

**CITY OF WOBURN
JANUARY 17, 2017 - 7:00 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
Campbell	Higgins
Concannon	Mercer-Bruen
Gaffney	Tedesco
Haggerty	

The City Council observed a moment of silence in memory of former Ward Six Alderman Donald Galante who passed away recently.

VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE, all in favor, 9-0.

MAYOR'S COMMUNICATIONS:

ORDERED That the sum of \$800,000.00 be and is hereby transferred as so stated from Overlay Reserve Acct #01-322000 \$800,000.00 to OPEB Trust Fund Acct #750048-48311 \$750,000.00, Assessor Appraisls Acct #0113757-571001 \$50,000.00, Total \$800,000.00

I have approved the above: s/Andrew Creen, City Appraiser
I hereby recommend the above: s/Scott D. Galvin, Mayor
I have reviewed the above: s/Charles E. Doherty, City Auditor

s/President Haggerty

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE, all in favor, 9-0.

PUBLIC HEARINGS:

Motion made and 2nd to suspend the rules for the purposes of taking the following matter out of order, all in favor, 9-0.

On the petition by Red Robin International, Inc., 369 Washington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances,

as amended, Section 5.1.64 to operate tabletop Ziosk devices at 369 Washington Street. PUBLIC HEARING OPENED. A communication dated January 12, 2017 was received from Tina Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Special Permit application for 369 Washington Street/Red Robin International, Inc.

The Planning Department has reviewed the above-referenced petition which seeks a special permit under Section 5.1 (64) of the Woburn Zoning Ordinance (WZO) to allow for the use of an unspecified number of table-top entertainment devices (i.e., “Ziosk” devices) for the purposes of food and drink ordering and playing electronic games. The application does not indicate whether the devices will also permit patrons to pay for their orders, and does not specify an age limit/age range for the planned electronic games. The property in question is zoned as Office Park (O-P).

The Planning Department does not have a standard precedent with regard to processing a special permit application of this type; however, Planning staff recommends the City Council consider imposing the following as conditions of approval:

1. That the entertainment machines shall not be permitted for the use of “pay to play” or “games of chance,” for which prizes or anything of monetary value are distributed;
2. That trivia games, such as those that are used on these and similar types of devices in other restaurant establishments, not be permitted;
3. That the machines not be used for any purpose other than food/drink ordering and the playing of electronic games (e.g. no paying of bills);
4. That the Council establish an appropriate age limit for the intended audience of electronic games that will be made available; and
5. That the special permit be issued to Red Robin International and shall not be transferrable.

If you have any questions regarding this recommendation, please do not hesitate to contact me.

Respectfully, s/Tina Cassidy, Planning Director

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Andrew Upton, DiNicola, Seligson & Upton LLP, 6 Beacon Street, Suite 700, Boston, Massachusetts 02108 and he stated that the special permit is requested for Ziosk devices, that the special permit is required under the zoning ordinances, that the devices is used for ordering food and drinks, paying the bill and electronic games, that an amusement device permit has issued from the License Commission, that the restaurant has been open for approximately one month, that the petitioner has not been using the devices pending approval of the special permit, that the devices will not be accessible to minors, that the petitioner seeks approval for sixty devices with one device at each table, that the petitioner understands the conditions recommended by the Planning Board and would agree to the conditions, and that there are no tickets or chances won on the machines. Alderman Tedesco stated that

for similar special permits granted to Uno's and Applebee's the only condition attached was Planning Board condition 5 relative to a restriction on the transferability of the special permit, and that approval of this special permit should be consistent with approval of similar special permit petitions. Alderman Anderson stated that he is not concerned about the machines being used for trivia games. Alderman Mercer-Bruen stated that she visited the restaurant, that she noticed the devices were on the tables but were not being used pending approval of this special permit, that she appreciates the petitioner following the procedure before activating the devices, that she has no opposition to the petition, and that the only proposed Planning Board condition that she supports is relative to the restriction on transferability of the special permit. Alderman Concannon stated that approval of this petition should be consistent with other similar special permits. Alderman Higgins stated that approval of the special permit should be consistent with approval of other special permits. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the entertainment machines shall not be permitted for the use of "pay to play" or "games of chance," for which prizes or anything of monetary value are distributed; and 2. That the special permit be issued to Red Robin International and shall not be transferrable, all in favor, 9-0.

Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

On the petition by Seaver Properties LLC, 215 Lexington Street, Woburn, Massachusetts 01801 for a special permit and site plan approval pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.3c, 5.1 Note 20, 11.3.2, 14, and Site Plan Approval pursuant to Sections 12.2.2 and 12.3.2 to allow for one hundred eighteen (118) residential townhouse units at 285, 287 and 299 Lexington Street. PUBLIC HEARING OPENED. A communication dated January 9, 2017 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petition of Seaver Properties LLC, 285, 287 and 299 Lexington Street, Woburn, Massachusetts

Dear Mr. Campbell:

On behalf of my client Seaver Properties LLC, I respectfully request that the public hearing scheduled for January 17, 2017 be continued to February 21, 2017. If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours, s/Joseph R. Tarby, III

A communication dated November 29, 2016 was received from Building Commissioner Thomas C. Quinn, Jr. relative to an interpretation of open space under the provision of the Woburn Zoning Ordinances. A communication dated December 8, 2016 was received

from City Solicitor Ellen Callahan Doucette relative to the open space requirement under Section 14 Townhouse Development in Residential Districts of the Woburn Zoning Ordinances. Motion made and 2nd that the communications be received and made part of the record, all in favor, 9-0. PUBLIC COMMENTS: A communication dated January 4, 2017 was received from Leanna Farnam, 341 Lexington Street, Woburn in support of the petition. A communication dated December 17, 2016 was received from Geraldine E. Kehoe, President and Rodney Flynn, Treasurer, Woburn Residents' Environmental Network in the favor of the petition. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON FEBRUARY 21, 2017, all in favor, 9-0.

On the petition by Park Avenue Solar Solutions, 102 Greenwich Avenue, Greenwich, Connecticut 06830 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended Section 26 to install an approximately 586 kW carport solar array over existing parking lot at 300 Wildwood Avenue. PUBLIC HEARING OPENED. A communication dated January 9, 2017 was received from Kirt Mayland, Reservoir Road Holdings, LLC, 43 Reservoir Road, Lakeville, Connecticut 06039 as follows:

Subject: Special Permit – 300 Wildwood Avenue, Woburn

We are in the process of working with con com. Based on our feedback from the Council, it seemed like it was best to finish that process first before coming back for the continued hearing. Based on that, I think it is best to continue to the next day.

Thank you very much,

Sincerely, Kirt

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MARCH 7, 2017, all in favor, 9-0.

On the petition by Comcast of Massachusetts/New Hampshire/Ohio, Inc. for a grant of right in a way on Pleasant Street to install one four inch PVC communication conduit 225 feet+/- easterly from utility pole #NT/NT on Abbott Street to the Federal Street side of the building located at 19 Pleasant Street. PUBLIC HEARING OPENED. A communication dated January 13, 2017 was received from Superintendent of Public Works John Duran as follows: "I would think that is should be continued again. I reached out to Comcast but not action taken or plan received to date." A communication dated January 17, 2017 was received from Bob Oliveira, Comcast Contract Project Coordinator as follows: "I am unable to attend tonight's hearing. Can you please continue us to the next available meeting date?" Motion made and 2nd that the communications be received and made part of the record, all in favor, 9-0. PUBLIC COMMENTS: None. Motion

made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON FEBRUARY 21, 2017, all in favor, 9-0.

Motion made and 2nd that the public hearing on the next two matters be taken collectively, all in favor, 9-0.

On the petition by 124 Lexington Street Realty Trust, John Marotto, Trustee, 122 Lexington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, to allow for work in a floodplain under Section 9 and construction of a single family home in the groundwater protection district under Section 15 at 124 Lexington Street. PUBLIC HEARING OPENED. A communication was received from the Committee on Special Permits as follows: "ought to pass." Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that the issues have been address in committee, and that the petitioner understands the conditions. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the petitioner shall abide by the Order of Conditions established by the Conservation Commission, and 2. That the petitioner shall file a letter of intent with the Commonwealth of Massachusetts for any required curb cut on Lexington Street, all in favor, 9-0.

On the petition by 130 Lexington Street Realty Trust, John Marotto, Trustee, 122 Lexington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, to allow for work in a floodplain under Section 9 and construction of a single family home in the groundwater protection district under Section 15 at 130 Lexington Street. PUBLIC HEARING OPENED. A communication was received from the Committee on Special Permits as follows: "ought to pass." SEE PRECEDING MEETING FOR NOTES. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the petitioner shall abide by the Order of Conditions established by the Conservation Commission, and 2. That the petitioner shall file a letter of intent with the Commonwealth of Massachusetts for any required curb cut on Lexington Street, all in favor, 9-0.

On the petition by HomeServe USA Corp., 11 Grandview Circle, Suite 100, Canonsburg, Pennsylvania 15317 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57b to allow for the overnight parking of petitioner's commercial vehicles at 5 Constitution Way. PUBLIC HEARING OPENED. A communication dated January 12, 2017 was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Planning Department comments on special permit application for HomeServe USA Corp. (5 Constitution Way)

Dear Council:

The Planning Department has reviewed the application seeking permission for overnight parking of commercial vehicles at 5 Constitution Way pursuant to Section 5.1 (57b) of the Woburn Zoning Ordinance (WZO). The property is located in the I-P (Industrial Park) zoning district and the overnight parking of commercial vehicles is allowed by City Council special permit.

The application represents that the facility at 5 Constitution Way is occupied by three existing tenants, one of which is the Petitioner. The petitioner is currently using approximately 4,508 square feet of the floor space for office use, although the business type is not explicitly mentioned in the application. The additional two tenants (combined) would continue to occupy an additional 7,928 square feet of the facility. The application is unclear as to whether these three tenants occupy the entirety of the building or whether there is additional space in the facility that is currently vacant but which should be included in the calculation of parking requirements.

This application does not explicitly include the number of commercial vehicles the Petitioner hopes to park on the site overnight. The parking table on the engineer-certified plot plan and the plot plan itself seem to indicate that the number of commercial vehicles that will be parked overnight will be six (6); this should be verified. In addition, the application provides no information as to the dimensions of the commercial vehicles that would be parked in the proposed commercial vehicle parking area. Without this information it is impossible to determine whether the vehicles would actually fit into the existing parking spaces as shown on the plan. This is important because the travel lane adjacent to the proposed commercial vehicle parking area measures approximately 24' in width, which is the recommended minimum safe travel aisle width for two-way traffic. The Council should verify that there will be a travel aisle at least 24' wide once the size of the commercial vehicles is ascertained from the petitioner.

The plot plan included in the application indicates there is a total of one-hundred twenty-four (124) parking spaces on site and that forty-three (43) are needed to service the existing building tenants. However, as stated above, it is not clear whether there is any additional square footage in the building that is currently vacant and for which parking must also be provided. It is also not clear whether either of the other tenants has previously received permission to parking commercial vehicles on site. If so in either case, the parking table should be redone to include the additional parking requirement(s).

With the presumed six (6) commercial vehicles that will be stored on site overnight, the parking requirement would increase to 48. This number also accounts for the personal vehicles of the individuals who will use the commercial vehicles during the day. Per advisement by the Building Commissioner, the applicant should provide information as to the number of employees working for each building tenant during the largest work

shift. With this information, the Council can determine if in fact there is sufficient parking on site to accommodate both the parking needs of all tenants at times of peak parking demand as well as the request for overnight commercial vehicle parking.

The Planning Department recommends the Council consider imposing the following as conditions of any Special Permit that may be granted:

1. All vehicles that will be parked on site overnight must be registered in the City of Woburn;
2. That the area designated for overnight parking must be lined on the ground such that the proposed commercial vehicles actually fit into the designated parking spaces;
3. That the two-way travel lane adjacent to the proposed designated commercial vehicle parking area will measure at least 24' wide when the commercial vehicles are using those spaces;
4. Unless the refuse areas for all tenants are located in the interior of the building, the proposed Plan of Record should be revised to show the location of outside refuse area(s) (including appropriate screening);
5. That the proposed Plan of Record be revised to show the location(s) of sufficient areas for snow storage and that a copy of the plan showing the snow storage areas be filed with the Director of Inspectional Services;
6. The Special Permit shall be issued only to HomeServe USA Corp. and shall not be transferrable; and
7. The Plan of Record shall be, "As-Built for 5 Constitution Way; Prepared by Dewsnap Engineering Associates, 178 Lincoln Avenue, Saugus, MA 01906; Scale: 1"=40'; Date: December 17, 1995, Revised _____."

If you have any questions or comments, please do not hesitate to contact me.

Sincerely, s/Dan Orr, City Planner/Grant Writer

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Derek Rodman, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he offered documents entitled "Proposed Conditions Special Permit Petition HomeServe USA Corporation 5 Constitution Way Woburn, MA 01801 January 17, 2017", two photographs, and a plan entitled "As Built for 5 Constitution Way" dated December 7, 1995 prepared by Dewsnap Engineering Associates for the City Council to review. Motion made and 2nd that the documents be received and made part of the record, all in favor, 9-0. Attorney Rodman stated that the property is located in the I-P zoning district, that the petitioner is engaged in business sales and service, that the petitioner provides HVAC services in eastern Massachusetts and Rhode Island, that business sales and services is allowed by right but a special permit is required for parking commercial vehicles overnight, that the petitioner has seven employees, that the hours of operation are Monday through Friday 6:00 a.m. to 6:00 p.m., that during peak summer and winter hours there may be hours on Saturday and Sunday, that employees may be at the site to pick up emergency parts on occasion, that here is no active involvement of the vehicles in transportation, that these are spare

vehicles used when needed, that all vehicles are leased, that the petitioner will provide evidence of the vehicle leasing agreement to the City Council, that there is excess parking, that there are 124 parking spaces with this petitioner using 43 are required including the overnight parking, that the building will be 100% occupied, that he is not certain where the dumpster is currently located on the site, that there is no snow storage plan, and that the petitioner has no objection to the dumpster being screened and landscaped. Michael Maille for the petitioner stated that there is a rear lot where the vehicles can be parked during snow. Alderman Mercer-Bruen stated that the vehicles should be limited to the size and scope of vehicles presented at this meeting, and that the city should advise the trash collection companies about restrictions on emptying trash dumpsters during certain hours. President Haggerty stated that a condition can be added prohibiting emptying the trash dumpster during the hours of 6:00 p.m. to 7:00 a.m. PUBLIC COMMENTS: Tim Swain, 29 Dragon Court stated that the trash dumpsters when emptied make loud noise during the early morning hours. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. The Plan of Record for this Petition shall be "As Built for 5 Constitution Way, Woburn, MA" dated December 7, 1995 prepared by Dewsnap Engineering Associates, 178 Lincoln Avenue, Saugus, MA 01906 as recertified by David N. Romero Civil Engineering on November 29, 2016 and submitted to the City Council on January 17, 2017 (the "Plan"); 2. That Petitioner shall offer proof that all vehicles are leased and the evidence of the lease agreements shall be made part of the record and if the vehicles are not leased the vehicles shall be registered within the City of Woburn; 3. The Special Permit shall be issued to HomeServe USA Corporation only and shall not be transferrable; 4. That the area designated for overnight parking must be lined on the ground such that the proposed commercial vehicles actually fit into the designated parking spaces; 5. All dumpsters on site shall be screened and landscaped; 6. The number of vehicles shall be limited to six (6) and shall not exceed the size and scope of the vehicles represented, that is, no larger than box trucks; 7. A snow storage plan shall be filed for the site with the Inspectional Services Department; and 8. Trash dumpsters shall not be emptied between the hours of 6:00 p.m. and 7:00 a.m., all in favor, 9-0.

On the petition by Speedway LLC #2435, c/o Bohler Engineering, 500 Speedway Drive, Enon, Ohio 45323 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.11.46a, 5.1.22a, 5.1.60, 5.1 Note 16 and Section 7.3 to further amend the special permit issued December 26, 2008, as amended September 6, 2012 and April 19, 2016 to allow for installation of a new outdoor ice merchandiser on existing concrete sidewalk at front face of convenience store at 306 Montvale Avenue. PUBLIC HEARING OPENED. A communication dated January 12, 2017 was received from Tina Cassidy, Planning Director, Woburn Planning Board as follows:

Re: Planning Department comments on special permit application for Speedway at 306 Montvale Avenue

Dear Council:

The Planning Department has reviewed the above-referenced petition submitted by Speedway LLC which requests approval of an amendment to a previously-granted Special Permit (dated December 26, 2008) and subsequent approved amendments to that Special Permit (on September 6, 2012 to allow for self-service/full-service gasoline station with convenience store and on April 19, 2016 to allow for installation of a new concrete pad with remote condensers). The Special Permit modification currently being requested would allow for the installation of a new outdoor ice merchandiser on the existing concrete sidewalk at the front face of the convenience store.

The petition lists special permit requests in accordance with five (5) separate zoning provisions: Sections 5.11.46(a) (which Planning staff believes should instead read “Section 5.1.46[a] and refers to a gasoline station use)), 5.1.22(a) (use of a retail establishment with less than 5,000 sq. ft. of gross floor area), 5.1.60 (accessory outside storage necessary to the operation and conduct of a permitted business and industrial use), 5.1. Note 16 (in reference to the requirement of a special permit for a convenience store/supermarket or variety store to operate between the hours of 10:00 pm and 7:00 am) and Section 7.3 (for the extension or alteration of a non-confirming use).

Planning staff notes two things with respect to this application:

- Section 5.1.60 allows, by right, the “Accessory outside storage necessary to the operation and conduct of a permitted business or industrial use”. As a by-right use it is not clear why this was included in the list of requested special permits but it prompts Planning staff to recommend the City Council verify that in fact the accessory *outside* storage of bagged ice cubes is *necessary* to the operation and conduct of a convenience store or gasoline station (emphases supplied). Staff is unsure why offering bagged ice is necessary to the operation of a convenience store or why the ice could not be stored inside.
- The City Council should verify that the narrower pedestrian walkway/access way that would exist between the proposed outdoor ice merchandizer and the closest parking space will meet ADA requirements. Vehicles using the parking space immediately in front of outdoor ice merchandizer will overhang the existing wheel stop. What will be the minimum distance between the vehicle’s bumper and the merchandizer, and is that clearance compliant with ADA requirements?

Should the City Council ultimately grant the Special Permit amendment being requested, the Planning Department recommends the Council consider imposing the following as conditions:

1. The Plan of Record for this petition shall be “Speedway LLC #2435, 306 Montvale Avenue, Woburn, Massachusetts: Equipment Plan; Prepared by Bohler Engineering, 1600 Manor Drive, Suite 200, Chalfont, PA 18914; Sheet EQ1, Dated December 20, 2015; Revised 1/10/2016, 3/9/2016, 8/31/2016, and 11/30/2016; Project No. PC151220”;

2. The Special Permit be issued to Speedway LLC #2435 only and shall not be transferrable; and
3. That all other conditions of the December 26, 2008 Special Permit decision, and September 6, 2012 and April 19, 2016 modifications, shall remain in full force and effect unless modified by this decision.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Respectfully, s/Tina Cassidy, Planning Director

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Jesse Johnson, Bohler Engineering and he stated that the petitioner is seeking permission to install an outdoor ice merchandiser at the front left of the building, that ice was stored inside but remodeling insider created space for other items and therefore the petitioner wants to move the ice outside, that the machine is three feet deep, that the wheel stop at the parking space can be moved, that the petitioner will maintain ADA accessibility, that the parking stall near the proposed location of the ice merchandiser is deep enough to accommodate vehicles, that with the adjusted wheel stop there will be three feet between the front of the ice merchandiser and the front of a parked vehicle, that there is five feet between the ice merchandiser and the wheel stop and three feet from the edge of the sidewalk and the ice merchandiser, that it is more economical for the petitioner to have the ice merchandiser located outside, that the petitioner has to maintain handicapped accessibility, and that he is not certain of the parking count for the site. Alderman Gately stated that there is a handicapped parking space and a wheel stop in the area of the proposed location for the ice merchandiser, and that he is concerned about the impact of the location of the ice merchandiser on pedestrians trying to maneuver in front of the ice merchandiser. Alderman Mercer-Bruen stated that she is concerned with the proposed location of the ice merchandiser on the handicapped parking space. Alderman Concannon asked if the handicapped parking space had to be maintained at that location. Alderman Anderson stated that the question is whether accessory outside sales is necessary, that he does not believe that the ice merchandiser must be outside, that the ice can be sold inside the building, and that he will not support the proposal. PUBLIC COMMENTS: None. Motion made and 2nd to close the public hearing, 8 in favor, 1 opposed (Tedesco opposed). Motion made and 2nd that the SPECIAL PERMIT be DENIED, all in favor, 9-0.

On the petition by NBTC Realty, LLC, 275 Mishawum Road, Woburn, Massachusetts 01801 to amend the 1985 Woburn Zoning Ordinances, as amended, by adding new definitions for “Billboard” and “Electronic Billboard” to Section 2 Definitions; by amending Section 13 Sign Regulations; and by amending Section 21 Mishawum Station Transit Oriented Development Overlay District including adding a new Section 7 Billboards as set forth in the December 6, 2016 City Council Journal. PUBLIC HEARING OPENED. A communication dated January 11, 2017 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Proposed zoning text amendment to allow billboards within the Mishawum Station TOD Overlay District and adopt definitions of “billboard”, “electronic billboard”, and attendant sign regulations

Dear Councilors:

At a meeting of the Woburn Planning Board held on Tuesday, January 10, 2017, the Board opened its public hearing on the above-referenced zoning petition submitted by NBTC Realty, LLC. The Board voted to continue the public hearing on this petition to its next meeting on January 24, 2017.

Please feel free to contact me if you have any questions about the Board’s deliberations on this matter.

Respectfully, s/Tina P. Cassidy, Planning Board Director

A communication dated January 10, 2017 with attachments was received from Attorney J. Gavin Cockfield, Davis, Malm & D’Agostine, P.C., One Boston Place, Boston, Massachusetts 02018 with proposed minor edits to the proposed amendments. Appearing for the petitioner was Attorney James Mawn, Northern Bank and Trust Company, 275 Mishawum Road, Woburn, Massachusetts 01801 and he stated that he represents the petitioner, that there are three aspects of zoning involved in the proposal including definitions, signs and the Mishawum Station Transit Overlay District, that on November 28, 2016 the petitioner was advised that the MBTA was seeking to install a billboard across the highway directly across from the petitioner’s property, that the proposal would be without local control, that the MBTA has wide ranging authority to install the signs, that the authority to install the signs has been approved as far as the Massachusetts Supreme Judicial Court, that the proposal is subject to state and federal statutes governing outdoor signs, that the signs cannot be installed within a certain radius from each other, that the sign will be installed, that a hearing has been scheduled for approval of the sign, that static signs cannot be within 500 feet of each other and digital signs cannot be within 1000 feet of each other, that the MBTA process is ahead, that even if this ordinance is approved there would still be a challenge, that the MBTA has to follow federal rules and and State outdoor advertising rules but not local rules, that the MBTA parcel is surrounded by commercial and industrial properties, that he believes that the City Council cannot act on the petition at this meeting without the Planning Board recommendation, that there will be one billboard across the highway facing northbound traffic and one billboard facing southbound traffic, that the size, height, hours of operation, mitigation and time of public service use would be controlled by the city with this proposal, that the MBTA sign will be 90 feet in height, that he does not know what the minimum size signs would be required to avoid the MBTA sign being erected within 1000 feet, that the proposed ordinance mimics the state regulations as a starting point, that other property owners may request permission to install billboards but the city does not have to approve the requests, that the petitioner received the notification on November 28, 2016, and that this petition was filed on December 1, 2016. Alderman

Mercer-Bruen stated that she has opposed billboards whenever they have been considered, that the hearing for MBTA billboard is scheduled for February 9, 2017, and that the Outdoor Advertising Board has its own rules that the MBTA must follow regarding impact of the billboard on the community. Alderman Concannon stated that there is no benefit to have the sign on the petitioner's property is the sign will be similar in impact as the proposed MBTA sign. Alderman Anderson stated that he is concerned that if an exception is made to allow a billboard then this opens every district to requesting signs, that the MBTA may be granted or denied permission to install the sign, that if the MBTA proposal is not denied there will be one billboard in the city but this would still prohibit billboards in all other districts, and that the MBTA looks at industrial areas for the billboards but the petitioner's parcel is more commercial as opposed to industrial. Alderman Higgins stated that she is concerned about the timing, that she does not want to rush through the matter without sufficient study, and that time may be against the petitioner with this proposal. President Haggerty stated that he wants to know if the public hearing on the MBTA proposal can result in disapproval of the sign or if opposition will have no impact on the decision. PUBLIC COMMENTS: Chris Owen, 3 Florence Terrace stated that the Planning Board has a number of questions concerning this proposal, that there are billboard-free towns in Massachusetts, that the zoning code does not allow offsite advertising, that the Code of Massachusetts Regulations seems to allow local ordinances to control, that billboards are a travesty, and that the proposal is to allow one property owner to erect a billboard so that another property owner being the MBTA cannot. Motion made and 2nd that a communication be send to the City Solicitor requesting that she provide to the City Council the same information that she will provide to the Planning Board regarding the proposed amendment, all in favor, 9-0. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON FEBRUARY 21, 2017, all in favor, 9-0.

On the petition by Alderman Gately concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 9 James Terrace, Woburn, Massachusetts, for the purposes of determining whether said structure or structures are a public nuisance, a nuisance to the neighborhood, a dilapidated or dangerous building or other structure, as said terms are used in Massachusetts General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. PUBLIC HEARING OPENED. Alderman Gately stated that the area has continued to be observed, and that the parking and traffic issues have improved. PUBLIC COMMENTS: None. Motion made and 2nd that the MATTER be PLACED ON FILE, all in favor, 9-0.

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the order to transfer the sum of \$125,000.00 from BLS Ambulance Receipts Acct to Fire Ambulance Salary Acct, committee report was received “ought to pass.” Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: January 19, 2017 s/Scott D. Galvin January 19, 2017

ORDINANCES:

On the Order to amend the 1989 Woburn Municipal Code, as amended, by deleting from Section 3-19 Schedule of fees for licenses and permits the following: “Skating Rinks \$100.00 annually”, committee report was received “ought to pass”. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, 8 in favor, 0 opposed, 1 abstained (Anderson abstained).

Presented to the Mayor: January 19, 2017 s/Scott D. Galvin January 19, 2017

PUBLIC SAFETY AND LICENSES:

On the petition for renewal of First Class Motor Vehicle Sales License by M&L Transit Systems, Inc., committee report was received “ought to pass”. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: January 19, 2017 s/Scott D. Galvin January 19, 2017

On the petitions for renewal of Second Class Motor Vehicle Sales Licenses by Cambridge Road Auto Service, Inc. dba Woburn Plaza Shell; Enterprise Fleet Management, Inc.; Joseph P. Mahoney, Inc.; and Murray’s Enterprises, Inc. dba Murray’s Auto & Truck Sales, committee reports was received “ought to pass”. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: January 19, 2017 s/Scott D. Galvin January 19, 2017

NEW PETITIONS:

Petition by Boys & Girls Club of Woburn, Charles Gardner Lane, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1, Note 14 to conduct a six-day carnival from May 9, 2017 to May 14, 2017 at the National Amusements site (Showcase Cinemas), 25 Middlesex Canal Park. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

Petition by NAI Entertainment Holdings LLC, 846 University Avenue, P.O. Box 9108, Norwood, Massachusetts 02062-9108 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended Section 5.1.15b to amend a special permit dated May 6, 1994 as modified November 10, 2016 to allow for: 1. A revised site plan for its existing cinema building entitled “Showcase Cinemas, 25 Middlesex Parkway, Woburn, MA” dated June 10, 2016, revised August 8, 2016 and prepared by Allen & Major Associated, Inc., 100 Commerce Way, Woburn, MA 01888-0118 (the “Site Plan”); and 2. A modification to “IV General Condition” by deleting “Site” on the third line and the sixth line and replacing with “Parcel II” as shown on the Site Plan, at 25 Middlesex Canal Park. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

Petition by AAM 15 Management LLC, 15 Middlesex Canal Park, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended Sections 5.1.20 and 12.2.4 to amend the special permit decisions dated October 11, 2001 and November 12, 2010 to allow for: 1. A new Site Plan of Record entitled: “Site Plans for Building Addition, Crowne Plaza Boston-Woburn, Woburn, MA” dated January 11, 2017, prepared by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888-0118; and Condition One (so called Condition 1); 2. An approximately 7,200 square foot more or less addition and other minor exterior renovations as shown on the Site Plan; and 3. Site Plan Review pursuant to Section 12.2.4, at 15 Middlesex Canal Park. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

Petition by Seaver Properties, LLC, 215 Lexington Street, Woburn, Massachusetts 01801 to amend the 1985 Woburn Zoning Ordinances, as amended, as follows:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOBURN that the 1985 City of Woburn Zoning Ordinances, as amended, be further amended as follows:

Amend Section 14 Townhouse Development in Residential Districts R-1 and R-2 as follows:

1. Amend Section 14.4 by adding a new subparagraph 8 as follows: “8. For purposes of Section 14 only, townhouse clusters as that term is used herein may include multifamily dwelling units containing up to four (4) stacked units per building. No more than twenty-five (25%) percent of the total units in the development can be stacked. The purpose of stacking is to minimize site disturbance, provide for additional open space, create more diversity and affordability in the unit types.”

AMENDMENTS TO SECTION 8.4.1.3 AND NOTE IN THE NOTES TO TABLE 5.1
TABLE OF USE REGULATIONS

AMENDMENTS SHOWN IN **BOLD [TEXT TO BE ADDED]** AND CROSS-OUT ~~[TEXT TO BE DELETED]~~

(Section 8.4.1.3) “Commercial Developments of greater than 15,000 square feet: Maximum driveway width of twenty-eight (28) feet of pavement width, leading to an intersection having a radius of thirty (30) feet.,~~however,~~

Notwithstanding the provisions of this section, the maximum pavement width and/or **minimum required driveway** radius may be **varied** ~~increased~~ for **townhouse or multi-family dwellings** and commercial developments **only**, ~~greater than 15,000 square feet~~ **if so authorized by special permit issued by the City Council pursuant to this Section 8.4.1.3** or if shown on a plan approved by either the City Council or Planning Board. **Neither the City Council nor the Planning Board shall have the authority to vary the dimensional requirements for driveways servicing one-family dwelling and two-family dwellings.**

Note 1 in the Notes to 5.1 Table of Use Regulations) “In addition to the Special Permit requirements shown in 5.1, Special Permits may be granted for the following: Exception to screening requirements in buffer areas (6.2.6[6]); reconstruction of a non-conforming use or structures damages by fire (7.6); Reduction in required off-street parking stalls for mixed uses (8.2.5.); **Driveway width or minimum driveway radii requirements for townhouses, multi-family dwellings and commercial projects**; Exception for landscaping requirements for parking facilities (8.6.2), Reduction in required loading spaces for mixed uses (8.7.1); cluster development (10).”

Seaver Properties, LLC, an individual owning
land to be affected by change or adoption
By its Attorney, s/Joseph R. Tarby, III, Esquire
Murtha Cullina LLP
600 Unicorn Park Drive, Woburn, MA 01801

Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated January 3, 2017 was received from Building Commissioner Thomas C. Quinn, Jr. as follows:

Re: Woburn Municipal Code Title 15 Article VIII 15-42

Dear Members of the Council:

With regard to the above referenced section of the Woburn Municipal Code, I submit the following quarterly nuisance report for the period of October 1, 2016 – December 31, 2016.

6 East Dexter Avenue – Matter is still with Middlesex District Attorney’s office. I have not received any additional updates from them, when received I will advise the Council further.

If you have any additional questions as always do not hesitate to contact me.

s/Thomas C. Quinn, Jr., Building Commissioner, City of Woburn

Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A copy of a communication dated January 12, 2017 to The Office of Outdoor Advertising, Attention: John R. Romano, Director, Ten Park Plaza, Room 6141, Boston, Massachusetts 02116 was received from Alderman Darlene Mercer-Bruen and Alderman Edward Tedesco as follows:

Dear Director Romano:

Thank you for the opportunity to provide comment on (2) electronic permit applications proposed for 27 Normac Road, Woburn, MA at Route 128 & I-95, North/South and referred to as Application # 2017D003 and 2017D004. I am writing today on behalf of my constituency in this area and urge you NOT to approve them based on the criteria outlined in 700CMR by the Mass Department of Transportation.

The proposed billboard is clearly revenue driven and is not related to the public welfare. This primary motive should disqualify the proposal without further consideration. To the extent that public messages may be disseminated upon the proposed billboards is irrelevant insofar as the public has done without these billboards since the beginning of time.

You cannot even consider these applications without considering the basic foundation of the Department’s authority and the principles discussed in the defining case of General Outdoor Advertising Co. v. Department of Public Works. The basis for the rules and regulations with respect to billboards is, in part, “to protect people travelling upon highways from the intrusion of the public announcements thrust before their eyes by signs and billboards. The people of the Commonwealth by the adoption of art. 50 and the General Court by the enactment of G. L. (Ter. Ed.) c. 93, s. 29-33, have declared that such signs and billboards on private property within public view may be regulated and restricted. One permissible and reasonable ground for such regulation is that travelers may be free from annoyance. This is not a mere matter of banishing that which in appearance may be disagreeable to some. It is protection against intrusion by foisting the

words and emblems of signs and billboards upon the mass of the public against their desire.”

Another significant consideration in the General Outdoor Advertising case was "aesthetic considerations." The regulation of billboards is justified by the legitimate state interest “to promote safety of travel upon the highways, and . . . to shield travelers upon highways from the unwelcome obtrusion of business appeals, to protect property from depreciation, and to make the Commonwealth attractive to visitors from other States and countries as well as to her own citizens.” In fact, the Supreme Judicial Court specifically noted that the “protection of scenic beauty from the intrusion of advertising on private property within public view is within its design and scope. Grandeur and beauty of scenery contribute highly important factors to the public welfare of a State. To preserve such landscape from defacement promotes the public welfare and is a public purpose.” These considerations are no less important now than they were 80 years ago. “It is, in our opinion, within the reasonable scope of the police power to preserve from destruction the scenic beauties bestowed on the Commonwealth by nature in conjunction with the promotion of safety of travel on the public ways and the protection of travelers from the intrusion of unwelcome advertising.”

How is it that the power to regulate and restrict the location of Billboards for the preservation of the landscape and to protect travelers from being bombarded by unwanted messages (“promotion of the comfort of travelers by exclusion of undesired intrusion”) has been morphed into a tool to thrust money making ventures for the MBTA upon local communities? The answer, clearly, is that the effort to locate these billboards where they have never stood in direct conflict of the environment and the freedom of a passerby to be free from being bombarded with messages cannot be allowed.

It is true that times have changed, but there is no benefit to the public welfare to allow these signs in the proposed locations.

Furthermore, as you should know, Woburn does not currently allow billboards of this nature for a variety of reasons, most notably for safety and visual impacts. This particular stretch of highway in which these billboards are proposed, is notorious for accidents. It is very near the crossroads of I93/128 interchange which has long been on Mass Highway's radar for improvements due to safety concerns. The State of Massachusetts, along with most cities and towns, has outlawed "texting & driving", as we should, because anything that takes our eyes off of the road, even for a few seconds, can be fatal. Electronic Bill Boards are nothing more than "GIANT TEXT MESSAGES IN THE SKY". Taking your eyes off the road at this particular section of the highway, has proven to be fatal to many drivers; billboards will not improve the statistics.

While I understand the debate about the safety of these signs continues, the debate about their visual impacts to residents is clear, and as such, is outlined in 700CMR by the Mass Department of Transportation, section 3.07 and constitutes reason for denial. Although the area in which these signs are proposed, is technically zoned "industrial", it is also

flanked by residential neighborhoods, both North and South, that would see these signs from their back yards and from the public way.

Finally, another significant consideration that seems to have been all but forgotten, is Article 49 of the Massachusetts Constitution that provides “[t]he people ... the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air, and other natural resources” We do not need more electronic billboards.

We are all well aware that the MBTA is facing many financial challenges, but solving those financial challenges should not cause undue harm to the residents, their property values and their quality of life. Many people and businesses are facing financial challenges. I am sure they would all like to raise revenue by erecting advertising billboards on their property. Nevertheless, they are prohibited to do so in the City of Woburn and an exception should not be made for the MBTA especially where doing so would be in conflict to the justifiable grounds to do so.

I respectfully ask that you deny these billboard applications for the reasons outlined here.

Thank you for your time, and for your consideration of this matter.

s/Darlene Mercer-Bruen, Alderman Ward 5
s/Alderman Edward Tedesco Alderman Ward 6

cc: Woburn City Council; Woburn Planning Board; Mayor Scott Galvin; State Senator Kenneth Donnelly; State Representative James Dwyer; State Representative Jay Kaufman; Lydia Quirk, Mass DOT

Motion made and 2nd that MATTER be RECEIVED AND MADE PART OF THE RECORD and be endorsed by the City Council, all in favor, 9-0.

A communication dated January 12, 2017 was received with a copy of Chapter 397 of the Acts of 2016 An Act authorizing the City of Woburn to grant additional licenses for the sale of alcoholic beverages to be drunk on the premises. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated January 6, 2017 was received from John R. Romano, Director, MassDOT – Office of Outdoor Advertising, Ten Park Plaza, Suite 6160, Room 6141, Boston, Massachusetts 02116 as follows:

Re: Application for permit(s) for the construction of electronic billboard(s)

Dear Mr. Campbell:

Please be advised that on Thursday, February 9, 2017 the Office of Outdoor Advertising will hold a public meeting at 11 AM in Conference room/s 5 & 6 on the second floor of the Transportation Building at 10 Park Plaza, Boston MA.

The agenda includes application by Clear Channel Outdoor for two (2) electronic permits for the construction of an electronic billboard(s) at the following location(s): a. (adjacent to) 27 Normac Road (facing Route 128 & I-95) Application 2017D003 (new structure, facing north), b. (adjacent to) 27 Normac Road (facing Route 128 & I-95) Application 2017D004 (new structure, facing south)

Public comment regarding the proposed billboard(s) and/or display(s) may be presented at the meeting or in writing prior to the meeting to: The Office of Outdoor Advertising, Attention John R. Romano, Director, Ten Park Plaza, Room 6141, Boston, MA 02116.

Thank you for your attention to this matter.

Sincerely, s/John R. Romano, Director, MassDOT – Office of Outdoor Advertising

Motion made and 2nd that MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED Be it ordained by the City Council of the City of Woburn that a petition be filed with the General Court to the end that legislation be adopted as follows, provided that The General Court may make clerical or editorial changes of form to reasonably effectuate the purposes set forth herein. The Mayor is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE TRAFFIC COMMISSION IN THE CITY OF WOBURN

SECTION 1. The second sentence of section 4 of chapter 103 of the acts of 2005 is hereby amended by striking out the words “shall take effect until published for 2 successive weeks in 1 or more newspapers of general circulation in the city” and inserting in its place the following words “shall

take effect until approved by the city council under section 6, and filed in the office of the city clerk”.

SECTION 2. This act shall take effect upon its passage.

s/Alderman Higgins

Motion made and 2nd that the ORDER be ADOPTED, 8 in favor, 0 opposed, 1 abstained (Haggerty abstained).

Presented to the Mayor: January 19, 2017 **s/Scott D. Galvin January 19, 2017**

ORDERED That the Committee on Special Permits review the special permit issue for the property located at 17A Maywood Terrace.

s/Alderman Mercer-Bruen and Alderman Concannon

Motion made and 2nd that the ORDER be ADOPTED and be referred to Committee on Special Permits, all in favor, 9-0.

ORDERED That the Committee on Special Permits review the special permit issued for the property located at 325 Washington Street.

s/Alderman Mercer-Bruen

Motion made and 2nd that the ORDER be ADOPTED and be referred to Committee on Special Permits, all in favor, 9-0.

ORDERED Whereas, the Woburn City Council received notification regarding the 25% design hearing for the proposed New Boston Street Bridge Replacement project requesting oral and written statements for the hearing;

Now, therefore, be it Resolved that the Woburn City Council adopt the attached letter and send this communication to the respective parties:

Patricia A. Leavenworth, P.E., Chief Engineer, MassDOT
State Senator Ken Donnelly
State Representative James Dwyer
State Representative Jay Kaufman

s/Alderman Tedesco, Alderman Concannon
and President Haggerty

Attached thereto was the following:

To Whom It May Concern:

We write to you to discuss the proposed New Boston Street Bridge Replacement Project in Woburn, MA. After having received notification of the 25% design hearing set for February 1, the Woburn City Council would like to submit a letter of support for the replacement of the New Boston Street Bridge.

The proposed New Boston Street Bridge provides many opportunities to help improve the flow of traffic, provide for great economic opportunities, and alleviate traffic congestion along Route 38 in both Woburn and Wilmington. Now with the additional access routes via Commerce Way and I-93, the bridge will serve as an important transportation link for regional and local traffic. It will provide a more direct transportation route for both industrial areas in Woburn and Wilmington.

The bridge will also provide for the potential for increased economic development in our Commerce Way Overlay District. With close proximity to the Anderson Regional Transportation Center, along with providing more direct transportation routes, we see this as a great opportunity for redevelopment in that area to bring a mix of retail, housing, mixed-use, and commercial development that will bring new jobs and continue to grow Woburn's commercial tax base so we can continue to keep Woburn affordable for our residents.

In closing, the benefits of this project would be great. By providing a more direct transportation route, this would help alleviate traffic problems in residential neighborhoods that abut the New Boston Street area, as well as alleviating traffic congestion along Route 38 in both Woburn and Wilmington, and would provide for great opportunities in helping redevelop our Commerce Way Overlay District and the surrounding commercial areas.

Sincerely,

Richard M. Haggerty, President, Alderman at Large

Michael P. Concannon, Alderman at Large

Joanne E. Campbell, Alderman Ward 1

Richard F. Gately, Jr., Alderman Ward 2

Mark E. Gaffney, Alderman Ward 3

Michael D. Anderson, Alderman Ward 4

Darlene Mercer-Bruen, Alderman Ward 5

Edward A. Tedesco, Alderman Ward 6

Lindsay E. Higgins, Alderman Ward 7

Signed by its Clerk, William C. Campbell

Alderman Tedesco stated that there will be a meeting on this matter on February 1, 2017 at 7:00 p.m. in the Council Chamber at Woburn City Hall, that public attendance at this

meeting is important, that the bridge will provide opportunity and bring relief to Main Street and the residential streets abutting that area, and will bring economic opportunity to that area of the city. Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor January 19, 2017 and ten days having elapsed without same being approved, said Order became effective without his signature on January 31, 2017.

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 8:24 p.m.

A TRUE RECORD ATTEST:

William C. Campbell
City Clerk and Clerk of the City Council