

**COMMITTEE ON SPECIAL PERMITS
MONDAY, SEPTEMBER 23, 2019 at 6:49 p.m.
WOBURN CITY HALL
COMMITTEE ROOM**

Voting members present: Chairman Richard Gately, Alderman Joanne Campbell, Alderman Mark Gaffney, Alderman Darlene Mercer-Bruen, and Alderman Edward Tedesco.

Non-voting members present: Alderman Lindsay Higgins, Alderman Michael Concannon, and Alderman Robert Ferullo. Absent: President Michael Anderson

Also present: Building Commissioner Thomas Quinn

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Reading of previous meeting minutes: Motion made by Alderman Tedesco and seconded by Alderman Higgins to approve the minutes of the meeting of August 26, 2019; all in favor, 5-0.

Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell take out of order from the posted agenda the matter of Dollar Tree Stores, 425 Washington Street; all in favor, 5-0.

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Order for review of special permit issue to Dollar Tree Stores at 425 Washington Street to ensure compliance with conditions: Appearing was Teddy Davis, Kimco Realty, Property Manager, Northeast Region, 262 Daniel Webster Highway, Nashua, N.H. Alderman Mercer-Bruen said there are numerous issues with the property beyond Dollar Tree emptying its dumpster early in the morning. He said the gate leading to the access road behind the building is rarely locked. She said she is at the point where she would like the permit to be revoked. She said the neighbors are agonizing over the situation, which she said is preventable and unacceptable. She said she is at her wit's end. Mr. Davis said he agrees with Alderman Mercer-Bruen's comment. Commissioner Quinn submitted four months of email correspondence with Kimco officials. **Motion made** by Alderman Tedesco and seconded by Alderman Mercer-Bruen to accept the literature from Commissioner Quinn and make it part of the permanent record; approved, 5-0. He said the situation has gotten worse since Kimco bought the property. He said the property has been in violation of conditions 7, 12, 13, 14 and 18 of the special permit within the past five years. He said there was an instance in June when the parking lot was apparently rented. He said this property requires perpetual oversight. He said a lot of the violations are due to ignorance on the part of the tenants. He said he has been given only lip service over there. He said there are on-going instances and he would prefer not to get email at 5 a.m. reporting the dumpsters are being emptied at that time. He said he would ask the council to begin proceedings to revoke the special permit, or in the alternative, give them a warning. He said the property owner should provide written reports every month. Alderman Mercer-Bruen said she is getting calls in the early morning. She said the site is close to the neighbors and while everyone lived quite nicely together it seems like the problems are getting worse. Mr. Davis said he has been the property manager of the Woburn property since March of this year. He said he tries to go to the

site a couple of times each month. He said the gate was serviced in June, and that was the first time he heard about problems with the gate. He said he has advised the tenants to let him know if it isn't working. Alderman Tedesco left the Committee Room. Commissioner Quinn said there have been issues at both ends of the shopping center. He said Dollar Tree seems to have a high turnover of management. He said it might be helpful if Kimco provides each tenant with a copy of the special permit. Mr. Davis said he was not aware there were issues at Pier 1 Imports. Alderman Mercer-Bruen said the tenants may not even know when there are problems because the city officials are the ones who get the calls. Chairman Gately said the council has given the property owner and the tenants ample opportunity to work something out. He said it seems like Kimco has done nothing to alleviate the on-going problems at the site. He said he is thinking about contacting the City Solicitor to initiate proceedings to revoke the special permit. He said the property has been a drain on city services. He said the neighbors have put up with enough. He said he is putting Kimco on notice. Alderman Ferullo referenced an incident on May 1, 2019 that apparently involved renting the parking lot to Eversource. Commissioner Quinn said Eversource maybe a tenant on private property. Alderman Mercer-Bruen said the neighborhood is upset. She said Commissioner Quinn has recommended the committee look into the situation for three more months. She said she can contact the City Solicitor to determine what the process is to revoke the special permit. Chairman Gately said the council gets a lot of people who come in and lie. He said he is willing to give Dollar Tree three more months. Alderman Mercer-Bruen said she will meet with City Solicitor Callahan Doucette. Alderman Campbell said she understands the frustration and she does not think it is unreasonable to ask for three months. She said the company should be given one more shot. She said if nothing happens in three months, they know their special permit may be in jeopardy. Chairman Gately said this is their last chance. He said people in the neighborhood have put up with the situation long enough. Alderman Campbell said there are obviously communication issues going on. Alderman Higgins said she thinks Mr. Davis needs to be on the property more than twice a month. She suggested he go there at least once a week. Mr. Davis said he probably is there more than twice a month. Commissioner Quinn said more visibility from Kimco would be a good idea, and if Mr. Davis leaves, the higher up at Kimco should advise the city there is a new property manager. Alderman Mercer-Bruen asked Mr. Davis if he can provide the city with a contact who is higher on the corporate ladder. Mr. Davis said the person above him at Kimco is named Levi Johnson and he will furnish the council with his contact information. Alderman Mercer-Bruen suggested that Mr. Davis reach out to Pier 1 to remind them of the rules. She suggested leaving the matter in committee. **Motion made** by Alderman Mercer-Bruen and seconded by Alderman Gaffney to request the property owner to provide the committee with monthly updates and confirm that the waste disposal conditions are being followed, and that there will be a review after three months; approved, 4-0.

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Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell to return to the regular order of business; approved, 4-0.

On the Petition of TMC New England, LLC, 501 Pennsylvania Parkway, Suite 160, Indianapolis, Indiana 46280 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.69, 7.3, 8.6.3, 8.7.1.6, 13.5 and 15 to allow for: 1.

Renovation of existing nonconforming retail establishment and shopping center to retail establishment greater than 15,000 square feet gross floor area with drive-up customer service facility within Groundwater Protection District; 2. Exception to area and landscaping requirements; 3. Allow for loading door in place of loading bay; 4. Modifications to existing nonconforming signage; and 5. Modification of Special Permit dated May 8, 2008 as modified November 12, 2009, at 175 Main Street: Appearing for the petitioner was Attorney Joseph Tarby, Murtha Cullina, 600 Unicorn Park Drive, Woburn, MA; Brian Dundon, R.J. O'Connell & Associates, Inc., 80 Montvale Avenue #201, Stoneham, MA; and F. Giles Ham, Vanasse and Associates, 35 New England Business Center Drive, Andover, MA. Chairman Gately said there are concerns about tractor-trailer access, the configuration of the parking lot and other things. Attorney Tarby said his client intends to address the overall condition of the site. He said there will be a drive-through component to the CVS pharmacy. He said there will be additional landscaping. He said there are concerns about the 24-hour use. He said two abutters spoke at the public hearing about concerns they have with the proposed loading dock. Mr. Dundon said the locus is the corner of Main and Fowle streets. He said there are two buildings on the property, one of 17,000-square-feet currently containing a Walgreens and a vacant restaurant space on the north portion of the parcel, and an 11,000-square-foot building on the south end of the property containing an auto parts store and a liquor store. He said the petitioner intends to remodel a 550-square-foot appendage into a drive-through window with a dedicated lane. He said the sidewalks along Fowle and Main streets will be upgraded and a bicycle rack will be added, along with landscaping islands. He said there will be an enclosed area for the dumpster. The loading area will be relocated and there will be a dedicated loading zone. He said the abutter at 5 Fowle Street has rights to parking spaces. He said CVS will accept one corporate delivery per week, with the time and day being flexible. He said the duration of the truck at the store is less than an hour. He said there will be approximately five other deliveries per week, with one of those utilizing the loading area. He said the property is in a groundwater protection district and there will be a subterranean retention area installed. The dumpster behind the building will be screened and landscaped, and there will ornamental trees and shrubbery planted to improve the property. Chairman Gately said the loading dock will be located only 19 feet from the property line. He said when a tractor-trailer backs in it will block the loading dock. He said the proposed site of the loading dock is in a very tight location. He said it is ridiculous. He said the snow storage area will have to be moved. He said there are so many things wrong with this plan. He asked if there is going to be a change in elevation from the parking lot to the drive-through lane and if there is going to be a ramp. He said he would look more favorably at the petition if it did not involve tractor-trailers and deliveries were instead made by box trucks. Mr. Dundon said 20-feet is more than adequate for delivery trucks and cars to negotiate the lane in back of the building. He said the location of the loading area will not block any parking spaces. Chairman Gately said bigger trucks will have a hard time accessing the loading area. Mr. Dundon said the largest truck that will deliver to the site is 53-feet long. He said CVS will not send 67-foot trucks. Chairman Gately said he has seen 53-foot trucks hit barrels and block the road. He said the plan looks good on paper but will not work. Mr. Dundon said he agrees there would be a problem if the 67-foot trucks came to the site, which he said is why CVS won't be sending them. Chairman Gately asked who is going to measure the trucks. Mr. Dundon said those decisions will be made at the corporate level. Chairman Gately said the proposed dumpster location takes away from the swing area and the location of the landscape islands will reduce parking in a lot that does not have much area to begin with. Mr. Dundon said the intent was to

have people take a left behind the building so they would have to stop before they exit the site. Chairman Gately said it is almost impossible to come out of Fowle Street or Main Street. He said the backups heading north on Main Street often extend past the fire station. Mr. Dundon said he believes the traffic situation will be improved by adjusting the timing of the signal. Chairman Gately asked what the change in elevation is between the drive-through lane and the ramp. Mr. Dundon said the difference is about five feet. He said the drive-through lane will be segregated by a retaining wall with a guardrail barrier. Chairman Gately asked if elderly drivers will be able to negotiate a drive-through lane that is only 10 feet wide. Mr. Dundon said the drive-through lane is 12 feet wide. Alderman Higgins asked if the footprint of the building will stay the same. Mr. Dundon said the size of the building is being reduced by about 500 feet, with the appendage near the drive-through being removed. Attorney Tarby said the council can condition the size of the trucks that come to the site. Alderman Gaffney asked if the 53-foot measurement includes the box and the trailer or just the trailer. Mr. Dundon said the 53-foot distance includes the tractor and the trailer. Alderman Campbell asked if the drive-through component is necessary. Mr. Dundon said CVS has determined the drive-through component is very important and it is necessary to remain competitive. Alderman Campbell said she goes to Walgreens all the time and traffic does get blocked. She said she thinks the addition of a drive-through component will attract more traffic and make it more difficult. Mr. Dundon said the traffic situation will be alleviated by addressing the traffic signal at Main and Fowle streets. He said there is a flaw in the signal because there are three cycles. He said people get frustrated and cut through the parking lot from Fowle to Main to avoid a wait time of more than 90 seconds. Alderman Higgins said you can only get one or two cars in the queue from Fowle Street before traffic is blocked. She suggested the elimination of one of the curb cuts. Alderman Ferullo agreed the timing of the traffic light cycles is flawed. Mr. Ham said he met with City Engineer Jay Corey and the petitioner has agreed to upgrade the signal controller. He said he thinks the petitioner can make things better. Mr. Ham presented traffic data from the CVS at 891 Main Street that he said is comparable to the proposed use at 175 Main Street. He said a traffic count between 8 a.m. and 7 p.m. was undertaken. He said the traffic at the drive-through peaks at 10-11 cars per hour or one car every 5-6 minutes. He said the drive-through would eliminate some of the customers that park and go into the current Walgreens store. He said there was a maximum of four vehicles in the drive-through queue during the survey period. Alderman Concannon acknowledged the proposed use is the same or at least similar, but he added there is a problem today. He said the rear curb cut on Fowle Street is barely used, and CVS will add more traffic to that. Mr. Ham said that curb cut may get one car every five minutes. Alderman Concannon said he is concerned because there are two big curb cuts on Fowle Street, which he said is a mess. He asked if the petitioner can live with one curb cut. Mr. Ham said he thinks both curb cuts will be needed. Alderman Concannon asked if the petitioner had to have only one, which would it chose. Mr. Ham said he would have to ask the client. Alderman Concannon said part of the council's mandate is to do no harm. He said he thinks this traffic configuration will make it worse. Chairman Gately said people don't use the road in back of the building because there are potholes and items are stored there. Alderman Concannon asked if it was possible to reconfigure the entire thing. He said he is concerned the petitioner will be putting more cars on Fowle Street. He acknowledged the petitioner is offering to tweak the traffic signal but added Alderman Mercer-Bruen has made a living out of tweaking traffic signals in East Woburn with little to no effect. Alderman Mercer-Bruen asked how common a drive-through ramp is. Alderman Higgins said she has seen them before. Alderman Higgins asked what the petitioner is doing to eliminate

traffic conflicts in the parking lot. Mr. Dundon said there will be signage and striping. Alderman Higgins asked if there are plans for a stop sign. Mr. Dundon said there are not. Mr. Ham said the petitioner can do that. Attorney Tarby asked what kind of suggestion Alderman Concannon has. Alderman Concannon said the curb cut on Fowle Street closer to Main Street has been a headache forever. He said he wonders whether one of the curb cuts on Fowle Street can be eliminated. He said he does not have a problem with freshening up the area but the situation overall has to be made better. Chairman Gately said the present use is wrong because of the traffic. Alderman Campbell said she would be in favor of closing the curb cut on Fowle Street closest to Main Street. Alderman Campbell asked what is between the proposed drive-through lane and the Gill Building. Mr. Dundon said nothing. Attorney Tarby said Mr. Gill obtained a variance a long time ago to allow parking in front of his building. He said the parking is allowed in the easement. **Motion made** by Alderman Mercer-Bruen and seconded by Alderman Campbell to leave the matter in committee until the petitioner can come up with some new ideas; approved, 4-0. Chairman Gately urged the petitioner to come back with a different plan. Attorney Tarby asked about a prohibition on left turns. Alderman Campbell said those don't work. Attorney Tarby asked what the committee wants the petitioner to do.

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Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell to adjourn; approved, 4-0. Chairman Gately adjourned the meeting at 6:49 p.m.

A TRUE RECORD ATTEST

Gordon Vincent
Clerk of Committees