

BOARD OF ZONING APPEALS (BZA)  
RECORD OF MINUTES AND PROCEEDINGS

May 13, 2020, 7:00 p.m.

VIRTUAL

Cisco Webex Meetings

RECEIVED  
TOWN OF WEYMOUTH  
TOWN CLERK'S OFFICE  
2020 JUN -9 AM 9: 50

**Members Present:** Richard McLeod, Chairman  
Kemal Denizkurt  
Jonathan Moriarty  
Ed Foley  
Brandon Diem

**Also Present:** Robert Luongo, Director of Planning  
Eric Schneider, Principal Planner  
Monica Kennedy, Assistant Planner  
Janet P. Murray, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:00 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

**Old Business:**

1. **Case #3410** - The petitioner, Patrick McLaughlin, for property located at **71 Beals St.** also shown on Weymouth Town Atlas sheet 10, block 126, lot 15, located in the R-1 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit      120-81      Earth removal permit required

The subject property is 7,924 sf with a two story wood framed home. Petitioner seeks to create a friendlier outdoor space through breaking and the removal of existing ledge to guide storm water away from the building foundation and reduce the extreme slopes.

Mr. Foley made a motion to re-open the public hearing on Case #3410 and was seconded by Mr. Moriarty. **UNANIMOUSLY VOTED.**

Ryan Patterson, on behalf of the applicant, recapped the details of the case and the changes that have been made. He noted that he agrees with the Department of Public Works (DPW)/Engineering memo as follows:

- The runoff from the property will be directed away from abutters.
- that this work will not change the volume of water runoff from the property but will reduce the rate of the runoff.
- There is a fence at the top of the bank.
- Erosion controls will be put in place.

Mr. Foley asked about the fencing at the top of the bank. He asked if there is a chain link fence between this property and the back property. Mr. Patterson stated that there is a wooden fence between this property as well as one on the side. There is also a chain link fence between this property and another property on the side. He added that the chain link fence is four feet high and the wooden fence is six feet. The fences vary as to whose property they are on. He noted that all of the work has been on the applicant's property.

Mr. Patterson stated that they have not put any of the erosion controls into place yet.

Mr. Foley asked about the piece of equipment parked on the site. Mr. McLaughlin stated that this piece of equipment is owned by him. It has been parked on his property since he has been out of work. It is unrelated to the work being done.

Mr. Foley asked if a permit is required to park this on the property. Mr. Schneider stated that there is a weight limit as to whether a piece of equipment can be stored on the property. He was not sure of the exact number.

Mr. Patterson stated that he is not a licensed engineer yet, but all of his work is reviewed by one.

Mr. McLeod asked Mr. Schneider if the Board has the authority to require the applicant to provide a guarantee for post-damage to the property as a result of the work being done. Mr. Schneider stated that they can request this from the applicant. He added that the applicant has agreed, in concept, to this survey.

Mr. Moriarty asked if there was insurance to cover any damage that could happen due to this work.

Mr. McLaughlin stated that he has homeowners insurance and insurance for his company.

Mr. Luongo stated that it would fall under a General Builder's liability insurance policy.

Mr. McLaughlin stated that he is doing this work under his company so it is covered under that General Builder's liability policy.

Ann Maher, 61 Beals Street, expressed concern about the wooden fence along the property line and possible erosion. She stated that the wooden supports may be on the applicant's property. With the removal of the ledge, the fence may be vulnerable. She asked if the work is being done under Feeney Brothers, LLC.

Mr. McLeod asked if there was anyone present who would like to speak. There was no response.

Mr. Foley questioned if the applicant had spoken with the Maher's. It did not appear that they had met.

Mr. Foley expressed concern about the fencing along the property lines and noted that the Maher's should not be responsible for the condition of them as Mr. McLaughlin's work may have compromised its stability.

Ms. Maher stated that some type of barrier should be in place while the work is done. Whether the fence is adequate should be a part of the peer review.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3410.

#### SPECIAL PERMIT

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

With the following conditions (based on May 8, 2020 DPW/Engineering memo):

1. Prior to a building permit and based on April 22, 2020 memo, a pre and post condition audit/survey will be completed.
2. Hours of operation will be 8:00 a.m. to 6:00 p.m., Monday through Saturday with no work on Sunday.
3. Sediment and erosion controls shown on the plan are to be put into place immediately.
4. Fencing - a suitable construction barrier will be provided along the bank during the work and the condition of the existing fencing will be determined during the pre-work audit of conditions.
5. Building Department and DPW will work with the applicant to ensure appropriate safety and erosion control measures are in place during the project.

The motion was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED on a roll call vote as follows:

Mr. McLeod - Yes  
Mr. Diem - Yes

Mr. Moriarty - Yes  
Mr. Denizkurt - Yes

Mr. Foley - Yes

### New Business:

1. **Case #3411** - The petitioner, John O'Brien, for property located at **1093 Main St.** also shown on Weymouth Town Atlas sheet 49, block 554, lot 8, located in the Highway Transition (HT) and Commercial Corridor Overlay District (CCOD). The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit	120-22.7	Conversion of existing dwelling for up to four dwellings
Special Permit	120-41	Exception to limitation on restoration by special permit

The subject property .04-acre lot contains an existing unoccupied 2700 SF two-story, two-family dwelling in a state of disrepair awaiting redevelopment. Petitioner seeks to demolish existing structure and rebuild a four-unit building.

Mr. Foley made a motion to open the public hearing on Case #3411 and was seconded by Mr. Denizkurt. **UNANIMOUSLY VOTED.**

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Denizkurt. **UNANIMOUSLY VOTED.**

Attorney Raymond Jennings, with offices at 775 Pleasant Street, Weymouth, spoke before the Board on behalf of the applicant John O'Brien. Mr. Jennings stated that the property is located in the HT zone and the CCOD.

The Overlay district requires a minimum of 30000 SF. The property is 19673 SF and does not meet the requirements. He noted that the existing building was used as a two-family but up to a four-family may be allowed by special permit.

Mr. Jennings stated that the applicant had considered a number of options for the property. In considering demolition and rebuilding, he pointed out that the widening of Route 18 will bring the property to within 18 feet of the road, rather than the required 20 feet.

Mr. Jennings stated that there is a vernal pool on the property and falls under the jurisdiction of the Conservation Committee and their Order of Conditions. He added that there are also wetlands which affect the placement of the building.

The most recent design has a front-facing appearance. The building will have four two-bedroom units. The exterior material will be clapboard and shingles. The exact material has not been determined.

Mr. Luongo stated that the Town discourages the use of wall packs on buildings.

Mr. Luongo asked about a walkway to door on the front of the building. Mr. Jennings stated that this could be connected to the two on the side.

Mr. Foley asked about the vernal pool and if he had spoken to the Conservation Commission. Mr. Jennings stated that they have met with them and there is another meeting planned.

Mr. Foley asked if the units will be apartments. Mr. Jennings stated that they will be built as for-sale condos.

Mr. Foley asked about the required curb cut from MA Department of Transportation (DOT). It will be located on the northern edge of the property. The new plan is sufficient to accommodate a trash truck.

Mr. Foley noted that the shrubs cannot block visibility of traffic or pedestrians.

Mr. Denizkurt asked about the required number of parking spaces. Mr. Jennings stated that two spaces per unit are required. There will be eight spaces. The plan calls for eight spaces so no variance is required.

Mr. Schneider stated that the applicant is working concurrently with Conservation Commission. There was significant pollution on the property by the previous owner which the current owner has cleaned up.

The plan submitted today satisfies the concerns of the traffic engineer.

The Health Department had previous concerns about the building is now in support of the proposed plan.

Mr. McLeod asked if there was anyone present who would like to speak. There was no response.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3411.

#### SPECIAL PERMIT

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.

4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

With the following conditions:

1. Will work with the Building Department for plantings and shrubs so that there is no obstruction to pedestrians or traffic.
2. Will work with the Building Department regarding type of clapboard/shingles.
3. Will obtain a curb cut permit from DOT.
4. Will adhere to the Conservation Commission Order of Conditions.
5. Will allow dumpster pickups only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.
6. Will screen in the dumpster.
7. Will work with the Building Department on the lighting plan and have it approved by them.
8. Will build a sidewalk in front of the building which connects with the sidewalks along the side of the building.

The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. McLeod - Yes  
Mr. Diem - Yes

Mr. Moriarty - Yes  
Mr. Denizkurt - Yes

Mr. Foley - Yes

2. **Case #3412** - The petitioner, The Mourad Company LLC, for property located at **562 Main St.** also shown on Weymouth Town Atlas sheet 37, block 463, lot 6, located in the B-1, Watershed Protection and Commercial Corridor Overlay Districts. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit	120-24 A	Special permit uses
Special Permit	120-101	Service stations, repair garages and car washes
Special Permit	120-40	Extension or change by special permit

The subject property is 17,064 SF with an existing car wash. Petitioner seeks an alteration/extension of the existing car wash structure in order to convert the three (3) station structure into a single-tunnel, automated car wash.

Mr. Foley made a motion to open the public hearing on Case #3412 and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Attorney Jeffrey Tocchio spoke on behalf of the applicant, Mourad Company, LLC. He noted that Mr. Mourad is on the call tonight as is John Cavanaro, site engineer;

Jeffrey Dirk, Traffic Engineer with Vanasse & Associates; Al Kearney, architect; and Scott Golding from Mr. Tocchio's office.

Mr. Tocchio stated that the property, which is Herbie's Carwash on the corner of Main Street and Highland Place, is in the B-1 Zoning District and the CCOD. It is also in the Watershed Protection District. The lot is approximately 17,000 SF and has 268 linear feet of frontage. This car wash has been on this location since 1966 as an outdoor facility. It was converted to an automatic car wash in 2008. The curb cut onto Route 18 will be removed. Impervious area will be reduced and more landscaping will be added.

Mr. McLeod asked if the added parking is for employees. Mr. Tocchio stated that this is the intended purpose. There are five employees.

Mr. Tocchio stated that the existing vacuums will be eliminated, but they may revisit adding them back in the future.

The lot coverage allowed is 50% and the current coverage is 10%. This proposal will increase it to 19%.

Mr. McLeod expressed concern that by reducing from three bays to one bay, this will cause cars to back up even more. Mr. Tocchio stated that since there is a conveyor belt, as many as three cars can be in the tunnel at one time. He also noted that currently there is a 36 per hour capacity which will be increased to as many as 50 per hour. He noted that the on-site queue can hold 10-12 cars.

Mr. Diem asked about cars exiting the car wash. Mr. Tocchio stated that there is room for a second car to pull up next to the first car. He noted that the cars are hand dried by employees and these employees can direct cars on the site. Additionally the belt can be slowed down to accommodate any problems that may arise.

Mr. McLeod asked if gift cards previously issued will be honored in this new system. Mr. Tocchio stated that they will be honored.

Mr. Moriarty asked if the site will operate with employees present and not be 100% automated. Mr. Tocchio stated that the site is not designed to be converted to fully-automated.

Mr. Foley asked about the mechanical, which will be located inside the building. The noise from the driers are 75 Db at 100 feet away. The ambient level for Main Street is 90 Db.

Mr. Foley asked what the hours of operation will be. Mr. Mourad stated that the current hours are 7:00 a.m. to 8:00 p.m. and he does not intend to change them.

Mr. Foley asked about signage. Mr. Tocchio stated that the existing free standing sign will remain but will be refaced and backlit.

Mr. Luongo cautioned that the backlighting not be too bright. He added that any roof-top mechanicals are to be screened.

Mr. Foley asked what material will be used for the heated pad for the radiant heating. Mr. Tocchio stated that it will be a glycol material and the piping will be PVC.

Mr. Foley noted that the Health Department expressed concern about car washing being done outside. Mr. Tocchio stated that this issue has been corrected; there will be no washing of cars outside.

Mr. Foley noted that Councilor Harrington is in favor of the project.

Mr. Foley asked about the curb cut on Route 18. Mr. Tocchio stated that it will be closed.

Mr. Luongo stated that they will need to coordinate with the Town's traffic engineer and the MA Department of Transportation to add curbing to completely close off the curb cut.

Mr. Luongo stated that Mr. Mourad has agreed to provide a bus stop at the northern end of his property on Main Street. He noted that there is not enough room to put the bus stop/shelter on the public property without blocking the right-of-way. The shelter will be built into the embankment of the applicant's property.

Mr. Tocchios stated that they will coordinate with the Town Council and work out a friendly taking.

Councilor Harrington, District 5 Town Councilor, read a statement in support of this application.

Mr. McLeod asked if there was anyone present who would like to speak. There was no response.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Mr. Foley made a motion open Re-open the public hearing and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Joe Haddock, 24 Highland Place, expressed concern about the traffic queue onto Highland Place. He noted that employees of the ARC park on one side of the street. When the queue is long, it makes Highland Place narrow and blocks driveways.



Mr. Tocchio stated that by increasing the queue on the site and speeding up the movement of cars through the car wash should prevent this situation.

Mr. Haddock asked about the pay station location. Mr. Tocchio stated that the pay station will be just before a car enters the tunnel.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3412.

#### **SPECIAL PERMIT**

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

With the following conditions

1. Will construct a bus shelter on the northern end of the property.
2. Will operate only between the hours of 7:00 a.m. to 8:00 p.m.
3. Will screen in any roof-top mechanicals.
4. Will not exceed 75 SF of signage.
5. Will not wash cars outside of the car wash building.
6. Will screen the dumpster.
7. Will allow dumpster pickups only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.

Mr. McLeod - Yes

Mr. Moriarty - Yes

Mr. Foley - Yes

Mr. Diem - Yes

Mr. Denizkurt - Yes

The motion was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

#### **Other Business:**

1. Review of minor zoning changes to be submitted for council review.

Mr. Schneider reviewed a memo dated March 12, 2020. These proposed changes have been submitted to the Town Council. It will go before the Ordinance Committee and the Planning Board.

#### **2. Minutes: April 22, 2020**

Mr. Foley made a motion to approve the minutes from April 22, 2020 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

**3. Upcoming Meetings: June 3, 2020**

**4. ADJOURNMENT**

Mr. Foley made a motion to adjourn at 10:00 p.m. and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Approved by:

Mr. Denizkurt , Clerk



6-4-2020

Date