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

July 14, 2021, 7:00 p.m.  
McCulloch Building - Mary McElroy Room  
182 Green Street, Weymouth, MA 02191

2021 SEP -2 AM 10: 47

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

**Not Present:** Robert Christian

**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. at McCulloch Building - Mary McElroy Room, 182 Green Street, Weymouth, MA 02191, and explained the procedures that would be followed to the people present.

Mr. McLeod informed the applicants this evening that there are only four members present and will need all four votes for approval, and they will have the opportunity to ask for a continuance.

**Old Business:**

1. **Case #3445-** The petitioner, **Weathervane Massapoag LLC**, for property located at **Massapoag Street** also shown on Weymouth Town Atlas sheet 44, block 504, lots 8, 9 & 40 and sheet 44, block 505, lots 1 & 2, located in the R-1 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

<b>Special Permit</b>	120-63	Planned Unit Development
<b>Variance</b>		Planned Unit Development

The subject property is 6.9 acres of land mostly vacant with two single family dwellings located on the property. Per section 120-119(3), petitioner is seeking a variance from the 25 acre minimum required for a planned unit development. Petitioner seeks to construct 8 single family homes under the PUD provision.

Mr. Schneider reported that the applicant has asked for a continuance until the August 11, 2021 meeting.

Mr. Moriarty made a motion to CONTINUE the public hearing on **Case #3445** until August 11, 2021 and was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

2. **Case #3447-** The petitioner, **Frank & Peggy Mullaney**, for property located at **38 Driftway Road** also shown on Weymouth Town Atlas sheet 3, block 2, lot 10, located in the R-1 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

**Special Permit**                      120-40                      extension or change by special permit

The subject property is a 5,062 sf parcel of land with a single family home. Petitioner seeks to remove the home and foundation and rebuild a slightly larger house providing off street parking for 4 vehicles and slightly extending into the side yard setback.

This is a continuation of the public hearing.

Attorney Gregory Galvin appeared before the Board along with the applicant. Mr. Galvin introduce Nicholas Paolucci, the architect, and Stephen Trudeau, the contractor.

Mr. Galvin reported that the applicant has reached out to his neighbors and has attempted to modify the plans in response to their comments.

Mr. Mullaney reviewed the two options that they are considering.

Mr. Galvin reported that whether this request is approved or not, the house has to be rebuilt as the foundation will not support any renovations.

Mr. Moriarty questioned the height of the existing versus proposed.

Mr. Paolucci stated that the height comparison is as follows:

- Existing height is 24' 10" from average grade
- Height from street is 28'
- Average grade on new height is 33'

The existing square footage is 1800. The new square footage, including the basement is 3236 sf. The 1<sup>st</sup> and 2<sup>nd</sup> floors are 1254 sf each and the basement is 728 sf.

Mr. Schneider stated that in a memo from the fire department. Deputy Fire Chief Myers recommended that non-flammable siding be used. He also requested residential sprinklers be added. Mr. Schneider noted that the applicant has already mentioned using the non-flammable siding. He stated that residential sprinklers are not required by code so the applicant would have to agree to this. He pointed out that there was no objection to the project and no concern about street access and the he preferred option A over option B, which is the option is asking the Board to vote on.

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

Ellie Cochran, 11 Canacum Road, stated that this will set a precedent for the neighborhood. She added that just because other houses are close together doesn't make it right to make it more so.

Mary O'Donnell, 32 Driftway, stated that she wanted the building to stay on the existing footprint.

Don Trudeau, 49 Fort Point Road, stated that the Mullaney's are his cousins. He also stated that his son lives at 38 Driftway. He stated that he thinks that getting the cars off of the street is good for the neighborhood.

Linda Willse, 36 Driftway, read her letter about her concerns regarding this project. She expressed concerns about views, drainage, and character of cottage neighborhood. She also expressed concern that excavation for this project could threaten stability of home. She requested that the project keep within the existing footprint.

Francis Araujo, 42 Driftway, stated that Mr. Mullaney addressed her concern about water runoff. She requested that the project keep within the existing footprint

Tamara Lawson, 28 Canacum Road, expressed concern about setting a precedent by putting such a large house on this lot.

Mr. Moriarty made a motion to close the public hearing and was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

Mr. Denizkurt made a motion to APPROVE the request for a SPECIAL PERMIT for **Case #3447**.

#### **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 motion was seconded by Mr. Moriarty. The motion FAILED on a 3-1 Vote with Mr. Diem in opposition.

3. **Case #3449-** The petitioner, **Justin Ryder**, for property located at **734 Pleasant Street** also shown on Weymouth Town Atlas sheet 35, block 444, lot 36,

located in the R-1 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

<b>Variance</b>	<b>Table 1</b>	<b>Dimensional requirements</b> minimum lot size; rear yard set back
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The subject property was part of a 3-lot subdivision with each lot having a minimum of 25,000 sf. Petitioner seeks to subdivide the land contested in land court leaving the lot with a partially constructed home with 21,942 sf and a contested lot of approximately 3,065 sf.

Attorney Galvin appeared before the Board along with the applicant. Mr. Galvin gave an overview of the request. He stated that the applicant did not cause the hardship.

Mr. McLeod stated that this is a proper case for the Board to decide a variance.

Mr. Denizkurt asked if the applicant had known about the square footage discrepancy and lawsuit, could they have subdivided differently. Mr. Ryder reported that yes, had they know they could have subdivided differently.

Mr. Galvin reported that the first lot sold long before the lawsuit was filed.

Mr. McLeod asked if the lawsuit affected the sale of the second lot. Mr. Galvin stated that the lawsuit did not as it does not abut the neighbor's property.

Mr. Denizkurt asked if there is a definitive end date for the court proceedings. Mr. Galvin reported that they are in the early stages of discovery so there is no definitive end date.

Mr. Diem asked if the applicant has been any further discussion with the abutter. Mr. Galvin reported that they are attempting to set something up with him.

Mr. McLeod asked that if this variance were granted, the applicant would not be concerned about the lawsuit. Mr. Galvin stated that the client will still need to resolve the lawsuit.

Mr. Luongo reported that he signed off on the Approval Not Required (ANR) for the property in question. He noted that at that time, he was aware of the property line dispute but is required to sign off on the ANR.

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

Jonas Jacobson appeared before the Board on behalf of the abutter. He stated that two people who have not been mentioned are Kathleen and Terrence Ryan. He also stated that the matter involves 8000 SF, not 3000 SF. He added that 5000 SF of the

property encumber the Ryan's property. Mr. Jacobson provided a copy of an email for the Board to review and asked them to read it and review the date.

Mr. Jacobson submitted documents to the Board which were marked as follows:

- Exhibit 1 = email
- Exhibit 2 = plan
- Exhibit 3 = Plan dated 9/10/2019
- Exhibit 4 = Plan dated 4/10/2020 (lot as sold to the Ryan's)
- Exhibit 5 = Letter from Mr. Jacobson
- Exhibit 6 = Plan submitted by Mr. Flaherty

Mr. McLeod explained to Mr. Jacobson that the negotiations between the applicant and the abutter are not relevant to whether the Board issues this variance. The variance is based on whether or not a hardship exists.

Mr. Luongo stated that at no time did Mr. Ryder represent to him when he was making adjustments to his ANR plan did he make a representation that he was making the change to put the burden of the lis pendence on one property. The purpose was to keep the lots in conformity to town requirements. He added that there are three buildable lots.

Mr. Moriarty asked when the lawsuit was filed. Mr. Jacobson responded that it was filed on June 30, 2020 which Mr. Ryder confirmed.

Justin Ryder stated that he purchased the property in May of 2018.

Mr. Flaherty, the abutter, spoke before the Board. He stated that he has been misrepresented and does not appreciate the comments made about him to this Board by the applicant. He stated that Mr. Ryder did damage to his property when he did blasting and pushed rock and boulders into the wetlands.

Mr. Luongo asked about time limits. The application was submitted April 28, 2021. Mr. Galvin agreed to waive the time limit until August 12, 2021.

Mr. Moriarty made a motion to CLOSE the public hearing and was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

Mr. Moriarty made a motion to TAKE THIS MATTER UNDER ADVISEMENT with the understanding that the applicant has waived the time limit until August 12, 2021 and was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

4. **Case #3450-** The petitioner, **Nick Beaujean**, for property located at **16 Paomet Road** also shown on Weymouth Town Atlas sheet 4, block 34, lot 26, located in the R-1 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

<b>Special Permit</b>	120-40	extension or change by special permit
<b>AND/OR</b>		
<b>Variance</b>	Table 1	Dimensional requirements

The subject property is 3200 sf parcel of land with two single family dwellings located on the property. Petitioner seeks to convert the two legal single-family residences into one duplex.

Mr. McLeod stated that the applicant was not present at the last meeting and is not present this evening.

Mr. Moriarty made a motion to DISMISS WITHOUT PREJUDICE **Case #3450** and was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

5. **Case #3452- WITHDRAWN BY APPLICANT** The petitioner, **James Calabro**, for property located at **234 River Street** also shown on Weymouth Town Atlas sheet 3, block 2, lot 34, located in the R-1 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Variance	Table 1	Dimensional requirements - maximum lot coverage
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The subject property is a 5,485 sf parcel with a two family home. Petitioner seeks to construct a single story garage.

Mr. Moriarty made a motion to allow the applicant to WITHDRAW the application and was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

#### **New Business:**

1. **Case #3454-** The petitioner, **New Cingular Wireless PCS LLC (AT&T)**, for property located at **87 Wharf Street** also shown on Weymouth Town Atlas sheet 19, block 172, lot 2, located in the PIP District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

<b>Special Permit</b>	120-40	extension or change by special permit
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The subject property is a 389,949 sf parcel with two buildings on the site. One building has an attached 160' above ground level smokestack upon which is located wireless communications services facility antennas. Petitioner seeks to temporarily install a 120' above ground level temporary and removable monopole-style ballasted tower with 6 panel antennas mounted to be located within a Cell on Wheels shelter within a temporary fenced compound area.

Mr. Moriarty made a motion to open the public hearing on **Case #3454** and was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

Mr. Moriarty made a motion to waive the reading of the public notice and was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

Edward Pare, an attorney with Brown Rudnick, appeared before the Board along with Dan Bilezikian, site acquisition consultant for AT&T, and Sahir Usmani, RF engineer with AT&T.

Mr. Pare stated that he represents AT&T and is before the Board because their lease is up for the location on the town-owned smokestack. He reported that as the smokestack is set to be demolished, AT&T is requesting a temporary 120 foot ballast pole with a steel frame and concrete at the base while they look for another location. The pole would encompass a 25' x25' area with a trailer and would be fenced-in under a license agreement with the town.

Mr. Pare stated that temporary pole will be located next to the school department building on Wharf Street.

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

Mr. Moriarty made a motion to close the public hearing and was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

Mr. Moriarty made a motion to APPROVE the request for a SPECIAL PERMIT for **Case #3454**.

#### **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 motion was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

2. **Case #3455-** The petitioner, **Lynne & Martin Barnes**, for property located at **94 & 96 Prospect Hill Drive** also shown on Weymouth Town Atlas sheet 3, block 4, lots 30 & 31, located in the R-1 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

**Special Permit**

120-40  
Table 1

extension or change by special permit  
Dimensional requirements minimum lot  
size

The subject properties consist of a 7,467 sf parcel with an existing single-family dwelling and a 21,228 sf parcel with an existing single family dwelling. Petitioner seeks convey a portion of 96 Prospect Hill Drive to 94 Prospect Hill Drive.

Mr. Moriarty made a motion to open the public hearing on **Case #3455** and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

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

Paul Seaver, Grady Consulting, appeared before the Board along with the applicant.

Mr. Seaver stated that the applicant owns both properties in question and would like to convey property from 96 Prospect Hill Drive to 94 Prospect Hill Drive. He reported that Mr. Barnes plans to sell 96 Prospect Hill Drive and add an addition to 94 Prospect Hill Drive.

Mr. Barnes stated that he would like to be able to easily access the pool that is currently part of 96 Prospect Hill Drive by conveying the land to 94 Prospect Hill Drive.

Mr. Seaver pointed out that the lots will be 18,076 and 10,620 SF.

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

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

Mr. Denizkurt made a motion to **APPROVE** the request for a **SPECIAL PERMIT** for **Case #3455**.

**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 motion was seconded by Mr. Moriarty. Motion PASSED on a 4-0 vote.

**Other Business:**

**1. Election of officers**

Mr. Moriarty made a motion to NOMINATE Kemal Denizkurt as the vice-chairman as Ed Foley has retired from the Board and was seconded by Mr. Diem. Motion PASSED on a 4-0 vote.

Mr. Denizkurt made a motion to NOMINATE Jonathan Moriarty as the clerk and was seconded by Diem. Motion PASSED on a 4-0 vote.

Mr. Denizkurt made a motion to NOMINATE Richard McLeod as the chairman and was seconded by Mr. Diem. Motion PASSED on a 4-0 vote.

**2. Minutes: 5/5/2021**

Mr. Moriarty made a motion to approve the minutes from 5/5/2021 and was seconded by Mr. Denizkurt. Motion PASSED on a 4-0 vote.

**3. Upcoming Meetings: August 11, 2021**

**4. ADJOURNMENT**

Mr. Moriarty made a motion to adjourn at 9:30 p.m. and was seconded by Mr. Denizkurt. VOTED UNANIMOUSLY.

Approved by:  
Mr. Moriarty, Clerk



8/25/2021  
Date