

**CITY OF WOBURN
SEPTEMBER 21, 2010 - 7:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBER, WOBURN CITY HALL**

Roll Call

Anderson	Gately
DiTucci	Haggerty
Drapeau	Mercer-Bruen
Gaffney	Raymond
Denaro	

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

MAYOR'S COMMUNICATIONS:

A communication dated September 17, 2010 was received from His Honor the Mayor Scott D. Galvin as follows:

Re: Thirty-third Annual Mayor's Senior Appreciation Day Dinner

Dear President Denaro and Members of the City Council:

On Sunday, November 7, 2010, the 33rd Annual Mayor's Senior Appreciation Day Dinner will be held at Woburn Memorial High School, starting at 11 a.m. Dinner will be served at noon. It is my pleasure to continue this tradition, which attracts more than 500 Woburn Seniors each year.

In keeping with this Mayoral tradition, I am extending an invitation to all City Councilors to participate in the dinner by serving our seniors.

I look forward to seeing you there.

Sincerely, s/Scott D. Galvin, Mayor

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

PUBLIC HEARINGS:

On the petition by National Grid for a grant of right in a way to install approximately eighty (80) feet of four (4) inch plastic service to feed 371 Main Street. PUBLIC HEARING OPENED. A communication was received from Thomas C. Quinn, Acting Superintendent, Department of Public Works as follows:

Utility Permit – National Grid – 371 Main Street

1. National Grid must abide by the City of Woburn Title 12 Guidelines.
2. Repair or replace any stamped and painted crosswalks that are damaged.
3. All work must be done between the hours of 9:00 p.m. and 6:00 a.m.
4. All work must be done according to plan submitted.
5. All work must be completed by October 20, 2010 (no exceptions).

s/Thomas C. Quinn, Acting Superintendent

Appearing for the petitioner was Hugh K. Small, Construction Supervisor, National Grid and he stated that this will provide gas service at 371 Main Street, that the work will avoid the impressed crosswalk, that the petitioner will repave the roadway and the landowner will replace the concrete sidewalk, and that the shutoff is in the sidewalk. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. Motion made and 2nd that the GRANT OF RIGHT IN A WAY be APPROVED, AS AMENDED, with the conditions as follows: 1. That the recommendations of the Superintendent of Public Works be adopted as conditions of the grant, all in favor, 9-0.

Presented to the Mayor September 23, 2010 and ten days having elapsed without same being approved, said order became effective without his signature on October 5, 2010.

On the petition by NSTAR Electric Company and Verizon New England, Inc. for a grant of right in a way to relocate joint occupancy pole 115/12 easterly side of Central Street at intersection of Orange Street and relocate joint occupancy pole 37/11 easterly side of Central Street at intersection of Montvale Avenue. PUBLIC HEARING OPENED. Appearing for the petitioner was Jacqueline Duffy, Right of Way Agent, NSTAR Electric and she stated that the petition is to relocate two poles for the Goodyear School, that the wires will not be removed on the same day, that the poles cannot be removed until the other companies wires are off the pole, that all wires can be moved within thirty days, and she will look at other double pole issues on Vernon Street and on Salem Street at Westview Terrace. Acting Superintendent of Public Works Thomas Quinn stated that he will discuss with the petitioner work issues with respect to scheduling the installation work, that there can be a condition that the work commence after the school buses have left the area and be completed before the end of the school day, that it will take thirty working days to move the other utilities to the new poles, that RCN is slow in removing wires from old poles, and the Verizon, NSTAR and the city have been moving their wires from double poles. Alderman Mercer-Bruen stated that the joint poles should be removed and the sidewalk replaced, and that there should be no disruption of the school bus

service in that area. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that public hearing be closed, all in favor, 9-0. Motion made and 2nd that the GRANT OF RIGHT IN A WAY be APPROVED, AS AMENDED with the conditions as follows: 1. That the concrete sidewalks are to be repaired and replaced by NSTAR Electric Company, 2. That the joint poles shall be removed within thirty (30) days of installation, and 3. That work shall not begin until the Goodyear School buses have left in the morning and shall be completed before the Goodyear School buses arrive in the afternoon.

Presented to the Mayor September 23, 2010 and ten days having elapsed without same being approved, said order became effective without his signature on October 5, 2010.

On the petition by Hughes Entertainment dba Lasercraze, 1600 Osgood Street, North Andover, Massachusetts 01845 for a special permit pursuant to Section 5.1.17b, 5.1.29 and 5.1.64 of the 1985 Woburn Zoning Ordinances, as amended, to allow for an indoor commercial playground for laser tag and containing automatic amusement devices and a snack bar at Suite C, 15 Presidential Way. PUBLIC HEARING OPENED. A communication dated September 17, 2010 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 Hughes Entertainment, Inc. d/b/a LaserCraze, 15 Presidential Way, Woburn, Massachusetts

Dear Mr. Campbell:

Please be advised that I represent Hughes Entertainment, Inc. On behalf of my client, I respectfully request that the public hearing on the above matter be continued from September 21, 2010 to October 5, 2010. The Petition is being reviewed by the Planning Board on September 28, 2010 and a written recommendation from the Planning Board will not be available for the City Council public hearing. Therefore, the continuance to October 5, 2010 is being requested. Thank you.

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

IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON OCTOBER 5, 2010, all in favor 9-0.

Motion made and 2nd to take the next two matters collectively, 8 in favor, 0 opposed, 1 abstained (Haggerty abstained).

Alderman Haggerty left the Council Chamber.

On the petition by Roman Catholic Archbishop, a Corporation Sole, 66 Brooks Drive, Braintree, Massachusetts to further amend the 1985 Woburn Zoning Ordinances, as amended, by revising Section 22 entitled “Senior Housing Overlay District (SHO)” by deleting in its entirety and replacing with a new Section 22 entitled “Residential Overlay District (ROD) District. PUBLIC HEARING OPENED. A communication dated September 13, 2010 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Roman Catholic Archbishop of Boston – Zoning Ordinance Amendment – To delete in its entirety Section 22 entitled “Senior Housing Overlay District (SHO)” and replace it with a new Section 22 entitled “Residential Overlay District (ROD) District”

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on September 7, 2010, the Board voted to forward a favorable recommendation to the City Council regarding the deleting of the “Senior Housing Overlay District (SHO)” and replace it with a new Section 22 entitled as modified by the September 7, 2010 Draft entitled “Intergenerational Overlay District (IOD) District”.

If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

A report was received from the Committee on Ordinances as follows: “back for action”. Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that in June 2010 the petitioner filed a petition to amend Section 22 of the Woburn Zoning Code Senior Housing Overlay District and to amend the Zoning Map of the City of Woburn, the request to amend the zoning map is to include a parcel of land approximately 6 acres in area and a second parcel of approximately 1.091 acres in area to the Residential Overlay District, that these were submitted by the petitioner based on two proposals received that are conditioned on the rezoning, that one proposal is for a thirty-three unit, thirty-five bed Alzheimer’s residence and the second proposal is for a ninety-eight unit condominium development, that the Planning Board made a proposal with several revisions, that the name was changed to the Intergenerational Overlay District, that this revised proposal would allow senior housing for residents 62 years of age and over and multi-family units of not more than 100 in total and not more than three times the elderly care facility that the Committee on Ordinances reviewed the proposal, that the City Solicitor issued an opinion that a condition that the property must be owner-occupied is not permitted, that there will be thirty-three Alzheimer units, that if apartments were proposed for the other parcel there would be thirty-three apartments on five acres of land which would not be

financially practicable, that fifteen to twenty single-family homes could be constructed on the locus, that a single-family development would have an impact on the school system, that there are a number of benefits to the proposal, that there will be a 35 bed Alzheimer facility, that there will be no impact on the school system, that there will be approximately \$405,000.00 in new property tax revenues, that with a single-family development the new taxes would be approximately \$100,000.00, that there will be a parish center which will benefit the community, that with the Alzheimer facility this will likely attract seniors to the condominiums, that there will be significant building permit and filing fees, that many condominium developments in Woburn attract older residents and that this becomes de facto housing for residents over 55 years of age, that the city will benefit by increased use of retail, restaurants and other services and facilities in the city, that there will be improved walking paths and beautification of the area, that these are local developers with great track records, that there will be no more than one bedroom per 1,000 square feet of gross lot area, that the proposals are designed so that the front setback begins at ten feet in from Main Street, that the developers would donate this ten feet to the city for widening Main Street, that this is not stated in the document but is the intent of the developers, that the project will be built with certain components, that if the Alzheimer unit is to close the owner would have to come back to amend the special permit, that there could be a condition that the Alzheimer unit has to stay open, that the proceeds from the sale will remain in the control of the parish, and that the City Council is going down the wrong road if it begins dictating what someone will do with the proceeds of a sale. Attorney Tarby offered to the City Council for review an artist's rendering of the Alzheimer's facility and the 98-unit condominium project and a communication dated September 21, 2010 from Scott L. Seaver of Seaver Construction, Inc. and Bryan Melanson of Melanson Development Group, Inc. indicating that the project would be designed as condominiums with a condominium association to manage the property. Motion made and 2nd that the documents be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Haggerty absent). Attorney Tarby offered to the City Council for review a letter dated September 21, 2010 from Deborah C. Dillon, Director of Property Services, Archdiocese of Boston, 66 Brooks Drive, Braintree, Massachusetts 02184-3839 relative to use of sale proceeds. Motion made and 2nd that the documents be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Haggerty absent). Attorney Tarby offered to the City Council for review a document further revising Section 22 and renaming the overlay district as the Intergenerational Overlay District. Motion made and 2nd that the documents be received and made part of the record, 8 in favor, 0 opposed, 1 absent (Haggerty absent). The document read as follows:

ORDERED Be it Ordained by the City Council of the City of Woburn that the 1985 Woburn Zoning Ordinances, as amended, be further amended by revising Section 22 entitled "Senior Housing Overlay District" (SHO) as follows:

SECTION 22 - Intergenerational Overlay (District (IOD) District

A. Purpose and Objectives

1. To provide housing options to meet the needs of households at different stages of life.
2. To promote high quality design and minimize negative impacts on the surrounding area and the Woburn Public School System..
3. To provide public access to Middlesex Canal.
4. To contribute to the Main Street beautification project from the Route 38 interchange to the Wilmington town line.

B. Application

1. The Intergenerational Overlay (District (IOD) is hereby established as an overlay district. The IOD shall only be applied to properties zoned R-1 that have frontage along Route 38 (Main Street) of at least 125 feet and are north of Interstate 95 (I-95) and Route 38 interchange; and are within 2,250 feet northerly of the centerline right of way of said I-95 at the Route 38 interchange. Inclusion of any property into an IOD shall also require a zoning map change consistent with the rules and regulations of the Woburn Zoning Ordinance.
2. The provisions of the IOD shall only apply to projects using IOD criteria. Any building, structure or use of land that is not part of an IOD development proposal shall maintain the rights and privileges of the underlying district without modification by the IOD.

C. Associated Criteria

1. All IOD proposals shall be subject to Site Plan Review Section 12a, as applicable.
2. All IOD proposals shall be subject to Section 18, Development Impact Mitigation as applicable.
3. All IOD proposals except those uses in Section 22(E)(1)(d) and Section 22(E)(1)(e) shall be subject to Section 11.11 Affordable Housing Requirements, as applicable.

D. By Right Uses

1. None

E. Special Permit Uses

1. A special permit shall be required from the Woburn City Council for the following uses.
 - a. Senior Housing exclusively for seniors 62 or over.
 - b. Congregate Elderly Apartments as defined in Section 2. Definitions.

- c. Assisted Living residences.
 - d. Nursing homes or Alzheimer care residences.
 - e. Continuing Care Facility: A combination of the uses noted in items b through d above.
 - f. Multi-family housing as defined below shall only be allowed in an IOD if on the same lot or an adjacent lot any one or combination of uses noted in items c through e above are located. Except for Multi-family condominium units, the number of any other type of multi-family units shall not exceed one times the number of units in items c through e above and said units c through e used for this calculation shall only be used one time to meet said requirement. The number of Multi-family condominium units shall not exceed three times the number of units in items c through e above and said units c through e used for this calculation shall only be used one time to meet said requirement.
 - g. Accessory offices, clubhouses, personal services, and recreation amenities consistent and with the uses noted above.
2. For purposes of this Section 22, Multi-family housing shall be defined as a building or buildings designed or intended or used as the home or residence of three or more families, each in a separate dwelling unit, living independently of each other and which may have a common right in halls, stairways, and outside recreational and parking areas with the number of families in residence not exceeding the number of dwelling units provided.

F. Dimensional and Density Regulations

1. Lot area, frontage and yards.

Senior Housing, Congregate Elderly Apartments, Continuing Care Facility, Multi-family housing, and the Accessory offices, clubhouses, personal services, and recreation amenities consistent and with these uses shall meet the following dimensional controls:

- Minimum lot area: 5 acres
- Minimum Lot frontage: 200 feet
- Minimum Front yard setback: 60 feet
- Minimum side yard setback: 40 feet
- Minimum rear yard Setback: 30 feet.

Assisted Living residences, Nursing homes, Alzheimer care residences, and the Accessory offices, clubhouses, personal services, and recreation amenities consistent and with these uses shall meet the following dimensional controls:

- Minimum lot area: 1 acre
- Minimum Lot frontage: 125 feet
- Minimum Front yard setback: 60 feet

Minimum side yard setback: 25 feet
Minimum rear yard Setback: 30 feet.

2. Lot coverage and Landscaped Usable Open Space

Maximum building coverage: 40%
Minimum landscaped usable open space: 40%
Maximum Lot Coverage: 60%

3. Building Height and Intensity of Use

- a. Maximum height for Senior Housing and Multi-Family housing developments in the IOD shall be 3 stories and 42 feet. The maximum number of residential units shall be not more than 1 bedroom or per 1,000 square feet of gross lot area not including the area assigned to rivers or canals that may be on the lot. Further, in no instance shall there be more than 100 units in any Senior Housing or Multi-Family housing development in the IOD.
- b. Maximum height for Congregate Elderly Apartments; Assisted Living Residences; Nursing Homes; Alzheimer care residences; and Continuing Care Facilities shall be 3 stories and 42 feet in the IOD. A peaked roof shall be required unless waived during the site plan review process; however, the maximum exterior eave height of any portion of any building shall not exceed 36 feet at any one point. The maximum number of residential units shall be not more than 1 bedroom per 1,000 square feet of gross lot area not including the area assigned to rivers or canals that may be on the lot; a nursing home room/bed or Alzheimer room/bed shall be construed to be a bedroom. Further, in no instance shall there be more than 150 units in any of the above uses in the IOD.

4. More than One Building on a Lot

- c. All IOD development may contain more than one principal building on a lot.

G. Off –Street Parking Requirements

1. At a minimum, off street parking spaces shall be provided as follows.
 - a. Congregate Elderly Apartments: 1.5 spaces per unit and 1 visitor space per 10 units.
 - b. Assisted Living residences: 0.50 parking spaces per unit and 1 visitor space per 10 units.

- c. Nursing Homes, Alzheimer care residences: 0.35 spaces per unit and 1 visitor space per every 10 residences.
- d. Continuing Care Facilities: A proportional combination of the parking requirements noted in items a through c above.
- e. Senior Housing, Multi-family housing: 1 visitor space for every 10 units; 1.5 spaces per studio or one bedroom unit, 2 spaces for every two bedroom unit and 2.5 spaces for three bedroom units or greater.

H. Design Standards

1. All development in an IOD shall comply with the following standards for streetscape design in addition to criteria that may be required as part of site plan review.
 - a. As approved and required as part of site plan review process trees shall be planted along all public rights of way. Trees shall be planted at intervals of not less than 40 feet, unless plantings are precluded by utilities or points of access. Tree species shall be selected that require minimal maintenance and are of native origin.
 - b. Pedestrian amenities such as benches, kiosks, trash receptacles shall be provided along public sidewalks as approved as part of the site plan review process.
 - c. Access to historic walkways, trails, canal walks, and other similar public open spaces and amenities that abut the proposed development shall be provided to the general public.
 - d. All new utilities shall be placed underground as is practical, as determined during the site plan review process.
2. Exception to the area and landscaping requirements in Section 8.6.2 for all IOD developments may be granted by Special Permit if the City Council finds the amount, placement and type of landscaping proposed will be equal or superior in visual appearance than if the requirements were strictly adhered to.

David Rico, President, Monarch Homes stated that the design of the floor plan for the Alzheimer's units is driven by code regulations within the unit and space around the beds, that the facility is maxed out at thirty-three units, that this will allow thirty-three units and thirty-five beds as there are two shared units, and that he would not object to a condition for thirty-three units and thirty-five beds. Dennis Donovan, Real Estate Office for Archdiocese of Boston, 66 Brooks Drive, Braintree stated that he assists parishes with real estate decisions, that this process began four years ago, that the parish center construction will wait until the property is sold, that this would avoid finance interest

charges to the parish, that marketing of the property began and a senior assisted housing proposal resulted in the current Senior Housing Overlay District, that this was in the summer of 2008 when the economy contracted and financing constricted, that with economic conditions not improving another buyer did not complete the purchase, that the latest marketing resulted in the Intergenerational Zoning District, that if the senior housing option was feasible the parish center would be under construction now however the option is not there, that this proposal will allow the parish to construct a parish center and stabilize their finances, and that the parish will give fifteen feet not ten feet of land for the turning lane and an easement to the canal. Alderman Raymond stated that this proposal should be put in context, that the purpose and objective of the change is to benefit the community, that an English-style garden will be created at Kiwanis Park, that a walking path and colonial style bridges will be built, that there will be a parish community center, that the basketball court, pool and playground have been upgraded, that fifty parking spaces will be added, that there will be a comfort station, that an ice cream stand was added, that the vision was the basis of the 2008 zoning amendment, that the only change in this vision is the condominium proposal, that it will take partners to complete the work, that the developers are those partners, that funding for some of the improvements will come from federal resources, the sale of the land and donations, that the completion of this vision will be a multi-use recreational area, that to vote against this zoning proposal is to vote against this vision, that traffic, density, parking, school impact and easements are concerns, that residents want some units reserved for Woburn residents, that there may be some federal funding which would prohibit this, and that there will be three separate projects with three separate traffic studies. Alderman DiTucci stated that the Planning Board recommended a three to one Alzheimer unit to multi-family unit, that a one to one ratio is more financially viable, that the primary concern she has heard is not about condominiums but about whether apartments will be developed on the locus, that the City Council must mitigate the impact of developments on the city, that a condominium development is preferred over an apartment development, that all of these developments have the specter of Chapter 40B hanging over the city for fear that if a project is not permitted a much denser Chapter 40B project will be pursued, that the City Council must do the right thing and not make a decision based on fear, and that she supports a condominium project. Alderman Drapeau stated that he has not heard strong objections to the proposal that could not be mitigated during the special permit process, that he does not want to restrict someone's rights, that the Aldermen should vote yes or no on the project depending upon the Alderman's opinion, that the project should not be complicated by a series of restrictions, that he is in favor of the proposal, that the City Council cannot just start throwing out conditions about what a landowner can do with the proceeds from the sale of their property, that he is tired of comments showing a lack of faith in the religious community, that the other issues in this regard are exaggerated, and that the money will be used for the community center. Alderman Mercer-Bruen stated that she cannot support condominiums at the locus, that two years ago the community asked that condominiums not be developed at the locus because they are not right for North Woburn, that she is concerned about apartments at the locus, that other proposals have been granted based on an owner-occupied expectation, that the City Solicitor's legal opinion is that such owner-occupied conditions cannot be upheld, that the community is swapping a condominium development for a community center, that there should be

language for a community center as well as language for an easement, and that the requirement for an easement and street widening provision must be written into the ordinance as it may not get into the special permit process. Alderman Gately stated that this is a tremendous project for North Woburn, that the developers will construct condominiums, that the language is safe, that the Kimball Court project of 100 apartments was denied and the development became a project of hundreds of apartment units, that the project for ten or twelve single family homes on the Santullo property on the hill off Main Street was denied and became an Chapter 40B project, that on the west side of Woburn the city took an active role in having townhouses constructed, and that the city needs community development and housing development does that. Alderman Anderson stated that he still has a number of reservations with the proposal, that the underlying zoning district is R-1, that the city has been concerned about apartment developments, that two years ago the city said no to condominiums or apartments at the locus and now the proposal is before the City Council, that the only difference between then and now is the economy, that to adopt the overlay district there has to be a real benefit to the community, that whether the city wants apartments or not the issue is whether there is a benefit to the community, that there is no language in the ordinance that guarantees an easements will be granted to the city, that the language :by way of easement” can be added to the ordinance to clarify this, that the special permit should be conditioned on receiving land for widening Main Street, that he is not concerned with the developers, that the City Council should be conservative in its approach, that this proposal involves two parcels of land, and that the condition for road widening and the easement to the canal will be as to the two subject lots but similar provisions are needed for the Church parcel as well. Alderman Gaffney stated that he supports the proposal, that issues will be addressed in the special permit process, and that this development will be first class. IN FAVOR: In response to a request from the President, approximately forty-five people raised their hands in support of the proposal. John Flaherty, 28 West Street stated that he is in favor of the project, that the project will benefit the area, and that this is the best project that the city can get for that area at this time. Paul Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park stated that he would not support this project if it was for apartments, that this is a workingman’s city, that the two developers have done several developments in the city, and that the Salem Place development removed the Consolidated Freight trucking facility and replaced it with a one hundred unit condominium development. Sue Nocella, 25 West Street stated that she is in favor of the proposal, that the community has been working on this issue for a couple of years, that for the last twenty-five years the parish’s goal has been for a parish religious education center, and that this is a positive project. John Martini, 169 Place Lane stated that he is in favor of the proposal, and that it has been four years since this project began moving forward. Mary Lee O’Grady, 3 Foster Avenue stated that this is the only church in Woburn without a parish hall, and that there is a need for the community to come together. Michael Martini, 242 Place Lane stated that there are few opportunities where tax-exempt land can be converted to tax-generating land. OPPOSED: Jack Doherty, I Joseph Terrace stated that the City Council cannot be certain that the Alzheimer’s facility will stay as such. John Lopilato, 146 School Street stated that there are three hundred housing units being developed on Mishawum Road and more units on the top of the hill off of Main Street, that North Woburn is going to be known as

“condominium city”, that there is no guarantee that the parish will receive the proceeds, that the church is selling property all over the state, and that he is not in favor of the project one bit. In response to a request from the President, three people raised their hands in opposition to the project. Motion made and 2nd that the public hearing be closed, 8 in favor, 0 opposed, 1 absent (Haggerty absent). Motion made and 2nd that the Planning Board recommendations as revised by the attorney for the petitioner be further amended by adding a new Section E(1)(h) as follows: “A deeded easement and right of way for frontage will be required for any special permit granted hereunder”, ROLL CALL: Anderson – Yes, DiTucci – Yes, Drapeau – Yes, Gaffney – Yes, Gately – Yes, Haggerty – absent, Mercer-Bruen – Yes, Raymond – Yes, Denaro – Yes, Motion Passes. Motion made and 2nd that the Planning Board recommendations as revised by the attorney for the petitioner be further amended by adding a new Section F(3)(c) There shall be a maximum of thirty-three (33) Alzheimer care units and a maximum of thirty-five (35) Alzheimer care beds and under no condition shall the number of Alzheimer care units exceed thirty-three (33) and thirty-five (35) Alzheimer care beds, 8 in favor, 0 opposed, 1 absent (Haggerty absent). Motion made and 2nd that the Planning Board recommendations as revised by the attorney for the petitioner be further amended by striking from the second sentence Section E(10)(f) the words “shall not exceed one times the number of units” and replace same with the words “shall not exceed .5 times the number of units”, ROLL CALL: Anderson – No, DiTucci – Yes, Drapeau – No, Gaffney – No, Gately – Yes, Haggerty – Absent, Mercer-Bruen – Yes, Raymond – Yes, Denaro – Yes, Motion Passes. Motion made and 2nd that the Planning Board recommendations as revised by the attorney for the petitioner and further amended herein be ADOPTED, ROLL CALL: Anderson – No, DiTucci – Yes, Drapeau – Yes, Gaffney – Yes, Gately – Yes, Haggerty – Absent, Mercer-Bruen – No, Raymond – Yes, Denaro – Yes, MOTION PASSES. **Presented to the Mayor September 23, 2010 and ten days having elapsed without same being approved, said ordinance became effective without his signature on October 5, 2010.**

On the petition by Roman Catholic Archbishop, a Corporation Sole, 66 Brooks Drive, Braintree, Massachusetts to further amend the Woburn Zoning Map, as amended, for a parcel of land containing approximately 6.00 acres of land from the Senior Housing Overlay District to the Residential Overlay District and by adding a parcel of land containing approximately 1.091 acres to the Residential Overlay (“ROD”) District at or about 859 Main Street. PUBLIC HEARING OPENED. A communication dated September 13, 2010 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Roman Catholic Archbishop of Boston – Zoning Map Amendment – To amend the Woburn Zoning Map for a parcel of land containing approximately 6.00 acres of land identified as Lot 2 Main Street from the Senior Housing Overlay District to Residential Overlay District and by adding the parcel of land containing approximately 1.091 acres of land identified as Lot A, Main Street to Residential Overlay (“ROD”) District.

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on September 7, 2010, the Board voted to forward a favorable recommendation to the City Council regarding the above cited zoning ordinance map changes to “Intergenerational Overlay District (IOD) District” in accordance with the text changes.

If you or members of the City Council have any questions or concerns regarding the foregoing matter, please contact me.

Respectfully submitted, s/Edmund P. Tarallo, Planning Director

A report was received from the Committee on Ordinances as follows: “back for action”. SEE RECORD NOTES FROM PRECEDING MATTER. Motion made and 2nd that the Planning Board recommendations as revised by the attorney for the petitioner and further amended herein be ADOPTED, ROLL CALL: Anderson – No, DiTucci – Yes, Drapeau – Yes, Gaffney – Yes, Gately – Yes, Haggerty – Absent, Mercer-Bruen – No, Raymond – Yes, Denaro – Yes, MOTION PASSES.

Presented to the Mayor September 23, 2010 and ten days having elapsed without same being approved, said ordinance became effective without his signature on October 5, 2010.

Motion made and 2nd for a five minute recess, 8 in favor, 0 opposed, 1 abstained (Haggerty abstained).

President Denaro called the meeting back to order. Alderman Haggerty entered the Council Chamber.

CITIZEN’S PARTICIPATION: None.

COMMITTEE REPORTS:

ORDINANCES:

On the Order to amend Section 120A of the 1989 Woburn Municipal Code, as amended, relative to the salary of the Deputy Auditor, 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: September 23, 2010 s/Scott D. Galvin September 23, 2010

MUNICIPAL LANDS:

Alderman DiTucci abstained from voting on the following matter and left the Council Chamber.

On the request by James Coronis to reconstruct a deck over a portion of a sewer easement located at 38 Lake Avenue, committee report was received "back for action". A communication dated September 20, 2010 was received from City Solicitor John D. McElhiney as follows:

Re: Coronis matter – 38 Lake Avenue

Dear Members of the Council:

Although I received a separate request on your behalf, from the City Clerk, relative to seeking my opinion on the above-matter, I had, in the interim, forwarded my comments to the Committee on Ordinances, prior to said Committee's discussion of the same. A copy of my prior comments is attached.

Having now seen additional correspondence from Mr. Coronis, however, I would add that should the requested encroachment be allowed, any agreement to waive or release the city from damages should be signed and acknowledged before a notary public so that the instrument can be recorded, and should accommodate the possibility of emergency repairs, without necessarily any advance notice to the owner.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely, s/ John D. McElhiney

Attached thereto was a communication dated September 14, 2010 to the Committee on Municipal Lands from City Solicitor John D. McElhiney as follows:

Re: Matter of James Coronis – 38 Lake Avenue

Dear Chairman Gately and Members of the Committee:

To the extent that your Committee has invited comment from this office, I wish to offer the following:

As a general rule, it is not desirable to allow structures to be maintained over or upon an underground easement. While older water, sewer, or drain easements were sometimes less than 20' in width, the normal and generally used width of an easement is 20'. This has been generally accepted as the proper width in order to allow equipment to freely work and negotiate within an easement area in the event that maintenance or re-construction of the sewer, in this case, is necessary. To the extent that structures of a permanent nature are allowed to encroach, it thus reduces the available area within which to work. Accordingly, such encroachments are usually to be discouraged.

Should the Council, notwithstanding that general principle, see fit to allow an encroaching structure to be constructed on the easement, it would be my recommendation that it do so only on the condition that the property owner sign an enforceable waiver of damages, disclaiming for himself and future owners any right to damages in the event that the encroaching structure is moved, interfered with, or damaged due to the City's need to maintain or re-construct the underlying sewer line. It would also be my recommendation that such an agreement, along with an instrument surveyed plan showing the extent of the encroachment, be recorded at the Registry of Deeds, at the property owner's expense.

Please let me know if you desire any further comments from this office on this matter.

Sincerely, s/John D. McElhiney

A communication dated September 20, 2010 was received from James Coronis, 38 Lake Avenue as follows:

Re: Reconstruction of Existing Residential Stairway Entrance w/Modifications

Dear City Alderman & Lands Committee,

Per your request, I respectfully submit this letter to the City of Woburn. It is understood that a special permit is being granted to James Coronis for the placement of additional Sono-tubes onto an existing easements edge to support a new portion of an external stairway connection.

Mr. Coronis agrees to hold harmless from any liability, the City of Woburn or its representatives for this work, should the necessity occur for excavations within the existing easement. In the unexpected event of required excavations, Mr. Coronis shall be given a few days notice by the town to allow for temporary supports at this location. We appreciate our Alderman working with us on this request and allowing a little bit of flexibility with this situation.

Respectfully, s/James S. Coronis

Motion made and 2nd that AUTHORIZATION TO CONSTRUCT OVER THE SEWER EASEMENT AT 38 LAKE AVENUE be APPROVED, AS AMENDED with the conditions as follows: 1. That the property owner shall sign an enforceable waiver of damages, disclaiming himself and future owners any right to damages in the event that the encroaching structure is moved, interfered with, or damaged due to the City's need to maintain or reconstruct the underlying sewer line, 2. That such agreement as set forth in Condition 1 shall be recorded at the Middlesex South District Registry of Deeds, 3. That no notice shall be required to be given to the landowner by the city when work is required on the sewer easement, 4. That the landowner shall be responsible for any costs incurred by the City to remove or touch the structure encroaching on the sewer easement, 5. That

no heavy equipment shall be used on the sewer easement and any work shall be done by hand, and 6. That the agreement as set forth in Condition 1 shall be signed by the landowner before a notary public, 8 in favor, 0 opposed, 1 absent (DiTucci absent). **Presented to the Mayor September 23, 2010 and ten days having elapsed without same being approved, said resolution became effective without his signature on October 5, 2010.**

Alderman DiTucci entered to the Council Chamber.

NEW PETITIONS:

Petition by Global Companies LLC, 404 Wyman Street, Waltham, Massachusetts 02451 for transfer of ownership of Inflammable License from ExxonMobil Oil Corp. to Global Companies LLC. for above ground: 1,180 gals motor oil, greases; lubricants, anti-freeze - underground - 30,000 gals gasoline; 550 gals waste oil; 550 gals fuel oil at 23 Pleasant Street. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated September 14, 2010 with attachments was received from City Solicitor John D. McElhiney as follows:

Re: Request for Permission to do Environmental Testing in New Boston Street Olin Corporation

Dear Members of the Council:

The City has received a request from Olin Corporation to install a pair of ground water monitoring wells in New Boston Street, in that section of the street beyond the former bridge, accessed off Presidential Way. Copies of the request and proposed Agreement are attached. Apparently the testing is a part Olin's agreement with the United State Environmental Protection Agency and the Massachusetts Department of Environmental Protection.

I do have some minor suggested revisions to the Agreement which I will forward to Olin Corporation and which will be made to the Agreement prior to the Mayor's signature. However, whereas this Agreement has the effect of allowing someone to have rights within a street, I believe it requires Council permission and approval. (I also suggest it requires two readings.)

Please review this matter and take the appropriate action. Should you need me to further discuss or explain the nature of the agreement, please do not hesitate to contact me.

Sincerely, s/John D. McElhiney

Attached thereto was the following:

RESOLVED That His Honor the Mayor is authorized to execute an Access Agreement allowing the installation of groundwater monitoring wells in a portion of New Boston Street in substantial accordance with the Access Agreement attached hereto.

s/Alderman Raymond

Motion made and 2nd that the MATTER be RECEIVED AND LAID ON TABLE UNTIL THE REGULAR MEETING OF THE CITY COUNCIL ON OCTOBER 5, 2010, all in favor, 9-0.

Motion made and 2nd to suspend the rules to hear from the Veterans Agent Larry Guisepe, all in favor, 9-0. Appearing was Veterans Agent Larry Guisepe and he stated that in October 1940 Civil War monuments were taken out of the ground at Calvary Cemetery because of the need for metal, that he is working with the Historical Commission on replacing the markers, that funding to replace the markers is available from the federal government, that they are looking for a design change to the World War II monument as well as the Korean War, Vietnam War, Iraq War and Afghanistan War on Woburn Common including a cost estimate for the improvements, and that he submitted documents in support of a monument in memory of Charles Wendell Rupp who was killed in World War I. Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

A communication dated September 11, 2010 with attachment was received from Veterans Agent Larry Guisepe as follows:

Dear Bill:

Attached is a listing of the memorials to Veterans in the City of Woburn, excluding those on Woburn Common.

It was brought up at a prior Council meeting by Alderman Gately and Council President Denaro that I supply this list to them regarding a pending sign restriction ordinance.

Please provide this information to the necessary parties on the Council and/or Committees.

Sincerely, s/Larry Guisepe

Attached thereto was the following list:

	<u>DESIGNATION</u>	<u>LOCATION</u>	<u>IN MEMORY OF</u>	<u>SERVICE</u>	<u>CONFLICT</u>
1	Andriolo Square	Wyman & Lowell Sts	Radioman 2nd Class Charles Andriolo	US NAVY	WW II
2	Archer Square	Pine & Washington Sts.	Walter S. Archer	US ARMY	WW I
3	Callahan Square	Bedford & Burlington Sts.	William J. Callahan	US ARMY	WW I
4	Campbell Square	Campbell & Main Sts.	Capt. George A. Campbell	US ARMY	WW I
5	Carlson Square	Elm & Traverse Sts.	Cpl. Norman Carlson	US ARMY	KOREA
6	Corsetti Square	Ashburton & Main Sts.	Sgt. Anthony Corsetti.	US ARMY	WW II
7	Davis Square	Willow & Bedford Road	Seaman 1st Class Francis G. Davis	US NAVY	WW II
8	Degan Square	Hudson & Arlington Road	Patrick Degan	US ARMY	WW I
9	DiCassio Square	Mass Ave & Main St.	Pvt. Daniel J. DiCassio.	USMC	WW II
10	Ferullo Square	Main St., No. Woburn Field	S/Sgt. John W. Ferullo	AIR FORCE	WW II
11	Foley Square (Beach)	Lake Ave & Arlington Road	Pvt. Edward D. Foley	US ARMY	WW I
12	Flaherty Hall (Auditorium)	Woburn Memorial High School	Pvt. John J. Flaherty	US ARMY	WW I
13	Frongillo Square	Cambridge & Russell Sts.	WO I John Frongillo	US ARMY	VIETNAM
14	Gerrish Square	Lexington & Burlington Sts.	HM 3rd Alan R. Gerrish	US NAVY	VIETNAM
15	Gonsalves Square	So. Bedford & Willow Sts.	2nd Lieut. Francis C. Gonsalves	US ARMY	WW II
16	Hammond Square	Main & Scott Sts.	Revolution War Memorial	MILITIA	REV
17	Leland Park	Washington & Erie Sts.	T/Sgt. Allen F. Leland	AIR FORCE	WW II
18	Leland Park	Washington & Erie Sts.	T/Sgt. Warren F. Leland	US ARMY	WW II
19	Lynch Park	Arlington Rd & Horn Pond shore	Pvt. Charles H. Lynch	US ARMY	WW I
20	Malatesta Square	Fowle & Main Sts.	Guy & Andrew Malatesta	AIR FORCE	WW I & II
21	Moran Square	Salem & Beach Sts.	Arthur M. Moran	US ARMY	WW I
22	Moore Square	Conn & Bryant Sts.	S/Sgt. James B. "Dinty" Moore	AIR FORCE	WW II
23	O'Brien Square (Rink)	Joyce Jr. High School, Willow St.	Seaman Edward S. O'Brien	US NAVY	VIETNAM
24	O'Neill Square	School & Merrimac Sts.	Cpt Charles L. O'Neill	USMC	VIETNAM
25	Phalon Square	Willow & Lexington Sts.	Mary Phalon	USMC	WW II

26	Quimby Square	Quimby & Burlington Sts.	Leon M. Quimby	US ARMY	WW I
27	Reeves School	Reeves School, Lexington St	E.M. 3rd Class Clyde E. Reeves	US ARMY	WW II
28	Shamrock School	Shamrock School, Eastern Ave.	Shamrocks Football Team		WW II
29	Smith Square	Central & Montvale Ave.	Herbert Smith		WW I
30	Verdun Square	Pleasant St Arlington Rd	Harry D. Guy	US ARMY	WW I
31	White Square	Campbell & Montvale Ave.	John W. White	US ARMY	WW I
32	DeLuca Square	299 Washington St (Elks)	Sgt. 1st Class Joseph J. Deluca, Jr.	US ARMY	KOREA
33	Charles T. Foley Square	Arlington Rd & Lake Ave (island)	PFC. Charles T. Foley	US ARMY	KOREA
34	Maclssac Square	Arlington Rd & Lake Ave (island)	Sgt. George L. Maiclassac, Jr.	US ARMY	KOREA
35	Langone Square	East Nichols & Main Sts.	Sgt. Anthony L. Langone	US ARMY	KOREA
36	Began Square	Buckham & Main Sts.	PFC John H. Began	USMC	WW II
37	Gangi Square	Montvale & Prospect Sts. (Crestview)	Charles Gangi	USMC	WW II
38	Slack Square	Main & School Sts.	Pvt. George E. Slack	USMC	WW II
39	Ryan Square	Main & Chestnut Sts.	Cpl. Joseph Ryan Jr.	US ARMY	WW II
40	Kerrigan Square	Harrison Ave. & Winn St.	Sgt. Donald K. Kerrigan	USMC	KOREA
41	Drew Square	Lawrence & Warren Ave	PFC John L. Drew	USMC	VIETNAM
42	Darling Square	Darling Dr & Lowell St.	Cpl William B. Darling Jr.	USMC	WW II
43	McMahon Sq	Main St & Coolidge Rd	Cpl Charles McMahon	USMC	VIETNAM
44	Callahan Sq	Sturgis St & Beacon St	SFC Keith A. Callahan	US ARMY	IRAQ

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

A communication dated September 20, 2010 with attachments was received from City Solicitor John D. McElhiney as follows:

Re: Water Line Easement-National Amusements-Middlesex Canal Park

Dear Members of the Council:

Submitted herewith for your consideration is an Order authorizing the Mayor to accept the Grant of an Easement so as to install and maintain a water line, to be connected to Middlesex Canal Park. You had previously authorized the connection across property from Colony Road to Middlesex Canal Park itself. Since the roadway is Registered Land

and is a separate parcel, however, it is also necessary that a specific authorization allow the tie-in to the roadway itself.

Only one reading is required, and as stated, this more or less simply extends the previous authorization so as to allow the tie-in within the roadway, but should you have any questions, please do not hesitate to contact either myself and/or the City Engineer.

Thank you for your courtesy.

Sincerely, s/John D. McElhiney

Attached thereto was an Order as follows:

ORDERED That the Mayor be and is hereby authorized to accept a certain Grant of Easement within the roadway known as Middlesex Canal Park for the installation and maintenance of a water line, as shown on the attached Plan entitled "Proposed 8" Water Line Extension – Location Old Colony Rd. to Middlesex Canal Park, Woburn, Massachusetts," prepared by the City of Woburn Engineering Department.

s/Alderman Anderson

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: September 23, 2010 s/Scott D. Galvin September 23, 2010

A communication dated September 15, 2010 with attachments was received from Veterans' Agent Larry Guisepe as follows:

Dear City Council Members;

As Veterans Agent and a United Veterans Council member I am asking for your support and approval for a Memorial to Pvt. Charles Wendell Rupp, killed in action on May 27, 1918 while serving with the US Army during WWI.

The United Veterans Council has reviewed all the documentation regarding Pvt. Rupp's military records and believe a memorial is appropriate. The Council requests this memorial be in close proximity to that of Charles Harold Lynch, (located at Horn Pond on Arlington Road across from Hudson Street). The reason we request this location is because Pvt. Rupp and Pvt. Lynch were together on patrol when they were killed.

Thank you for your consideration of this matter.

Sincerely, s/Larry Guisepe

Attached thereto was the following:

ORDERED Whereas, Charles Wendell Rupp was born on Elm Street in Woburn on August 15, 1895: and

Whereas, Charles Wendell Rupp enlisted in the National Guard on July 23, 1917 and was part of Company F, 101st Regiment that mobilized at Library Park and left for France on September 7, 1917; and

Whereas, Charles Wendell Rupp was attached to Battalion Headquarters as a messenger to the frontlines; and

Whereas, on May 27, 1918, while on a scouting patrol in Flirey, France with Charles Harold Lynch of Woburn, Charles Wendell Rupp was killed in action; and

Whereas, the remains of Charles Wendell Rupp returned home to Woburn in July 1921 and are buried in Woodbrook Cemetery at the Soldiers Monument;

Now, Therefore, the City Council of the City of Woburn hereby Orders that an appropriate memorial be erected at Horn Pond on Arlington Road in close proximity to the Charles Harold Lynch Memorial so that the sacrifice of Charles Wendell Rupp shall forever be remembered by the grateful citizens of the City of Woburn.

s/Alderman DiTucci

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: September 23, 2010 s/Scott D. Galvin September 23, 2010

A communication dated September 15, 2010 was received from Larry Guiseppi, Veterans' Agent and George Poole, Commander, United Veterans Council as follows:

Veterans Week Agenda

On behalf of the United Veterans Council and the City of Woburn we would like to invite you to participate in this years Veterans Day activities. Our parade on Thursday, November 11th will begin at 10 am (muster at 9:40) at Cross Street and march to Woburn Common for ceremonies.

You are additionally invited to the Veterans program at the Senior Center, School Street, on Thursday, November 4th at 1230. This years church services will be celebrated at the North Congregational Church, North Woburn on Sunday November the 14th at 10 am followed by a Veterans breakfast at the Woburn Moose Hall, Federal Street.

Please join us for all of these events to honor our veterans that have served and those currently serving our great country. Please contact myself or George Poole with questions.

United We Stand.

Sincerely, s/Larry Guisepppe, Veterans' Agent, Woburn and George Poole, Commander, United Veterans Council, Woburn

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

A communication dated September 17, 2010 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit of Andrew G. Eromin and Mary Eromin, 7 Richmond Avenue, Woburn, Massachusetts

Dear Mr. Campbell:

On behalf of my clients I respectfully request that the above-referenced Petition be given leave to withdraw without prejudice. My clients have been informed by the City Engineer's office that the new flood plan mapping will not affect the construction of the dwelling as previously planned. When the new flood plan maps were issued it appeared that the property was affected requiring the movement of the proposed new dwelling closer to Richmond Avenue. Since that is now not the case the modification to the Special Permit is not required.

If you need any further information, please contact me. Thank you.

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

Motion made and 2nd that the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, all in favor, 9-0.

A communication dated September 17, 2010 was received from Norman Lux, 59 Buckboard Drive, Westford, Massachusetts 01886 and Joann Lux, 218 School Street, Woburn as follows:

Re: Special Permit Granted upon meeting the Special Condition for Section 7.3 of the 1985 Woburn Zoning Ordinance approval

In regard to the special permit granted to Anne M. Beauchamp, 7 Marietta Street, Woburn, Massachusetts 01801 and John J. Beauchamp, 2 Ryan Rd, Woburn, Massachusetts 01801, for land affected located at 222 School Street, Woburn, Ma.

The special condition for granting such special permit has not been complied with, and the City of Woburn has granted the occupancy permit to the subject property without the special condition being fulfilled.

I'm requesting a meeting of the Committee on Special Permits to be scheduled immediately to address the fulfillment of the special condition that grants the special permit.

Thank you for your attention to this matter.

Sincerely, Norman Lux and Joann Lux

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

A report entitled "Expanded Notice of Project Change – 620 Washington Street, Winchester, Massachusetts" prepared by Vanasse Hangen Brustlin, Inc., Union Station, Suite 219, 2 Washington Square, Worcester, Massachusetts 01604 dated September 2010 was received. Alderman Mercer-Bruen stated that this matter is relative to the Winchester Hospital, that the project will impact the city, and that she will review the report and will advise the City Council of the changes. Motion made and 2nd that the ORIGINAL REPORT be REFERRED TO THE WARD FIVE ALDERMAN FOR REVIEW, all in favor, 9-0.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

RESOLVED That a communication be forwarded to the State Senators and State Representatives for the City of Woburn asking that they support the proposal to repeal Massachusetts General Laws Chapter 40B.

s/Alderman Mercer-Bruen

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.

Presented to the Mayor September 23, 2010 and ten days having elapsed without same being approved, said resolution became effective without his signature on October 5, 2010.

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 9:49 p.m.

A TRUE RECORD ATTEST:

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