- u) Re: Smart meters outstanding article today January 23; dated January 25, 2014.
- v) Re: Special overview Rebuttal of PUCT Report by KTW.pdf; dated January 30, 2014.
- w) Re: Critique of Worcester MA Health Report concerning Smart Meters; dated February 13, 2014.
- x) Re: SMART METERS – Nstar comment on DPU Docket 12-76 Smart Meters – Urgent; dated February 6, 2014.
- y) Re: SMART METERS – National Grid testimony on DPU docket 12-76 – URGENT; dated February 6, 2014
- z) Re: maine did a health survey; dated February 8, 2014
- aa) Re: Karl Maret on Smart Meters; dated March 09, 2014
- bb) Re: smart meter article in common ground; dated April 11, 2014.
- cc) Re: NY proposed smart meter legislation; dated April 24, 2014
- dd) Re: Tobacco Scientists for Smart Meters; dated May 16, 2014.
- y. From Claire Darie;
 - a. re: 6 Ignored ‘smart’ City Council Accepted Orders; dated January 17, 2014.
 - b. re: ‘smart’ network already succeeding per Bill Jones of Ngrid; dated January 28, 2014 and a response e-mail by Deb Moore; dated January 28, 2014.
 - c. Re: Tory Fort Lane Agenda Item; dated February 3, 2014.
 - d. Re: Tatnuck Towers Questions; dated February 13, 2014
- z. From Janet Johnson; dated May 14, 2014, received June 6, 2014.

Exhibit G: Letter from Director of Smart Energy Solutions Program of National Grid to the City Council and City manager; titled “Smart Energy Solutions Program Informational Letter”; dated January 20, 2014.

Exhibit H: Memorandum from Stephen Rolle to the Zoning Board of Appeals; re: Applicability of the Telecommunications Act of 1996 to the National Grid’s Smart Energy Solutions Pilot Program; dated May 5, 2014 with the following exhibits:

Exhibit A: Law Department Opinion re: Applicability of the Telecommunications Act of 1996 & the Worcester Zoning Ordinance to National Grid Applications for Personal Wireless Service Facilities. May 5, 2014.

Exhibit B: Public Notice re: WIRELESS TELECOMMUNICATIONS BUREAU OFFERS GUIDANCE ON INTERPRETATION OF SECTION 6409(a) OF THE MIDDLE CLASS TAX RELIEF AND

JOB CREATION ACT OF 2012, Federal Communications
Commission. January 25, 2013.

Exhibit I: Request for Leave to Withdraw Without Prejudice; dated and received June 5, 2014.

3. 1 Winter Street (ZB-2014-012)

Variance: For relief of 33 ft. from the 80 ft. frontage dimensional requirement in a BG-4.0 (Business, General) zoning district (Article IV, Section 2, Table 4.2)

Petitioner: Dominic Van Ngo

Present Use: A two-story mixed-use building with 2,500 SF of retail space on the first floor

Zone Designation: BG-4.0 (Business, General) and within the Mixed Use Development District, Downtown/Blackstone Canal Sign Overlay District, and Blackstone Canal Parking Overlay Districts

Petition Purpose: To construct two residential dwelling units

Public Hearing Deadline: 5/22/14, 6/16/14; **Constructive Grant Deadline:** 6/26/14, 7/08/14

Mr. Abramoff stated that there was also a leave to withdraw request for this petition because the petitioner needs to submit a new petition with an updated application.

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

List of Exhibits:

Exhibit A: 1 Winter Street Application; received March 18, 2014; prepared by Dominic Van Ngo.

Exhibit B: 1 Winter Street Plan; dated January 16, 2014; prepared by HS&T Group.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 1 Winter Street; dated May 2, 2014, revised June 12, 2014.

Exhibit D: Fire Comments; re: 64 Green Street & 1 Winter Street, dated April 18, 2014.

Exhibit E: Cease and Desist Order Issued by Inspectional Services re: 1 Winter Street; dated June 3, 2013.

Exhibit F: Request to Postponed; re: 1 Winter Street; dated May 5, 2014.

Exhibit G: Request for Leave to Withdraw without Prejudice; dated June 13, 2014.

.

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

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

Petitioner: Normand R. Champigny
Present Use: A vacant lot
Zone Designation: RL-7 (Residential, Limited)
Petition Purpose: To construct a two-story single-family attached dwelling with 3 dwelling units and 6 associated off-street parking spaces

Normand Champigny, applicant, stated that he submitted the revisions and renderings the board asked for at the last meeting.

Ms. Smith stated that the applicant provided revised plans this morning and she recommended the applicant's engineer review the changes with the Board.

Brian MacEwen, Graz Engineering, stated that one of the changes was the reduction of pavement; they have narrowed the throat of the access drive coming off of Bird Street down to 16 ft. They could not reduce it to 12 ft. as suggested by staff due to safety and maneuverability issues. They have been working with Jon Gervais and have revised the drainage on the site. They will not be tying into the City's utilities due to elevation changes.

Mr. Abramoff asked if DPW&P had signed off on their proposed stormwater runoff revisions. Mr. MacEwen stated that Mr. Gervais said it was appropriate for a project this size and Mr. Gagne, engineer for Conservation Commission, stated that he was fine with it as long as engineering approved it. Mr. MacEwen has not received anything in writing yet.

Mr. Abramoff asked staff if there is a sign off for the drainage aspect of the project. Ms. Smith stated that typically that would occur when the applicant goes before the Planning Board and this project is on the agenda for the next Planning Board meeting.

Mr. MacEwen stated that the applicant has met with abutters to the back of the lot and they are proposing an 8 ft. vinyl fence along that property line and the abutter on Boston Ave. Lighting has not been determined yet and will not be until they are in the building stage. The retaining walls are less than 4 ft. and are not structural.

Mr. Rolle stated that staff is satisfied with the 16 ft. driveway.

Ms. Smith stated that after a quick review it appeared that the applicant had addressed most of the recommended conditions of approval in the memo. She suggested that the Board still include them as conditions of approval and staff will do an in-depth review to ensure everything was provided. If approved, staff recommends the Suggested Conditions of Approval that are located on page 3 of the review memo.

Ms. Donovan stated that the 8 ft. height fence will need a building permit and would need to meet the requirements of an accessory structure, meaning it needs to be 5ft. from the property line. Unless the abutter is willing to accept a 6 ft. fence and then the fence can be placed at the property line.

Mr. Champigny stated that he would have to work that out with the neighbor. Mr. Abramoff stated that they will reword the condition of approval regarding fencing to allow the possible change.

Joseph Rakis, 8 Bird Street, stated that Mr. Champigny has stopped by and they have talked about the project and he is not opposed to the proposed three two-bedroom units. The biggest concern all the neighbors have is the drainage onto Bird Street. That property is a drainage issue now and with impervious area that will result, it will get worse. He is concerned that the drainage will not be tied to the City's system and asked why that was the case.

Mr. MacEwen stated that DPW wanted them to tie in to Boston Ave but the elevation wouldn't permit it and they would have to improve the street to City standards and that is cost prohibitive for a project this size.

Mr. Abramoff stated that he was still concerned with the drainage and would like to address it in the conditions of approval.

Mr. Rolle stated that the Planning Board would review that in-depth and DPW attends those meeting so they will be able to comment on the viability of the proposed drainage solution.

Mr. MacEwen stated that the project is also subject to the Wetlands Protection Ordinance and they have to appear before the Conservation Commission to discuss the stormwater management next Monday.

Mr. Abramoff stated that the abutter's concerns will be better addressed at either the Conservation Commission or the Planning Board meetings.

Ms. Zhaurova stated that the Zoning Ordinance Article V, Section V states the standard of review of a definitive site plan and it includes the adequacy of stormwater and drainage. The trigger for site plan is 15% slope of the site and the trigger for Conservation Commission is the proximity to a catchbasin and the amount of clearing proposed.

Upon a motion by Mr. Wanat and seconded by Mr. Loew, 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 petition with the following conditions:

That six (6) copies of revised plans showing the following be submitted to the Division of Planning and Regulatory Services prior to the issuance of a building permit:

1. The structure be constructed in substantial accordance with the final approved plot plan;

Landscaping/Screening:

2. That each side of the driveway remains as green space and not be paved;
3. That the open space on either side of the driveway be labeled on the revised site plan;
4. Plant a minimum of three 3" caliper shade trees be planted along Boston Avenue and one 3" caliper shade tree be planted along on Bird Street;
5. Label the type of landscape screening and/or fencing to be provided to screen vehicle lights along the lot line where driveway abuts properties owned by n/f Rauktis and that owned by n/f Zona. Fencing should be minimum 6 ft. in height and of a stockade variety and shrubs should be drought-resistant and densely planted (arbor vitae, hydrangea, forsythia, etc.);
6. Tree species selected should be non-Asian Longhorned Beetle susceptible species;
7. Protect the existing Ash and Maple trees on the north-western and Oak trees on the south-eastern sides of the property during and after construction (avoid disturbance within the drip-line);
8. Provide a landscaping table and specify which existing trees will be retained;

Lighting:

9. Provide the location of and specifications for proposed lighting, if any;

Parking:

- 10. Label and delineate the proposed parking spaces;
- 11. Provide a detail for the proposed retaining walls; and

Rendering:

- 12. Provide 6 copies of the rendering to-scale to DPRS and label the structure’s height in feet and stories.

List of Exhibits

- Exhibit A: 4 Bird Street Application; received February 11, 2014; prepared by Norman Champigny.
- Exhibit B: 4 Bird Street Plan; dated February 11, 2014; prepared by GRAZ Engineering, LLC.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 4 Bird Street Special Permit; dated April 2, 2014, revised May 2, 2014, revised June 13, 2014.
- Exhibit D: 4 Bird Street image; received March 31, 2014.
- Exhibit E: Request to Postpone; dated 4/4/14.
- Exhibit F: 4 Bird Street rendering; prepared by MVA Engineering; dated June 11, 2014; received June 13, 2014.

5. 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

Stephen O’Neil, 35 Bonybrook Road, stated that the only issue pending from the last meeting was the parking. They did meet with City staff to determine the total number of parking spaces needed. Ms. Donovan stated that the required parking is 120 spaces and they are providing 150 spaces.

Mr. Abramoff stated that the request for the relief of the required parking can be withdrawn. There was a special permit for waiver of the landscape buffer and screening requirements and the Board heard the details as to why it is needed at the last meeting. Another special permit was requested to allow accessory storage of flammable liquids/gasses/explosives and that will be monitored for safety by the state and the fire department. Finally, there was another requested for a Special Permit for waiver of 2 of the 3 required loading spaces.

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. Wanat, the Board voted 5-0 to grant the Leave to Withdraw Without Prejudice for the Special Permit for relief of 10% of the required parking or 15 parking spaces.

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 conditions outlined in staff's memo.

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, revised May 27, 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.
- Exhibit E: Floor Plans; prepared by STV Incorporated; dated March 31, 2014.

NEW BUSINESS

6. 4 Greenhalge Street (ZB-2014-018)

- Variance:** For relief of 7.6 ft. from the 20 ft. rear-yard setback requirement in a RS-7 Zoning District (Residential, Single Family) (Article IV, Section 4, Table 4.2)
- Petitioner:** Richard J. Bezdegian
- Present Use:** A vacant lot
- Zone Designation:** RS-7 (Residential, Single Family)
- Petition Purpose:** To construct a single-family detached dwelling
- Public Hearing Deadline:** 6/19/14; **Constructive Grant Deadline:** 7/24/14

Richard Bezdegian stated that he is seeking a variance for the rear yard setback. He submitted a letter of support from an abutter and it was included as Exhibit F.

Mr. Abramoff asked if a rendering had been submitted and Ms. Smith stated that providing a rendering is not a requirement of the rules and regulations but the Board's standing policy has been to require one for new construction.

Mr. Bezdegian stated that the structure would look like the one that was recently constructed in Lot 3 and the one under construction for Lot 2.

Mr. Abramoff asked if the applicant read staff's recommended conditions of approval.

Mr. Bezdegian stated that he was amenable to them.

Edward Bonczyk, 38 Greenhalge Street, stated that while his property is setback almost 500 ft. from Massasoit Road, he does not have a problem with the project. He has met with Mr. Bezdegian and walked the lot and he supports the project.

Louis McGee, 27 Blithewood Terrace, stated that the developer has been a good neighbor by not working early or staying late and she stated that the houses are beautifully constructed. She would like to see some foliage on the lot once completed.

Jacqueline Coppedge, 6 Midgley Lane, stated that her concern was for privacy. The proposed decks on the structure will look over to her bedroom window. She was also concerned with the potential noise with outdoor entertainment on the deck.

Mr. Bezdegian stated that he has no problem installing arborvitaes but that will not do much because of the elevations. He also stated that the deck will be on the side of the house, not the back. Mr. Abramoff asked if alternatively he would plant some white pine along that property line, it will take a few years but they will grow tall enough to provide screening.

Ms. Coppedge stated that any privacy barrier will alleviate the situation. Mr. Bezdegian stated that the arborvitae will be better because they will provide better screening much faster than the pine. Mr. Bezdegian stated that he will plant it as far back as he can but there is a rock ledge there.

Ms. Smith asked if the deck will be tied to the back corner of the house because if it is it needs to be part of the variance.

Mr. Abramoff stated that the applicant should continue and provide revised plans showing the deck, the ledge, where the arborvitae will be planted, and a rendering.

Mr. Rolle stated that if the deck is flush with the back corner of the house then the variance will actually be greater than what was advertised.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to continue the item to July 7, 2014 to allow the applicant time to provide the requested additional information.

List of Exhibits:

Exhibit A: 4 Greenhalge Street Application; received 4/15/14; prepared by Richard Bezdegian.

Exhibit B: 4 Greenhalge Street Plan; dated 5/28/14; prepared by John M. Grenier.

Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 4 Greenhalge Street; dated June 12, 2014.

Exhibit D: Letter of support from Gerard Sutton, 12 Midgley Lane, to the Zoning Board of Appeals; re: 4 Greenhalge Street Variance; dated June 4, 2014.

Exhibit E: ANR Plan for 321 Massasoit Road; endorsed 4/24/2013.

Exhibit F: Letter of support from Miller Bros. Electrical Contractors, submitted June 16, 2014.

7. 13 Lee Street (ZB-2014-022)

- Special Permit:** Extension, Alteration, or Change of a Privileged Pre-existing Nonconforming Structure (Article XVI, Section 4)
- Variance:** For relief of 19 ft. from the 20 ft. rear-yard setback requirement in a BL-1.0 Zoning District (Business, Limited) (Article IV, Section 4, Table 4.2)
- Petitioners:** Daniel W. Burke and Casey F. Burns
- Present Use:** A single-family detached dwelling with an attached garage and pre-existing ~100 SF back porch
- Zone Designation:** BL-1.0 (Business, Limited) and RS-7 (Residential, Single-Family)
- Petition Purpose:** Petitioners have constructed a ~230 SF extension to the existing porch, further encroaching toward the rear (easterly) lot line and are retroactively seeking relief for construction thereof

Public Hearing Deadline: 6/26/14; Constructive Grant Deadline: 7/31/14

Ms. Zhaurova stated that visually the house and the garage appear as if they may have been separate structures in the past but there is no definitive information to prove that. If the two structure were attached prior to the Zoning Ordinance that requires certain setbacks for such structures then the proposed expansion would only require the special permit for an existing nonconforming structure, however if the Board feels it does not have enough information to prove that then the project will need both the special permit and the variance.

Casey Burns, 13 Lee Street, stated that the house was built in 1890 and they purchased it in 2012. She went to the Antiquarian Society and researched old atlases but couldn't find any records between 1890 and 1922 for that section for the city. She stated that they did find an atlas from 1922, which shows the footprints of the building on Lee Street. That is the same footprint of the structures present today, which is only 1 ft. from the rear yard property line. Ms. Burns stated that she also spoke to her neighbor, who has lived at 11 Lee Street for almost 60 years, and she stated that she does not recollect any major construction during that time.

Ms. Donovan stated that she did a site visit with Commissioner Kelly on Friday and they feel that the two buildings are attached and have been that way for quite some time. They support only a special permit and not a variance.

Mr. Abramoff stated that there seems to be consensus from the board and staff that only a special permit is needed.

Ms. Burns stated that this is a retroactive approval because they have already built the deck. They were unaware that they needed this relief; they did pull permits for all the other work they performed on the house. She stated that she believed the deck does not change the integrity of the house or the character of the neighborhood. The back property line abuts Park Avenue and other homes in the neighborhood are also nonconforming in regards to their rear yard setback. They sought to maximize the use of their space. Ms. Burns submitted some photographs to the Board as Exhibit J. She stated that the work can be submitted to the necessary inspections but they will find that the railings will meet the height requirements. This construction has not created a disturbance in the neighborhood.

Mr. Abramoff asked why they didn't pull the necessary permits for it and Ms. Burns stated that it was due to ignorance.

Ms. Zhaurova stated that the petitioners seek retroactive approval for construction of a ~230 SF deck extension onto an existing ~100 SF porch that further encroaches into the rear lot line. Presently located at 13 Lee Street is a single-family detached dwelling with an attached garage. The structure on the premises is non-conforming with respect to the rear-yard setback (~1' provided, 20' required). She stated that the by-right alternatives are that the applicant may remove the extended deck to prevent further encroachment into the rear-yard setback. Alternatively, the deck may be relocated south (to the right of the building), still providing the same square footage without encroaching within the rear- and side-yard setbacks. She stated that a minimum 6-ft tall stockade fence is installed along the property's rear lot line in order to visually screen the proposed deck from the abutting property and attenuate sound given the abutter's letter received by the office stating concerns about privacy and noise.

Ms. Burns stated that there was a deck there, they just extended it.

Alicia McGinnis, 204 Park Ave, stated that she agrees that the barn has been there since the house was constructed. The difference is that the barn has no windows and is not a dynamic living space that a deck and hot tub are. Ms. McGinnis stated that she told them beforehand that they needed a building permit. She stated concerns because of the noise and the proximity of the buildings. She stated that she gets smoke from their grill in her house. She is concerned with the value of her home and that if there is any issue with the hot tub, the water could end up in her basement/foundation. She is also concerned someone could fall into the chain-link fence and into the property at 204 Park Avenue from the deck.

Mr. Abramoff stated that the smoke from the barbeque can be an issue with or without the deck and the hot tub can also be put on the ground.

Ms. Burns stated that it is on the ground and the drainage is tied to their sewage lines.

Mr. Abramoff stated that noise can be an issue with or without the deck but if the abutter has an issue with noise they can call to report it.

Mr. Wanat stated that he was in favor of the privacy fence. It won't solve all the issues but it will help.

Mr. Haddon stated that if they should install it next to the chain-link fence instead of replacing it because if removed it would disrupt the vegetation that is growing there. Mr. Abramoff stated that they will leave it up to the applicant and the neighbor to work out whether or not they will replace the chain-link or install the vinyl fence next to it.

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

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

1. That the project is conforming with the submitted plans;
2. That a minimum 6-ft tall stockade fence is installed along the property' rear lot line in order to visually screen the proposed deck from the abutting property and attenuate sound.

List of Exhibits

- Exhibit A: Special Permit and Variance Application; prepared by Daniel W. Burke and Casey F. Burns.
- Exhibit B: Instrument Survey Plan for 13 Lee Street; prepared by HS&T Group, Inc.; dated February 12, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 13 Lee Street – Special Permit and Variance Application; dated June 13, 2014.
- Exhibit D: Atlas of the City of Worcester, Mass. by Richard Map Co. 1922.
- Exhibit E: Assessing Department Property Record Card; undated
- Exhibit F: Communication between Jacqueline McInnis & Theresa Gallagher (abutters at 204 Park Street) and Stephen Rolle, DPRS; dated between June 9, 2014 and June 10, 2014.
- Exhibit G: Communication between Domenica Tatasciore, DPRS and Jacqueline McInnis & Theresa Gallagher (abutters at 204 Park Street); dated June 11, 2014.
- Exhibit H: Findings of fact submitted by Ms. Burns, received June 16, 2014.
- Exhibit I: Abutter email from Jacqueline McInnis, dated June 16, 2014.
- Exhibit J: Pictures submitted by the applicant, received June 16, 2014.

8. 9 Conway Street (ZB-2014-023)

Variance: For relief of 6 ft. from the 15 ft. maximum height dimensional requirement for an accessory structure in a RS-7 (Residential, Single Family) Zoning District (Article IV, Section 8 B. 10.)

Petitioner: Erica Kerswell

Present Use: A single-family detached dwelling and detached garage

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

Petition Purpose: To demolish the existing garage and construct a new garage, using the same foundation, with an increased height of 21 ft.

Public Hearing Deadline: 7/06/14; **Constructive Grant Deadline:** 8/10/14

Erica Kerswell, 9 Conway Street, stated that the garage has already been demolished because it was dilapidated and the insurance company gave them a certain amount of time to demolish it. Ms. Kerswell stated that they would like to build a garage that has overhead storage because the basement floods.

Ms. Smith stated that staff did a site visit and found that there is no particular character to this neighborhood, some houses have garages and some do not. Some of the garages are attached and some are not. It appeared as if there may be one or two other garages that were over 15 ft. so it didn't appear as if the request would be out of character with the neighborhood. Ms. Smith asked

the applicants if they planned to repave the driveway and they stated that not at this time. Ms. Smith stated if approved, staff respectfully recommends the following suggested Conditions of Approval:

- That the structure be constructed in substantial accordance with the final approved plot plan dated 11/18/2013 and with the submitted rendering prepared by Erica Kerswell;
- That one 3” caliper shade tree of a non-Asian Longhorned Beetle species is planted in the lot fronting Conway street;
- That each side of the driveway remains as green space and not be paved;
- That the existing tree which overhangs onto the property be protected during and after construction (no disturbance within the drip-line);
- The proposed structure is not to be inhabited;

Ms. Kerswell stated that the existing tree caused the damage to the previous garage. It needs to be trimmed because many of the branches are dead and fall off and damage the garage. The tree actually belongs to the next door elderly neighbor. She stated that she has planted a peach tree and a cherry tree.

Ms. Smith stated that the tree was suggested because staff was not sure if the impervious area would be enlarged but that does not seem to be the case.

Upon a motion by Mr. Michajlow 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 variance with the following conditions:

- That the structure be constructed in substantial accordance with the final approved plot plan dated 11/18/2013 and with the submitted rendering prepared by Erica Kerswell;
- That each side of the driveway remains as green space and not be paved;
- The proposed structure is not to be inhabited;

List of Exhibits:

- Exhibit A: 9 Conway Street Application; received 5/2/2014; prepared by Erica Kerswell.
- Exhibit B: 9 Conway Street Plan; dated 11/18/2013; prepared by Bertin Engineering.
- Exhibit C: Rendering; received 5/2/2014; revised 6/10/2014; prepared by Erica Kerswell.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 9 Conway Street; dated June 12, 2014.
- Exhibit E: Fire Comments; re: 9 Conway Street; received 5/22/2014.

RECESS

Chair Abramoff called a five minute recess.

9. 5 Newton Avenue (ZB-2014-024)

Amendment to Special Permit: To allow a three-family detached dwelling in a RL-7 (Residential, Limited) Zoning District (Article IV, Section 2, Table 4.1, Residential use #16)

Petitioner: Josh Gaval
Present Use: A three-family detached dwelling
Zone Designation: RL-7 (Residential, Limited)
Petition Purpose: To amend the previously granted Special Permit (ZB-2013-057), to allow alterations to the exterior of the structure (prohibited by Condition of Approval #1; bk. 52063, pg. 385) in order to repair the existing roof - altering the roof-line - along with associated site work

Public Hearing Deadline: 7/9/14

Patrick Burke, HS&T Group engineer, representing the applicant, stated that when the applicant received the previous special permit to convert the dwelling to a three family they discovered that the entire roof top (rafters, decking, and shingles) was water damaged and needed to be replaced. Therefore they are in front of the board seeking permission to change the turret to a hipped roof.

Mr. Abramoff stated that it must have been important to the Board at the time to maintain the structural character of the dwelling.

Mr. Burke stated that the turret is difficult to maintain.

Ms. Tatasciore stated that on January 13, 2014, the Zoning Board granted a Special Permit¹, requested by Josh Gaval, to allow a three-family dwelling in a RL-7 zoning district. The petitioner sought to convert the existing ~3,900 SF two-family to a three-family dwelling with six off-street parking spaces. The Special Permit was approved with conditions that ensured the structure's exterior remain intact except for allowed changes to new doors, windows, fire escapes and/or stairways.

Ms. Tatasciore stated that the change to the roof line, change to the turret, and the bay window being removed need approval from the Board.

Mr. Burke stated that when they came for the previous special permit, they didn't know the condition of the roof top.

Mr. Abramoff asked if the applicant is replacing the siding as well. Mr. Burke stated that they will replace the vinyl siding with like materials.

Ms. Tatasciore stated that if this is approved maybe the turret's can have a copper texture to provide some architectural interest. Mr. Rolle stated that the changes proposed do change the architectural style of the house because the turret is a prominent feature. Staff was just brainstorming as to how an architectural feature can be incorporated back into the house.

Ms. Tatasciore stated that if approved, staff respectfully recommends that:

1. The Board considers conditioning their approval with respect to preserving or replicating significant architectural features such as the turreted roof.

¹ ZB-2013-057

2. Only the roof, bay and window alterations are performed and all previous conditions listed below remain:
 - a. That there be no changes to the external appearance of the structure (excluding new doors, windows, fire escapes and/or stairways) except for those authorized by this approval in compliance with the submitted rendering;
 - b. That the applicant ensure the structural integrity of the accessory garage structure in order to safely park vehicles inside;²
 - c. That the existing fence along the north corner of the property, abutting rear lot line and northeastern lot line will not be removed;
 - d. That no parking will be provided in the front-yard setback (along Newton Avenue);
 - e. That the front-yard and exterior side-yard setbacks remain landscaped and unpaved.
 - f. That the structure and use are operated in substantial accordance with the final approved plan.

Mr. Burke stated that he was amenable to incorporating copper into the roof line.

Adam Gaval, 717 Pleasant Street, stated that he was the applicant's brother. He asked for clarification on the copper feature requested. Mr. Abramoff showed Mr. Gaval an example of a copper roof and stated that the Board can continue the item to allow the applicant time to research the matter further and provide a revised plan with an alternative architectural feature. Mr. Burke stated that they would prefer that the Board make a decision and condition it accordingly.

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 and the petition with the conditions in the memo and that roof of the former turret be a copper roof.

List of Exhibits

- Exhibit A: Special Permit Application; prepared by Josh Gaval (Kensington Management); received May 5, 2015.
- Exhibit B: Variance Plan for 5 Newton Avenue; prepared by HS&T Group, Inc.; ; dated October 25, 2013; received May 5, 2015.
- Exhibit C: Elevations and Third Floor Plan; dated April 16, 2014; prepared by J.R. Associates.; received May 5, 2015.
- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 5 Newton Avenue – Amendment to Special Permit Application; dated June 13, 2014.

² Upon staff site visit, it appears that the garage structure has not been maintained per condition of approval.

10. 100 Chatham Street (ZB-2014-025)

- Special Permit:** To allow a residential conversion from a single-family detached dwelling to a two-family detached dwelling in a RG-5 Zoning District (Residential, General) (Article IV, Section 9)
- Special Permit:** For relief of 1 parking space from the parking requirements for use as a two-family dwelling (Article IV, Section 7 A. 2.)
- Variance:** For relief of 3 parking spaces from of parking requirements for use as a two-family dwelling (Article IV, Section 7, Table 4.4)
- Petitioner:** Harry Avery
- Present Use:** A single-family detached dwelling
- Zone Designation:** Zoned RG-5 (Residential, General) and within the Crown Hill Local Historic District
- Petition Purpose:** To convert the existing single-family detached dwelling into a two-family detached dwelling along with associated site improvements

Public Hearing Deadline: 7/11/14; Constructive Grant Deadline: 8/15/14

Harry Avery, 199 Coburn Avenue, stated that when he bought the property there were two full kitchens, two full bathrooms and the home was being used as a two-family. There was no partition separating the first floor living space from the stairway that led to the second floor. There is a driveway that only fits one vehicle but that is the same parking situation as the abutting properties. There is plenty of off-street parking on Chatham and Newbury Street. He stated that he just wants to have it listed legally as a two-family.

Mr. Abramoff stated that staff recommends that the applicant provide a proposed elevation/rendering of the exterior of the property and that the item be continued until its reviewed by the Historical Commission.

Ms. Zhaurova stated that the applicant purchased the home a few months ago and started work on it. He received a cease and desist because he pulled some building permits but not for all the work performed. He was also informed that the property is located in the Crown Hill local Historic District, which requires that all exterior work visible from a public way go before the Historical Commission prior to it being completed. The project received retroactive approval for the removal of the tree, the removal of a portion of the building, and the roof replacement. At the June 5, 2014 Historical Commission meeting, the owner stated he covered the second story windows with vinyl siding because an inspector told him that they were not code compliant. After discussion with Department of Inspectional Services staff, there are several compliance mechanisms for non-conforming windows and the owner needs to explore those options, discuss them with Inspectional Services and obtain approval from the Historical Commission. The Historical Commission will hear this application at their July 10, 2014 meeting and after its consideration, the exterior of the building may look markedly different from the current appearance of the building. However, since the Residential Conversion section in the Zoning Ordinance has an exemption with respect to changes to the external appearance of the structure except for new doors, windows, fire escapes, and/or stairways, the Board may choose to approve the project as proposed. Please note that if there is a condition of approval with respect to compliance with an approved rendering/elevation,

the owner may need an amendment to this approval in the future in a case where Historical Commission's determination is not reflected in the approved rendering by the Zoning Board.

Ms. Zhaurova stated that if approved, staff respectfully recommends that the Board vote on relief of two (and not three, as advertised) parking spaces from the parking requirements for use as a two-family dwelling (because one parking space is provided on-site and a relief of one is applied for as a Special Permit) with the following suggested conditions of approval:

- That there be no changes to the external appearance of the structure (optional - as approved by the submitted rendering) except for new doors, windows, fire escapes, and/or stairways³;
- That the structure and use are operated in substantial accordance with the final approved plan;
- That no parking will be provided in the front-yard setback (along Chatham Street); and
- That the front-yard setback remain landscaped and unpaved.

Mr. Michajlow stated that it has been the Board's practice to request a rendering. It would be difficult to make a decision without any information as to how the property will look.

Mr. Abramoff asked if Mr. Avery had to provide a rendering for the Historical Commission. Mr. Avery stated that he had not submitted a rendering to the Historical Commission but he was preparing one for the upcoming meeting. Mr. Abramoff stated that the Zoning Board would like to see that as well and that the Board should continue until after the Historical Commission approves the rendering.

Mr. Avery stated that other than the windows he didn't plan to make changes to how the property looked. The structure will remain the same.

Mr. Loew stated that the property needs to meet the Local Historic District regulations and the Board should wait until that process has been completed.

Mr. Rolle stated that any exterior features of the house require review by the Historic Commission. Some work was approved retroactively but there are other significant changes that have occurred to the exterior of the building (covering some existing windows) need their approval.

Mr. Loew stated that the applicant can choose to move forward but if the Historical Commission requires changes then he will have to come back. Mr. Abramoff stated that is due to the fact that they would be approving the structure the way it is and asked the applicant if he would like to continue the item.

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 5-0 to continue the item to July 28, 2014.

List of Exhibits

Exhibit A: Variance and Special Permit Application for 100 Chatham Street; received May 7, 2014; prepared by Harry Avery.

Exhibit B: Special Permit Plan; prepared by HS&T Group, Inc.; dated April 28, 2014.

³ Any future exterior work to the building is subject to separate approval from the Historical Commission

- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 100 Chatham Street – Special Permit and Variance Application; dated June 13, 2014.
- Exhibit D: Cease and Desist issued by Department of Inspectional Services, Buildings/Zoning Division, prepared by Joseph M. Atchue, Building Inspector; dated May 21, 2014.
- Exhibit E: Certificate of Appropriateness and Building Demolition Delay Waiver Application for 100 Chatham Street; prepared by Harry Avery; dated June 9, 2014; received June 12, 2014.
- Exhibit F: Historical Commission Decisions - Certificate of Appropriateness and Building Demolition Delay Waiver; recorded with the City Clerk June 11, 2014.

11. 266 Chandler Street (ZB-2014-026)

- Special Permit:** To allow a food service drive-through in a BG-4.0 (Business, General) zoning district (Article IV, Section 2, Table 4.1, Business Use # 6)
- Special Permit:** To modify the parking layout with regard to the drive-through length (240 ft. required, ~103.6 ft. provided) (Article IV, Section 7, A. 2.)
- Special Permit:** For a 10% reduction in the required number of parking spaces (84 required, 80 provided) (Article IV, Section 7 A. 2.)

Petitioner: UCBE, LLC
 Present Use: A drive-through bank
 Zone Designation: BG-4.0 (Business, General)
 Petition Purpose: To construct a ~5,335 SF restaurant with 158 indoor seats and an outdoor seating area with 30 seats to the west of the existing bank. Additionally, the petitioner seeks to construct an associated food-service drive-through and 80 off-street parking spaces (56 on-site and 24 off-site) along with associated site improvements

Public Hearing Deadline: 7/17/14;

Attorney John Shea, representing the applicant, introduced two of the principals of UCBE, LLC, Bill Kitsilis and John Reeves. Mr. Shea stated that this is the same parcel that Webster Five Cents Savings Bank is located on. He stated that Mayfield Street will be paved, striped, and re-opened by the City by August of this year. The lot is currently vacant but it has historically been used as a driving range, nightclub, and a gun manufacturer. The proposal is for a 4,499 SF full-service restaurant with a bar.

Mr. Shea stated that he is seeking a Special Permit for food service with a drive through, another to modify the parking layout as it relates only to the drive-through (240’ required, 103.6’ provided), and for a 10% reduction in the required number of parking spaces, but he will be requesting to withdraw the last one.

The character of the neighborhood is commercial and residential and this use will fit in with the neighboring businesses. The drive-through will only be used for people picking up their take out order and if their order isn’t ready there are three designated parking spots for take-out customers.

There will be no order board and a full escape lane will be provided. It is solely for the convenience of their customers.

Mr. Shea stated that DPW&P's comment was "The drive-thru and escape lanes are each less than the length required under Zoning. Any queuing length greater than 103' would interfere with some of the proposed parking spaces. This combined with the parking demand could cause traffic to spill out onto Chandler Street, at a location nearby to an already, peak time, congested intersection." Mr. Shea stated that in conversations with DPW&P, they told them that they are in favor of this drive-through length given that this is not a traditional drive up window.

Mr. Shea stated that the restaurant has 147 seats, which requires 74 parking spaces. Inspectional Services asked them to add two additional spaces for the drive-through window and fast food use. There are 30 seasonal seats in the outdoor patio. They do not have to provide parking for the first 20 seats but do need five additional spaces for the 10 additional seats. They are providing the required 81 parking spaces; 57 onsite and 24 are adjacent to Webster Five Cents Savings Bank. They have a 19 year lease to use those as employee only parking.

Mr. Shea stated that they are anticipating that the restaurant will be open during the following times: Monday to Friday from 11 AM to 11 PM; Saturday from 11 AM to 12 midnight and; Sunday 12 noon to 12 midnight. They have not determined dumpster pick up hours but they will be between 8 am and 5 pm. This business will employ approximately 15 full-time and 25 part-time employees.

William Kitsilis, applicant, stated that his family has roots in Worcester and he was pleased to be coming back to make such an investment here. He has met with the neighbor in the rear and they have agreed to put a stockade fence to provide safety and also to provide lighting that is amenable to her as to not disturb her. He stated that he was the one that insisted in the drive-up window. It is just a convenience to the customer that other restaurants are not providing. As for the outdoor dining, it has been his experience that it is unlikely to get a full dining room, full outdoor patio, and the pickup window. In the winter the dining room fills up with the dinner crowd around 5 pm. In the summer, the traffic is more spread out with people dining later and using the outside patio more often.

Mr. Abramoff asked if the applicant has had an opportunity to review the conditions of approval. Mr. Shea stated that they have and they are amenable to them.

Ms. Tatasciore stated that the applicant was looking to withdraw the third special permit. She asked the applicant to address the lighting.

Mr. Shea stated that the full lighting plan will be presented at Planning Board but they do plan to have some light spillage in order to keep the property and the neighbor safer.

Ms. Tatasciore stated that due to the difficulty and possible impeded maneuverability of the 4 tandem parking spaces that are located beside the drive-through escape lane, staff recommends that they be restricted for employee use only and that this area be signed accordingly. She also stated that the fencing adjacent to the Hanson family has fabric that has become unattached and she suggested that the applicant re-attach it so that it provides more concealment. Also, the area has been littered and the applicant should maintain it in an orderly fashion.

Mr. Shea stated that the fence is part of the property next door and they plan to take care of it but he asked that it not be a condition of approval.

Mr. Loew asked how to encourage bike racks when looking at these large developments. Mr. Rolle stated that there is nothing that requires bike racks in the ordinance but the Board can ask the

applicant if they are willing to incorporate it. Staff is looking into adding something to the Zoning Ordinance to address this.

Mr. Abramoff stated that he has installed some for his building, which has a similar use, and they are used every day. Mr. Shea stated that if they get customers riding their bikes they will add it.

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

Mr. Abramoff asked staff if we received a parking lease and Ms. Tatasciore stated that we received an executed copy with the filing for 19 years. The ordinance only requires a 5 year lease.

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 two special permits to allow a food service drive-through in a BG-4.0 (Business, General) zoning district and to modify the parking layout with regard to the drive-through length (240 ft. required, ~103.6 ft. provided) subject to the conditions in the memo.

Upon a motion by Mr. Loew and seconded by Mr. Wanat, the Board voted 5-0 to grant a Leave to Withdraw Without Prejudice for the special permit for a 10% reduction in the required number of parking spaces (84 required, 80 provided).

List of Exhibits

- Exhibit A: ZBA – Special Permit Application; received May 13, 2014; prepared by Owner’s Agent, Joseph D. Radovanic of 136 Thompson Rd., Webster, MA and Applicant William Kitsillis of UCBE, LLC.
- Exhibit B: Proposed Conditions Plan, Prepared for Antonio’s Pizza By The Slice of 262 Chandler Street; dated May 13, 2014, prepared by JH Engineering Group LLC; revised plan submitted and stamped on June 11, 2014
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 266 Chandler Street, dated June 12, 2014.
- Exhibit D: Floor Plan prepared by JGA Architectural Design, dated April 9, 2014, received June 11, 2014.
- Exhibit E: Landscape Plan prepared by EarthDesign Landscape Architecture, dated May 13, 2014.
- Exhibit F: E-mail correspondence between John Shea & Michelle Smith, dated May 28, 2014.
- Exhibit G: Letter of opposition from abutter Joyce Hanson of 62 Abbott Street, dated June 6, 2014.
- Exhibit H: Memorandum from the City of Worcester Department of Public Works & Parks to the Zoning Board of Appeals; re: 266 Chandler Street, dated June 13, 2014.

12. 1 Carver Street (ZB-2014-028)

Variance: For relief of 40 ft. from the 200 ft. frontage dimensional requirement in a BL-1.0 (Business, Limited) zoning district (Article IV, Section 2, Table 4.2)

Variance: For relief of 13.10 ft. from the 20 ft. rear-yard setback dimensional requirement in a BL-1.0 (Business, Limited) zoning district (Article IV, Section 2, Table 4.2)

Variance: For relief of 5.3 ft. from the 40 ft. maximum height dimensional requirement in a BL-1.0 (Business, Limited) zoning district (Article IV, Section 2, Table 4.2)

Variance: For relief of 3.3% from the requirement that a minimum of 10% of lot area remain as open space (Article IV, Section 4, Table 4.1, Note 3)

Special Permit: To modify parking layout with respect to required 5 ft. landscaping buffer and screening (Article IV, Section 7, Table 4.4, Note 5)

Petitioner: William Dowell

Present Use: A vacant lot

Zone Designation: BL-1.0 (Business, Limited)

Petition Purpose: To construct a three-story, ~13,000 SF footprint, multi-family low-rise residential dwelling with nine dwelling units and 18 associated off-street parking spaces

Public Hearing Deadline: 7/18/14; **Constructive Grant Deadline:** 8/22/14

William Dowell stated that the building will look like the one he is building across the street at 2-4 Carver Street. The lot at 1 Carver Street is not a rectangular lot and as a result they need all these variances.

Ms. Tatasciore stated that the project proposed is requesting variances for frontage, rear-yard setback, height, and open space requirement. Mr. Dowell is requesting a waiver from listing the names of the abutters within 300 feet of property lines shown on the plan. The application by the same owner approved for 2 & 6 Carver Street (across the street) placed the building up front with the parking to the side. This proposed project sets the building back and places the parking in the front.

Ms. Tatasciore stated that in 2005 a demolition permit was issued to demolish the existing structure. If approved, staff respectfully recommends the following suggested Conditions of Approval:

1. The structure be constructed in substantial accordance with the final approved plan and with the submitted rendering prepared by John Ciccariello & Assoc., Inc., dated May 15, 2014.
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 and showing the following missing labeling and annotations:

- a. Provide a rendering for the back and left side elevation (or confirm that they are similar to front and right).
- b. The location of the shed shall be verified.
- c. Correct the note on the plan cover sheet to ensure that the wording indicates that a Special Permit for the landscaped buffer is required and not a variance.

Maureen Finlay, engineer, presented architectural drawings and floor plans to the Board. Ms. Finlay stated that they actually require less relief than originally requested. Ms. Finlay stated that they explored different building layouts but the one that provided the safest access for parking was the one proposed. It also was the most pedestrian friendly because the back requires retaining walls with 6' stockade fence on top of that. Also, she did not take the shed into account in the open space calculation. The neighbor's shed is partially on this property.

Mr. Dowell stated that he asked the engineers to raise the building so that the first floor windows wouldn't be looking out to a retaining wall.

Mr. Abramoff stated that they were asking for a lot of relief.

Ms. Tatasciore asked why the front door was offset. Mr. Dowell stated that there are three apartments on each floor and run from front to back. It was just a decision made to best accommodate the floor plan. Ms. Tatasciore asked if the applicant has considered widening the door or providing a double door. Mr. Dowell stated he was amenable to making changes to making the structure more aesthetically pleasing.

Mr. Abramoff stated that the applicant could add a window next to the door centered with the ones above.

Ms. Tatasciore asked what the applicant was proposing for signage and lighting. Mr. Dowell stated that other than the address there will be no additional signage for this building. Ms. Finlay showed the proposed lighting on the plans and noted the snow storage area as well.

Mr. Abramoff asked staff for clarification on the amount of relief requested for open space. Ms. Zhaurova stated that 10% would have been 1,300 SF and the applicant is providing 875 SF, which requires the Board grant 33% of relief.

Mr. Wanat asked if there was a way they could widen the 3 ft. landscaping strip. Ms. Finlay stated that they are providing the required 5' of setback, then the 18' of depth for the parking spaces and lastly the 24' aisle width, which is required only leaves 3' to work with.

Mr. Abramoff stated that landscaping was critical to this site because they are overdeveloping it.

Mr. Dowell stated that since he owns the building across the street as well, he is invested in making sure both look the best they can and plans to add trees to create a nice entrance to the street.

Ms. Zhaurova stated that the applicant is proposing on species of trees every 20-25 feet but she suggested a variety of trees be used to create diversity.

Mr. Dowell stated that if allowed to plant grass in the snow storage area, then those 312 SF can be used to reduce the amount of relief needed for open space. Mr. Rolle stated that because that area is designated as snow storage the same amount of relief is needed, although he Board can condition that it be green.

Joseph Iaccarino, 7 Carver Street, stated that the shed onsite belongs to him and he'll work something out with Mr. Dowell. He stated that Carver Street used to be lined with huge maple trees and a previous owner removed one without City approval and never replaced it. He was concerned that the cherry trees wouldn't provide the same shade and look that the street had before. He was also concerned that any lighting on the building might shine into his house.

Mr. Abramoff stated that the Zoning Ordinance limits the amount of light spillover the project can have and Mr. Dowell will have to abide by those.

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. Wanat and seconded by Mr. Loew, the Board voted 5-0 to approve the findings of fact as modified by staff and approve the following:

Variance: For relief of 40 ft. from the 200 ft. frontage dimensional requirement in a BL-1.0 (Business, Limited) zoning district (Article IV, Section 2, Table 4.2)

Variance: For relief of 13.10 ft. from the 20 ft. rear-yard setback dimensional requirement in a BL-1.0 (Business, Limited) zoning district (Article IV, Section 2, Table 4.2)

Variance: For relief of 4ft. and 1 and 11/16 ft. from the 40 ft. maximum height dimensional requirement in a BL-1.0 (Business, Limited) zoning district (Article IV, Section 2, Table 4.2)

Variance: For relief of 33% from the requirement that a minimum of 10% of lot area remain as open space (Article IV, Section 4, Table 4.1, Note 3)

Special Permit: To modify parking layout with respect to required 5 ft. landscaping buffer and screening (Article IV, Section 7, Table 4.4, Note 5)

Waiver: To list the names of the abutters within 300 feet of property lines shown on the plan.

Subject to the conditions in the staff memo and that the snow storage area be green permeable.

Ms. Tatasciore asked if the Board was going to require a rendering.

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

Upon a motion by Mr. Abramoff and seconded by Mr. Wanat, the Board voted 5-0 to add an additional condition that a faux window be placed to the right of the door consistent with the two windows in the center.

List of Exhibits.

Exhibit A: Variance & Special Permit Application; received May 14, 2014, prepared by William Dowell.

Exhibit B: Proposed Site Plan & Parking Plan for Bill Dowell, 1 Carver Street, Worcester, MA; dated May 14, 2014, prepared by Summit Engineering & Survey, Inc.

Exhibit C: Rendering; dated May 15, 2014, prepared by John Ciccariello & Assoc., Inc.

- Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Zoning Board of Appeals; re: 1 Carver Street, dated June 13, 2014.
- Exhibit E: Floor Plan Layout.
- Exhibit F: Building Elevation.

APPROVAL OF THE MINUTES

Upon a motion by Mr. Michajlow and seconded by Mr. Wanat, the Board voted 5-0 to the February 24, 2014 meeting minutes.

OTHER BUSINESS:

13. Approval of the Proposed Meeting Schedule for 2015

Mr. Abramoff asked if the January 12, 2015 meeting could be changed to January 5, 2014. He has a conflict and would not be able to attend if it remains on January 12. Ms. Zhaurova stated that staff needed to take a look at it and get back to the Board at the next meeting.

14. Discussion of Rules and Regulations regarding application submission requirements and plan size

Ms. Tatasciore asked if the Board can postpone this item since staff is not prepared to present it yet. Mr. Abramoff stated the item could wait to next meeting.

15. Communications

There were no communications.

16. Signing of Decisions from prior meetings

All decisions have previously been signed.

ADJOURNMENT

Upon a motion by Mr. Wanat and seconded by Mr. Loew, the Board voted 5-0 to adjourn at 9:00 P.M.