

**PLANNING BOARD  
RECORD OF MINUTES AND PROCEEDINGS  
September 15, 2009**

The Planning Board of the Town of Weymouth held a public meeting on Tuesday, September 15, 2009, at 7:00pm at McCulloch Building Conference Room, 182 Green Street, Weymouth, MA

Present:                                 Walter Flynn, Chairperson  
  Sandra Williams, Vice Chairperson  
  Mary Akoury, Clerk  
  David Chandler  
  Paul Hurley  
Staff:                                     Rod Fuqua, Principal Planner  
Recording Secretary:                 Janet Murray

Chairman Flynn called the meeting to order at 7:00 pm.

**Reorganization**

Chairman Flynn handed the meeting over to Mrs. Akoury in order to reorganize.

**Chairperson**

A MOTION was made by Mr. Chandler to NOMINATE Mr. Flynn for Chairperson and was seconded by Ms. Williams and UNANIMOUSLY VOTED.

There was no other nomination. Nominations were closed.

The Board voted UNANIMOUSLY to APPOINT Mr. Flynn as Chairperson of the Planning Board for FY 2009/2010.

**Vice Chairperson**

A MOTION was made by Mrs. Akoury to NOMINATE Ms. Williams as Vice Chairperson and was seconded by Mr. Chandler and UNANIMOUSLY VOTED.

There was no other nomination. Nominations were closed.

The Board voted UNANIMOUSLY to APPOINT Ms. Williams as Vice Chairperson of the Planning Board for FY 2009/2010.

**Clerk**

A MOTION was made by Chairman Flynn to NOMINATE Mrs. Akoury as Clerk and was seconded by Ms. Williams and UNANIMOUSLY VOTED.

There was no other nomination. Nominations were closed.

The Board voted UNANIMOUSLY to APPOINT Mrs. Akoury as Clerk of the Planning Board for FY 2009/2020.

**Minutes**

A MOTION was made by Mr. Chandler to TABLE the minutes from the 7/21/09 Planning Board meeting and was seconded by Mrs. Akoury and UNANIMOUSLY VOTED.

**(7:15) Public Hearings**

**82 Broad Street**

Petr: Valdimir & Melsi Xhengo  
Locus: 82 Broad Street  
Sheet 20, Block 269, Lot 19  
Zoning: B-1

Request reconsideration within two years of a denial on May 20, 2009 of a special permit and variance application for a restaurant allowable in a B-1 zoning district. The application requested parking variances of Section 120-70.A. – Off Street Parking Location, 120-72 – Access to Street Requirements and 120-74.E – Minimum Required Spaces.

A MOTION was made by Mrs. Akoury to OPEN the public hearing and was seconded by Mr. Hurley and UNANIMOUSLY VOTED.

A MOTION was made by Mr. Hurley to WAIVE the reading of the public notice and was seconded by Mrs. Akoury and UNANIMOUSLY VOTED.

Attorney Gregory Galvin appeared before the Board on behalf of his client. Mr. Galvin stated that his client had received an unfavorable ruling from the Board of Zoning Appeals (BZA) regarding his request for parking variances for a proposed restaurant at 82 Broad Street.

Mr. Galvin stated that his client's request to the BZA for parking variances was denied. He stated that the application cannot be re-submitted to the BZA for two years unless the applicant can show that the new plans make specific and material changes.

Two letters from business owner on Washington Street, northerly of the site, indicating that they would have a number of parking spaces available for the applicant's use. In addition, the applicant owns a business at 148 Washington Street, which is also north of the subject site on the corner of Richmond Street.

Mr. Galvin stated that the amount of seating has been reduced again. The original plan called for 100 which was reduced to 90. The number of seats has now been reduced to 75.

Mr. Galvin noted that the BZA expressed concern regarding traffic going southerly from the site. He noted that the applicant is proposing valet parking due to the fact that there are probably only 16 parking spaces. Due to the topography of the site, the parking area is extremely limited.

Mr. Galvin stated that at the BZA hearing, Mr. McLeod, the Chairman of the BZA expressed concern regarding the safety and well-being of patrons having to cross multiple lanes of traffic.

He also stated that Mr. Golden, a member of the BZA, expressed traffic concerns at the intersection and specifically the left hand turn.

Mr. Galvin stated that Mr. Denizkurt, another member of the BZA also questioned the applicant's presentation with regards to a variance which requires the showing of a hardship. He noted that in that members opinion, the applicant had failed to show a hardship and was in fact creating the hardship.

Mr. Galvin noted that the building is a former fire station. He noted that the Town of Weymouth made accommodations for parking when the current owner bought the building; one parking space for every 200 square feet is required for office use; this building is 5000 square foot. As noted accommodations were made.

Mr. Galvin noted that valet parking is a part of usage for properties in highly developed commercial areas.

Mr. Fuqua stated that a determination of a significant, specific and material change is required for the Board to vote favorably. He also stated that the Board is not assessing the quality of any of the issues; it is more fact finding. If the Board votes favorably, the applicant would go back to BZA.

Mrs. Akoury asked about how many handicap accessible spaces are required. Mr. Fuqua stated that he did not have this information. Mrs. Akoury stated that this issue would need to be clarified.

Mrs. Akoury asked how the valet parking would work. Mr. Galvin stated that there would be two valet parking signs.

Mrs. Akoury asked where the employees would park. Mr. Galvin stated that employees will park in Brother's Restaurant parking lot as well as three spots on "upper" level of site.

Mrs. Akoury asked about dumpster pick up. Mr. Galvin stated that the dumpster will be picked up every other day or every day – the Board of Health directs the size dumpster needed.

The zoning requirement is 1.5 parking spaces per seat. Fifty (50) parking spaces are needed. Mr. Xhengo has made agreements with three (3) businesses for parking; Bicycle shop, Western Performance, and Coughlin Insurance.

Mr. Chandler asked if there is a rear door out of restaurant. Mr. Galvin stated that there is. Mr. Chandler noted that there should be no stopping on the street area.

Mr. Flynn stated that the letters do not show the number of parking spaces provided by each business. He stated that it looked like there were 14 next to the church, the number at the real estate office is unclear, five (5) spaces at Brother's Restaurant and there are ten (10) spaces noted on the street.

Mr. Chandler expressed concern about the type of parking on the off site locations. He asked if the cars would be stacked or parked within the parking spaces.

Mrs. Akoury asked about the impact of this parking arrangement to Sacred Heart Church. Mr. Galvin pointed out that Mr. Xhengo will be paying Mr. Whiting for use of the spaces on his site next to the church. Any other use of his lot is trespassing.

Mr. Galvin stated that seven (7) spaces (3 on street) are available at Coughlin Real Estate after 5pm; week-ends are for showing houses and Mr. Coughlin could be in the office on Saturday morning.

Mr. Galvin stated that there are 21 spaces at Washington Street, Mr. Whiting finishes work around 5pm to 6pm and he does not work on weekend.

Mr. Galvin stated that there are 16 spaces at 82 Broad Street, 3 of which are for employees

Mr. Hurley stated that he believes that the changes are significant enough to let them return to the Zoning Board.

Mr. Flynn asked if there was anyone present who would like to comment on the application and received the following comments.

Marion Barrett, 8 Fields Avenue, stated that she is concerned about activity on the site.

Susan Barrett, 8 Fields Avenue, noted that Fire Escape Ministries uses on street parking. She also expressed concern that cutting into the “upper” area of this property could influence the integrity of Field Avenue.

Jim Parker, 42 Sherrick Farms Road, stated that he is the current owner of the property. He pointed out that the dumpster is emptied once every other week when the property is used as an office building. The upper piece to be cut out was part of the original plan but the work was not done. Mr. Parker noted that the traffic and parking is the main concern. He stated that he is concerned that the parking issue has been overblown.

Carol Foley, 188 Washington Street, stated that she is the owner of Looking Good hair salon. She noted that the applicant is including all the parking spaces on the street in their numbers but there are other businesses along the street that use those spaces.

Tony Carlos, 186 Washington Street, new owner of Grill & Eye, stated that there is a tremendous problem with parking. He stated that he will begin to be open nights. His current hours are 5am to 2pm but he noted that on Thursday, Friday, Saturday his hours will change to 5am to 8pm.

A MOTION was made by Mr. Chandler to CLOSE the public hearing and was seconded by Ms. Williams and was UNANIMOUSLY VOTED.

Mr. Chandler stated that he believes that there has been substantial change to the plan as the left hand turn onto Washington Street is no longer needed. He noted that other establishments in town have permission to park on the street.

Mrs. Akoury noted her concerns regarding the requirement of a handicap accessible spot on site, the fact that on street parking is counted into the number of spots, and she questioned the validity of the count when there are competing establishments for those spaces.

Mr. Flynn noted that parking is first come, first serve.

Mr. Chandler noted that the Union Chowder House in Columbian Square has six (6) on site spots, counts on street parking and parking in a municipal lot. He agreed with Mr. Flynn's comment regarding first come, first serve.

The Board outlined the changes to the plan.

1. New off site locations for valet parking
2. A different traffic pattern will result from the new off site parking locations.
3. Signage for and operation of the valet parking service is revised.

A MOTION was made by Mr. Hurley that it is the finding of the Board that the combination of modifications constitutes a significant change in the plans of Case # 3037 of the Board of Zoning Appeals for 82 Broad Street and there the applicant may resubmit plans to the Board of Zoning Appeals within the two years of the denial of a plan and was seconded by Mr. Chandler. The motion PASSED on a 4-1 vote with Mrs. Akoury opposed.

Worster Terrace

Petr: Kenneth McAuliffe

Locus: approximately 17 & 19 Worster Terrace

Sheet 20, Block 265, Lots 3 & 13

Zoning: R-1

Roadway Conditions - Approximately 17 & 19 Worster Terrace

Mr. Fuqua gave background of the lot. The request this evening is to set roadway conditions for Worster Terrace.

Mr. McAuliffe noted that the plan is to continue the driveway and add a turn-around at the end. He noted that Worster Terrace is a narrow road; the travel way is somewhere between 10-12 feet and would be widened to 15 feet.

Mr. McAuliffe noted that the water and sewer for lot B will go through lot A to Keith Street as there are no utilities on Worster Terrace

A MOTION was made by Mr. Hurley SET roadway conditions and that water and sewer be installed in accordance with DPW and engineering requirements; 15 feet widened to 18 feet to a minimum of 22 feet past the driveway. Ms. Williams seconded.

Mr. Chandler asked who plows the driveway. Mr. Fuqua stated that the Town DPW plows the road.

The motion was UNANIMOUSLY VOTED.

Worster Terrace FORM A

Mr. Fuqua noted that a Form A approval is required for the changes to the lot lines. The linear lots are changed to square lots.

A MOTION was made by Mr. Hurley to ACCEPT the FORM A and was seconded by Mrs. Akoury and UNANIMOUSLY VOTED.

### **Subdivision**

#### **Performance Guarantee and Release of Lots - Wampum Street**

Mr. Fuqua stated that no action could be taken on this evening as the street still needs a base coat.

#### **Final Release – Beach Avenue**

Mr. Fuqua stated that this street is located in the Birches, off Lakecrest Ave. It has been completed for about a year. A guard rail needed to be installed which has been completed and inspected by DPW thus the Planning Board jurisdiction can be relinquished.

A MOTION was made by Ms. Williams to RELEASE the bond on Beach Avenue and was seconded by Mr. Hurley and UNANIMOUSLY VOTED.

### **Form A**

#### **187 Union Street – Sheet 50, Block 567, Lot 11**

Mr. Fuqua stated that this is a resurvey of a lot that is in existence; it does not change any lines. There is no change in use, lot line, or frontage; the survey data will be re-entered.

A MOTION was made by Ms. Williams to ACCEPT the form A and was seconded by Mrs. Akoury and UNANIMOUSLY VOTED.

### **Zoning Review**

The Board decided to put off zoning review until the next meeting.

### **Minutes**

A MOTION was made by Mr. Chandler to TAKE OFF the table the minutes from the 7/21/09 Planning Board meeting and was seconded by Mrs. Akoury.

A MOTION was made by Mr. Chandler to APPROVE the minutes as amended and was seconded by Mrs. Akoury and UNANIMOUSLY VOTED.

**Adjournment**

At 8:40 pm, there being no further business, a MOTION was made by Ms. Williams to adjourn and was seconded by Mr. Hurley, and UNANIMOUSLY VOTED.

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Walter Flynn, Chairperson

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Date