



Members

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

MINUTES
March 30, 2022

The following are the minutes of a public hearing held Wednesday, March 30, 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 (zoom), Pniak-Costello, McAuliffe, López, Zygarowski, Labrie

Also Present: Daniel Garvey (Associate City Solicitor), Councilor Laflamme, Lee Pouliot (Planning Director), Scott Provost (IT), Captain Benjamin Turnberg, Frank Boron (Acting Building Commissioner)

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 Chapter 275-50 (C) (1 & 2) for the purpose to allow upgrade of accessory sign that includes animated/electronically activated changeable component and setback relief from 25' to +/- 0.58' located at 27 Montgomery St. Applicant – Pride Operating, LLC, James Channing, 246 Cottage St., Springfield, MA 01104.

Attorney James Channing was present at the meeting. He stated that a few years ago a Special Permit was granted to the previous owner for a digital sign but the permit was not exercised. The single letter existing sign will be updated to an electronic sign. The size of the sign will remain the same.

Reports read from the following:

Planning – Property is zoned Business A; digital message board signs shall be governed by Special Permit under 275-58 C 2. Applicant is looking to obtain a Special Permit for the purpose of upgrading an existing accessory sign that includes animated/electronically activated changeable components. Applicant is also seeking setback relief from 25' to +/- .58'. Planning sees no issue with the proposed upgrade if the Engineering

Department confirms there are no concerns with traffic management being impacted at this location and Planning recommends approval of the Special Permit.

Engineering – Any sign upgrades shall feature only static displays. No flashing, scrolling, animation, or movement of any kind due to the sign’s position and proximity to the traffic lights, most notably the traffic lights for the southbound traffic at the end of Memorial Drive.

Fire – No issues

Councilor Balakier stated that there are outstanding bills owed to the City that need to be paid prior to the next City Council meeting. Attorney Channing stated that he will take care of the outstanding bills first thing in the morning.

Attorney Channing stated that the message will not be flashing.

Conditions

Permit to run with the land

Outstanding bills are to be paid before next City Council meeting

Eight second delay to be in compliance with City regulations regarding Engineering code of signs

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

Committee vote 7 – 0 favorable.

Motion made by Councilor McAuliffe and second by Councilor Balakier to take Item #5 and Item #6 out of order. Motion passed.

ITEM #5

Special Permit application 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 at the meeting via zoom. He stated that he submitted a letter to withdraw without prejudice. He then turned it over the Attorney Daniel Garvey.

Attorney Garvey stated that the Council could accept the request to withdraw. If the Council is so inclined to withdraw the application then the current applicant could come forward at any time. If the Council denies the request for withdrawal, then the Council will have to go on to the next question which is whether or not to approve the Special Permit application.

Councilor Balakier read the following letter into record:

Members of the City Council:

4 Perkins, LLC currently has two (2) applications for the renewal of the Special Permits previously issued by the City Council in connection with the redevelopment of the premises located at 165 Front Street, Chicopee,

Massachusetts pending before the City Council. Action on the renewal requests has been on hold as 4 Perkins addresses the building and life safety issues identified by the Chicopee Fire Department and the Chicopee Building Department with respect to the 165 Front Street property. 4 Perkins is aggressively working to address those issues, which include the requirement that all tenants vacate the property no later than March 31, 2022. It has become clear to 4 Perkins that it will simply not be possible to address the issues that have been identified by the Fire Department and the Building Department by March 30, the date to which the hearing on the Special Permit renewal requests has been continued.

In order to avoid a series of continuances while 4 Perkins works with the Fire Department and the Building Department to address the issues of concern with respect to the 165 Front Street property, 4 Perkins is requesting that it be permitted to withdraw its renewal applications with prejudice. This will enable the redevelopment of the 165 Front Street property to proceed once the building and life safety issues have been addressed to the satisfaction of the Fire Department and the Building Department through the submission of new applications, without having a wait for a period of two (2) years to submit new applications. The denial of the renewal applications, as opposed to withdrawal without prejudice, would prohibit and preclude both 4 Perkins and a new, third party developer from proceeding with the redevelopment of the 165 Front Street property for a period of 2 years. 4 Perkins submits that it is in the best interest of the City of Chicopee for the redevelopment of the 165 Front Street property to proceed as soon as possible once the building and life safety issues have been addressed.

Accordingly, 4 Perkins respectfully requests that it be permitted by the City Council to withdraw its pending applications for the renewal of the Special Permits applicable to the 165 Front Street property without prejudice. Thank you for your consideration.

Aaron Papowitz, Manager

Frank Boron, Acting Building Commissioner, stated that he cannot comment on the issue right now because it's in the courts hands. The court date has been set to Friday, April 1st. The matter before the court is the notice to evacuate the building. Frank continued that there were some situations last week in the evening that prompted the Law Department to get a court order on the Building Department recommendation to secure the building.

Captain Turnberg stated that Chicopee Fire has been maintaining a fire watch for the month of March around the clock. He continued that he has witnessed signs of illicit activity, partying, alcohol bottles, people sleeping in the building, activity that is unsafe.

Lee Pouliot stated that his perspective on this is coming from a different angle than Building and Fire. From a Planning and land use perspective he is most interested in the future viability of this property. He continued that the City is no stranger to what happens when buildings sit vacant. His hope is that the Council would recognize the burdens on the property for the future could be a challenge. He also stated that the Council should strongly consider the request to withdraw. This would provide a future entity a clean slate. Without the Special Permit the project could not move forward. Lee also stated that he understands that there are significant frustrations with the current entity.

Councilor McAuliffe stated that the letter that was submitted by SilverBrick and particular line struck a chord with him and that's that SilverBrick is telling the City what is in the best interest of the City. He continued that

given the history of the landlord and given the history as a business, he is outraged, that they would even consider trying to lecture the City on what is in the best interest of the City. Councilor McAuliffe stated that he appreciates what Lee has brought forward regarding the viability of the project. He continued that he was a proponent at the last meeting to continue the application to see what would happen and it only got worse. Basically, SilverBrick did not take it seriously. They are not a serious landlord. They are not a serious company and they are not serious about developing this property. Councilor McAuliffe continued that this Council will have an opportunity to address another Special Permit if this Special Permit is denied and a two year clock begins. However, the two year clock will be changed if there is a substantial change in the plans on the property. Councilor McAuliffe believes a new owner will suffice for a substantial change towards that goal and would reopen the ability for the new owner to apply for the Special Permit. While everyone would like to see this property developed this property owner has reached the end of the line. The City has tried to work with SilverBrick. It has not been easy and not without problems. It is indirectly caused hardships for hundreds of people who are tenants there. Councilor McAuliffe stated that after speaking with the Mayor's Office he was told that in the pending litigation there is the ability to create a structured environment that would allow more people to vacate the premises. So, the City is still attempting to work with the businesses to find a way out and retrieve their belongings.

Councilor López stated the audacity of SilverBrick to try to ask for a withdrawal at this time is not only laughable but also disrespectful. A new owner would be a substantial change. Councilor López stated that she is against the withdraw request.

Councilor Pniak-Costello stated that she voted no in committee in January that this extension not be granted. This is enough. She continued that this extension should have been denied a long time ago. She is highlighting not the economic feasibility of development in downtown Chicopee; she is highlighting public safety. Councilor Pniak-Costello stated that this should have been dealt with long before March 30th.

Councilor Labrie stated that he was a proponent in January because he thought that maybe the applicant would come through with some plans. He is not in favor of this application.

Councilor Zygarowski stated that after seeing what is happening at this property and after what the Fire Department and Building Department have stated enough is enough. This company has not shown us anything.

Councilor Courchesne stated that he is opposed to this letter. He stated that it's similar to giving your child and 3rd, 4th, and 5th chance and they still don't do it. SilverBrick had 30 days to do something or this would happen and they chose to make it worse. SilverBrick has made their decision not the City.

Councilor Laflamme stated that last month he voted to give SilverBrick another month. The landlord did not control the situation at the property.

Attorney Garvey stated that if this Special Permit is denied SilverBrick could come back with an application or a new owner if there is substantial change in circumstances and if 2/3 of the Council votes that there is substantial change. SilverBrick will have to create a plan for tenants that still have to move out their belongings to get into the building and move it out. This plan will have to be approved by the court.

Councilor Balakier stated that SilverBrick has failed to make improvements as recommended by the Fire and Building Departments. There have been many issues that have been building.

Public Input

Dana, Amherst, MA stated that he is a tenant in the building. It took him 3-4 months to get the equipment in and it will be difficult to get it out in 30 days.

Motion made by Councilor McAuliffe and second by Councilor López to close public input. Motion passed.

Committee asked Mr. Papowitz if he was still on zoom to speak. Mr. Papowitz was not present.

Motion made by Councilor McAuliffe and second by Councilor López to deny the request to withdrawal.

Committee vote 7 – 0 favorable to deny.

Reasons for denial

1. Failure to make improvements as outlined by the Fire Department and Building Department.
2. Multiple issues per the Fire/Building Department with sprinkler system and fire alarm system.
3. Building Code violations.
4. Tenants did not hold required occupancy permits.
5. Recommendations from Police, Fire, Building Departments City of Chicopee and pending court case in Western Division Housing Court, Springfield, MA.
6. Applicant failed to conform the plan/proposal to zoning ordinances, or other applicable requirements of the Chicopee City Code and all other applicable regulations.
7. Applicant failed to adequately protect adjoining premises against any possible detrimental or offensive uses on the site.

Motion made by Councilor McAuliffe and second by Councilor López to deny the Special Permit.

Committee vote 7 – 0 favorable to deny.

Reasons for denial

1. Failure to make improvements as outlined by the Fire Department and Building Department.
2. Multiple issues per the Fire/Building Department with sprinkler system and fire alarm system.
3. Building Code violations.
4. Tenants did not hold required occupancy permits.
5. Recommendations from Police, Fire, Building Departments City of Chicopee and pending court case in Western Division Housing Court, Springfield, MA.
6. Applicant failed to conform the plan/proposal to zoning ordinances, or other applicable requirements of the Chicopee City Code and all other applicable regulations.
7. Applicant failed to adequately protect adjoining premises against any possible detrimental or offensive uses on the site.

ITEM #6

Special Permit application 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 Pniak-Costello and second by Councilor Balakier to deny the request to withdraw.

Committee vote 7 – 0 favorable to deny.

Reasons for denial

1. Failure to make improvements as outlined by the Fire Department and Building Department.
2. Multiple issues per the Fire/Building Department with sprinkler system and fire alarm system.
3. Building Code violations.
4. Tenants did not hold required occupancy permits.
5. Recommendations from Police, Fire, Building Departments City of Chicopee and pending court case in Western Division Housing Court, Springfield, MA.
6. Applicant failed to conform the plan/proposal to zoning ordinances, or other applicable requirements of the Chicopee City Code and all other applicable regulations.
7. Applicant failed to adequately protect adjoining premises against any possible detrimental or offensive uses on the site.

Motion made by Councilor Zygarowski and second by Councilor Labrie to deny the Special Permit.

Committee vote 7 – 0 favorable to deny.

Reasons for denial

1. Failure to make improvements as outlined by the Fire Department and Building Department.
2. Multiple issues per the Fire/Building Department with sprinkler system and fire alarm system.
3. Building Code violations.
4. Tenants did not hold required occupancy permits.
5. Recommendations from Police, Fire, Building Departments City of Chicopee and pending court case in Western Division Housing Court, Springfield, MA.
6. Applicant failed to conform the plan/proposal to zoning ordinances, or other applicable requirements of the Chicopee City Code and all other applicable regulations.
7. Applicant failed to adequately protect adjoining premises against any possible detrimental or offensive uses on the site.

Motion made by Councilor López and second by Councilor Zygarowski to return to the regular order of business. Motion passed.

ITEM #2

Special Permit application under Chapter 275-50 (c) (1) for the purpose of 60' tall highway pole sign for Milton Rents; increase in sign face area from 120 sf to 432 sf, reduction of setback requirement from 25 ft. to +/- 0 ft. located at 60 Fuller Rd. Applicant – Milton Real Properties, Brad Farrin, Corp Facilities Manager, 100 Quarry Dr., Milford, MA 01757.

Brad Farrin was present at the meeting via zoom. He stated that the sign will advertise the business.

Reports read from the following:

Fire – No issue

Planning – Property is zoned Business B; relief from accessory signage requirements shall be governed by Special Permit under 275-50 (C) (1). Applicant is looking to obtain a Special Permit for the relief of three regulations: increase sign face area from 120 sf to 432 sf, reduction in the property line setback from 25 feet to +/- 0 feet; and increase in signage height from 20' to 60'. Sign to be located along rear property line, advertising business to the MassPike. As other such signs exist, Planning sees no issue with granting the requested relief.

Engineering – Applicant should contact MassDOT for comment due to the proximity of the proposed sign and the MA Turnpike property line. The proposed 60' tall sign is approximately 60'-65' offset from the eastbound travel lane on the MA Turnpike. Also as a consideration, the proposed sign has the potential to block the Turnpike view of the existing billboard on the same parcel approximately 250' away.

Lee Pouliot stated that this business took over a large vacant commercial property made improvements and is now requesting the Special Permit for the sign.

Councilor López stated the proposed sign according to Engineering could block the existing billboard. Has the applicant looked at this issue. Mr. Farrin stated that elevation photos were done and this didn't seem to be an issue however, he is willing to take another look.

Ethan Flinkstrom, New Tech Company, stated that a more intense rendering could be done.

Mr. Farrin stated that he will meet with MassDOT and Engineering.

Motion made by Councilor López and second by Councilor Zygarowski to postpone until April 27, 2022 at 6:30 PM in the Chambers. Applicant is to meet with Engineering Department to address Engineering concerns.

Committee vote 7 – 0 favorable.

ITEM #3

Special Permit application under Chapter 275-53 (C) (6) for the purpose of creating one buildable lot with frontage reduced to 20 ft and 60 ft located at 0 Chicopee St./40 Greenwich St. (Parcel IDs 0443-00099 and 0471-0028B). Applicant – Andrew J. Crane, 23 Rich St., Chicopee, MA 01020.

Councilor Laflamme left the Chambers because he is related to the applicant.

Andrew J. Crane was present at the meeting.

Councilor Balakier stated that this was referred back to committee because there was an issue with the Parcel ID numbers on the application.

Reports read from the following departments:

Health Department – No concerns at this time

Fire Department – Driveway is very long, Can it be extra reinforced to support the height of a fire truck in case of a fire? Or, can the house be fitted with a residential sprinkler system?

Engineering Department – No Engineering Department comments regarding lot division, however developer should consider challenges associated with connecting utilities to proposed structure as land where building will sit is 3'-4' lower than the road surface at Greenwich Street.

Planning Department – Property is zoned Residential B. Applicant is looking to obtain a Special Permit to create one (1) buildable lot with frontage reduced to 20 feet (0 Chicopee Street) and the existing home at 40 Greenwich having frontage reduced to 60 feet under 275-53 (C) (6). Applicant needs to also ask for a waiver under 275-36 (A) Mid-block lots: “For new residential structures proposed for mid-block lots, the front wall shall be aligned so it is not located behind the rear wall of any existing abutting residential structure”. Planning requests that the City Council confirms Police and Fire feel that they adequate access to the new proposed building lot and Planning recommends approval of the Special Permit if the City Council is inclined to grant the necessary waiver under 275-36 (A).

Motion made by Councilor Balakier and second by Councilor McAuliffe to approve waiver request under Chapter 275-36 (A) Mid-Block lots for new residential structures.

Committee vote 7 – 0 favorable.

Conditions

Permit to run with the land

Be in compliance regarding the Building and Fire codes in the construction of driveway and house

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

Committee vote 7 – 0 favorable.

Councilor Laflamme returned to the chambers.

ITEM #4

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, U-Haul Representative, Jerry Ouellette, and Filip Cravo (R. Levesque Associates) were present via zoom.

Jerry Ouellette stated that in 2018 he took over U-Haul in this territory and he has been observing some of the complaints from his customers. One of the complaints was about traffic. Folks cutting through the property. Also homeless issues. He decided to change things up a little bit and he moved some of the trucks from this property and parked them at the Memorial Drive location. He apologized for placing the portable units at this location without permission from the City. When the trucks were located to Memorial Drive to make up for the missing income he put up the additional portable storage units. They are creating a buffer for residents and they have also created a barrier for people cutting through. He would like to figure out a way to keep the buildings at this location so that the trucks do not have to return to the Montgomery Street property.

Filip Cravo stated that a site plan has been drawn showing potential relocation of units. The Planning Department has received the plans and are going to review.

Lee Pouliot stated that draft plans have been received and he has marked it up this evening and his staff will review it and forward comments to R. Levesque Associates. Once comments are addressed and Planning has further conversation with R. Levesque the applicant should be in a position to go before SPRAC. Lee recommended that this application be tabled and an updated report could be provided at the next meeting.

Motion made by Councilor López and second by Councilor Balakier to postpone until the April 27th Zoning Committee meeting at 6:30 PM in the Chambers.

Committee vote 7 – 0 favorable.

ITEM #7

Minutes – February 23, 2022

Motion made by Councilor López and second by Councilor Zygarowski to approve. Motion passed.

Meeting adjourned at 8:47 PM.