

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

April 21, 2020, 7:00 p.m.

VIRTUAL

Cisco Webex Meetings

RECEIVED  
TOWN OF WEYMOUTH  
TOWN CLERK'S OFFICE

2020 JUN -9 AM 9:49

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

**Also Present:** Robert Luongo, Planning Director  
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. on the virtual platform, Cisco Webex meetings, and explained the procedures that would be followed to the people present.

**New Business:**

1. **Case #3409** - The petitioner, **88 Pleasant Street, LLC**, for property located at 88 Pleasant St. also shown on Weymouth Town Atlas sheet 45, block 518, lot 26, located in the B-2, R-1 & Watershed Protection Overlay District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit	120-40 Extension to a non-conforming lot
Variance	120-74 Minimum required parking spaces

The subject property is 25,656 sf with a two story 9,904 sf bank building with basement storage. Petitioner seeks to renovate the existing building including interior demolition and reconstruction. Petitioner will construct new office suites, provide accessible ramp and entrance including an elevator at the rear of the building.

Mr. Foley made a motion to open the public hearing on Case #3409 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

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

Michael Rocino, principal and owner of Ember Architect, spoke before the board on behalf of the applicant. He stated that this is a request for a change of use. The location was previously a bank and the applicant would like to change it to general office use. A tenant has not yet been identified.

Mr. Rocino, stated that there will be renovations but they will not be extensive. An accessible entryway and elevator lobby will be created. He noted that two additional parking spaces will be added where there is an access point to the adjoining property which is not a right of way; the two spots will be located there.

Mr. McLeod asked how many offices would be constructed. Mr. Rocino stated that this was known at this time. He pointed out that there is 9904 SF on two floors

Mr. McLeod asked about the variance request on parking spaces. Mr. Rocino stated that there are 50 spaces required which is more than there are onsite. There are currently 26 spaces. There would be 28 with the two additional spaces.

Mr. McLeod asked if the bank had a parking variance. Mr. Schneider stated that the bank had a special permit.

Mr. Schneider stated that the retail use of the bank was a non-conforming. The change to office use requires fewer spaces but would still not meet the minimum requirement. The proposed use would be less non-conforming than the bank use.

Mr. Luongo stated that the bank was non-conforming for parking; the proposed office use requires less parking than a bank.

Mr. Luongo stated that the Board does not need to act upon the request for a variance. It is not required as it is a change of one non-conforming use to another non-conforming use.

Mr. McLeod asked if the exterior of the building will be changed. Mr. Rocino stated that he was not certain, but did not expect any major changes to be made.

Mr. Foley asked what type of changes could be made to the brick structure. Mr. Rocino stated that they may repoint the masonry but no changes to the brick.

Mr. Foley asked if South Shore Hospital was approached. Mr. Rocino stated that the owners approached the hospital but there was no interest.

Mr. Diem asked if office co-sharing was considered. Mr. Rocino stated that the owner is considering all options. Mr. Diem stated that if this were likely, the parking needs could change.

Mr. Luongo stated that the parking requirement is based on the total square footage of the building. He added that if the use is medical office, the applicant would need to return to the board.

Mr. Moriarty expressed concerns about the exit/entry on the site as the entrance from Pleasant Street is narrow.

Mr. Luongo stated that the entranceway into the parking lot from Pleasant Street will be blocked off. The entrance and exit will be from Fogg Road. Mr. Luongo added that an enhanced crosswalk will be added on Pleasant Street and there will be changes to Chauncey Street which is across from this location.

Mr. Denizkurt questioned the need for signage as the property is on both Pleasant Street and Fogg Road.

Mr. Moriarty expressed concern about intensifying the use on Fogg Road.

Mr. Moriarty stated that the location of the dumpster is not noted. Mr. Rocino pointed out where it will be on the plan.

Mr. Foley asked about the ATM location. Mr. Rocino stated that this is a separate lot but the applicant owns this location. He noted that there has discussion about this lot. They are considering residential but nothing has been decided.

Mr. Foley asked about the shape of the mechanicals. Mr. Rocino stated that he did not know.

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 #3409.

#### 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.

The following conditions will apply:

- Signage will be worked out with the Building Department.
- Dumpster to be screened and located as noted on the plans where it is noted "no parking."
- Final landscape and lighting plan to be approved by Planning Department.

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

Mr. McLeod - Yes  
Mr. Diem - Yes

Mr. Moriarty - Yes  
Mr. Denizkurt - Yes

Mr. Foley - Yes

2. **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 open the public hearing on Case #3410 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.

Ryan Patterson, owner's representative, spoke before the board on behalf of the applicant, Patrick McLaughlin. He is seeking a special permit under 120-81 for earth removal. Mr. Patterson stated that the existing conditions are steep slopes because of ledge. The work will redirect the drainage pattern runoff around the house but still ending up where it currently runs. The owners have had severe flooding. An additional benefit of the project will be that the owner has more usable space in the rear of his property.

Mr. McLeod noted that the project started before the applicant obtained a permit. Mr. Patterson stated that it did begin without a permit due to the applicant not being aware that he required one.

Mr. McLeod asked how long will it take to remove the ledge? Mr. Patterson stated that the work, along with necessary remediation will take approximately two months.

Patrick McLaughlin stated that the breaking of the ledge would take approximately seven days. He stated that he will be using a machine to break the ledge and that there will be no blasting.

Mr. McLaughlin apologized for not seek a permit prior to beginning the project as he was unaware that he needed one.

Mr. McLeod asked if there is a plan for water flow from the property to catch basins?

Mr. Patterson said that there was not a plan but the water would be directed around the house and then follow the same pattern as it does now.

Mr. McLeod expressed concern that the water will affect abutters' property.

Mr. Patterson stated that they are not altering the retaining wall, so he does not expect any impact to the abutters.

Mr. McLeod stated that he believes that the work done without a permit was accidental.

Mr. Schneider discussed the abutter communication received.

Mr. Foley asked where the equipment was from. Mr. McLaughlin stated that he works for Feeney Brother's Excavators and used their equipment.

Mr. McLaughlin stated that he did speak to several of the neighbors.

He stated that the main objective is to move the ledge to stop the water but also to make the lot more useable by creating a backyard. He stated that he has removed 25 loads of ledge and still has about 25 loads still on property.

Mr. Foley asked if Mr. McLaughlin had installed a sump pump. He stated that he did install one.

Mr. Foley asked if Mr. Patterson had received the correspondence from the abutter. He stated that he had.

Mr. Patterson stated that he believed that by increasing the permeable surface, that the removal of the ledge will have a positive impact on the amount of water leaving the site. He added that he was not aware that the abutters were having water problems now.

Mr. Foley noted that an abutter has asked that an Independent engineering assessment be completed. He then asked if the applicant plans to provide a drainage plan.

Mr. Patterson stated that he was unsure about how the engineering assessment would be completed.

Mr. Foley stated that he interpreted it as a request for a peer study review.

Mr. Patterson stated that he understood this to mean a monitoring survey before and after the project of the abutters property.

Mr. Denizkurt stated that it was not clear how this plan will work.

Mr. Patterson stated that the plan is to grade the property so that the water flows away from the house. He stated that it is his experience that when the permeable surface is increased, it is typically a good thing.

Mr. Patterson stated that he was unsure of the exact amount of dirt that will be required for the site. He added that the plan calls for plantings.

Mr. Diem asked about the difference between the proposed grading and the existing grading. He stated that he is skeptical because it is unclear whether the surface underneath what has been removed will be permeable.

Mr. Patterson stated that he is project engineer for a construction company. He works under a professional civil engineer.

Mr. Schneider stated that the Department of Public Works (DPW)/Engineering had no comment; they are typically more concerned about bringing fill/rock onto a site rather than removing it from the site.

Mr. Schneider stated that a correspondence was received from George and Anne Maher (Exhibit 1) in the form of an Email which was received at 5:16 p.m. on April 22, 2020.

Mr. McLeod noted that Councilors Becky Haugh and Arthur Mathews were present. They did not request to speak on this application.

Mr. McLeod asked if there was anyone present who would like to speak. There was the following response.

Mr. Maher, 61 Beals Street, expressed concern about excessive vibration that has already occurred. Mrs. Maher stated that all of their concerns were put forth in the email (Exhibit 1).

Mr. Luongo stated that hours of construction are Monday through Saturday 7:00 a.m. to 7:00 p.m., with no work allowed on Sunday.

Mr. Charles DeLorey, 80 Norton Street at the corner of Norton and Beals Streets, stated that the noise has not really been a problem. He added that he has not had water problems. He did not expect it to get any worse. His property is lowest in the area and flooding has not been an issue.

Mr. Foley reviewed the email sent by the Maher's.

Allan Miller, 47 Beals Street, stated that he does not have a problem with Mr. McLaughlin's work.

Mr. Schneider stated that the requirement for the independent audit could be attached to getting building permit.

Mr. McLeod stated that he would like to see the study done prior to having work begin.

Mr. Schneider stated that there are two different reports being discussed.

1. Pre-work survey of current conditions/insurance audit, which is the report requested by the abutters
2. Detailed drainage study

Mr. Patterson asked who would decide the engineer to be used. He stated that he is concerned about the time it would take to do what is requested.

Mr. McLeod stated that the Board of Zoning Appeals does not have the authority to require an independent study.

Mr. Foley stated that a peer study review is the terminology used rather than an independent study. He stated that the intent is to assure that there is no damage to abutters property and the water runoff is shown.

Mr. McLeod asked what would the applicant need to do if the hearing is continued

Mr. Schneider stated that the applicant would need to speak with DPW/ Engineering. He added that this is not under Conservation Commission jurisdiction.

Mr. Schneider stated that an insurance audit is not typically required unless there is blasting. He added that the applicant has agreed to the insurance audit.

Mr. McLaughlin stated that he is concerned about being held responsible for the abutter's garage which he is aware has existing cracks in the foundation.

Mr. Schneider stated that Mr. Patterson could speak with DPW about what is needed and if a drainage study is needed.

Mr. McLeod asked Mr. Patterson if he would like to go forward but informed him that he would need at least a 4 out of 5 of the members to approve.

Mr. Schneider stated that he would speak with the Building Department to determine if a permit to remove existing rock. He noted that he would have a preliminary conversation with DPW.

Mr. Luongo stated that the applicant should dialogue with the abutter about their concerns.

Mr. DeLorey stated that he has lived at this location for over 40 years and will make himself available to DPW to discuss the water flow in the neighborhood.

Mr. Foley made a motion to CONTINUE the public hearing until May 13, 2020 and was seconded by Mr. Moriarty with the condition that an update be provided. UNANIMOUSLY VOTED.

Other Business:

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

2. Minutes: 8/14/19, 1/29/20 & 2/26/20

Mr. Foley made a motion to APPROVE the minutes from 8/14/2019 as amended and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the minutes from 1/29/2020 and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the minutes from 2/26/2020 and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

3. Next Meeting: May 13, 2020

#### ADJOURNMENT

Mr. Foley made a motion to adjourn at 9:20 p.m. and was seconded by Mr. Denizkurt. VOTED UNANIMOUSLY.

Approved by:   
Mr. Denizkurt, Clerk

6-9-2020  
Date



## EXHIBIT #1

The following:

Although we appreciate a new homeowner petition in ‘seeking to create a friendlier outdoor space’

We, the Abutters of 71 Beals st. have concerns and specific requests with our objective of protecting our property.

In that Patrick McLaughlin began excavating and removing Rock/ Shale Ledge/Bedrock/ almost one year ago. Location at boundary/fence line 71 Beals st. at a depth of greater than 30Ft. (est) without neighborly notice or permitting in place.

The bedrock, Ledge extends through our property and abutters to 71 Beals St.

Feeney Brother Excavation LLC heavy equipment has been documented in use: including hammering ledge and excavator without permit for a duration of months before and during the summer of 2019. Vibrations were felt in our property and noise levels were unbearable.

We are putting forward the following to the Board for the goal of : How the removal of Ledge/Earth at our property line will effect erosion of earth and structural integrity of all buildings on our property, including and not limited to driveway, walk ways. Etc.

The Survey be provided as written assessment from an independent engineering firm the following:

1. An Independent Engineering Firm be identified by Neighbors/Abutters of 71 Beals St. that is signed without prejudice / affiliation or prior or future contract with Feeney Brother Excavation LLC. Construction Company / or Patrick McLaughlin and that this independent Engineering Firm is provided at the expense of Patrick McLaughlin who is seeking permit.

That site work on our property includes:

- A: instruments, sensors are placed on cracks to determine damage.
- B: Settlement points on the house to determine movement and /or damage.
- C: Pre-excavation documentation and Post excavation Survey :

For the purpose and confirmation integrity of all structures.

2. That Permit is not granted until Independent Engineering Firm is Identified, contracted and objectives provided in writing to us. If independent Engineering Firm

is not assigned, Patrick McLaughlin will assume all future liability for property damage incurred while creating his friendlier outdoor space’.

3. Hours of Operation for all construction site work: per town by laws if the Town would consider extending quiet hours due to restrictions on being able to leave our property due to Covid-19.

We ask you provide us in writing hours that heavy equipment can be in use.

Respectfully,

Anne and George Maher  
61 Beals St. N. Weymouth, 02191