



Members

George Balakier, Chair
William Courchesne, Vice Chair
Mary Beth Pniak-Costello
Joel McAuliffe
Delmarina López
Robert J. Zygarowski
Gary Labrie

MINUTES
January 26, 2022

The following are the minutes of a public hearing held Wednesday, January 26, 2022 at 6:30 PM in the Chambers, 4th floor, City Hall Annex, 274 Front Street, Chicopee, MA 01013 and via Zoom.

Members Present: Balakier, Courchesne, Pniak-Costello, McAuliffe, López, Zygarowski, Labrie

Also Present: Daniel Garvey (Associate City Solicitor), Councilor Laflamme, Councilor Krampits, Captain Turnberg, Lee Pouliot (Planning Director), Scott Provost (IT), Tim Wagner (School Committee Member)

The meeting was called to order at 6:30 PM

In compliance with the Open Meeting Law the Chairman asked if anyone in the audience was recording the meeting. Hearing none the meeting continued.

ITEM #1

Special Permit application under 275-50 (A) (1) (c) for the purpose of maintaining a pre-existing signage as a pre-existing non-accessory sign (billboard) located at 0 Memorial Drive (Parcel ID 341-4B).

Applicant – Panini Properties MA, LLC, Attorney John Drost, 1500 Main St., Springfield, MA 01115

Attorney John Drost was present via zoom and Christopher Karney (R Levesque Associates) was present in the chambers.

Attorney Drost stated that the applicant is requesting relief to allow the existing off-premise, non-accessory sign (billboard) to remain at 0 Memorial Drive to benefit the Quality Inn. When the applicant went before the Planning Board in August the project was conditioned *Quality Inn sign shall be removed from the site upon property transfer as it will no longer be an accessory sign. Quality Inn can relocate its sign to the Quality Inn parcel or request a special permit for billboard or non-accessory sign under 275-50 of the City Code. Relief should be secured for the off-premises sign or sign shall be removed prior to property transfer.* Attorney Drost stated that the signage has been used in this capacity since about 1974.

Christopher Karney stated that the project is also requesting the following waivers:

- Waiver #1 275-50 A. (1) (g) [1] [a] – Church located approximately 420 +/- feet from the existing sign location
- Waiver #2 275-50 A (1) (g) [1] [b] Residentially zoned land located to the south of O Memorial Drive approximately 210+/- feet from existing sign location
- Waiver #3 275-58 E (1) setback waivers – 7.5 feet from the center of the existing sign to the side property line; 15.2 feet from the edge of the existing sign to the street line of Memorial Drive; 19.7 feet from the centerline of the pole of the existing sign to the street line of Memorial Drive.

Councilor Balakier stated that there was an issue with the legal ad that ran regarding this application. The legal ad ran one week correctly but the second week the wrong address was referenced in the ad. Attorney Garvey stated that to be in compliance the legal ad should run again. Further, this application should be postponed until the February 23rd Zoning Committee meeting.

Reports read from the following:

Planning – Property is zoned Business A; billboards and non-accessory signs shall be governed by Special Permit. Applicant is looking to obtain a Special Permit for the purpose of maintaining a pre-existing off-premise non-accessory sign. Erected in 1974, before the enactment of the City of Chicopee Zoning Ordinance and respective sign regulations, the pre-existing sign is legally non-conforming until the parcel is developed with its new use (i.e. Hot Table) with its own signage. With the installation of Hot Table’s signage the pre-existing signage would lost its status, which triggers the special permit requirement. Planning sees no issue with the current sign and Planning recommends approval of the Special Permit.

Fire – None

Engineering – No Engineering Department comments

Councilor Balakier stated that there is an outstanding real estate tax bill for this property that it due in the Collector’s Office.

Motion made by Councilor Pniak-Costello and second by Councilor Balakier to continue until February 23, 2022 in the Chambers.

Committee vote 7 – 0 favorable.

ITEM #2

Special Permit application under 275-53 B (14) for the purpose of having 4 dogs (we currently have 3) – kennel license located at 146 Clarendon Ave.

Applicant – Scott & Lisa Hayden, 146 Clarendon Ave., Chicopee, MA 01013

Scott and Lisa Hayden were present at the meeting. Mr. Hayden stated that they have 3 dogs and a friend of theirs had puppies and so they are trying to help the friend by adopting one of the puppies. One of the current dogs is old and when he dies they will not replace him. The dogs are mixed breeds. They will not be breeding dogs. Mr. Hayden stated that they have a fenced in backyard and he walks the dogs several times a day.

Reports read from the following:

Planning – Property is zoned Residential B, Animal Kennel licenses (3 or more dogs) in Residential A Districts require a Special Permit. Applicant is looking to obtain a Special Permit for an Animal Kennel license for 4 pet dogs. Planning recommends approval based upon Building and Health Departments confirming the property is adequate and appropriately maintained.

Conditions

Limit of 4 dogs

No breeding

Inspection by the Health and Building Department

Motion made by Councilor López and second by Councilor Balakier to approve with conditions.

Committee vote 7 – 0 favorable.

ITEM #3

Special Permit application under 275-59 (c) (11) for the purpose of adding 3 new drive up self-storage buildings, (2) 20'x50' and (2) 10'x100' to the existing 7 outside storage units located at 499 Montgomery St.

Applicant – UH STORAGE (DE) LIMITED, Jeff Nadeau, P O Box 29046, Phoenix, AZ 85038

Jeff Nadeau was present via zoom. He stated that he works for Amico Real Estate Company out of West Springfield and he is representing the property owner and U-Haul that has been a tenant of this property since 1984. In 2004 with a Special Permit U-Haul added outside storage of 7 units. These are pre-fab units that are dropped down on the ground and hurricane anchored. This request is to add additional 4 buildings due to the growth of the storage business. These are drive-up units.

Reports read from the following:

Planning – Property is located at 499 Montgomery Street, an existing U-Haul Self-Storage Facility, is split zoned. A majority of the property is zoned Business B while a small triangular area in the Northeast corner is zoned Business A. The existing facility is legally non-conforming as it was constructed prior to self-storage facilities requiring a Special Permit in Business B Districts. Applicant is requesting a Special Permit under Chapter 275-59 (C) (11) to add additional storage units to the property. Planning recommends the request be rejected for the following reasons:

- New proposed units 715-724 are proposed within the Business A portion of the property. City Council cannot grant a special permit for storage under Business A Districts. A zone change to Business B would first need to be granted for a Special Permit to be considered.
- New proposed units 700-724 seem to be located on the property line. Planning believes these units would need to be setback from the street lot line by ten (10) feet.
- Proposed units 800-809 and 900-909 are to be placed within on-site drive aisles and parking spaces. No analysis of parking requirements and confirmation that such requirements are met with this reduction has been provided.
- Additionally, Planning is aware of a parking easement granted by UH Storage to the adjacent Dentist Office which further reduces the available parking count on the property.

Proposed units 800-809 and 900-909 would further restrict drive aisle and adequate access to the property for existing curb cuts on Montgomery Street. Planning will defer to Engineering, Police, and Fire for public safety concerns; however Planning is not convinced that the added units would allow drive aisles to meet zoning regulations.

If City Council were to grant the Special Permit; for the Business A portion of the Property, Planning requests that the Special Permit be conditioned to require a SPRAC review of the entire property to ensure compliance with all Zoning and Site Plan regulations.

Lee Pouliot stated that the property is split zoned and this project would require a Zone Change for the units in Business A. A site plan review is strongly recommended for this property.

Councilor Laflamme asked if the units are already installed. Mr. Nadeau stated that they were installed by someone else before they realized that a Special Permit was required. Councilor Laflamme stated that he has concerns about the storage units being up against Granby Road. This is a safety hazard and traffic concern.

Councilor Labrie asked if people are able to access the units abutting Granby Road from both sides. Mr. Nadeau replied that the units can only be accessed from the parking lot.

Councilor Pniak-Costello asked if it is common that building/units are installed before obtaining approval from the City. Lee Pouliot replied that unfortunately, it's more common than he'd like. Mr. Nadeau stated that only 2 out of the 4 units were added before the permit was applied for.

Councilor McAuliffe asked how long the unapproved units have been on the property. Mr. Nadeau stated that they were placed on the property around May 2021.

Councilor López stated that after reading the recommendations from the Planning Department and visiting the site there are a number of issues and the committee doesn't seem to have enough information to approve this. Also having units installed without approval is worrisome.

Attorney Garvey was asked what the committee's options are regarding this application. Attorney Garvey stated that the committee could postpone to obtain additional information from the applicant. The committee could deny the request at which time the applicant could not come back for 2 years unless there was a substantial change to the proposal.

Councilor Laflamme stated that he feels that a SPRAC review is required for this property.

Councilor Zygarowski stated that he agrees that a SPRAC review should be conducted for this property. He doesn't want to lose business but he also wants this project to continue safely. He asked Captain Turnberg if the Fire Department had any issues with these storage units. Captain Turnberg stated that he has heard that dirt bikes were being stored in these type of storage units.

Councilor Pniak-Costello stated that something needs to be done with businesses/individuals who put up structures without approval.

Councilor McAuliffe asked if this happens does the City have the ability to fine the property owner. Attorney Garvey stated that the Building Department does have tools in place to fine. Councilor Courchesne stated that the ordinance states that the violation is punishable by a \$1000 fine.

Councilor McAuliffe asked to obtain information from the Building Department if any violations have been issued to this property.

Lee Pouliot stated that he will follow-up with the applicant regarding SPRAC.

Mr. Nadeau stated that he met with the Building Department in October and SPRAC was never mentioned to him. Lee Pouliot provided an overview of the SPRAC process.

Motion made by Councilor López and second by Councilor Balakier to postpone until the February 23, 2022 Zoning Committee meeting subject to a SPRAC review of the entire property to ensure compliance with all zoning and site plan requirements.

Committee vote 7 – 0 favorable.

ITEM #4

Special Permit application under 275-58 (C) (4&5) for the purpose of operation of a bar and restaurant on the first floor of building and a single residential unit on the second floor located at 729-733 Chicopee St.

Applicant – BBTD, Inc., William Harbey VP and Treasurer, 7 Pheasant Ln, South Hadley, MA 01075

Attorney Thomas Kenefick was present via zoom. He stated that his client is purchasing the land and business. The client is not intending to change the manner of the business and no structural changes will be made. It will be run as a bar/restaurant as in the past.

Public Input

Teena Fluet, 3 Margaret Street, stated that the bar closed 2 years ago. She stated that there is no room for a dumpster and not enough room for trash. She is concerned about where the trash will be located for the business.

Reports read from the following:

Planning – Property is zoned Business A; eating and drinking places with the consumption of alcohol in Business A Districts require a Special Permit. Applicant is looking to obtain a liquor (all alcohol) license for the consumption of alcohol for an existing establishment as new owners, this requires a new Special Permit under 275-58 (C) (4) for the new owners. Up to four residential units in a Business building within a Business A District require a Special Permit under 275-58 (C) (5). Applicant is looking to obtain a Special Permit for one residential unit. Planning sees no issue with the proposed Special Permit outside of confirming with Building and Fire that all Building Codes and Life Safety requirements are met with the property’s current layout and unit count. Planning recommends approval of the Special Permit.

Councilor Labrie asked if the sale of the property contingent upon receiving the Special Permit. Attorney Kenefick stated it’s contingent upon receiving a liquor license. This is the first of many steps in this process.

Councilor Courchesne stated that he has not received any complaints from the ward regarding the current license holder. He continued that the applicant currently owns 8 bars/restaurants. He is looking forward to the new owner coming in.

Councilor McAuliffe asked if not having a dumpster a valid reason to deny or reject a special permit.

Attorney Garvey stated that the Council is only voting on whether this location is an appropriate site for a bar/restaurant. If the Council votes that it is then the applicant will go on to the next phase to obtain a liquor license. After that step the applicant goes to the Building Department to apply for a Certificate of Occupancy.

Councilor Pniak-Costello questioned why the trash/dumpster issue cannot be addressed during this hearing.

Attorney Garvey stated that when a Certificate of Occupancy permit is applied for the dumpster matter will be addressed by the appropriate department.

Lee Pouliot stated that this Special Permit is the first step in the process.

Conditions

Compliance with the Building and Fire Code regulations of the City of Chicopee
Permit to run with the applicant

Committee vote 7 – 0 favorable.

ITEM #5

Application for a Special Permit under Chapter 275-9 (L) (3) for the purpose of renewal of an existing special permit under the Mill Conversion & Commercial Overlay District located at 165 Front Street.

Applicant - 4 Perkins, LLC, c/o SilverBrick, Aaron Papowitz, 1688 Meridian Avenue, Miami Beach, FL 33139

Aaron Papowitz was present via zoom. He stated that he has just received a letter from the Building and Fire Departments and he asked that this matter be continued until he has a meeting with Building, Fire and Planning to fully understand what is being asked of the applicant and determine a reasonable plan moving forward.

The following letter was read into the record from the Building and Fire Departments dates January 19, 2022:

RE: Safety Concerns of 165 Front Street, Chicopee, MA

- Testing and Certification of the sprinkler system for Building 2 and 3
- Code Review of the means of egress requirements of Building 2
- Fire Alarm System Design for Building 2 and 3
- Interim steps for SilverBrick to follow as noted to them in December of 2021

NOTICE

1. Submit a report by a fire sprinkler company that can certify that the existing stand pipes and fire sprinkler system is in proper working order; that it has been physically tested and in compliance.
 NFPA 25 Section 1.1.1.1 The inspection, testing, and maintenance required by this standard and NFPA 72 shall be coordinated so that the system operates as intended.
2. SECOND REQUEST: Submit a Code Review of the means of egress requirements for building 2. The building is currently partially occupied on every floor to some extent as of this writing. The Fire escape (on building 2) is currently barred on every floor (including the ground floor) and is in disrepair and has not been inspected to my knowledge as required per 780 CMR Section 1001.3.2
 1001.3.2 Testing and Certification. All exterior bridges, steel or wooden stairways, fire escapes and egress balconies shall be examined and/or tested, and certified for structural adequacy and safety every five years, by a registered design professional, or others qualified and acceptable to the building official; said professional or others shall then submit an affidavit to the building official.
3. The Fire Alarm System Design in Building 2 & 3 needs to be submitted
 Per NFPA 72 and Chicopee Fire Department
4. The Above Items are required to be done by March 1st, 2022
 If these items are not done or have not made significant enough progress according to the Building and/or Fire Department heads by March 1st, 2022, we will be forced to take further action in order to ensure the safety of the building occupants which could include but not limited to, fines, legal action or condemning the building.
5. Reminder: In the interim until the above items are addressed:
 1. SilverBrick shall forthwith limit business hours of activity to 0800-1900 for existing businesses that possesses a valid occupancy certificate.

2. Cease and desist orders shall be issued by the Building Department to all tenants not in possession of a valid certificate of occupancy and Landlord shall require all said Tenants to Immediately cease and operation until a valid certificate of occupancy is secured by the City of Chicopee.
3. The Landlord shall commence eviction proceedings against those Tenants who do not possess a valid certificate of occupancy.
4. The Interior fire watch shall forthwith be increased to two people.
5. Existing tenants that have a certificate of occupancy shall forthwith have local battery operated smoke/CO detectors placed within their spaces.
6. SilverBrick shall have its engineering firm evaluate and submit an NFPA 72 report within 30 days for the common areas.
7. The next due NFPA 25 report shall be submitted by March 1st, 2022.

Frank Boron
Assistant Building Commissioner

Daniel Stamborski
Fire Chief

Captain Turnberg stated that he met with Josh Vassallo and took a tour of the mill. He said hours are posted. The two person fire watch will begin next week he was told. Detectors have been received but have not been installed yet. Captain Turnberg stated that an engineering firm from Boston toured the facility in December and he asked Mr. Papowitz if a report from that engineering firm has been received that could be shared with the Building and Fire Departments. Mr. Papowitz stated that he is not certain if that report is ready.

Attorney Garvey provided the following overview: The 2 Special Permits were granted in 2019 and as part of the state statutes and city code if those special permits are not substantially used within a year they lapse. SilverBrick did submit their request last year. The committee met last year and at that meeting a letter was to be provided to SilverBrick detailing what the City was looking for before the Council proceeded to a vote. That letter has been set to the SilverBrick. Also, at the last meeting SilverBrick asked for a 120 day extension which was granted.

Councilor Pniak-Costello stated that she has done research on SilverBrick and after this research she has concerns because residents will live in these buildings and safety is of concern for the residents.

Councilor López stated that she has received messages from tenants of the property who have concerns and she will invite them to the next meeting.

Motion made by Councilor Zygarowski and second by Councilor Balakier to postpone with the February 23, 2022 Zoning Committee meeting at City Hall.

Committee vote 6 favorable 1 unfavorable. Voting in favor – Balakier, Zygarowski, Labrie, Courchesne, López, McAuliffe. Voting unfavorable – Pniak-Costello

ITEM #6

Application for a Special Permit under Chapter 275-9 (L) (3) for the purpose of renewal of an existing Storage special permit under the Mill Conversion & Commercial Overlay District located at 165 Front Street.

Applicant - 4 Perkins, LLC, c/o SilverBrick, Aaron Papowitz, 1688 Meridian Avenue, Miami Beach, FL 33139

Motion made by Councilor McAuliffe and second by Councilor Balakier to postpone with the February 23, 2022 Zoning Committee meeting at City Hall.

Committee vote 6 favorable 1 unfavorable. Voting in favor – Balakier, Zygarowski, Labrie, Courchesne, López, McAuliffe. Voting unfavorable – Pniak-Costello

ITEM #7

Minutes – December 15, 2021 Motion made by Councilor Zygarowski and second by Councilor Courchesne to approve. Motion passed. Councilor López and Councilor Pniak-Costello abstained as they were not on the City Council in December.

Meeting adjourned at 8:38 PM.