

**CITY OF WOBURN
APRIL 21, 2020 – 7:00 P.M.
REGULAR MEETING OF THE CITY COUNCIL
HELD AS A VIRTUAL ONLINE MEETING
PURSUANT TO GOVERNOR’S DECLARATION OF
STATE OF EMERGENCY**

Roll Call

Campbell	Gately
Concannon	Higgins
Dillon	Mercer-Bruen
Ferullo	Tedesco
Anderson	

VOTED to dispense with the reading of the previous meeting’s Journal and to APPROVE.

MAYOR’S COMMUNICATIONS:

A communication dated April 8, 2020 was received from His Honor the Mayor Scott D. Galvin as follows:

Re: Chapter 53 of the Acts of 2020

President Anderson and City Council Members:

On Friday April 3, 2020, the Governor signed into the law Chapter 53 of the Acts of 2020, An Act to Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19. Section 10 of Chapter 53 authorizes the chief executive officer of a city to extend the due date for payment of real and personal property tax bills, and for the filing of exemptions and deferrals, from May 1 until June 1, 2020.

Section 11 of Chapter 53 authorizes the chief executive officer to waive interest and penalties imposed on the late payment of any real or personal property tax, excise tax, water/sewer bill, or other charge (such as a demand fee) that is added to a tax of bill with a due date on or after March 10, 2020 where payment is made late, but on or before June 30, 2020.

Pursuant to the authority granted under Chapter 53, I have notified the Treasurer/Collector and Board of Assessors that the due date for real and personal property tax payments and for the filing of exemption and deferral applications will be extended until June 1, 2020. Additionally, that any interest and penalties assessed to the late payment of real estate, excise, personal property taxes and water/sewer bills shall be waived, in accordance with the previous paragraph. This waiver does not apply to taxes or bills with payment due dates on or before March 10, 2020, or if the tax or bill is not paid on or before June 30, 2020.

Per the Department of Local Services bulletin issued this morning, this notice will be posted on the City's website.

Respectfully, s/Scott D. Galvin

NEW PETITIONS:

Petition by Checker Cab of Woburn, Inc., 78 Washington Street, Woburn, Massachusetts 01801 for renewal of a Taxi Cab License for one (1) vehicle and change of business location.

Petition by Checker Cab of Woburn, Inc., 78 Washington Street, Woburn, Massachusetts 01801 for renewal of a Livery License for five (5) vehicles and change of business location.

Petition by Tesla Inc., 3500 Deer Creek Road, Palo Alto, California 94304 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.56 to allow installation of twelve (12) Tesla charging posts, four (4) Level 2 charging posts, transformer, one (1) switchgear, three (3) Tesla superchargers, electrical equipment, underground conduit and related equipment at 101 Commerce Way.

PUBLIC HEARINGS:

A communication dated April 14, 2020 was received from City Council President Michael D. Anderson as follows:

Dear Clerk Campbell,

Please be advised that in accordance with Chapter 53 of the Acts of 2020, Section 17 (b)(v) and the Order of the City Council entered March 24, 2020, please be advised that I am continuing the Public Hearings for the following matters from April 21, 2020 to a date to be determined by me. Said rescheduled date(s) shall be provided by written notice to the applicant at the applicant's address and to the general public by posting electronically on the website of the City Clerk.

<u>Petitioner</u>	<u>Location</u>	<u>Type of Public Meeting</u>
Lawless, Inc.	193 Main Street	Special Permit and MV Sales
Litao Liang	444 Main Street	Special Permit
Robert Johnson	12 Montvale Avenue	Special Permit
Life Assembly God Church, Inc.	16 Fowle Street	Special Permit

Thank you for your assistance.

Sincerely, Michael D. Anderson, Woburn City Council President

On the petition by Lawless Inc., 196 Lexington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.44, 5.1.45, 5.1.69, 7.3 and 15 to allow for: 1. Automobile and truck repair garage; 2. Sale and rental of automobiles, trucks, truck trailers and motorcycles; 3. Alteration of nonconforming structure; and 4. Alteration of nonconforming use within Groundwater Protection District and for a Second Class Motor Vehicle Sales License, at 193 Main Street. Continued to a date to be determined pursuant to Chapter 53 of the Acts of 2020, Section 17(b)(v) and the Order of the City Council entered March 24, 2020.

On the petition by Life Assembly of God Church, Inc., 4000 Mystic Valley Parkway, Medford, Massachusetts 02155 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 8.2.5 and 8.3.1 to allow a reduction in the required number of parking spaces for a place of public assembly at 16 Fowle Street. Continued to a date to be determined pursuant to Chapter 53 of the Acts of 2020, Section 17(b)(v) and the Order of the City Council entered March 24, 2020.

On the petition by Robert Johnson, 14 Lexington Street, Stoneham, Massachusetts 02180 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.5, 8.3 and 12 to allow for 1. Four (4) residential dwelling units above first story in commercial structure at 12 Montvale Avenue; and 2. Parking within municipal parking lot (eight (8) spaces). Continued to a date to be determined pursuant to Chapter 53 of the Acts of 2020, Section 17(b)(v) and the Order of the City Council entered March 24, 2020.

On the petition by Litao Liang, Liang Health Spa Inc., 10 Fairbanks Street, Apt, 2L, Worcester, Massachusetts 01601 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.33b to allow muscular therapy at 444 Main Street. Continued to a date to be determined pursuant to Chapter 53 of the Acts of 2020, Section 17(b)(v) and the Order of the City Council entered March 24, 2020.

On the petition by 25 Everett Street Realty Trust, 25 Everett Street, Woburn, Massachusetts 01801 for a special permits pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 7.3, 5.1.5 and 5.1.57b as follows: 1. To alter a pre-existing nonconforming structure to add one apartment above commercial use; 2. To allow a dwelling above first floor in commercial structure; and 3. To allow for overnight parking of two commercial vehicles, at 25 Everett Street. PUBLIC HEARING OPENED. A communication dated April 3, 2020 was received from Attorney Mark J. Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 as follows:

Re: 25 Everett Street

Dear President Anderson and Council,

Request is made to withdraw the petition for 25 Everett Street without prejudice. My clients will be re-filing to request the building be torn down and rebuilt.

Thank you and please call with any questions.

Very truly yours, s/Mark J. Salvati

On the petition by Preferred Meal Systems, Inc., 5240 St. Charles Road, Berkeley, Illinois 60163 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.42, 5.1.57b, 7.3 and 9 to allow for a wholesale establishment, warehouse and distribution center, overnight parking of twenty (20) commercial motor vehicles (vans) and for continued use of nonconforming parking and loading docks at 39 Olympia Avenue. PUBLIC HEARING OPENED. A communication dated April 6, 2020 was received from Tina P. Cassidy, Planning Director, Woburn Planning Board as follows:

Re: Special Permit application for 39 Olympia Avenue/Preferred Meal Systems, Inc.

Dear Council:

The Planning Department has reviewed the above-referenced petition which seeks permission to use a portion of a this non-conforming structure and property at 39 Olympia Avenue to operate a wholesale establishment, warehouse distribution center in accordance with Section 5.1.(42) of the Woburn Zoning Ordinance (WZO). This request to modify or extend a pre-existing, non-conforming use and structure requires a Special Permit per Section 7.3 of the WZO; in connection therewith the Council will need to make a finding that the proposed change, extension or alteration of the building and site, and use of the property by Preferred Meal Systems, Inc. as a wholesale establishment's warehouse and distribution center, will not be substantially more detrimental than the existing (previous) nonconforming use was to the neighborhood. For the record, a previous user of the space was a demolition company (NASDI) but the building has housed multiple tenants over the years. Preferred Meal Systems Inc. would not be the only tenant in the building. The applicant's attorney represents that the facility does not currently have any other tenants, but there is approximately 20,600 square feet of gross floor area that is currently vacant and being marketed for occupancy. The parking calculations will therefore need to include parking facilities for not only this vacant space, but also for the space Preferred Meal Systems, Inc. will be occupying.

The existing structure and use are non-conforming with respect to loading docks (some partially front on Normac Road which violates Section 8.7.2.10 of the WZO) and, according to the Petitioner, with respect to parking (more on that below).

The Petitioner is also requesting authorization to park twenty (20) commercial vans on the site overnight in accordance with Section 5.1(57b). The property is in an Industrial Park (I-P) zoning district, thereby allowing the requested uses by City Council Special Permit. Finally, the Petition also references Section 9, as the property lays within a FEMA Flood Zone/Area of Minimal Flood Hazard according to GIS mapping.

GENERAL COMMENTS ON PLAN AND DOCUMENTATION OF NON-CONFORMITIES

This is a difficult plan to read. Some notes conflict with each other (areas on plan are labeled as “Proposed Snow Storage Areas” but a plan note indicates the areas were in fact proposed and approved back in 2015, in connection with a different development application). Some notes appear to be in error: A review of aerial photography indicates many of the parking spaces labeled as “proposed” on the plan actually already exist. Critical site features such as parking space sizes and aisle widths are not dimensioned. At least some plan revisions are hard to identify, likely because of the volume of information presented on a single plan sheet. As an example, locations of new parking spaces are labeled but not easily discernable as they are scattered throughout the site, as well as off-site, and not noted by pattern or otherwise. There are also apparent errors: The plan has two different calculations of both the number of parking spaces required to meet zoning and the number that will be provided. At a minimum, Planning staff suggests the Council require the Petitioner to revise the plan to correct/clarify all of the items noted above prior to further consideration of this Petition.

With respect to non-conformities, Exhibit A to the Petition indicates that the site and the proposed development have several non-conformities but does not provide a specific list of such deficiencies or documentation to prove their existence prior to adoption of the applicable WZO provisions. The Council should require the Petitioner to provide a written list of zoning non-conformities associated with this lot and use, along with evidentiary documentation of all pre-existing non-conformities including parking and loading dock features.

Based upon review of the Petition and site plan (dated February 5, 2020 and revised February 28, 2020 and March 3, 2020), Planning staff offers the following comments for the Council’s consideration:

- The application states that the parking situation is non-conforming because the building was constructed for warehouse use in the 1960’s, before parking requirements for such uses were enacted. While that may be true, it does not entitle the Petitioner necessarily to expand upon the myriad parking non-conformities as depicted on the submitted plan. To name several, the plan shows the creation of new parking spaces that do not meet the minimum dimensional requirements; reliance on what appears to be off-site parking without authority and perhaps without permission, by virtue of constructing and creating parking spaces within the layout of Normac Road; and creation of new parking spaces within a required front yard.

With respect to parking spaces within the Normac Road right-of-way, they are being counted/used by the Petitioner currently, and additional parking spaces are apparently being proposed within the right-of-way with the pending application. Normac Road is a private way and it is not clear whether the Petitioner has the legal authority to create and use parking spaces within the layout. Has the Council previously authorized the owner of this property to use existing off-site spaces to meet the parking requirement? Are there other entities who have rights to Normac Road and if so, is their permission needed/obtained? Planning staff recommends the Petitioner be required to address these points.

- Inconsistent information has been provided relative to required and provided parking. A parking calculation on the site plan indicates a total of 165 parking spaces are required for the existing and proposed warehouse storage, manufacturing, and office/business uses, and for the proposed overnight commercial vehicle (van) parking for which a Special Permit is being sought. A table elsewhere on the plan indicates the number of required spaces is 145. The same table states that 162 parking spaces are being proposed; if true, this will be deficient by at least three (3) spaces. The Petitioner should be required to correct the discrepancy on a revised version of the site plan.
- On a related note, the parking calculation tables do not account for the additional parking spaces deemed necessary by the Building Commissioner to accommodate the personal vehicles of all employees who will be using the commercial vehicles/vans. Adding these required spaces will increase the amount of required parking by at least twenty (20) spaces, assuming only one employee is assigned to each van. If more than one employee is assigned to each van, the total number of required additional spaces would be even higher. The Council should clarify this point with the Petitioner and require revised plans showing correct and adequate parking provisions. If the Petitioner cannot provide all of the required parking spaces he must revise the Petition to delete the overnight parking request and revise the parking tables, or reconfigure some of the spaces as compact car parking and recalculate the number to see if it meets the requirement, or seek a variance from the Zoning Board of Appeals to address any deficiency.
- The proposed site plan depicts the location of the commercial vans to be parked onsite overnight, but it is not clear whether the parking stall dimensions are sufficient for the size for the commercial vans contemplated. The Petitioner should clarify both the dimensions of the commercial parking spaces and vehicles to ensure the commercial parking will be adequately accommodated.
- The plan shows construction of a new refrigeration area and some parking within close proximity to the 200' Riverfront Area to the Aberjona River; some site improvements may actually be occurring within the 200' area which is within the Conservation Commission's jurisdiction. Planning staff recommends the Council require the Petitioner to either confirm no work will occur within an area of Conservation Commission jurisdiction or provide information about the pending application that has or will be filed with the Commission.

- Pest management will be important on this site because the proposed use involves the storage and handling of food products. The Petitioner should be required to submit a pest management plan to the Council for review/approval and implementation if the requested Special Permits are granted.

If the City Council chooses to grant the special permit after receiving the outstanding and additional information suggested above, staff recommends imposing, as a condition of the Special Permit, that the proposed site plan, once modified as specified, is adopted as the Plan of Record and a copy be filed with the Inspectional Services Department.

Please do not hesitate to contact Dan Orr at (781) 897-5816 or dorr@cityofwoburn.com if you have any questions.

Respectfully, s/Tina P. Cassidy, Planning Director

A communication dated April 16, 2020 with attachment 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 Preferred Meal Systems, Inc., 39 Olympia Avenue, Woburn, MA

Dear Bill:

Please be advised that I represent Preferred Meal Systems, Inc. in connection with the above-referenced Special Permit Petition. Enclosed please find a memorandum providing a summary of the proposal that will be presented at the City Council meeting on April 21, 2020 at 7:00 p.m. If you or any City Council member have any questions please feel free to contact me. Thank you.

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

A plan entitled "Reuse Conditions Plan #39 Olympia Ave in Woburn, Mass." dated February 5, 2020, revised February 28, 2020, revised March 3, 2020, revised March 23, 2020, revised April 16, 2020 prepared by Hayes Engineering, Inc. and a document entitled "Development Impact Statement, #39 Olympia Avenue, Woburn, Massachusetts" dated March 26, 2020 prepared by Hayes Engineering, Inc. was received.

On the petition by President Michael Anderson and Alderman Michael Concannon concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 14 Hilltop Parkway, 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. A communication dated January 30, 2020 with attachments was received from Building Commissioner Thomas C. Quinn, Jr. as follows:

With regard to the above address, I will advise that site inspections have been done over the last year to observe the property, the structure appears to be secure however no access has been granted to view interior conditions.

Attached are pictures of the premises that were received by the City of Woburn and also a copy of a tracking sheet that is used for all properties that are registered with the City of Woburn, registration of this property expires on February 4, 2020 if the registration is not renewed the current mortgage holder will be in violation of the Woburn Municipal Code Title 15 Section VI 15-29 for failure to register the property and appropriate action will be taken as allowed.

s/Thomas C. Quinn, Jr., Building Commissioner

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. A communication dated January 27, 2020 was received from Timothy Donovan, Treasurer/Collector as follows:

City Council President Anderson and Alderman-At-Large Concannon:

Per your communication dated January 13, 2019 regarding outstanding tax status for 14 Hilltop Parkway (Parcel: 44-03-07), the Treasurer/Collector's office reports that there are no outstanding taxes due on this property as of January 27, 2020.

If there should be any questions or additional information requested, please feel free to contact me at your earliest convenience.

Sincerely, s/Timothy Donovan, Treasurer/Collector

A communication dated April 16, 2020 was received from Building Commissioner Thomas C. Quinn, Jr. with attachments as follows:

Re: 14 Hilltop Parkway

With regard to the above referenced address site visits have continued and there have been no improvements at this time. The property was re-registered with my office on March 17, 2020, attached are a copy of the registration, notice of violation letter for failure to register and email communications between Assero Services regarding current issues on the site that they are soliciting offers to address.

A communication dated April 15, 2020 was received from City Solicitor Ellen Callahan Doucette entitled "M.G.L. c.139, §1 – Authority to Declare Nuisance/Enforcement of Orders". A communication was received from Constable Ronald M. DiGiorgio with a return

of service of Notice of Public Hearing on Robert J. Mahoney and Catherine E. Mahoney both being served with the notice on April 14, 2020.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to transfer the sum of \$167,215.39 from Unreserved Fund Balance Acct to Police Salaries Acct, committee report was received “ought to pass”.

CITIZEN’S PARTICIPATION: None.

COMMUNICATIONS AND REPORTS:

A communication dated April 14, 2020 was received from Charles O’Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

Council Members,

In accordance with Massachusetts General Laws Chapter 90, Section 20½ I am submitting the following parking ticket report. Figures cited below are for the Month of January 2020 to March 2020: Number of violations issued 390, Numbers of violations paid 188, Number of violations outstanding 186, Amount collected and submitted to Collectors Office \$15,524.60, Parking fines referred to the Handicap Commission \$5,700.00.

There is a backlog of 1482 unpaid tickets dating from January 2004 to December 2019. A 21 day late notice is sent to vehicle owners who have not paid the fine. After 28 days, if the fine still has not been paid, that information is forwarded to the Registry of Motor Vehicles for administrative action.

Respectfully submitted, s/Charles O’Connor, Parking Clerk

A communication dated April 3, 2020 was received from Thomas C. Quinn, Jr., Building Commissioner 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 January 1, 2020 thru March 31, 2020.

43-45 Church Street matter with City Council

8 Russell Street matter with City Council

14 Hilltop Parkway has been registered as vacant/foreclosed

As always if you have any questions do not hesitate to contact me.

s/Thomas C. Quinn, Jr., Building Commissioner

A communication dated April 6, 2020 was received from City Solicitor Ellen Callahan Doucette entitled "Chapter 53 of the Acts of 2020" relative to An Act to Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19.

A communication dated April 15, 2020 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Appointment of two Board Members to Commerce Way Corridor Overlay District (CWCOD) Concept Plan Review Committee for 316 New Boston Street Filing/Planning Staff

Dear Mr. Campbell:

At a meeting of the Woburn Planning Board held on Tuesday, April 14, 2020 members of the Board voted unanimously (7-0) to appoint Mr. Bob Doherty and Mr. Jim Callahan as the Planning Board's representatives to the Commerce Way Corridor Overlay District concept plan review committee for 316 New Boston St. project.

Please contact this office should you require any additional information to finalize these appointments.

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

A communication dated April 13, 2020 was received from Eversource, 247 Station Drive, Westwood, Massachusetts 02090 relative to the Woburn to Wakefield Line Project for a 345kV transmission line.

A communication dated April 16, 2020 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: CWCOD Concept Plan Review Application, 316 New Boston Street, Woburn, MA

Dear Bill:

Please be advised that I represent Fairfield Residential of One Edgewater Drive, Suite 107, Norwood, Massachusetts in connection with the above-referenced Application. On behalf of my client you are hereby notified that it agrees to extend the time by which the Concept Plan Review Committee shall have to prepare its written report to the City Council to August 5, 2020 which is ninety (90) days after the “Stay at Home” Order issued by Governor Charles Baker on March 22, 2020.

The proposal requires the presentation at an “in person” meeting of the Committee rather than one via “Zoom”. If you have any questions please feel free to contact me. Thank you.

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

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED That due to the State of Emergency, the City Council Regular Meeting scheduled for May 5, 2020 has been rescheduled to May 12, 2020.

s/President Anderson

ORDERED Whereas, during review and approval of Section 28 Technology and Business Mixed Use Overlay District (TBOD) of the 1985 Woburn Zoning Ordinance, as amended, it was indicated that an application form and checklist be adopted and inserted in Section 16; and

Whereas, no form of application and checklist was presented during the approval process and Section 16 was not amended to add the application form and checklist; and

Whereas, to remove any uncertainty and establish an efficient manner of providing to petitioners and revising, when necessary, the form of an application and checklist;

Now, Therefore, Be It Ordained by the City Council of the City of Woburn that Section 28.12.1 of the 1985 Woburn Zoning Ordinances, as amended, be deleted in its entirety and replaced with the following:

“28.12.1 Twenty-four (24) copies of a Technology and Business District Site Plan Review/Special Permit with Site Plan Review Application and two copies of an Application Checklist for Technology and Business Mixed Use District Development, both of which shall be in forms approved by the City Clerk;”.

s/President Anderson

Motion made and 2nd to ADJOURN.