

FOR THE
CITY OF WALTHAM
ZONING BOARD OF APPEALS

GENERAL HEARING

March 26, 2013

7:00 P.M.

at

Public Meeting Room, First Floor
Arthur Clark Government Center
119 School Street
Waltham, Massachusetts 02451

Barbara Rando, Chair
Mark Hickernell, Clerk
Glenna Gelineau
Gordon LaSane
John Sergi

Arlington Reporting Corporation
(339) 674-9100

Waltham Zoning Board of Appeals/3-26-13/2

I N D E X

<u>CASE</u>	<u>PAGE</u>
2013-03	4
2013-04	35

A T T A C H M E N T S

Legal Notices: Case No. 2013-03
Case No. 2013-04

Case No. 2013-03:
Proposed Findings of Fact, as Amended
Proposed Decision, as Amended
Motion to Amend Petition, as Amended

Case No. 2013-04: Booklet Containing:
Petition
Brief
Proposed Findings of Fact
Proposed Decision
Exhibits
Certificate of Organization
Letter

1 P R O C E E D I N G S

2 BARBARA RANDO, CHAIR: Good evening.
3 The Zoning Board of Appeals for Tuesday, March 26,
4 2013 is called to order at 7:00 p.m.

5 Tonight we have one continued case
6 before us and one new case before us.

7 Case 2013-03, Rose Flynn, 62½ Cherry
8 Street, and it's for parking.

9 Case 2013-04, SPC, 1265 Main Street,
10 at the old Polaroid lot, for sign variances

11 The members sitting this evening are:
12 Mr. Sergi, Mr. Hickernell, Ms. Gelineau, Mr. LaSane,
13 and I am Barbara Rando, Chair.

14 //
15 //
16 //
17 //
18 //
19 //
20 //
21 //
22 //
23 //
24 //

1 ACCEPTANCE OF MINUTES OF MARCH 5, 2013 MEETING

2
3 BARBARA RANDO, CHAIR: The first
4 action this evening is for a motion to accept the
5 minutes of March 5th.

6 JOHN SERGI: So moved, Madam Chair.

7 BARBARA RANDO, CHAIR: Motion by Mr.
8 Sergi.

9 Do I have a second?

10 GORDON LASANE: Second.

11 BARBARA RANDO, CHAIR: Second by Mr.
12 LaSane.

13 All in favor?

14 ALL BOARD MEMBERS: Aye.

15 BARBARA RANDO, CHAIR: Opposed?

16 (None opposed.)

17 BARBARA RANDO, CHAIR: The ayes have
18 it.

19 //

20 //

21 //

22 //

23 //

24 //

PUBLIC HEARING

1
2 **Case Number 2013-03: Rose Flynn, 62½ Cherry Street**

3
4 BARBARA RANDO, CHAIR: Would the Clerk
5 please read the petition in Case 2013-03, 62½ Cherry
6 Street?

7 MARK HICKERNELL: (The Clerk reads the
8 notice for the above-mentioned Case into the record.
9 See Attached.)

10 BARBARA RANDO, CHAIR: Thank you.

11 May we hear from the Petitioner or the
12 Petitioner's representative please?

13 ATTORNEY KEVIN DWYER: Good evening.
14 Attorney Kevin Dwyer, 707 Main Street in Waltham. I
15 represent the Petitioner, Rose Flynn, who is the
16 owner of 62½ Cherry Street.

17 As the Chair said, this petition was
18 continued from the last Board of Appeals meeting. I
19 did file, and I want to make sure that members got a
20 motion that I filed to amend my petition that I filed
21 on February 4th, 2013. My client is withdrawing her
22 request for tandem parking pursuant to Article 5,
23 Section 5.34.

24 BARBARA RANDO, CHAIR: Can I address

1 that at this time? Do you mind?

2 ATTORNEY KEVIN DWYER: Sure.

3 BARBARA RANDO, CHAIR: I was a little
4 confused when I received that. I think that you have
5 to be more specific in what you are going to change.
6 It say, "Now comes the Petitioner, Rose Flynn, and
7 hereby moves to amend her petition." Amend it how?
8 I think you have to say how.

9 ATTORNEY KEVIN DWYER: In the next
10 paragraph, I --

11 BARBARA RANDO, CHAIR: Well, first of
12 all, to now allow one car to park closer to the house
13 than what is allowed by our laws, by our variance.

14 ATTORNEY KEVIN DWYER: That's our
15 first request.

16 BARBARA RANDO, CHAIR: Right. And
17 then the Petitioner specifically withdraws her
18 request for tandem parking. So, tonight you're
19 before us for one car, the dimensional variance that
20 we are allowed to grant that is next to her house?

21 ATTORNEY KEVIN DWYER: Yes.

22 BARBARA RANDO, CHAIR: Okay. So, if
23 you wouldn't mind cleaning that up a little bit, I
24 would appreciate it. You can do it later, but as

1 long as I understand exactly what you're before us
2 tonight for.

3 ATTORNEY KEVIN DWYER: Sure. I can do
4 that.

5 BARBARA RANDO, CHAIR: Also, another
6 question before I get to your proposed decision,
7 which that I'm confused with greatly, this petition,
8 you're still going to ask for one car. And the car
9 that you want to park there is going to be closer to
10 the house but completely out of the right of way now
11 because you're asking for it to be closer to the
12 house?

13 ATTORNEY KEVIN DWYER: No.

14 BARBARA RANDO, CHAIR: Because you
15 stated in your decision, number 11, that this car is
16 parked on a paved area on the Petitioner's property
17 and partially on the right of way.

18 ATTORNEY KEVIN DWYER: Right. It is
19 partial. It does go onto the right of way.

20 BARBARA RANDO, CHAIR: Well, is it
21 going to go off of the right of way if we allow you
22 to park car number one --

23 ATTORNEY KEVIN DWYER: No.

24 BARBARA RANDO, CHAIR: -- which is the

1 only car we're discussing tonight, closer to the
2 house?

3 ATTORNEY KEVIN DWYER: Correct. The
4 space is a 9x18 space. The car itself will not go
5 onto the right of way. But a 9x18 space is a little
6 bit larger than what really a conventional car needs.
7 So, if this petition is allowed, yes, the outline of
8 the space, a portion of it, will go into the right of
9 way. But the car itself will not actually touch the
10 right of way. It will be completely on my client's
11 property.

12 GLENNA GELINEAU: How can you do that?

13 ATTORNEY KEVIN DWYER: I'm sorry?

14 GLENNA GELINEAU: How can you put the
15 space on the right of way?

16 ATTORNEY KEVIN DWYER: Well, the car
17 itself won't be on the right of way, but the space --

18 GLENNA GELINEAU: I get that.

19 ATTORNEY KEVIN DWYER: Right.

20 GLENNA GELINEAU: How can the space --

21 BARBARA RANDO, CHAIR: Right.

22 GLENNA GELINEAU: How can you put the
23 space on the right of way?

24 ATTORNEY KEVIN DWYER: Well, it will

1 be -- the Petitioners at 64 Cherry Street, and as the
2 Board knows, we have discussed this. They're in
3 support of this petition and this proposed plot plan.
4 They're in support of it. And it is an agreement
5 that we will work out with 64 Cherry Street through a
6 licensing agreement.

7 MARK HICKERNELL: Doesn't it make more
8 sense just to ask for a smaller parking space on your
9 own property?

10 ATTORNEY KEVIN DWYER: We can do that
11 if that's what the Board would like. As I said, the
12 diagram is drawn with a 9x18 space. Do they really
13 need 9x18? No. I think they can fit a car entirely
14 on the right of way -- I mean, excuse me, entirely on
15 their property, not touching the right of way. I've
16 been over there and we've measured it. It's just
17 that this proposed plan is drawn based on that
18 standard 9x18 dimension.

19 GLENNA GELINEAU: What's the second
20 space on the proposed plan?

21 ATTORNEY KEVIN DWYER: That's an area
22 for an exclusive use agreement that we will deal with
23 64 Cherry Street in the future. It's not something
24 that is before the Board at this point.

1 GLENNA GELINEAU: However, you're
2 saying that what you're asking for is supported by
3 this plan.

4 ATTORNEY KEVIN DWYER: Yes.

5 GLENNA GELINEAU: But it's not the
6 plan.

7 ATTORNEY KEVIN DWYER: I submitted an
8 additional plan, a new plan, along with --

9 GLENNA GELINEAU: You said, "Submitted
10 an updated Proposed Plot Plan along with this
11 motion."

12 ATTORNEY KEVIN DWYER: Right. And I
13 did.

14 GLENNA GELINEAU: Okay. But it's got
15 the second space on it.

16 ATTORNEY KEVIN DWYER: But it's not a
17 parking space. It's an exclusive use area for 62½
18 Cherry Street. It's not a parking space. We're not
19 calling it a parking space at this point in time.
20 We're not asking that this Board deem it a parking
21 space or grant my client a right to use it as a
22 parking space at this point in time.

23 BARBARA RANDO, CHAIR: Well, why is it
24 on the plan right now? Why don't you address it when

1 you get the agreement and come back?

2 ATTORNEY KEVIN DWYER: Because it was
3 on the plan previously when we were here on the last
4 date.

5 BARBARA RANDO, CHAIR: But I think
6 what Ms. Gelineau is saying is that the plot plan
7 doesn't show what you just wrote in your petition.

8 ATTORNEY KEVIN DWYER: No, it does.
9 It does. The second space, we're now calling it
10 parking spot two at this point, it's an exclusive use
11 area. It will be subject to an agreement between 64
12 and 62½ down the road.

13 BARBARA RANDO, CHAIR: Is it on the
14 right of way?

15 ATTORNEY KEVIN DWYER: Yes. But we're
16 not asking that the Board take any action, nor does
17 the Board have to take any action with regard to that
18 second spot.

19 GLENNA GELINEAU: No, I understand
20 that.

21 ATTORNEY KEVIN DWYER: Right.

22 GLENNA GELINEAU: I just --

23 JOHN SERGI: I think, counselor, just
24 maybe just clear up the language a little bit because

1 your not refers to it as parking space two, and then
2 you're referring to it as area reserved for exclusive
3 use. Maybe just eliminate that whole, you know, that
4 whole reference to that area, and then leave that,
5 you know, parking space subject to a license
6 agreement. But, you know, it's really -- I mean,
7 otherwise, what you're asking for is us to approve an
8 exclusive use of that dimension. Is that what you're
9 asking for?

10 ATTORNEY KEVIN DWYER: No. I just
11 wanted to be upfront with the Board that that is
12 something that the parties have discussed and that
13 we're trying to resolve. I didn't want to leave it
14 completely blank and leave the impression I'm trying
15 to, you know, get something before the Board that's
16 not completely accurate. And that's why that space
17 was initially drawn in because it is going to be
18 subject, hopefully, to an exclusive use agreement
19 between the property owners in the future.

20 JOHN SERGI: It's just a little
21 confusing. In one paragraph you're citing it as a
22 parking space. In the other one, you're citing it as
23 an area that's labeled exclusive use.

24 ATTORNEY KEVIN DWYER: Okay.

1 JOHN SERGI: So I think the language
2 is just confusing.

3 ATTORNEY KEVIN DWYER: I can certainly
4 amend, you know, any language that the Board feels --

5 MARK HICKERNELL: I think that would
6 be a good idea. I think the problem that I'm having,
7 and I sense the rest of the Board is having, is that
8 if we're going to grant the petition for the
9 dimensional variance on the parking space and
10 incorporate this diagram, then we're incorporating
11 something that looks like we just approved an
12 exclusive use on another parcel not before us. And I
13 don't think any of us are prepared to do that. So
14 that would have to be -- I'd just like --

15 GLENN GELINEAU: You'd need a new
16 plan.

17 MARK HICKERNELL: I mean I appreciate
18 your --

19 ATTORNEY KEVIN DWYER: Sure.

20 MARK HICKERNELL: I appreciate the
21 Petitioner's honesty to not want to hide the ball as
22 to what's hopefully for her going to come to pass in
23 the future here, but, you know, I don't want to make
24 an exclusive use on the right of way part of this

1 decision, and I don't want it to be arguable in the
2 future that we did that.

3 ATTORNEY KEVIN DWYER: So what I could
4 do is just delete that whole dotted space, just
5 delete it.

6 MARK HICKERNELL: That and the
7 references to it, yeah, that would be adequate for
8 me.

9 ATTORNEY KEVIN DWYER: Sure. I can do
10 that. And I can also change the dimension of
11 proposed space one so that it sits entirely on my
12 client's property.

13 MARK HICKERNELL: That you're going to
14 have to do. Yeah. But that's not a problem.

15 ATTORNEY KEVIN DWYER: That's only a
16 foot or so.

17 MARK HICKERNELL: Yeah, that's
18 perfect. Yeah.

19 BARBARA RANDO, CHAIR: You understand,
20 you can have nothing on the right of way because the
21 right of way is owned by the condominium.

22 ATTORNEY KEVIN DWYER: Correct.

23 BARBARA RANDO, CHAIR: And they would
24 have to have their names on the petition --

Waltham Zoning Board of Appeals/3-26-13/15

1 ATTORNEY KEVIN DWYER: Right. Right.

2 BARBARA RANDO, CHAIR: -- as owner.

3 ATTORNEY KEVIN DWYER: And I can make
4 that change. That's fine.

5 MARK HICKERNELL: Do you want a recess
6 to do that?

7 BARBARA RANDO, CHAIR: That's fine.

8 ATTORNEY KEVIN DWYER: For another
9 hearing? I mean I'd have to --

10 MARK HICKERNELL: No. Do you need a
11 few minutes to mark up your proposed plot plan?

12 ATTORNEY KEVIN DWYER: Sure. I can do
13 that, if the Board would accept it. Or would you
14 like me to have it redrafted, which it's easy enough
15 to do?

16 BARBARA RANDO, CHAIR: It's going to
17 have to be redrafted and sent in, I believe.

18 ATTORNEY KEVIN DWYER: Okay. But I'll
19 make the changes right now and then I'll send an
20 amended plot plan in the future.

21 MARK HICKERNELL: Sure.

22 BARBARA RANDO, CHAIR: And change the
23 wording on your letter of February 4th, too. Okay?

24 ATTORNEY KEVIN DWYER: On my motion to

1 amend?

2 BARBARA RANDO, CHAIR: On your motion.
3 Right.

4 ATTORNEY KEVIN DWYER: And what
5 exactly would you --

6 BARBARA RANDO, CHAIR: I think in the
7 first paragraph, I think it should read something
8 along the lines of, the petition, amend her petition
9 to now allow one car to park closer to the house, and
10 you could also say completely on her land.

11 ATTORNEY KEVIN DWYER: Okay.

12 BARBARA RANDO, CHAIR: Which you'll
13 have to change your decision, which says -- number 11
14 -- partially on the right of way. That will have to
15 be changed, too.

16 MARK HICKERNELL: Because you're no
17 longer seeking the variance to park a portion of a
18 second car in her front yard, which is a paved area.

19 ATTORNEY KEVIN DWYER: Right.

20 MARK HICKERNELL: So that needs to go.

21 ATTORNEY KEVIN DWYER: Understood.

22 MARK HICKERNELL: Yeah.

23 ATTORNEY KEVIN DWYER: All right.

24 Thank you.

Waltham Zoning Board of Appeals/3-26-13/17

1 MARK HICKERNELL: All right. I'll
2 make a motion for a recess to allow Petitioner to
3 amend that paperwork so hopefully we can --

4 BARBARA RANDO, CHAIR: I'll second
5 that amendment. All in favor?

6 ALL BOARD MEMBERS: Aye.

7 BARBARA RANDO, CHAIR: Opposed?

8 (None opposed.)

9 BARBARA RANDO, CHAIR: The ayes have
10 it. Five-minute recess.

11 (Whereupon, a brief recess was taken off the record.)

12 (Proceedings resume at 7:25 p.m.)

13 BARBARA RANDO, CHAIR: We're back in
14 session.

15 ATTORNEY KEVIN DWYER: I've amended
16 the -- my copy of the new proposed plot plan and have
17 marked out the area in question that my client is
18 seeking variances from tonight. I've crossed out the
19 area reserved for the exclusive use of 62½ Cherry
20 Street. And I --

21 GLENN GELINEAU: Can you just clarify
22 what variances? There's more than one?

23 ATTORNEY KEVIN DWYER: Yes. It's
24 front yard parking.

Waltham Zoning Board of Appeals/3-26-13/18

1 GLENNA GELINEAU: Okay.

2 ATTORNEY KEVIN DWYER: And also that
3 she be allowed to park within four feet of her house.

4 GLENNA GELINEAU: Okay.

5 ATTORNEY KEVIN DWYER: I believe that
6 five feet is the --

7 GLENNA GELINEAU: Okay. All right.
8 Okay.

9 BARBARA RANDO, CHAIR: Oh, that's the
10 two variances.

11 GLENNA GELINEAU: That's the two
12 variances. Okay.

13 ATTORNEY KEVIN DWYER: Correct.

14 GLENNA GELINEAU: Not the other --

15 ATTORNEY KEVIN DWYER: The tandem was
16 number three, which we've withdrawn.

17 GLENNA GELINEAU: Oh, all right.
18 Okay. Sorry about that.

19 ATTORNEY KEVIN DWYER: So here's the
20 marked up plan. And I will have Mr. Rober modify
21 that. And I can send fresh copies to members of the
22 Board.

23 BARBARA RANDO, CHAIR: All right. You
24 may continue while they're looking at it.

1 ATTORNEY KEVIN DWYER: And I've also
2 amended the motion of owner Rose Flynn to amend the
3 petition filed at Zoning Board of Appeals, City of
4 Waltham, on February 4, 2013. It now reads:

5 "Now comes the Petitioner, Rose Flynn,
6 and hereby moves to amend her petition which was
7 filed at the Zoning Board of Appeals for the City of
8 Waltham on February 4, 2013.

9 The petition is to allow the owner to
10 park one car in front of her house entirely on her
11 property.

12 The Petitioner specifically withdraws
13 her request for tandem parking pursuant to Article 5,
14 Section 5.34.

15 The Petitioner has also submitted an
16 updated Proposed Plot Plan along with this motion."

17 BARBARA RANDO, CHAIR: Perfect.
18 Perfect.

19 ATTORNEY KEVIN DWYER: So, I have
20 that. I can submit that to the Board as well.

21 BARBARA RANDO, CHAIR: That's perfect.

22 ATTORNEY KEVIN DWYER: And I can
23 change that. And then my proposed decision, I've
24 crossed out on number 11. It now reads:

1 "Since she first began living at 62½
2 Cherry Street, the Petitioner, Rose Flynn, has parked
3 one car directly in front of her house on paved area,
4 perpendicular to Cherry Street. This car is parked
5 on a paved area on the Petitioner's property."

6 BARBARA RANDO, CHAIR: Great. I have
7 that. Great.

8 ATTORNEY KEVIN DWYER: I can submit
9 that, too. Thank you.

10 BARBARA RANDO, CHAIR: I don't think
11 we're finished.

12 ATTORNEY KEVIN DWYER: Okay.

13 BARBARA RANDO, CHAIR: Sorry.

14 ATTORNEY KEVIN DWYER: All right.

15 BARBARA RANDO, CHAIR: There's a
16 couple of other things.

17 Number 10, "Since the Petitioner, Rose
18 Flynn, first began living at 62½ Cherry Street, she
19 has parked at least two cars parked in front of her
20 house." I don't think that's needed because one of
21 the two cars she parked there was illegally parked.

22 ATTORNEY KEVIN DWYER: Well, if the
23 Board wants to take it out, that's fine. I disagree
24 that it was illegally parked, but --

1 BARBARA RANDO, CHAIR: It was on the
2 right of way.

3 ATTORNEY KEVIN DWYER: Well --

4 BARBARA RANDO, CHAIR: And she didn't
5 own the right of way.

6 ATTORNEY KEVIN DWYER: But you can
7 park on the right of way under certain circumstances,
8 if she's not blocking anybody else in. I have seen
9 case law.

10 BARBARA RANDO, CHAIR: If you have the
11 owner's permission.

12 ATTORNEY KEVIN DWYER: Correct.

13 BARBARA RANDO, CHAIR: Are they not in
14 litigation? Aren't they in court?

15 ATTORNEY KEVIN DWYER: Well, we're
16 talking about parking back to 1994 and before. They
17 weren't in litigation until I believe 2010. And
18 there was never any issue with her parking on that
19 right of way for all those years. And she did park
20 two cars in front of her house. One of them, yes,
21 was on the right of way, but there was never any
22 objection.

23 MARK HICKERNELL: I think the easiest
24 thing is just to take it out so we don't have to

1 argue about it.

2 ATTORNEY KEVIN DWYER: That's fine.
3 We can take it out.

4 JOHN SERGI: Yeah. Yeah, I would
5 agree with that. I think just eliminate it.

6 BARBARA RANDO, CHAIR: Also, number
7 15, you talk about the second car. I don't think
8 that should be in there either.

9 ATTORNEY KEVIN DWYER: Sure.

10 BARBARA RANDO, CHAIR: Seventeen. In
11 October 2010, the owner started towing the
12 Petitioner's car. She had a right to.

13 ATTORNEY KEVIN DWYER: Well, I'd agree
14 that it's not necessarily relevant to the variances
15 I'm requesting, but I disagree that she had a right
16 to tow my clients off the right of way. But if the
17 Board would like to withdraw that, that's fine.

18 GLENNA GELINEAU: It doesn't need to
19 be here though. Yeah.

20 MARK HICKERNELL: If you could just
21 delete it, that helps.

22 ATTORNEY KEVIN DWYER: That's fine.

23 BARBARA RANDO, CHAIR: Number 18 -- I
24 hate to be petty -- "The owners of 64 Cherry Street

1 installed no parking signs on a chain link fence."
2 She put no parking signs on her own fence -- her own
3 fence.

4 ATTORNEY KEVIN DWYER: I don't believe
5 it was her fence. I believe it was their neighbor's
6 fence.

7 GLENNA GELINEAU: It's just irrelevant
8 to this variance.

9 ATTORNEY KEVIN DWYER: But we can
10 withdraw it. That's fine.

11 GLENNA GELINEAU: Yeah, withdraw it.
12 Right.

13 BARBARA RANDO, CHAIR: Number 27,
14 "There are circumstances affecting 62½ Cherry
15 Street." Isn't it the same problem on the other side
16 of the house? It says it doesn't --

17 ATTORNEY KEVIN DWYER: I think when I
18 said affecting 62½ Cherry Street, I think what I
19 meant was that whole plot. It was initially one
20 plot, the house in front 64 and then the two houses
21 in the back. So when I'm saying 62½ Cherry Street,
22 I'm referring to that -- those three houses.

23 GLENNA GELINEAU: But doesn't it
24 affect all three of them? I mean it's not just

1 specific to this house.

2 ATTORNEY KEVIN DWYER: I'm not aware
3 of any other house on Cherry Street that has two
4 houses behind it set off the way this particular --
5 these particular two houses are. It looks unique to
6 me on Cherry Street. I think all the other houses
7 are just on Cherry Street. These two houses behind
8 64 are set back, which I don't see any other houses
9 like that on Cherry Street anyways. Because I think
10 initially it was owned by one -- the same individual.
11 And over time they've been meted out, sold off, in
12 portions. So that's what I'm referring to when I say
13 that that's a unique situation. And that's why I
14 think the right of ways were initially drawn up when
15 the plans were drafted. This was in the early 1900s.
16 I think the original plot plan is from 1914, I
17 believe.

18 GLENNA GELINEAU: It's probably a lot
19 more common in the area than you realize.

20 ATTORNEY KEVIN DWYER: It could be.
21 Not on Cherry Street.

22 GLENNA GELINEAU: I don't know.

23 BARBARA RANDO, CHAIR: 28A has to be
24 taken out: "The Petitioner has been parking in the

1 same way at her home since 1994 and without this
2 variance will have only one parking space for her
3 home." She's only going to have one.

4 ATTORNEY KEVIN DWYER: As a result of
5 this --

6 BARBARA RANDO, CHAIR: If we go ahead.

7 ATTORNEY KEVIN DWYER: The only
8 subject tonight is one space. That's true. I'm only
9 asking for --

10 BARBARA RANDO, CHAIR: So take A out.

11 ATTORNEY KEVIN DWYER: That's fine.

12 BARBARA RANDO, CHAIR: Also, why are
13 lines going to be painted if it's completely on her
14 land, number B under 30?

15 ATTORNEY KEVIN DWYER: I think it's
16 based on a discussion I've had with the lawyer for 64
17 Cherry Street, I think it might just benefit so
18 everyone knows. Right now it's just one straight
19 shot. It's one straight line of asphalt. And I
20 think it makes some sense to mark the boundary lines
21 so everyone is on the same page as far as where they
22 can park and where they can't park. We're trying to
23 avoid any future hostilities between the two homes
24 and any future towing or anything like that.

1 GLENNA GELINEAU: In her front yard?

2 ATTORNEY KEVIN DWYER: What's that?

3 GLENNA GELINEAU: In her front yard?
4 She's going to paint lines in her front yard?

5 ATTORNEY KEVIN DWYER: Well, it would
6 be -- it wouldn't be -- it would be on the line that
7 denotes her front yard to the right of way.

8 GLENNA GELINEAU: That's line.

9 ATTORNEY KEVIN DWYER: Right. I'm
10 sorry?

11 GLENNA GELINEAU: That's a line.

12 ATTORNEY KEVIN DWYER: A line. Right.
13 I think it makes sense, but we can certainly take
14 that out as well. It's just --

15 BARBARA RANDO, CHAIR: Well, I'm
16 wondering what size you're going to make it. It
17 can't be 9x18. So what size --

18 MARK HICKERNELL: Well, actually, to
19 that point, Madam Chair, I was going to propose a
20 friendly amendment to the Petitioner's motion, which
21 now reads: "The Petitioner specifically withdraws
22 her request to tandem parking pursuant to Article 5,
23 Section 5.34," and the sentence ends. I would
24 suggest to the Petitioner that we add to that

1 sentence a comma followed by "but amends her request
2 under Section 5.34 to permit her a smaller than 9x18
3 parking space. The space shall be as close to 9x18
4 as possible without encroaching upon any adjacent
5 lots."

6 ATTORNEY KEVIN DWYER: Sure. I
7 appreciate that. That's what we're looking for.

8 BARBARA RANDO, CHAIR: All right.
9 Then you will put that into your --

10 ATTORNEY KEVIN DWYER: Yes.

11 BARBARA RANDO, CHAIR: -- report and
12 send that along, too, with the corrections to Pam.

13 ATTORNEY KEVIN DWYER: I'll send it
14 all to Pam in the language that Mr. Hickernell
15 suggests.

16 BARBARA RANDO, CHAIR: Right. Do you
17 want him to repeat that or --

18 BARBARA RANDO, CHAIR: Maybe I'll
19 email --

20 MARK HICKERNELL: Why don't I -- why
21 don't I read the motion into the record and we can
22 vote on the motion?

23 BARBARA RANDO, CHAIR: That's fine.

24 MARK HICKERNELL: "Now comes the

1 Petitioner, Rose Flynn, and hereby moves to amend her
2 petition which was filed at the Zoning Board of
3 Appeals for the City of Waltham on February 4, 2013.

4 The petition is to allow the owner to
5 park one car in front of her house entirely on her
6 property.

7 The Petitioner specifically withdraws
8 her request for tandem parking pursuant to Article 5,
9 Section 5.34, but amends her request under Section
10 5.34 to permit a smaller than 9x18 parking space.
11 This parking space shall be as close as possible to
12 9x18 without encroaching upon any adjacent lots.

13 The Petitioner has also submitted an
14 updated Proposed Plot Plan along with this motion.

15 Respectfully submitted, Rose Flynn, by
16 her attorney, Kevin M. Dwyer."

17 ATTORNEY KEVIN DWYER: Thank you.

18 BARBARA RANDO, CHAIR: Did you
19 incorporate the findings of facts in the decision or
20 do we have a separate finding of facts?

21 ATTORNEY KEVIN DWYER: I think you
22 have a separate finding of facts that I sent over
23 initially. I did not update my findings of facts. I
24 did update my proposed decision.

1 MARK HICKERNELL: While we sort that
2 out, Madam Chairman, I make a motion to grant the
3 Petitioner's motion as amended.

4 JOHN SERGI: Second.

5 BARBARA RANDO, CHAIR: All right. On
6 amending the motion, how do you vote, Mr. Sergi?

7 JOHN SERGI: Yes.

8 BARBARA RANDO, CHAIR: Mr. Hickernell?

9 MARK HICKERNELL: Yes to grant the
10 amended motion.

11 BARBARA RANDO, CHAIR: Ms. Gelineau?

12 GLENNA GELINEAU: Yes.

13 BARBARA RANDO, CHAIR: Mr. LaSane?

14 GORDON LASANE: Yes.

15 BARBARA RANDO, CHAIR: And the Chair
16 votes yes, so it has been amended.

17 ATTORNEY KEVIN DWYER: Thank you.

18 BARBARA RANDO, CHAIR: Okay. I don't
19 see a finding of fact here.

20 MARK HICKERNELL: Here we go.

21 BARBARA RANDO, CHAIR: Do you have
22 one?

23 MARK HICKERNELL: That's going to need
24 a little work, too.

Waltham Zoning Board of Appeals/3-26-13/30

1 BARBARA RANDO, CHAIR: Do we need
2 another recess? Why don't I make a motion for a
3 three-minute recess? I'm sorry.

4 MARK HICKERNELL: Second.

5 BARBARA RANDO, CHAIR: Second. All in
6 favor?

7 ALL BOARD MEMBERS: Aye.

8 BARBARA RANDO, CHAIR: Opposed?

9 (None opposed.)

10 BARBARA RANDO, CHAIR: The ayes have
11 it. Three minutes.

12 (Brief recess of the record.)

13 BARBARA RANDO, CHAIR: We're back in
14 session.

15 Number eight on page two, I think you
16 should strike that.

17 ATTORNEY KEVIN DWYER: Okay.

18 BARBARA RANDO, CHAIR: Nine strike, 10
19 strike, 11 strike, 12 strike. Thirteen is okay.
20 Fourteen stop at property, "The variance will allow
21 Rose Flynn the maximum use of her property, allowing
22 her to park one car which sits on her property."

23 ATTORNEY KEVIN DWYER: Okay.

24 BARBARA RANDO, CHAIR: From there on.

1 And, number 19, I would take that out. Do you want
2 to look at that? And we'll vote on it.

3 ATTORNEY KEVIN DWYER: Sure.

4 BARBARA RANDO, CHAIR: Because you
5 said fine.

6 ATTORNEY KEVIN DWYER: That's fine.

7 BARBARA RANDO, CHAIR: All right. I'm
8 ready for a motion unless anyone has any other
9 questions, additions, changes.

10 GLENNA GELINEAU: Can I just mention a
11 couple of things about the decision?

12 BARBARA RANDO, CHAIR: Yes. Thank
13 you.

14 GLENNA GELINEAU: I think we should
15 strike 28B. I don't know that that's a decision.

16 And on 30A, "The Petitioner's parking
17 plan, formally to be amended, shall be filed..." I
18 mean this parking plan still has to be formally
19 amended.

20 BARBARA RANDO, CHAIR: Mm hum.

21 MARK HICKERNELL: How much time do you
22 need to submit a new parking plan with those changes?

23 ATTORNEY KEVIN DWYER: Probably three
24 weeks to a month. Mr. Rober is pretty backed up.

Waltham Zoning Board of Appeals/3-26-13/32

1 MARK HICKERNELL: Right. Give him 30
2 days.

3 ATTORNEY KEVIN DWYER: I'd appreciate
4 it.

5 BARBARA RANDO, CHAIR: Do you think 30
6 days is sufficient?

7 ATTORNEY KEVIN DWYER: I think so.

8 BARBARA RANDO, CHAIR: Okay. All
9 right. I'm ready to entertain a motion on the
10 proposed finding of fact, as amended.

11 JOHN SERGI: Madam Chair, I make a
12 motion that the proposed amended finding of fact
13 become the Board's amended finding of facts.

14 BARBARA RANDO, CHAIR: I have a motion
15 by Mr. Sergi.

16 MARK HICKERNELL: Second.

17 BARBARA RANDO, CHAIR: Second by Mr.
18 Hickernell.

19 How do you vote, Mr. Sergi?

20 JOHN SERGI: Yes.

21 BARBARA RANDO, CHAIR: Mr. Hickernell?

22 MARK HICKERNELL: Yes.

23 BARBARA RANDO, CHAIR: Ms. Gelineau?

24 GLENNA GELINEAU: Yes.

Waltham Zoning Board of Appeals/3-26-13/33

1 BARBARA RANDO, CHAIR: Mr. LaSane?

2 GORDON LASANE: Yes.

3 BARBARA RANDO, CHAIR: And the Chair
4 votes yes.

5 Do I have a motion on the decision, as
6 amended?

7 JOHN SERGI: Yes, Madam Chair. I make
8 a motion that the decision, as amended, become the
9 Board's amended decision as well.

10 BARBARA RANDO, CHAIR: Motion by Mr.
11 Sergi.

12 MARK HICKERNELL: Second.

13 BARBARA RANDO, CHAIR: Second?

14 MARK HICKERNELL: Second.

15 BARBARA RANDO, CHAIR: By Mr.
16 Hickernell.

17 How do you vote on the decision, as
18 amended, Mr. Sergi?

19 JOHN SERGI: Yes. Yes.

20 BARBARA RANDO, CHAIR: Mr. Hickernell?

21 MARK HICKERNELL: Yes.

22 BARBARA RANDO, CHAIR: Ms. Gelineau?

23 GLENNA GELINEAU: Yes.

24 BARBARA RANDO, CHAIR: Mr. LaSane?

Waltham Zoning Board of Appeals/3-26-13/34

1 GORDON LASANE: Yes.

2 BARBARA RANDO, CHAIR: And the Chair
3 votes yes. It is granted. And you will provide us
4 with the information that we need.

5 ATTORNEY KEVIN DWYER: Yes.

6 BARBARA RANDO, CHAIR: You have 30
7 days to do it.

8 ATTORNEY KEVIN DWYER: Sure.

9 BARBARA RANDO, CHAIR: All right.
10 Thank you very much.

11 ATTORNEY KEVIN DWYER: Thank you.

12 BARBARA RANDO, CHAIR: Good luck.

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

1 **Case Number 2013-04: SPC Main Street LLC**

2

3

 BARBARA RANDO, CHAIR: Would the Clerk
4 please read the petition in Case 2013-04, SPC Main
5 Street?

6

 MARK HICKERNELL: (The Clerk reads the
7 notice for the above-mentioned Case into the record.
8 See Attached.)

9

 BARBARA RANDO, CHAIR: Thank you.

10

 May we hear from the Petitioner or the
11 Petitioner's representative please?

12

 ATTORNEY PHILIP MCCOURT: Yes. Madam
13 Chair, members of the Board, Philip B. McCourt, Jr.,
14 attorney, representing the Petitioner, 1265 Main LLC.
15 You were provided, as you know, copies of the brief
16 and several documents in a package. It was delivered
17 in hard copy this evening and which had been
18 previously emailed to the Law Office to you.

19

 I'd point out just one thing. I just
20 suggested that I was representing 1265 Main Street
21 LLC. When we filed the petition, the official legal
22 owner, if you will, of the land was SPC Main LLC.
23 And in there are the necessary corporate documents
24 within this brochure that show the change which is

1 more in keeping with the actual designation of the
2 property.

3 This is a request, as Mr. Hickernell
4 just read, in relation to getting variances to locate
5 various ground signs and wall signs throughout the
6 proposed mixed retail and office development at the
7 former Polaroid campus. This is much like the prior
8 variance for similar signs at the time when a prior
9 applicant had made.

10 Tonight I have with us Rick Vallarelli
11 who is a project manager. He's up at 22 Main Street
12 -- I mean 22 Green Street -- every day and is readily
13 available to anyone in the community who wishes to
14 discuss any aspect or focus of this development,
15 which, as you can see, is fast coming to a point
16 where buildings will be built.

17 We also have Jim Lamp, who is a civil
18 engineer. He is also a representative of the owner.

19 Paul Alunni, who is also a civil
20 engineer. He's associated with R.J. O'Connell
21 Associates, who, in fact --

22 BARBARA RANDO, CHAIR: Which one is
23 that?

24 ATTORNEY PHILIP MCCOURT: Paul is

1 right there. And that's Rick. That's Jim, and his
2 friend, Joe Pasquale. And we have Roger Lipman,
3 probably the fellow who will provide the best
4 information for you. He is the person who designed
5 the signs.

6 We, of course, in the brief, outlined
7 the essentials that are needed for a variance. I'll
8 just take a moment and discuss those, and then I
9 think Rick Vallarelli can tell you how he believes
10 that it all applies here and that we have the
11 necessity of these.

12 So, as we all know, the first criteria
13 of any variance is owing to the circumstance relating
14 to the soil conditions, shape, or topography of the
15 land or structures and especially affects this land
16 or structures but not generally affecting those in
17 the area in which it is located. Clearly here the
18 shape of the property, the 100 acres which was
19 purchased, is very irregular. And they will be
20 showing you plans in relation to that and describing
21 it. Not only that, it only has a relatively short
22 1,000 or less frontage on Main Street, while having
23 the bulk of its frontage on 128, which would have
24 afforded us the ability to perhaps not have to seek

1 as extensive a sign variance as we are tonight. But,
2 in fact, these signs obviously are needed in order to
3 identify the various buildings that are proposed in
4 relation to it, and Mr. Vallarelli will explain that
5 to you, and they're very important to the safety and
6 the circulation within the property itself.

7 Obviously, the topography here,
8 another factor in relation to that first requirement,
9 is very severe. You'll see that it's been worked on
10 over the last year, and everything was full of ledge,
11 irregular topography, and all that. It's being
12 prepared in order to allow the construction,
13 beginning of construction of various buildings, which
14 we hope to start by mid- to late next month. That is
15 in April. We've cited a couple of cases that are
16 familiar in relation to that within the brief.

17 The second criteria is the literal
18 enforcement of the provisions of the ordinance would
19 involve substantial hardship, financial or otherwise,
20 to the Petitioner. In this particular case, the
21 current sign ordinance, which is essentially a sign
22 ordinance which was adopted after a tremendous study
23 in 1978, obviously envisioned downtown signage which
24 had come to a point where they felt it should be more

1 controlled and regulated and to strip malls, never
2 envisioning at that time that there would be a
3 development such as this, a large one-parcel you
4 might say retail development. It would require
5 signage that might not easily fit under some of the
6 provisions that Mr. Hickernell just read to us of
7 which we seek variances.

8 So, to strictly adhere to that would
9 present a substantial hardship to the Petitioner as
10 he couldn't adequately sign his property. And that
11 includes wall signs and ground signs, as both Mr.
12 Vallarelli and Mr. Lipman will describe to you.
13 Those also involve the irregular shape and topography
14 of the lot which still will have some variations in
15 grade along the way, and which also the development
16 really demands, if you will, some signage that will
17 be visible from 128 so people would know where to
18 come. Although I suppose with one of the key
19 tenants, Market Basket, we'll all find it very
20 quickly.

21 The fourth criteria is desirable
22 relief may be granted without substantial detriment
23 to the public good. We contend that this proposed
24 signage will provide a distinct benefit and be not a

1 detriment to the public good. It will provide safety
2 in the lot and eliminate potential traffic jams
3 either in there or reaching the property, and that
4 it's needed for the safety and adequate circulation
5 and identification of various sites within the lot to
6 be visited.

7 And the last criteria is without
8 nullifying or substantially derogating from the
9 intent or purpose of the ordinance. In this case,
10 signs are allowed, obviously, in this commercial
11 zone. We have signs here. And among the purposes
12 and objectives of any zoning ordinance are to promote
13 the convenience and to lessen congestion on the
14 streets. And in this sense, obviously, the granting
15 of the signs will allow both that on and possibly off
16 the property.

17 So, we've cited various cases. And I
18 can return if you have any specific questions on
19 those. But I think it would be best if Mr.
20 Vallarelli, at this point, showed you not only the
21 plans of the site and the focus, and current
22 scheduling, and where we are on the site, but
23 describe in brief where the signs will be, and then
24 Mr. Lipman will describe the signs and their

1 architectural necessity, not only from the points of
2 view that I just mentioned, but to an adequately
3 presented retail development.

4 BARBARA RANDO, CHAIR: That's fine.

5 RICK VALLARELLI: Good evening,
6 members of the Board. My name is Rick Vallarelli,
7 for the record, project manager for 1265 Main Street
8 LLC. I have to say I'm in front of you tonight a bit
9 exhausted. I'm not sure if it's from the newborn
10 baby or answering the Council's questions last night.

11 BARBARA RANDO, CHAIR: Probably both.

12 RICK VALLARELLI: We're trying to
13 permit a couple of our tenants for drive-throughs and
14 fast food.

15 But I thought the best thing to do at
16 first here would be to bring you up-to-speed on where
17 we are with the project. Make no exception here --
18 this will be a world-class development, best in
19 market. And we're very excited, and we hope that the
20 Board is as well.

21 So, to my right here is Phase One. We
22 have a signed Market Basket tenant, a Marshalls, Jake
23 and Joe's Sports Grill, a Bonefish Grill, which is a
24 fish restaurant primarily in the south. This is

1 their first one in Massachusetts and in the
2 northeast. So they're very excited.

3 The Phase One is about 34 acres. The
4 parcel as a whole that we have is 96.5 acres. It was
5 122 acres, but we gifted 22 acres of land to the City
6 for reservation and parkland, which I can show you on
7 the existing conditions plan. So, why we're here in
8 front of you tonight is we need signage, and we need
9 proper signage, and signage that works well with our
10 architecture, and complements the architecture. What
11 we don't want to do, and what I have here, which I'd
12 like to show you, is what was done here at Wayside
13 Commons. I was driving today, and I pulled over on
14 the highway to give you -- this is a perfect example
15 of how you can really misstep in your signage and how
16 it relates to the architecture.

17 This is a view from the highway side.
18 So, as you're driving on 128, it's a similar drive as
19 you have here. And, as you can see, all you can see
20 in those photos at Wayside Commons if you're on the
21 highway heading north, is HVAC units and just blank
22 facades. So that's what we don't want to do here.
23 And that's why I'm in front of you tonight, to show
24 you our proposal to not do that.

1 So, let's move to the existing
2 conditions of the site. As constrained by the odd
3 shape of the lot as it pertains to the way that the
4 signage ordinance is written, the signage ordinance
5 is written that it's the primary façade that's facing
6 -- the primary façade is facing a primary road. As
7 you can see, this lot is odd in shape. It's about
8 4,000 lineal feet from here on 128. It's about three
9 miles, the entire perimeter. It has small sides,
10 long sides, one side is 30 feet. The area that's
11 actually considered our frontage is about 1,000 feet.
12 So when you consider the entire perimeter of the site
13 to be three miles long, and your primary frontage is
14 1,000 feet, it's four times the size of what the
15 frontage is considered. In reality, in my opinion,
16 frontage here really should be 128. But it's not.
17 It's considered Main Street. So, in saying that,
18 it's further complicated by an NStar easement located
19 right at the front of Main Street in our parcel,
20 which is about six acres in size.

21 So, in considering that, we look at
22 what the ordinance says we could have by right for
23 this 100-acre parcel. By right, we would only be
24 allowed 900 square feet, 912 square feet, facing

1 right on this southerly portion of the site and on
2 this building here. It doesn't seem right, and
3 especially when you're trying to develop signage that
4 is compelling and integral with the architecture of
5 the site.

6 I guess in understanding how could
7 this be, you have to dig into a bit of the history of
8 how the ordinance was written. In 1978, they decided
9 that they wanted to revisit the sign ordinance, and
10 what they call a Blue Ribbon Committee was assigned
11 to upgrade the ordinance. It was made up of the
12 Chamber of Commerce, some citizens, and some Council
13 members. The problem is, in 1978, all the major
14 business was downtown. So, the architects of the
15 upgrade to the ordinance only visualized signage in a
16 downtown area with one main street. So, therefore,
17 they only considered buildings to have one primary
18 façade, whereas, on a development like ours, you can
19 see these buildings have multiple primary facades and
20 multiple primary streets which would require multiple
21 uses of signage.

22 Everybody knew in 1978 where Raytheon
23 was, where Polaroid was, and it was decided that
24 signage to those particular large corporations was

1 not needed.

2 Roger Lipman is here from Spagnolo
3 Gisniess, and he'll get into a little bit more of the
4 signage that's being proposed, and how it's being
5 used in the site, and how it works well with the
6 architecture. And then we could get into some
7 questions if that's okay with the Board.

8 Roger?

9 ROGER LIPMAN: Hello. Roger Lipman.
10 I'm with Spagnolo Gisniess Associates. I'm a senior
11 project architect, and I'm pleased to be part of this
12 team. We're really trying to make a transformation
13 of a site that if you go out there today looks a lot
14 like Afghanistan. We're trying to make it into a
15 real place and a destination. And when we look at
16 signage, we look at the moment of arrival, and
17 identity, and destination to make it a real place
18 that people can identify with and visit.

19 So, there is another exhibit here I
20 want to share. When Rick talked about those
21 additional internal drives that we're creating for
22 people to make their way through this large site,
23 we've identified in blue on the buildings those areas
24 that we think are primary candidates for signage, not

1 that everything you see here in blue would receive a
2 sign, but potentially with future tenants yet to be
3 determined trying to say what would be the most
4 viable way that a business could present itself, both
5 to people coming off of Main Street, and also to
6 people that might be driving by on Route 128. And
7 instead of putting the backs of these buildings to
8 the highway, as that photo showed, we want to avoid
9 that unfortunate kind of scenario. We want these
10 buildings to have multiple fronts, multiple front
11 doors, if you will. And the way we're proposing to
12 do that is with the signage so that you may be
13 driving by and looking at, yes, the loading side of
14 Market Basket, but with integration of the landscape,
15 nice plantings, creating berms that hide the loading
16 areas, and with the architecture, and with the
17 signage, it all being integrated together, we're
18 trying to present a more front door appearance of
19 what is truly a service side of a building.

20 So, let me just bring a couple other
21 exhibits. I'll start with the ground signs that are
22 proposed. I'm not going to walk through each sign,
23 but we are proposing the banner signs as a type of
24 ground sign. And I'm talking about the vertical type

1 of banners that are mounted on poles be erected on
2 this entry driveway as a way to give the retailers
3 and businesses that may want to locate here some
4 identity.

5 This is in lieu of what is often --
6 what the ordinance allows in some cases as a pylon
7 type of sign. The sign that I think really is a
8 blight on a lot of shopping centers, those tall
9 towering signs that may say Target, and Kohl's, and
10 list all the -- it makes a giant structure just for
11 the purpose of identity. Here we have light poles
12 for the purpose of lighting and making the site safe
13 and so people can navigate it. We are proposing to
14 use those structures to put smaller banners and of
15 the type that are in style these days. These banners
16 don't last forever, so it's a way that the site can
17 be refreshed and have a new identity as seasons
18 change and as tenants change. And we think it's a
19 way to really create a nice smaller-scale expression
20 of the tenancy here.

21 MARK HICKERNELL: How big would the
22 banners be?

23 ROGER LIPMAN: The banners are
24 identified in the packet that I provided. I'm sorry

1 I don't have the dimension right at hand. I want to
2 say they won't exceed eight feet in height, and a 2x8
3 is a maximum size. But we really don't want them to
4 be too big. We want a small sign that's in view as
5 you drive up at a low speed on this driveway.
6 They're not to be seen from far away. They're to be
7 seen as you pass by at a low rate of speed. So, if
8 they get too high then drivers have to crane their
9 neck and it's not about that. It's about something
10 that's readily visible.

11 I want to --

12 BARBARA RANDO, CHAIR: Are these signs
13 lighted?

14 ROGER LIPMAN: The signs will receive
15 light inasmuch as that those light poles are
16 providing general area lighting, but not any
17 additional dedicated lights for the signs.

18 BARBARA RANDO, CHAIR: And this is on
19 the road going to the complex?

20 ROGER LIPMAN: That's correct.

21 BARBARA RANDO, CHAIR: To the stores?

22 ROGER LIPMAN: That's correct.

23 BARBARA RANDO, CHAIR: So the road
24 that we see there now will have light poles on it?

Waltham Zoning Board of Appeals/3-26-13/49

1 ROGER LIPMAN: Yes. If you can see
2 the blue dots on this plan, those are locations. And
3 this roadway that lines between 128 and a parking
4 area, we're proposing an additional five pole-mounted
5 signs there.

6 BARBARA RANDO, CHAIR: So you don't
7 have the poles there now?

8 ROGER LIPMAN: No, those poles are not
9 installed at this time.

10 BARBARA RANDO, CHAIR: Because I made
11 a site view and I didn't see any poles, so I assumed
12 --

13 ROGER LIPMAN: You're correct.

14 BARBARA RANDO, CHAIR: -- that the
15 road wasn't going to be lighted, but it is.

16 ROGER LIPMAN: It is planned to be
17 lighted, and they are not installed yet.

18 BARBARA RANDO, CHAIR: Thank you.

19 ROGER LIPMAN: So, those are the
20 locations of the poles.

21 JIM LAMP: The last page of your
22 packet has the on-the-ground sign, the last page, so
23 you can see it a little bit closer up. The ground
24 sign, the 11x17 packet. Do they have that?

Waltham Zoning Board of Appeals/3-26-13/50

1 ROGER LIPMAN: They should.

2 MARK HICKERNELL: Yeah, page seven,
3 yes.

4 ROGER LIPMAN: It's the 11x17 package
5 that was sent with the petition. I don't know if
6 they were handed out this evening.

7 Jim, you want to just fire up your
8 copy that you have there so we can look at it?

9 JOHN SERGI: Let me ask, the picture
10 of the comparable signs, are those similar? Is that
11 what you propose, they're going to be black like
12 that, or a different style? The actual pictures, you
13 have examples.

14 ROGER LIPMAN: Yeah, those are not
15 intended to depicted the finish or the type of pole,
16 but just the character of a vertical banner sign
17 suspended on two brackets. That's the purpose of
18 that comparison.

19 JOHN SERGI: So what would the poles
20 look like? I mean would it be the 14 feet? Is that
21 what this --

22 ROGER LIPMAN: You're looking at the
23 pole illustrated to the height of the sign. The
24 height of the pole would continue, and it's cut off

1 on that image with a break line. So, the light
2 fixture is an LED modern type of light bulb. The
3 finish on those poles I believe would be a bronze, a
4 dark metallic finish.

5 JOHN SERGI: I'm just wondering if it
6 matches the lights, the type of antique lighting on
7 the city streets, but --

8 ROGER LIPMAN: I don't think that's
9 the intent at this time.

10 JOHN SERGI: Okay.

11 ROGER LIPMAN: The aesthetic is a
12 contemporary feel to this development, but one that's
13 integrated with the landscape. There's a real heavy
14 emphasis on the design of the landscape and the space
15 in between these buildings, the parks -- we're
16 calling it a town green at the center of the site --
17 site walls, seat walls, outdoor furnishings. The
18 outdoor experience is being given as much design
19 attention as is the buildings and their interiors.

20 So, if I may speak a minute about the
21 signs that we're proposing at the entrances to the
22 site, flanking on either side of this entrance. To
23 the south, an additional entrance point at the south.
24 An additional ground sign that would be visible from

1 Route 128.

2 We've illustrated the concept design
3 for those signs, that they be of a low-scale, that
4 they use the natural fieldstone material that we're
5 taking out of the ground and blasting from the ledge
6 there, and use that material as the background for
7 the dimensional aluminum cut sign letters to be
8 mounted on standoffs. This would be lit from the
9 ground, not internally lit, so it would be lit in a
10 soft way in compliance with the regulations. And we
11 believe it's on a pedestrian type scale. This is
12 some of the most subtle signage on the site occurs at
13 the entrance to the site.

14 The signs within the site are of, you
15 know, the tenants' signage standards. We are working
16 with the tenants in each case as they sign on to
17 locate here to, in a lot of cases, raise their
18 standard of materials for their buildings, and, in
19 some cases, decrease the quantity of their signage,
20 and to make, what we feel, is a more tasteful
21 development. And sometimes that's a bit of a
22 negotiation, but we are succeeding brand by brand to
23 not change their signage, but to make it -- tone it
24 down in some way. So, I just wanted to mention that.

1 And if we take a look at then the
2 signs that are proposed to be on buildings, I'm
3 showing in this exhibit two examples. The anchor
4 tenant of Market Basket Supermarket has its primary
5 signage, its largest sign, although it should be
6 noted it's a smaller sign than you'll see on any of
7 the other 70-odd Market Baskets around New England.
8 We are in compliance with the maximum letter height
9 of 72 inches. It is an internally-lit sign. We've
10 introduced the look of a wood slatted raceway behind
11 the signage. And that's a recurring design element
12 and a way that we are integrating the signage with
13 the architecture.

14 We are proposing that this anchor type
15 tenant be granted a larger than the ordinance allows
16 secondary signage. And that would be just a smaller-
17 scale version of this Market Basket sign but to face
18 the highway. And that's what I was referring to when
19 I said that we want to create almost a second front
20 to what's really the back of a building, so that if
21 somebody drives by they identify I'm going to that
22 Market Basket, and when they come around to the front
23 they're greeted again with the primary sign. So,
24 it's just for those anchor tenants that we ask that a

1 secondary sign be allowed to be as large as 265
2 square feet. We feel it's in proportion with the
3 size of the building. It's a very long frontage on
4 Route 128, and we feel it's in a proper scale to the
5 overall mass of the building.

6 The other tenants around the site,
7 here's an example of the Bonefish Grill restaurant.
8 It has a primary sign and a secondary sign. And, to
9 them, they're equally important because it's kind of
10 facing on a diagonal. It's almost arbitrary which
11 one you call primary, but they do want to face to the
12 various places that people might park and that people
13 might approach from. So, we're proposing that their
14 secondary sign also be allowed to exceed the stated
15 maximum in the ordinance and be allowed to be 130
16 square feet, which is what's shown on that example
17 and on the precedent photograph.

18 So, at this point, I'm happy to take
19 questions or explain anything in further detail from
20 the Board.

21 BARBARA RANDO, CHAIR: Are there any
22 questions from any members at this time?

23 MARK HICKERNELL: Yes.

24 BARBARA RANDO, CHAIR: Go right ahead.

1 MARK HICKERNELL: Sir, I've reviewed
2 it all. And it all looks, you know, fairly
3 reasonable and good to me. I have some issues with
4 the proposed decision that's been given to us. It
5 doesn't appear to incorporate the ground sign program
6 or the wall sign program documents. And I'm not sure
7 if that's an oversight or not. It just incorporates
8 the five-page variance request and the conditions.

9 ROGER LIPMAN: If that's the case, I'm
10 sure it's an oversight and we -- it's our intent to
11 include both the ground signs and the wall signs
12 there.

13 MARK HICKERNELL: That's good to hear
14 because without those there's actually no maximum
15 whatsoever on any size of anything you're proposing
16 in the decision. And that would be a problem.

17 ROGER LIPMAN: That wouldn't be a
18 problem. We are proposing hard definitive square
19 footage amounts and quantity amounts. We're giving
20 counts and sizes for all proposed signs. And, in all
21 honesty, we're proposing it as an allowance because,
22 as I alluded to, some tenants are on board and others
23 are yet to be, you know, signed up. So we want to
24 have a reasonable allowance that a major national

1 type tenant would be interested to locate here.

2 MARK HICKERNELL: No, and this to me
3 is not an unreasonable approach as far as I can tell
4 right now.

5 Another question I have, in the -- so
6 if we assume that the ground sign program and wall
7 sign program documents are meant to be incorporated
8 as conditions of the decision, another question I
9 have is that -- which one is it -- it's a wall sign
10 program -- right, the wall sign program pages six and
11 seven, you have some, you know, perfectly fine
12 parking signs and the banners, and they're described
13 as conceptual options. And I'm not sure what that
14 means or what -- if we condition the decision on this
15 document, how you would be bound to something that's
16 referred to as a conceptual option. Do you know what
17 that means?

18 ROGER LIPMAN: Well, what it's
19 intended to present, sir, is a conceptual design. We
20 have not completed the final design. So we're trying
21 to show the character, the nature of the materials,
22 and be bound by in the cases where we're asking for
23 an increase in size, to be bound by, in the cases
24 where we're asking for an increase in size, to be

1 bound by that size. If you wish to, you know, review
2 at the time of final signage, I suppose that wouldn't
3 be a problem with us. But the nature of materials or
4 the way that signs are proposed to be illuminated,
5 we're not requesting variances in any way from the
6 bylaws as regards the nature of those signs, strictly
7 in those exact ways that we are asking for increased
8 quantities or increased sizes, that's -- we
9 illustrated not just a rectangle of that size, but we
10 showed a concept design of that nature to illustrate.

11 MARK HICKERNELL: Okay. And, to be
12 clear, I'm not, and I doubt the Board is, interested
13 in micromanaging these signs. Again, I think it's a
14 good concept. But, if we're granting something that
15 says "Banner: Conceptual Options," and underneath it
16 it says, "Signage not to exceed 16 square feet," if
17 we're intended that they not exceed 16 square feet, I
18 think we have to call that something other than a
19 conceptual option just so that our decision will hold
20 force holding forward.

21 ROGER LIPMAN: Mm hum.

22 MARK HICKERNELL: Do you agree?

23 ROGER LIPMAN: Yes, I do agree. And
24 I'd be open to a suggestion of the proposed language

1 that you would like to -- us to put on that document
2 so that it's clear.

3 MARK HICKERNELL: Okay. We can work
4 on that while you continue with your presentation.

5 ROGER LIPMAN: Sure.

6 MARK HICKERNELL: Or if anybody else
7 has questions.

8 BARBARA RANDO, CHAIR: I have a couple
9 of questions. Does anyone else have any questions?
10 Not at this time?

11 Sir, I'm concerned with the amount of
12 light. I look at all these blue dots and the
13 signage, and you brought up Wayside Commons. Is
14 there any comparison to the amount of say wattage or
15 lighting that they have compared to this development
16 or any other development that you know relatively
17 close to this vicinity that we could compare the
18 amount of lighting?

19 ROGER LIPMAN: I don't know that we've
20 made that exact comparison already. It certainly can
21 be accomplished.

22 Do you want to speak to this, Jim?
23 I'll ask Jim Lamp to answer.

24 BARBARA RANDO, CHAIR: I'm afraid it's

1 going to look like a big strip.

2 JIM LAMP: Well, I guess the
3 comparison would be made to -- for the record, Jim
4 Lamp of J and Co. The comparison could be made to
5 other retail developments. I would probably suggest
6 Costco or Home Depot. But the difference is that
7 this lighting will be state-of-the-art and those are,
8 you know, dated now. These are going to be LED with
9 full cutoffs, which means that there will be no light
10 getting off the property. So when you're looking
11 from the side, you don't see you know how some light
12 bulbs you can see the light from the side of the
13 fixture and the light emits sideways. This will be
14 directed directly downward.

15 We like to see foot candle level at
16 the pavement level of no less than say one-and-a-half
17 foot candles. It's a technical term, but it's a safe
18 enough lighting so that people can see where their
19 feet are, where they're treading.

20 And it will be industry standard, no
21 brighter than any other commercial development that's
22 being opened up today. I would suggest that -- I'm
23 trying to think if we did LED lighting in the new
24 Burlington store. I don't think we had control over

1 that because that's not our -- I'm trying to think of
2 a store in the area that we recently opened that you
3 could visit with these types of fixtures. And what I
4 can do is I can get that to the Board.

5 BARBARA RANDO, CHAIR: That would be
6 helpful.

7 JIM LAMP: Give me 10 minutes and I'll
8 come up with it.

9 GORDON LASANE: So, the look of the
10 light itself, it's going to look like light blue?

11 JIM LAMP: No, it's actually a very --

12 GORDON LASANE: White?

13 JIM LAMP: -- it's a very clean white
14 light. It's not like you go out and you can't tell
15 the color of your car or something. In some areas
16 you go shopping in you're like, "I thought I had a
17 blue car," and it looks red or vice versa. So, it's
18 a very clean white light.

19 GORDON LASANE: White. Okay.

20 BARBARA RANDO, CHAIR: Sir, I'm also
21 concerned with the homes. I made a site view this
22 afternoon on Hill Road.

23 JIM LAMP: Mm hum.

24 BARBARA RANDO, CHAIR: And I was

1 totally taken back at what I saw there. It seemed to
2 be bombed. There were three houses. There are three
3 houses and some type of factory.

4 JIM LAMP: Right at the end of the
5 street there. Yeah.

6 BARBARA RANDO, CHAIR: Oh, you're very
7 familiar with it?

8 JIM LAMP: Yes. Not very, but I've
9 been out there and I've seen the view from both
10 sides. Correct. Yeah.

11 BARBARA RANDO, CHAIR: When I was on
12 the porch of these houses, I looked straight ahead at
13 a road almost the same level as their street, so it
14 must be raised.

15 JIM LAMP: Mm hum. Mm hum.

16 BARBARA RANDO, CHAIR: There's nothing
17 blocking it. There's no trees. There's no fence.
18 There's nothing.

19 JIM LAMP: Mm hum.

20 BARBARA RANDO, CHAIR: Now, I'm
21 concerned that even if you do add greenery, and
22 fencing, and whatever, that all these lights going in
23 there on the roadway -- and that's why I asked you
24 are all these roads going to be lighted -- these

1 people are going to be looking at -- now they can see
2 Unos, they can see hotels, they can see wires. And
3 now to have the roadway lit, they're going to be
4 looking out on all these lights. Even if you say
5 that the glow is going to be down, they're still
6 going to be looking like the Wizard of Oz when they
7 get to Oz.

8 JIM LAMP: And your concern in
9 relationship to the signage?

10 BARBARA RANDO, CHAIR: To the amount
11 of light that these poor people are going to have.
12 You have a beautiful development --

13 JIM LAMP: I believe one of the -- at
14 least one of the abutters that lives on Hill Street
15 is here. And we've actually, in previous approvals,
16 come to an agreement with him to put up some fencing
17 as well as extensive landscaping.

18 BARBARA RANDO, CHAIR: How high a
19 fence to block off the lights?

20 JIM LAMP: I believe it's an eight-
21 foot fence with plantings that we're actually going
22 to work with them to plant on their yard to give them
23 -- you know, the closer the landscaping comes to
24 them, the better it blocks their view of that.

1 BARBARA RANDO, CHAIR: Could you tell
2 me why so many trees were taken down?

3 JIM LAMP: Unfortunately, again, with
4 the nature of the parcel, it being such an odd-shaped
5 parcel and having the NStar easement in the middle of
6 our land, there was no other location to actually
7 access the parcel. This is a very similar location
8 as to where the related development proposed, except
9 for what they did was they also had a major entrance
10 at the signal that exists right by the bridge there
11 near Stow Street. But, the alignment was dictated.
12 And because of the topography we had to bring the
13 road up. We filled in probably 10 to 15 feet in that
14 location.

15 We met with the neighbors and
16 discussed with them what our proposal was. And they
17 stated their concerns. And we have agreed to work
18 with them throughout the process. You know, we're
19 going to plant these with them present. If they say,
20 "Geez, can you block this view," we'll put a tree in
21 that location. We're going to look at it plant by
22 plant with them in the field and make sure their
23 concerns are addressed.

24 BARBARA RANDO, CHAIR: And that's a

1 condition, that would be a condition?

2 JIM LAMP: That was a condition of the
3 Board of Survey as a part of the roadway I think, or
4 was it the --

5 BARBARA RANDO, CHAIR: But it won't
6 block these lamp posts, will it?

7 JIM LAMP: And we would have no
8 problems if you wanted to reference the same
9 compliance. We can provide those to the Board if you
10 would like to make that a condition of approval. We
11 actually talked to Joe about that, and he would like
12 to have that entered in as a condition, and we have
13 no problems with that.

14 BARBARA RANDO, CHAIR: But the fence
15 that you're going to add, is it going to block these
16 lamps?

17 JIM LAMP: It's going to sit on top of
18 the stone walls that we put in that location. I
19 think, also, and please keep in context that that
20 area there now there's --

21 BARBARA RANDO, CHAIR: I didn't see
22 stone walls. I just saw stones, crushed stones.

23 JIM LAMP: When you're looking from
24 the roadway side, we put some natural stone walls to

1 preserve as many of the trees as we could up against
2 those properties. And, actually, in my opinion, I
3 think it looks spectacular considering what it was.
4 It was an old decrepit parking lot in that area.
5 Now, and really in that area, all there is is we're
6 trying to get from Main Street back to where the
7 development is. There's nothing proposed out front
8 other than that road to get through that pinch point
9 between the pond and the residential people on Hill
10 Street.

11 BARBARA RANDO, CHAIR: But I must say
12 the first time this site came before us years ago, I
13 did make a site view from the same area and you
14 couldn't see a lot of the buildings that you're
15 taking down through the trees, through the beautiful
16 trees.

17 JIM LAMP: Correct. But their plans
18 were almost exactly the same. They just didn't --
19 they never got to construction and we did. So, all
20 the things that they were going to take down, our
21 alignments are very, very similar to what they
22 proposed. They would have ended up with almost the
23 exact same situation. And I don't know whether they
24 actually ever talked to the abutters in that

1 instance. We thought it was prudent. Joe reached
2 out to us and we've been working with him for over a
3 year now.

4 We think we can address those issues.
5 I guess bottom line, we think we can address those
6 issues directly with the abutter.

7 BARBARA RANDO, CHAIR: I just don't
8 see what you're going to be able to put there that
9 would block the poles, the lights. How high are the
10 poles?

11 JIM LAMP: They're not designed yet,
12 but, typically, they'd be in the 30-, 35-foot range.

13 BARBARA RANDO, CHAIR: Thirty-five-
14 foot range, and the road is almost exactly on their
15 house level. And then there's a slope. So exactly
16 where is this fence going to go? At the top of --

17 JIM LAMP: The fence, the higher up --
18 again, we're going to work with them to place it.
19 We're going to be in the field. And if they want it
20 closer to their property, we'll move it. We have it
21 on the plan that's agreed to.

22 BARBARA RANDO, CHAIR: The fence will
23 be --

24 JIM LAMP: But we can move it in the

1 field. You know, if they want it -- the closer it
2 gets to their property, the higher the fence comes.
3 The higher the fence, the more it will block your
4 view. So --

5 BARBARA RANDO, CHAIR: And that would
6 go from the side, or the front of their house, around
7 to the back. But I notice now that there's a
8 walkway.

9 JIM LAMP: May I approach the Board?
10 I apologize.

11 BARBARA RANDO, CHAIR: Sure you may.

12 JIM LAMP: Here's Jim's property here.

13 BARBARA RANDO, CHAIR: Mm hum.

14 JIM LAMP: There's a wall. If you go
15 in the field, there's a wall down here. And it
16 actually sweeps all the way across around this
17 corner. There's a fence proposed right here on top.
18 This is the landscaping that we worked through.
19 Actually, our landscape architect from Carol Johnson
20 --

21 BARBARA RANDO, CHAIR: Is he here
22 tonight?

23 JIM LAMP: No. Carol Johnson came out
24 and worked with them in the field. But we have the

1 count. But we can move these on their property if
2 they wish. And, you know, if they say, "Geez, the
3 NStar easement, we don't like that big tower. Can we
4 align that so when I'm sitting on the porch I'm not
5 looking at the tower that's in the NStar easement?"
6 And we've agreed to work with them. We want to make
7 sure that they're satisfied. We're going to be
8 neighbors for a long time.

9 BARBARA RANDO, CHAIR: Right. And a
10 development of this size totally affects three homes
11 here. It totally does.

12 Any other questions at this time?

13 (No response from Board members.)

14 BARBARA RANDO, CHAIR: All right.
15 Does someone else have something else they want to
16 add?

17 ATTORNEY PHILIP MCCOURT: I think Jim
18 already made it clear he'd be happy to, and we would
19 be happy to condition it on that. And we recognize
20 Mr. Hickernell's points and would be able to adjust
21 the decision. As you see, some of the actual
22 recitation of the petition is within the finding of
23 facts. And that becomes incorporated within the
24 decision. If you'd like us to put it -- excuse me --

1 in the decision, we'd be happy to do that. We would
2 reference the plans that we submitted or whatever
3 pages were appropriate that you saw fit.

4 MARK HICKERNELL: Sure. Actually, I
5 have proposed amendments to the decision, if you'd
6 like to hear them.

7 ATTORNEY PHILIP MCCOURT: Yes, if you
8 don't mind. I'm sure you'll provide us a copy, if
9 somehow we could get that.

10 MARK HICKERNELL: Well, I would just
11 add to Condition 2A, after a description of the
12 variance request document, strike the period, "and
13 the ground sign program document and wall sign
14 program documents, both dated 2/14/13, attached to
15 the petition."

16 And, further, at 2B(iii), "provided
17 that the size of any sign shall not exceed that shown
18 on the ground sign program and wall sign program
19 documents, notwithstanding any characterization of
20 same as conceptual."

21 And let me ask you, Mr. McCourt about
22 condition three, which states that you can basically
23 construct further buildings or alter anything without
24 coming back to the Board. It seems to me that that's

1 a bit of an overreach. So, if you construct further
2 buildings, or parking, or alter the shape of the
3 locus, that seems exactly why you ought to come back
4 to us to take another look at these signs and see if
5 they're still appropriate or not.

6 ATTORNEY PHILIP MCCOURT: Well, that's
7 the signs that are for the phase one. We could add
8 for phase one, should we move a building slightly or
9 whatever, or construct it differently. We're
10 restricted under our original allowance to build the
11 phase one portion of the project to a total of
12 280,000 square feet, of which 120, approximately, is
13 for the business building, which is going to be the
14 redevelopment of that building that's still existing
15 right on Lot 20A. And then we can put up 160,000
16 square feet of retail, mixed retail and restaurant
17 space, which is shown on -- well, on these plans that
18 we looked at a minute ago, and which is locked in
19 place in the setting of -- well, right here I suppose
20 would show -- basically locked in place with the
21 possibility that one of these buildings could move
22 slightly one way or the other. These buildings are
23 locked in the space right here currently. That's the
24 closest to anything. And this building is

1 essentially done. And whether or not there'd be any
2 movement here could be the slight manner that we
3 didn't want to say -- if this building, for instance,
4 is slightly this way, and needed to be turned that
5 way, that we would have that latitude.

6 I took actually that condition out of
7 the exact condition that was permitted in the prior
8 variance. And the reason being is if we alter a
9 little bit of this parking or anything, you know,
10 that we would have that latitude without coming back
11 since, actually, while it's a sign variance, it also
12 is somewhat locked to the actual locus plan that came
13 in.

14 So, there's no intent to build a
15 larger building necessarily, or to make any
16 substantial change. And, as I say, we are locked in
17 at 280,000 square feet, and we've basically arranged
18 this plan.

19 Now, later on, if there's a -- which
20 we expect to have happen -- there's a phase two and
21 there's more construction in other areas of the lot,
22 obviously, we would have to return for that. We
23 don't believe that anything here is being allowed
24 that would affect buildings beyond phase one.

1 MARK HICKERNELL: Looking back, it
2 looks like I voted against it last time, too, on that
3 basis.

4 ATTORNEY PHILIP MCCOURT: I noticed
5 that. I couldn't understand it.

6 MARK HICKERNELL: Yeah. Well, it's
7 because A) nothing -- amenity is not defined, so I'm
8 not going to give you permission to grant amenities
9 at will; and B) I think if it is really limited to
10 the phase one adjustments that are going to be made
11 on this project -- and, I reiterate, I don't think
12 it's a bad project. I hope this succeeds. And I
13 think the sign program is good as far as it goes.
14 You need to narrow that condition because, as it
15 reads, you never have to see us again on this stuff.
16 So, that's not going to be good for us.

17 ATTORNEY PHILIP MCCOURT: We enjoy
18 coming to see you. We just didn't want to come for
19 signs.

20 MARK HICKERNELL: And we like to see
21 you as well.

22 ATTORNEY PHILIP MCCOURT: We want to
23 come for something --

24 GORDON LASANE: It's always good to

1 see you.

2 ATTORNEY PHILIP MCCOURT: Thank you.

3 MARK HICKERNELL: So that's my take on
4 it.

5 ATTORNEY PHILIP MCCOURT: The reason -
6 - the difference in the projects, I guess, which
7 maybe we should refine this, but one difference in
8 the projects, when they came here they had like a
9 million six square feet. They had shown what was
10 going to be for the entire site. So, I understand
11 the reservation in that and we'll limit it to Lot One
12 and let me see if we can work, with your help
13 perhaps, work on limiting the changes that we thought
14 were just reasonable alteration. We don't want to
15 get into something where, you know, if a building
16 happens to, as I say, have to be turned slightly or
17 whatever --

18 MARK HICKERNELL: Well, if in 40 years
19 Polaroid wants to build there again, they're going to
20 have to come back for a new sign. So it's going to
21 have to say something very limiting to phase one, if
22 that's what you mean to happen.

23 ATTORNEY PHILIP MCCOURT: We can do
24 that, right? We can agree to that definitely to

1 phase one. Right. And as shown on this plan,
2 whatever plan we do it. We expect, obviously, as we
3 progress, hopefully, we do. Let me just say that, as
4 you probably are aware, to build one more thousand
5 square feet, you basically need a center of a highway
6 connection and different items that are being worked
7 on and traffic, further traffic improvements, which
8 won't change phase one, but would obviously either
9 allow or alter anything addition that would go on the
10 plan.

11 JOHN SERGI: Okay. So you'll agree to
12 change the language to make it --

13 ATTORNEY PHILIP MCCOURT: I do. That
14 will work.

15 JOHN SERGI: That's all.

16 ATTORNEY PHILIP MCCOURT: Thank you.

17 BARBARA RANDO, CHAIR: Anyone else?
18 Does anyone else have anything to add?

19 ATTORNEY PHILIP MCCOURT: At the
20 moment, no, but we'd be happy to continue to answer
21 questions or whatever, go to the next phase, or
22 perhaps come back to answer some questions.

23 BARBARA RANDO, CHAIR: Could I ask one
24 question. The person I was just speaking with, when

Waltham Zoning Board of Appeals/3-26-13/75

1 are these plantings supposed to take place?

2 JIM LAMP: The plantings, we have
3 talked to the abutter about getting these -- oh, do
4 you want to take it?

5 RICK VALLARELLI: Sure. We're just
6 waiting for the ground to thaw really. Right now the
7 ground is frozen. It's a little difficult to get a
8 fence in and all these plantings. So, we were in
9 communication --

10 BARBARA RANDO, CHAIR: There's
11 actually three abutters. Have you spoken -- I mean
12 you talk about one abutter, but there's three there.
13 Have you spoken to the other two?

14 RICK VALLARELLI: We have not, no.
15 No. Joe has reached out to us, and we've really been
16 working with Joe.

17 JOHN SERGI: Madam Chair, you have a
18 hand raised in the back.

19 BARBARA RANDO, CHAIR: Do you have
20 something else?

21 AUDIENCE MEMBER: Me? I had a couple
22 of questions, Madam Chair. Can I --

23 BARBARA RANDO, CHAIR: When I call on
24 you to seek information.

1 AUDIENCE MEMBER: Okay.

2 BARBARA RANDO, CHAIR: All right. Is
3 there anyone in the audience that is in favor of this
4 petition? One, two, three, four, five, six. Seeing
5 six.

6 Do I have anyone seeking information?
7 If you'd like to ask your questions at this time, go
8 to the microphone.

9 COUNCILOR DAN ROMARD: Thank you.
10 Good evening. My name is Dan Romard. I'm the Ward
11 Councilor for 1265 Main Street.

12 I'm going to hold off on my support or
13 non-support for the signage at this point. I believe
14 it will probably come before the City Council, or
15 we'll certainly request a final plan, a little bit
16 more details.

17 But what my question would be to the
18 Board here is what I don't see on this ground plan is
19 what I guess I will deem other signage. And I don't
20 know whether it's part of this program or not, but,
21 for instance, there's nothing here that states
22 signage around the handicap parking spaces. There's
23 several roadways here and rotaries which could be
24 very confusing. I see some directional signage, but

1 nothing indicating around rotaries. Lots of roadway
2 here, but no indication of signage for stop signs,
3 yields, or anything like that. So, I would ask the
4 Petitioners to possibly comment on that if they
5 could. And, again, if it's nothing that they have
6 here prepared tonight, we'll be looking for something
7 when that comes to City Council.

8 Thank you very much.

9 BARBARA RANDO, CHAIR: Thank you.

10 ATTORNEY PHILIP MCCOURT: In relation
11 to handicap parking, of course, that's an obligation
12 in any building permit to designate parking spaces.
13 It wouldn't fall directly under the sign code itself,
14 so it has to be marked out on the ground and
15 identified for handicap parking, as Jim Lamp can tell
16 you very clearly because he's been involved in many,
17 many developments.

18 And, obviously, you need some
19 directional signals to tell someone, you know, go
20 over this way if you want to go to Marshall's, or
21 let's come back here and we'll go over to Jay and
22 Joe's and have dinner. So, those signs, they're
23 somewhat in relation to that, but most of those are
24 standard ordinary signs in any development,

1 particularly the handicap ones. So, they would be
2 designated as, in fact, we seek building permits, but
3 would not fall under the sign code per se.

4 BARBARA RANDO, CHAIR: So it wouldn't
5 be going back to the Council, is that what you're
6 saying, Attorney McCourt?

7 JIM LAMP: We didn't anticipate that.
8 We own and maintain over 7 million square feet of
9 retail stores. And, as far as directional or safety
10 control, we're very adept at doing the proper thing
11 for liability purposes. We're required by the ADA to
12 sign parking spaces and things along those lines.

13 We did not include that with that
14 signage package to the ZBA. We did not think it was
15 something that you wanted to spend your time looking
16 at stop signs and square footage of each stop sign,
17 yield sign, pedestrian crossing signs, safety, life
18 safety signage for traffic safety and ADA
19 requirements.

20 BARBARA RANDO, CHAIR: But that will
21 be given to the Council?

22 JIM LAMP: I don't believe it's
23 required. If the Council would request it, I guess
24 we're before them. But it would be -- it would be

1 out of the ordinary. I have never in my 30 years of
2 doing this gone through on-site safety signage before
3 a board or committee. It's our liability. It's our
4 development. And we will make it safe and compliant.

5 ATTORNEY PHILIP MCCOURT: It was also
6 just pointed out to me by Paul Alunni, from R.J.
7 O'Connell, which I should know, traffic signs within
8 the area are not covered under the sign ordinance.

9 In relation to the Council, obviously,
10 the special permits we have submitted for in the
11 areas in which are relevant we could designate and
12 show signs, but the Council itself does not grant
13 sign permits. They obviously could tell us they
14 didn't want that particular sign on a building which
15 they would have some dominion over. That would only
16 be, in my opinion, currently, this building right
17 here which is potentially a T.D. Bank, and that
18 building right there, which is a Starbucks
19 presentation. So, while we would have some selection
20 of signs, and certainly the tenant would have
21 selection of signs, in the special permit process, if
22 for some reason the Council had some opinions on
23 that, we would do it. Other than that, the sign
24 falls either under the code or any exception to it

1 falls here as part of a variance.

2 BARBARA RANDO, CHAIR: Is there anyone
3 else seeking information? Are you seeking
4 information or are you opposed?

5 DUANE MARKS: I'm seeking information.

6 BARBARA RANDO, CHAIR: Go right ahead,
7 sir.

8 DUANE MARKS: For those of you who are
9 wondering who that group is over there, we're the
10 abutters south of Main Street. So I live on Cutting
11 Lane, 11 Cutting Lane. I'm Duane Marks.

12 My concern is, we briefly addressed
13 the lighting issue as well, but our concern is that
14 all the streets coming from Main Street go up, as you
15 go up Cutting Lane, as you go up Stow Street. So we
16 have the view across the tops of the buildings
17 abutting right on Main Street. So we are going to
18 see most of the signage over the tops of those
19 buildings. And my concern is probably mostly for
20 phase two when they're going to be developing right
21 along Main Street. And we're not particularly
22 interested in looking at a Home Depot parking lot lit
23 up all night long, or looking at a Marshall's sign,
24 or a Starbucks sign, or a six-foot-tall Market Basket

1 sign. So, I guess my concern would be that the signs
2 are not directed towards Main Street, which is
3 actually what they're looking for. They want to
4 bring people in from there.

5 The other concern I had about the
6 signs on Route 128 is the traffic plans for this
7 project were developed and explained to us that a lot
8 of the traffic was going to be passing traffic on
9 Main Street going east and west and it was not going
10 to be drawing a lot of traffic off of 128 down Stow
11 Street, which simply can't handle it. So, this all
12 relates sort of to the signage and the lighting, but
13 we have concerns for the neighbors south of Main
14 Street as well, and we just want to make sure that
15 we're not looking at the equivalent of the Watertown
16 Mall, something where the parking lots are lit up all
17 night long.

18 And I guess that was one of my
19 questions. Are these signs on 24x7? Are we going to
20 look at Market Basket 24 hours a day? Or when the
21 business closes, presumably they close at 11:00 or
22 12:00, will we have some night sky where it's not all
23 lit up for us? So those are my concerns.

24 BARBARA RANDO, CHAIR: Good questions.

1 DUANE MARKS: And if they could
2 address them that would be great.

3 BARBARA RANDO, CHAIR: Good questions.
4 Absolutely. Absolutely. Have them address it.

5 Is there anyone in opposition that
6 would like to come to the microphone? Come right up.

7 JOSEPH KOHLER: Joseph Kohler, K-O-H-
8 L-E-R, 24 Hill Road.

9 My property is a direct abutter, as
10 you already heard. It's one of the two closest
11 properties to this development, one of the most
12 affected of this. And I'm speaking in opposition
13 just because right now I don't have any of the
14 plantings in that were supposed to be for the
15 screening. So, until -- I would like to request, as
16 a condition, that I do have a screen, and that I can
17 be assured that I won't be seeing any lights. I
18 think these guys will agree with that.

19 BARBARA RANDO, CHAIR: Are you asking
20 us to postpone the decision until --

21 JOSEPH KOHLER: No, no. I don't need
22 you to postpone. I just want it as a condition.
23 Because right now I don't have any type of screen.
24 And the gentleman described the place as Afghanistan,

1 which is what it looks like. And I'm skeptical that
2 I am going to get a screen. There's not a whole
3 bunch of room there. These guys, I've been working
4 with them. They've been saying they will. I do
5 believe them. But part of me doesn't. And I want
6 some assurance. And I do have an agreement with the
7 Planning Board. And I think they're going to come
8 through for me. But --

9 BARBARA RANDO, CHAIR: Do you know
10 what the plans are?

11 JOSEPH KOHLER: Yeah, it's an
12 extensive landscaping plan.

13 BARBARA RANDO, CHAIR: And what kind
14 of a fence do they plan on putting there?

15 JOSEPH KOHLER: Well, we agreed to an
16 eight-foot stockade.

17 BARBARA RANDO, CHAIR: Wooden?

18 JIM LAMP: It's a solid wood fence,
19 not a stockade. It's a higher quality than a
20 stockade fence.

21 JOSEPH KOHLER: And, right now with
22 the lighting, I'm not sure if that's going to be
23 sufficient. I would hope there would be some
24 flexibility on the fence. And these guys have been

1 good. I do believe they're going to work with us.

2 BARBARA RANDO, CHAIR: Of course. But
3 you want to make sure that you're satisfied --

4 JOSEPH KOHLER: Yes, please.

5 BARBARA RANDO, CHAIR: -- being an
6 abutter. Tell me, would you be satisfied with a
7 higher fence, something like you see along Route 128,
8 or one of those sound barrier fences? Would that be
9 high enough?

10 JOSEPH KOHLER: A 300-foot fence like
11 the Green Monster would be good.

12 BARBARA RANDO, CHAIR: All I am
13 thinking of is they're talking about proper signage
14 for safety and the public's interest. And, of
15 course, it's extremely necessary. In fact, it's a
16 benefit, the signs. And they also mentioned that
17 they're going to cover their -- hiding their berms
18 and their dumpsters so that their development will be
19 beautiful.

20 JOSEPH KOHLER: Right.

21 BARBARA RANDO, CHAIR: Well, I want
22 them to hide anything that's going to affect these
23 people or you as much.

24 JOSEPH KOHLER: To give you an idea,

1 right now, if you are -- if you are on Bear Hill road
2 going towards Main Street, if you're looking at the
3 property from the top of the hill, you'll see two
4 houses that stick out like sore thumbs. I'm the
5 second house.

6 BARBARA RANDO, CHAIR: On Bear Hill
7 Road.

8 JOSEPH KOHLER: I'm the middle finger
9 of the other houses there.

10 BARBARA RANDO, CHAIR: Right. Right.
11 Right.

12 JOSEPH KOHLER: That's what it looks
13 like right now. That's why I'm skeptical of what
14 it's going to look like.

15 BARBARA RANDO, CHAIR: Yeah, of the
16 signs. Right.

17 JOSEPH KOHLER: If you look at the
18 pictures, they look beautiful.

19 BARBARA RANDO, CHAIR: All right.

20 JOSEPH KOHLER: So that's my request
21 as a condition.

22 BARBARA RANDO, CHAIR: We'll take that
23 into consideration.

24 JOSEPH KOHLER: Thank you.

1 BARBARA RANDO, CHAIR: Thank you.

2 Is there anyone else in opposition
3 that would like to speak?

4 PAUL UMBRELLO: My name is Paul
5 Umbrello. I live at 102 Stow Street. Thank you.
6 And it's going out as an opposition, meaning, again,
7 these gentlemen are within their rights to build. I
8 support the development. It's a benefit to the city.

9 BARBARA RANDO, CHAIR: Are you an
10 abutter?

11 PAUL UMBRELLO: I am an abutter.
12 Sorry. I'm across Main Street on Stow Street. And,
13 to Mr. Hill's (sic) comment, and to -- I just want to
14 bring to the Board's attention, and, again, as Mr.
15 Hill (sic) says, I think the Petitioners, probably in
16 good faith, will do some of his concerns or demands.
17 I did have, as a representative as I'll call it
18 within the neighborhood when the related started, we
19 were having surveys and the residents, talking with
20 the residents near my home, trying to get feedback
21 from them, what worked, what didn't work, what was
22 their concerns, as far as traffic, noise, pollution.
23 I did get the call from Mrs. Kohler going, "Oh, my
24 God, they cut down the tree and can they glue it back

1 down." So, I hope they do replant the trees.

2 To Mr. Vallarelli's comment, which I'm
3 glad he brought it up with the Wayside Commons, I
4 drive down 128. The HVACs are there. When the trees
5 come in, you won't see them. And that design for
6 them with the buildings is to contaminate -- I
7 shouldn't say contaminate -- confine deliveries,
8 rubbish pickup. And, again, Wayside Commons had no
9 homes that abut that property as does the Burlington
10 Mall.

11 So, this is a very large development.
12 And while abutters are notified within a 300-foot
13 range, I don't think enough of us were notified or
14 have time to properly plan. So --

15 BARBARA RANDO, CHAIR: Well, every
16 abutter within a 300-foot radius is --

17 PAUL UMBRELLO: That's probably 12
18 neighbors. I'm sure Mr. McCourt could give us a
19 number, but it's not a lot. My sister gets a card.
20 I live next door to her. I don't get a card. If I
21 took a tape measure, which I'm tempted to do, I'd
22 probably come very close to that. I think people on
23 Main Street, Cutting Lane, Ravenswood, Stow Street,
24 should automatically be notified of anything going on

1 in the development.

2 And I do hope to work with Mr.
3 Vallarelli. But my concern, again, is if the Board
4 does make a decision, you know, it's one of those
5 things where you build it, they'll come. I know
6 where the hospital is with a little blue sign. I
7 know where the high school is, the Wayside Commons.
8 They don't have a lot of lit up signs. The
9 Burlington Mall doesn't. I know how to get there.
10 When it's there, I don't need all these lit up signs.

11 So, you know, I think to build, but
12 excessive -- excessiveness is something to consider.
13 That's all. And, again, not just Mr. Kohler, but you
14 live on Main Street. I forget. I'm sorry. I'm
15 trying to remember all the residents. It's people on
16 Stow Street. It's people on Main Street as well that
17 will be impacted by the lighting and the signs and,
18 as Mr. Marks mentioned, 24x7. And I assume the
19 lights will stay lit because there will be after-hour
20 deliveries, stocking of the shelves, etc.

21 So I just want the Board to take that
22 into consideration. I wanted to make sure I didn't
23 miss any of my notes. I do hope to maybe poll the
24 residents some more and work with Mr. Vallarelli and

1 the developers to take some of our concerns also into
2 consideration when as they get further down line in
3 the process, again, with signage.

4 Thank you for your time.

5 BARBARA RANDO, CHAIR: Thank you.

6 Anyone else? No one else? How many
7 people in opposition that would like to just raise
8 their hand? How many? Is that everyone raising
9 their hand? You're one. Is that your hand, sir?

10 AUDIENCE MEMBER: I'm not in
11 opposition. It's more they cover my concerns.
12 They're questions.

13 BARBARA RANDO, CHAIR: All right? Any
14 other questions? Mr. LaSane, do you have any
15 questions at this time?

16 GORDON LASANE: Not at this time.

17 BARBARA RANDO, CHAIR: Ms. Gelineau?

18 GLENNA GELINEAU: No.

19 BARBARA RANDO, CHAIR: Mr. Sergi?

20 JOHN SERGI: Not at this time, no.

21 BARBARA RANDO, CHAIR: Mr. Hickernell?

22 MARK HICKERNELL: No questions, but a
23 suggestion that the --

24 BARBARA RANDO, CHAIR: Go right ahead.

1 Make your suggestion.

2 MARK HICKERNELL: -- that the
3 Petitioner take the opportunity to set up a meeting
4 with these abutters and with the two direct abutters
5 not present to try to address these concerns and,
6 also in the interim, to work out new language for
7 condition three, but, more particularly to address
8 these concerns as far as lighting and impact on the
9 community, and then come back to us after a
10 continuance, report on the progress. And at that
11 point we'll be able to see if it's necessary to add
12 conditions or what kind of conditions to the decision
13 to make sure those concerns are taken care of to the
14 extent we can. And I was going to say something else
15 and it just slipped my mind. But, essentially to do
16 that.

17 And, also -- that's it -- I'm aware
18 that with new lighting technology there is a lot of
19 room to really direct the light. And I think sharing
20 your specific plans in that regard with the abutters,
21 as well as with the Board on a future hearing date,
22 may be very helpful to us is in considering this
23 petition further. So I would request that you do
24 that.

1 And, finally, since there was a
2 question about how long these signs would be lit, I
3 note that that is governed by the ordinance. And you
4 haven't asked for any variances from that as far as I
5 can tell, correct?

6 ATTORNEY PHILIP MCCOURT: For the
7 lighting, for the --

8 MARK HICKERNELL: Yeah, to the extent
9 that you're allowed to light signs, you're not
10 requesting a variance from the hours that you light
11 them.

12 ATTORNEY PHILIP MCCOURT: That's
13 correct.

14 BARBARA RANDO, CHAIR: Does that
15 include the parking lots, too, as someone mentioned,
16 restocking?

17 JIM LAMP: The major tenant -- Jim
18 Lamp again -- the major tenant being Market Basket,
19 their hours are 7 to 9 and then 7 to 7 on Sunday.
20 And, typically, they go to security lighting once
21 most of their staff leaves, which, you know, could be
22 in the 9:00, 10:00 range. So it goes down to lower
23 lights and their frontage sign goes off also.

24 BARBARA RANDO, CHAIR: What about the

1 lights going into the --

2 JIM LAMP: What we would do is we
3 would keep those lights on. It depends on the
4 tenants. We do have some restaurant tenants. And
5 their hours will be a little bit later. But we can
6 subdue that lighting.

7 The lighting on the street going in is
8 more for safety of the sidewalks. We are required to
9 have sidewalks coming in. So there is going to be
10 pedestrian activity. It's not so much to light the
11 pavement up. So, we want to do it tastefully. We
12 don't want to over-light the entrance. But we want
13 to have some lighting present for security and safety
14 on an entrance roadway.

15 GORDON LASANE: But when you're
16 talking about lighting, there's a stark contrast
17 between the type of lighting you're going to provide
18 and lighting at the Watertown Mall, for instance.

19 JIM LAMP: Correct. The lighting in
20 the parking lots will be more consistent than what
21 we're proposing on the entranceway. The entranceway,
22 really what you do on sidewalks is you create I'm in
23 a light, I'm going to walk to the next light. Then
24 you're going to see it like typical streetlights.

1 They don't light the entire sidewalk. They give you
2 a destination to the next light. And that's what
3 we're going to do here.

4 We have not selected the height. We
5 will work with the abutters to make sure that those
6 lights -- if they need to be a little bit shorter, we
7 can make them shorter. We will make sure that you
8 don't have the light spillover onto other properties.
9 We're required by code not to do that. So, it won't
10 happen. And we'll work with them on the heights. We
11 have not designed them. We have not ordered them.
12 They have not been installed. So that will be worked
13 on. We'll meet code and we'll make sure the abutters
14 are satisfied with that.

15 If I might, Madam Chair, if I could
16 address some of the comments just while everybody's
17 here?

18 BARBARA RANDO, CHAIR: Yes, please do.
19 That would be helpful.

20 JIM LAMP: The Main Street signage was
21 one of our main concerns. And we designed the
22 signage, we think -- we hardly want a presence on
23 Main Street. That's why we're before you. Our
24 frontage is really 128. So what we're doing is we're

1 presenting some signage and architecture that we
2 think is appropriate and will be embraced by the City
3 of Waltham as this is a gateway to the City of
4 Waltham. We want this to be appropriate.

5 This is what we're proposing on Main
6 Street. Actually, only two of these. One is a sign
7 on 128, but we're proposing a low wall at our main
8 entrance that's built today, so it's just going to be
9 a curved entrance wall with signage mounted on the
10 rock, and then a smaller wall over across from Stow
11 Street. That's it. We're not putting the typical
12 pylon sign. This is not a typical development. We
13 realize that. We are trying to downplay our
14 presence. We are not having tenant signs. We're not
15 advertising Market Basket, Marshall's, or anybody
16 else on Main Street. After that, everything else is
17 over 500 feet away from Main Street. This is a
18 different site. That's why we're here before you to
19 get variances because it presents itself totally
20 different than many sites in the City.

21 So, I want everybody to just keep that
22 in mind. That's the only signage on Main Street.
23 Everything else is really on the buildings or it's
24 wayfinding signs which are for pedestrians on

1 sidewalks. They're not, you know, for people
2 speeding by in cars. It's for people to say, "Oh, if
3 I turn right here I can get to the Marshall's parking
4 lot. If I turn left here, I'm going to get to the
5 Market Basket parking lot."

6 So, this is -- on the Kohler fence,
7 we'll work with Mr. Kohler. But what I try to do
8 when I do developments, I try to take what would I
9 want if I were in that house if I lived there. And
10 what I think what I would propose for Mr. Kohler is
11 he wants space, but he doesn't want to look down on
12 what we're building. So, I wouldn't think a taller
13 wall. Then you're encapsulating yourself. You're
14 going to be looking at the side of the wall. I think
15 what you'd want to do -- and we'll work with him on
16 the location of the fence and the height -- is you
17 want to be able to look out over space, but not look
18 down into the development. So you want blue sky.
19 You want to be able to see Bear Hill across the way.
20 But you don't want to look down into the development.
21 So that's where you sit on the field and you say,
22 "Okay, my vision is in this direction." We'll set
23 the fence in the right location to make sure he's
24 satisfied. If it ends up being a 10-foot fence, so

1 be it. If it ends up being a six-foot fence, we'll
2 work with him on that. But we'll put some strings
3 out. We'll make sure that they're happy with the
4 location before we buy it and purchase it. We've
5 worked with him for over a year. He has no reason to
6 doubt we won't do what we said. We had some planting
7 difficulties. We've got a lot of work going on on
8 the site. We'll plant those things as soon as the
9 weather permits. We will plant that site and get
10 that fence up so that he'd not be bothered by our
11 construction anymore.

12 And we looked at that -- Mr. Kohler we
13 looked at as being the representative of those three
14 properties. He was the one who came to us. Most of
15 those -- I believe a rental property might be the
16 other one, so the people who own it really aren't
17 there. We've tried to address all three of those
18 properties in addressing Mr. Kohler's concerns.

19 And, again, I'll just reiterate is the
20 reason we're here is that 128 is truly where we're
21 creating our signage. It's where we're trying to
22 create a presence, not on Main Street. And then we
23 have presence to our parking fields. So, you have
24 signage facing 128 and, for the most part, facing the

1 parkland and the parking lot. So, we will be keeping
2 the abutters in mind. It's zoned commercial. It's a
3 difficult development. We're proposing 280,000
4 square feet, where the previous proposal was 1.8
5 million square feet. That was approved. This is a
6 fraction of that, and we think we're trying to do it
7 tastefully and we're trying to do it in a way that
8 the City of Waltham can be happy with it as well as
9 our abutters. We're going to be their abutters for a
10 long time.

11 So, thank you very much.

12 BARBARA RANDO, CHAIR: All right. And
13 you have the -- you jotted down the meeting with the
14 neighbors, the light impact on the community, and
15 what was the last one, Mr. Hickernell?

16 ATTORNEY PHILIP MCCOURT: Some
17 language --

18 BARBARA RANDO, CHAIR: The subdued
19 lighting.

20 ATTORNEY PHILIP MCCOURT: Right.

21 BARBARA RANDO, CHAIR: Okay. So we
22 will have to continue this case.

23 ATTORNEY PHILIP MCCOURT: We obviously
24 need a little time to set up the meetings. But, on

1 the other side of this, it's an integral part of
2 proceeding forward in being able to get the necessary
3 permits to build. So --

4 BARBARA RANDO, CHAIR: So, you're
5 saying?

6 ATTORNEY PHILIP MCCOURT: Three, four
7 weeks at the most if we could.

8 BARBARA RANDO, CHAIR: Three to four.
9 I have nothing in April. It will have to be May. I
10 could make it May 14th if the Board is available.

11 MARK HICKERNELL: May 14th?

12 ATTORNEY PHILIP MCCOURT: There's
13 nothing in April though?

14 MARK HICKERNELL: Well, we're trying
15 to figure out why April 30th is crossed out in our
16 calendar.

17 BARBARA RANDO, CHAIR: Is the Council
18 meeting on the 29th for any reason?

19 ATTORNEY PHILIP MCCOURT: No. No, on
20 a Tuesday, no.

21 BARBARA RANDO, CHAIR: Monday, the
22 29th.

23 ATTORNEY PHILIP MCCOURT: Oh, Monday,
24 the 29th? No, it's a fifth Monday, so they're not

1 there. So, Council only meets four Mondays a month
2 and if there's a fifth they don't meet, which happens
3 to occur this -- next month.

4 BARBARA RANDO, CHAIR: How is May 7th?

5 ATTORNEY PHILIP MCCOURT: Fine.
6 Better than May 14th only because we need to continue
7 this process as we're getting some permits. We want
8 to be sure what's going on that we're addressing
9 whatever concerns anyone else would have.

10 BARBARA RANDO, CHAIR: All right. Mr.
11 LaSane, is May 7th okay with you?

12 GORDON LASANE: That's fine.

13 BARBARA RANDO, CHAIR: Ms. Gelineau?

14 GLENNA GELINEAU: Yeah.

15 BARBARA RANDO, CHAIR: Mr. Sergi, is
16 May 7th okay with you?

17 JOHN SERGI: May 7th is okay with me,
18 Madam Chair, but there are five Tuesdays in April if
19 I read this right.

20 MARK HICKERNELL: Yeah, there are.

21 JOHN SERGI: Right?

22 BARBARA RANDO, CHAIR: There are.

23 ATTORNEY PHILIP MCCOURT: There are.

24 MARK HICKERNELL: For some reason, the

1 last one is crossed out on our --

2 BARBARA RANDO, CHAIR: Well, he wanted
3 four weeks. He wanted four weeks.

4 MARK HICKERNELL: We don't know why.

5 ATTORNEY PHILIP MCCOURT: Well, let me
6 say this much, I would pick four weeks. The 30th
7 would work for us.

8 BARBARA RANDO, CHAIR: And the 6th --

9 JIM LAMP: We will do whatever we can
10 to get back and accommodate the Board with all its
11 requirements that they've asked of us.

12 BARBARA RANDO, CHAIR: The secretary
13 has the 30th crossed off for some reason. I'm not --
14 maybe the hall is not available or something is up
15 with the Council on the 29th.

16 ATTORNEY PHILIP MCCOURT: There's no
17 meeting on the 29th for the Council. There's
18 obviously no meeting on the 30th.

19 MARK HICKERNELL: Elections. That is
20 the primary.

21 ATTORNEY PHILIP MCCOURT: Oh, is that
22 it?

23 MARK HICKERNELL: That's the primary.

24 ATTORNEY PHILIP MCCOURT: Is the

1 primary the 30th? That's it. So it's the primary so
2 you can't have it the day of the primary. The
3 primary is held here.

4 MARK HICKERNELL: Yeah.

5 ATTORNEY PHILIP MCCOURT: There we
6 are.

7 MARK HICKERNELL: That's why. Okay.

8 BARBARA RANDO, CHAIR: Is the 7th
9 okay, Mr. Hickernell?

10 ATTORNEY PHILIP MCCOURT: The 23rd is
11 filled, right, April 23rd?

12 MARK HICKERNELL: The 23rd, you're
13 missing some Board members.

14 ATTORNEY PHILIP MCCOURT: Say that
15 again.

16 MARK HICKERNELL: You're missing some
17 Board members on the 23rd.

18 ATTORNEY PHILIP MCCOURT: Oh, oh, I
19 see. We do need the same five back. I understand
20 that. So, May 7th.

21 BARBARA RANDO, CHAIR: Continue Case
22 2013-04. All right. Do I have a motion to continue
23 Case 2013-04 to May 7?

24 JOHN SERGI: So moved, Madam Chair.

1 GLENNA GELINEAU: I'll second it.
2 BARBARA RANDO, CHAIR: Motion by Mr.
3 Sergi, seconded by Ms. Gelineau.
4 How do you vote, Mr. Sergi?
5 JOHN SERGI: Yes.
6 BARBARA RANDO, CHAIR: Mr. Hickernell?
7 MARK HICKERNELL: Yes.
8 BARBARA RANDO, CHAIR: Ms. Gelineau?
9 GLENNA GELINEAU: Yes.
10 BARBARA RANDO, CHAIR: Mr. LaSane?
11 GORDON LASANE: Yes.
12 BARBARA RANDO, CHAIR: And the Chair
13 votes yes.
14 So, we will continue this case till
15 May 7th. Thank you.
16 One more motion is in order.
17 JOHN SERGI: Motion to adjourn, Madam
18 Chair.
19 BARBARA RANDO, CHAIR: Motion to
20 adjourn by Mr. Sergi. Do I have a second?
21 MARK HICKERNELL: Second.
22 BARBARA RANDO, CHAIR: Second by Mr.
23 Hickernell.
24 All in favor?

Waltham Zoning Board of Appeals/3-26-13/103

1 ALL BOARD MEMBERS: Aye.

2 BARBARA RANDO, CHAIR: Opposed?

3 (No Board Members opposed.)

4 BARBARA RANDO, CHAIR: The ayes have
5 it. We are adjourned at 9:10. Thank you very much
6 for attending

7 (Whereupon, the public hearing was
8 concluded at 9:10 p.m.)

9 //

10 //

11 //

12 //

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

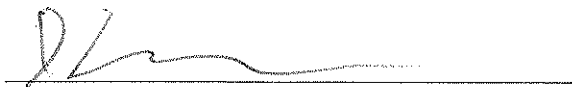
22 //

23 //

24 //

C E R T I F I C A T E

I, Judith Luciano, do hereby certify that the foregoing record is a true and accurate transcription of the proceedings in the above-captioned matter to the best of my skill and ability.



Judith Luciano

Barbara Rando, Chair

4/9/13