

**CITY OF WOBURN
OCTOBER 21, 2008 - 7:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Denaro	Gately
Drapeau	Gonsalves
Dwyer	Mercer-Bruen
Galvin	Raymond
Doherty	

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

MAYOR'S COMMUNICATIONS:

A communication dated October 15, 2008 with attachments was received from His Honor the Mayor as follows:

Dear President Doherty and Distinguished Members of the City Council:

Attached, for your information, is a copy of the 2008 Subsidized Housing Inventory Biennial Update.

Sincerely, s/Thomas L. McLaughlin, Mayor

PUBLIC HEARINGS:

On the petition by National Grid for a grant of right in a way to install approximately 130 feet of four inch plastic main in Fletcher Road to service 46 Fletcher Road. PUBLIC HEARING OPENED. A communication was received from Department of Public Works Superintendent Vincent Ferlisi as follows: "approved."

On the petition by Trade Center Park, LLC, 200 West Cummings Park, Woburn, Massachusetts 01801 for a special permit with site plan review pursuant to Section 5.1.41 of the 1985 Woburn Zoning Ordinances, as amended, to allow Research and Testing Laboratory use at TradeCenter 128, and seeks correspondingly, to modify the Certificate of Appeal of Special Permit dated December 22, 2006 by amending condition number 2 to allow such Research and Testing Laboratory use at 100 Sylvan Road. PUBLIC

HEARING OPENED. A communication dated October 16, 2008 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Trade Center Park, LLC – 100 Sylvan Road – To allow Research and Testing Laboratory use pursuant to Section 5.1.41 of the 1985 City of Woburn Zoning Ordinances as amended through July 6, 1999

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on October 7, 2008, the Board voted to send an unfavorable recommendation to the City Council to allow Research and Testing Laboratory use pursuant to Section 5.1.41 of the 1985 City of Woburn Zoning Ordinances as amended through July 6, 1999 at 100 Sylvan Road. Also, the Planning Board voted on October 7, 2008 (7 in favor, 0 opposed) to deny the modification of condition 2 of the Special Permit for Site Plan Review to allow Research and Testing Laboratory use at 100 Sylvan Road pursuant to Section 5.1.41 of the 1985 City of Woburn Zoning Ordinances as amended through July 6, 1999. Therefore, condition 2 of the Planning Board Special Permit for Site Plan Review still states “The use of the proposed buildings shall be for office uses and such other uses as are allowed within the OP zoning district by right, pursuant to the provisions of the Zoning Ordinance in effect on July 6, 1999.”

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

On the petition by Fabio A. DeSouza, 12 Sheridan Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.44 of the 1985 Woburn Zoning Ordinances, as amended to allow an automobile and truck repair garage at 317 Montvale Avenue PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: “ought to pass, as amended, with the conditions as follows: 1. That the plan of record shall be the plan dated October 17, 2008, 2. That there shall be five parking spaces for auto repair vehicles and three parking spaces for employees as shown on the plan of record, 3. That the dumpster behind the bays shall be screened, 4. That the gravel areas shall be paved, 5. That the hours of operation shall be Monday through Friday 8:00 a.m. to 5:00 p.m. and Saturday 8:00 a.m. to 1:00 p.m., 6. That snow must be removed from the site, and 7. That petitioner must file a copy of the MWRA water/oil separator permit.”

On the petition by Robert Khouzami, 40 Overlook Road, Stoughton, Massachusetts 02072 for a special permit pursuant to Section 5.1.45 of the 1985 Woburn Zoning Ordinances, as amended, to allow for a license to buy, sell, exchange or assemble second hand motor vehicles or part thereof and for a Second Class Motor Vehicle Sales License

at 317 Montvale Avenue. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: “back for action.”

On the petition by Kravings Etc. for a special permit pursuant to Section 8.3.2 of the 1985 Woburn Zoning Ordinances, as amended, to allow for seven (7) off-site parking spaces at 106 Winn Street. PUBLIC HEARING OPENED. A communication dated October 16, 2008 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Kravings Etc. – 106 & 110 Winn St. – To allow 7 off-site parking spaces pursuant to Section 8.3.2

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on October 7, 2008, the Board voted to send a favorable recommendation to the City Council to allow for 7 off-site parking spaces pursuant to Section 8.3.2 at 106 & 110 Winn St. subject to the following conditions:

1. That this special permit shall be exclusive to Kravings Etc., Robert Haykal, Manager and terminate if this operation ceases.
2. That the hours of operation shall be Sunday through Saturday 10:00AM to 10:00 PM.
3. That prior to the issuance of a building permit, the petitioner shall provide to the building department an executed lease for seven (7) parking spaces, similar in form to the lease submitted to the City Council. If the lease is not renewed or is terminated by Borselli then the special permit shall be automatically revoked.
4. That the petitioner shall erect signs signifying that the seven (7) off site parking spaces are for “Breakers Only” or “Kravings Etc. Only” and a sign at the rear exit stating “Additional Parking” shall be erected.
5. That any tables intended for exterior dining shall be located as shown on the plan of record, with no others allowed, and shall be surrounded by a guardrail, shall be handicapped accessible and meet all ADA requirements.
6. That the exterior ramp shall be at least six (6) feet in width and ADA compliant.
7. That Breakers Ice Cream shall service customers from either the interior windows or the exterior windows but never both and there will be no service window at the front of the building.
8. That the petitioner agrees that the only uses allowed during the duration of this special permit shall be for Breakers Ice Cream and Kravings Etc. and no other use shall be made of the area marked “Storage.”
9. That the dumpster shall be screened by fencing.
10. That the Planning Board shall retain jurisdiction over landscaping.
11. That all snow removal shall be removed off site
12. That the plan of record shall be: “Parking Plan Restaurant at 106 Winn Street” dated May 16, 2005 by Borselli Engineering.
13. That no banner shall be allowed on the outside of the building.

14. That the lease shall contain a provision allowing of access to 106 Winn Street through the property at 110 Winn Street.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

A copy of a communication dated October 6, 2008 to Edmund Tarallo, Planning Director was received from Brett F. Gonsalves, Senior Engineer as follows:

Subject: 106 Winn Street – Offsite Parking Special Permit – Special Permit Application
Dated September 29, 2008 – Plan Dated May 16, 2005

The petitioner is seeking a special permit to allow 7 offsite parking spaces for the existing restaurant. This office takes no exception to the offsite parking request as submitted.

If you or the board have any questions concerning this information, do not hesitate to contact this office.

On the petition by John E. McCue, Jr., individually and as Trustee of 198-200 Cambridge Road Realty Trust, c/o McCue Garden Center, 200 Cambridge Road, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.68b, 5.1.69, 5.1.72, 7.3, 8.3.2 and 13.5 of the 1985 Woburn Zoning Ordinances, as amended, to utilize a portion of the property at 198 Cambridge Road for parking in connection with the Garden Center at 200 Cambridge Road, with associated parking layout changes, retaining walls, and new/altered signage at 198-200 Cambridge Road. PUBLIC HEARING OPENED. A communication dated October 16, 2008 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: John E. McCue, Jr., individually and as Trustee of 198-200 Cambridge Road Realty Trust – 198 & 200 Cambridge Rd. – To utilize a portion of 198 Cambridge Rd. for off-site parking in conjunction with the Garden Center at 200 Cambridge Rd. in accordance with revised plans for 198 & 200 Cambridge Rd. pursuant to Sections 5.1.68, 5.1.69, 5.1.72, 7.3, 8.3.2, & 13.5

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on October 7, 2008, the Board voted to send a favorable recommendation to the City Council to utilize a portion of 198 Cambridge Rd. for off-site parking in conjunction with the Garden Center at 200 Cambridge Rd. in accordance with revised plans for 198 & 200 Cambridge Rd. dated 9/8/08 pursuant to Sections 5.1.68, 5.1.69, 5.1.72, 7.3, 8.3.2, & 13.5 subject to the following conditions:

1. That 3 handicapped parking spaces shall be provided in accordance with MA 521 CMR 23.00.
2. That prior to the issuance of a building permit, the petitioner shall provide to the building department an executed lease for the proposed 30' lease area for parking and storage as shown on the plan said lease to be recorded at the Registry of Deeds as noted on the plan. If the lease is not renewed or is terminated then the special permit shall be automatically revoked.
3. That all lighting shall be provided in accordance with Section 8.5 of the Woburn Zoning Ordinance.
4. That the Planning Board shall retain jurisdiction over the landscaping.
5. That there shall be a no cut zone of mature vegetation within ten feet of the rear and side lot lines of 200 Cambridge Road bordering residential properties except for 198 Cambridge Road.
6. That a six foot stockade fence shall be maintained along the rear and side lot lines of 200 Cambridge Road bordering residential properties except for 198 Cambridge Road.
7. That there shall be no burning within 100' of the rear property line of 200 Cambridge Rd.
8. That 198 Cambridge Road shall be used only as a two family house.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

A communication dated October 6, 2008 to Edmund Tarallo, Planning Director was received from Brett F. Gonsalves, Senior Engineer as follows:

Subject: 198-200 Cambridge Road McCues Florist Parking Modification Special Permit – Special Permit Application Dated September 29, 2008 – Plans Dated September 8, 2008

The petitioner is seeking a special permit to allow a portion of the property at #198 Cambridge Road to be used for parking in conjunction with the existing garden center at #200 Cambridge Road that is under the same ownership. In addition to the parking, a new retaining wall, lighting and signage is being proposed.

The engineer graded the improvement area in a manner that utilizes the existing onsite drainage system.

The applicant should consider showing an easement on #198 Cambridge Road for the proposed improvements in the event the property is conveyed in the future.

Upon review of the special permit application, this office takes no exception to the plans as submitted.

If you or the board have any questions concerning this information, do not hesitate to contact this office.

On the petition by Alderman Raymond and Alderman Gately to further amend the 1985 Woburn Zoning Ordinances, as amended, 1. By striking Section 5.3.1 in its entirety and inserting in its place the following: "No fence, retaining wall, screen or other method of separation shall be erected without a permit; however, no permit shall be required for the erection of a fence in a location in which a previously existing fence was maintained provided that the new fence is erected within thirty (30) days of the removal of the former fence. No permit shall be required for the repair of a fence which is in broken or damaged condition including the replacement of the fence, or a section thereof, with a new fence." 2. By striking Section 5.3.3 in its entirety and inserting in its place the following: "No fence shall be maintained over forty-two (42) inches high within sixteen (16) feet of an intersecting street." PUBLIC HEARING OPENED.

CITIZEN’S PARTICIPATION: None.

COMMITTEE REPORTS:

ORDINANCE:

On the Order to amend Title 3, Article VI, Section 3-3(E) relative to Water and Sewer Enterprise Fund indirect charges, committee report was received "ought to pass."

MUNICIPAL LANDS:

On the Resolve to accept a deed in lieu of foreclosure for real property located at Baldwin Avenue and Merrimac Street, committee report was received "back for action."

On the Resolve to accept a deed in lieu of foreclosure for real property located at Baldwin Avenue and Belmont Avenue, committee report was received "back for action."

On the Resolve to accept a deed in lieu of foreclosure for real property located on Longwood Avenue, committee report was received "back for action."

NEW PETITIONS:

Petition by R.C. Olsen Cadillac, Inc., 199-201 Cambridge Street for renewal of First Class Motor Vehicles Sales License.

A communication dated October 20, 2008 with attachments was received from Attorney John McElhiney, McElhiney and Matson, 607 Main Street, Woburn, Massachusetts 01801 as follows:

Re: 159-175 Main Street, Woburn, MA

Dear Councillors:

Although I have separately filed on this date an application for a Special Permit under the Groundwater Protection Ordinance provisions of Section 15, of the Zoning Ordinances, I am writing so as to ask your consideration, in this particular case, and for the reasons stated herein, to treat this request as a minor amendment and/or clarification to the Special Permit previously approved by this Council in April of this year, and issued on May 8, 2008.

Pursuant to that Special Permit, construction has been ongoing, though an issue was recently raised by the Building Commissioner, who feels than an explicit reference or approval under Section 15 is necessary.

Briefly, by way of background, our Special Permit was filed under Section 7.3 to extend or alter a non-conforming use. It underwent extensive review by both the Planning Board and your honorable body. It further had the benefit of extensive engineering review, both before and even after the issuance of the Special Permit. A building permit was duly issued, and site work and construction work has followed.

While not explicitly mentioned by section, the application for any such permit would have taken the form of a Special Permit request under Section 7.3, to enlarge or alter a prior non-confomring situation. Such an application is expressly allowed under Section 15, since the overall site was already developed with buildings and impervious surfaces. Thus a fair argument exists that the Special Permit which was obtained covers section 15 as well.

Perhaps more importantly in this case, however the scope of review and resulting approved site plan would have been the same had there been an explicit reference in the decision to Section 15. In other words, the impact of drainage, runoff, and overall development on the site as it relates to the goals of the Groundwater Protection ordinance were, in fact, reviewed and approved by relevant boards. Further, the intent of the ordinance itself is to review projects which do not cause or render more than 2,500 square feet or 15% of the lot to become impervious. Here, of course, the lot was virtually completely impervious to begin with, and the net result of the approved project is that there will be less impervious surface. Thus in my opinion, the spirit, if not the letter of the ordinance has been met.

I attach two letter or memos in connection with this request, one from the project engineer dated April 8, 2008, verifying that there will be more green space and no increase in runoff post-development, and one from the City Engineer, dated October 15, 2008, essentially verifying the same, and further confirming that the review already undertaken has led to the conclusion that there will be no deleterious effect on the groundwater.

On this basis, I would ask for your consideration in this particular case in treating this request as more of a clarification or minor amendment to the language of the Special Permit.

If the Council does seek to have this matter go through an entirely new Special Permit hearing process, I would ask for your consideration in scheduling the hearing as soon as is possible.

Thank you for your courtesy in considering this request.

Sincerely, s/John D. McElhiney

Petition by American Venture Corporation, 88 Broad Street, Boston, Massachusetts 02110 for a special permit pursuant to Section 15 and/or Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, for proposed project previously approved and granted a Special Permit, and/or seeks to amend said previously approved Special Permit by including a reference to Section 15 at 159-175 Main Street.

Petition by Hess Corporation f/k/a Amerada Hess Corporation, One Hess Plaza, Woodbridge, New Jersey 07095 for a special permit pursuant to Sections 5.1.46a, 5.1.46b, 5.1.22a Note 16 and 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow self-service/full service gasoline station with convenience store at site of already existing gasoline station, convenience store, car sales and repairs at 306 Montvale Avenue.

COMMUNICATIONS AND REPORTS:

A communication was received from Attorney Judy A. Levenson, Brody, Hardoon, Perkins & Kesten, LLP, One Exeter Plaza, Boston, Massachusetts 02116 relative to the matter Santullo v. City of Woburn, et. al, found at U.S. District Court for the District of Massachusetts Civil No. 07CA11478RWZ.

A communication dated was received from Charles L. O'Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

In accordance with Massachusetts General Laws Chapter 90, Section 20½, I am submitting a report to you on the parking violations in the City of Woburn for the period ending September 2008: number of parking violations issued 908, number of violations paid 554, number of violations outstanding 464, amount collected and submitted to the Office of the Collector \$45,918.00. There exists a backlog of 4,916 tickets for 1982 through 2007. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$7,500.00.

Respectfully submitted, s/Charles L. O'Connor, Parking Clerk City of Woburn

A communication dated October 7, 2008 with attachments was received from Attorney Glenn Frank, 1095 Commonwealth Avenue, Suite 300, Boston, Massachusetts 02214 relative to a special permit dated July 10, 2008 for property located at 397 Main Street and requesting review by the Committee on Special Permits in compliance with conditions of the special permit.

A communication dated October 9, 2008 was received from David J. Carroll, Hopkinton Area Manager, Tennessee Gas Pipeline Company, 54 Wilson Street, Hopkinton, Massachusetts 01748 providing emergency contact numbers.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS:

A communication dated October 8, 2008 was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint Robert McNabb, Executive Director of the Woburn Housing Authority, as a Member of the Human Rights Commission as required in the City of Woburn Municipal Code Title 2-236. Please be advised that the term will expire on July 31, 2011. The effective date of this appointment will be the date of confirmation by the City Council.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

A communication dated October 8, 2008 was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint the Reverend Dr. Neal Pearson, a clergyman at St. John’s Baptist Church, 38-40 Everett Street, Woburn, Massachusetts, as a Member of the Human Rights Commission as required in the City of Woburn Municipal Code Title 2-236. Please be advised that the term will expire on July 31, 2011. The effective date of this appointment will be the date of confirmation by the City Council.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

A communication dated October 8, 2008 was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint Denis Murphy, a student member of the Woburn Memorial High School to represent the Student Gay-Straight Alliance, as a Member of the Human Rights Commission as required in the City of Woburn Municipal Code Title 2-236. Please be advised that the term will expire on August 31, 2009. The effective date of this appointment will be the date of confirmation by the City Council.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

A communication dated October 8, 2008 was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Dear Mr. Campbell:

By the power in me as Mayor of the City of Woburn, I hereby appoint Lori Medeiros, Member of the Commission for Disabled and Handicapped Citizens, as a Member of the Human Rights Commission as required in the City of Woburn Municipal Code Title 2-236. Please be advised that the term will expire on July 31, 2011. The effective date of this appointment will be the date of confirmation by the City Council.

If you have any questions, please feel free to contact.

Sincerely, s/Thomas L. McLaughlin, Mayor

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED That the Treasurer/Collector appear before the City Council at its Regular Meeting on November 18, 2008 for the purposes of providing a status report regarding the status of the city's bank accounts and investments.

s/President Doherty

RESOLVED That the Department of Public Works erect a suitable and conspicuous sign at the pedestrian entrance to the Horn Pond Conservation area at Lake Avenue and at Sturgis Street advising of the leash law and the \$50.00 penalty for violation (first offense), and that the Chief of Police be directed to increase enforcement of the regulation.

s/Alderman Gonsalves

Motion made and 2nd to ADJOURN.