

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

April 14, 2021, 7:00 p.m.

VIRTUAL

Cisco Webex Meetings

2021 JUN 18 PM 3:09

**Members Present:** Richard McLeod, Chairman  
Kemal Denizkurt  
Jonathan Moriarty  
Rob Christian  
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. via Webex and explained the procedures that would be followed to the people present.

**Old Business:**

1. **Case #3437-** The petitioner, FoxRock 200 Libbey, LLC, for property located at 200 Libbey Industrial Parkway also shown on Weymouth Town Atlas sheet 34, block 435, lot 141, located in the POP District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit and/or Variance as follows:

- Section 120-51 Schedule of District Regulations, Table 1: Schedule of District Regulations:
- Special Permit: Height: 3 stories, not to exceed 35 feet; up to 6 stories, not to exceed 80 feet, by Special Permit.
- Variance: Lot Coverage Area: Variance to exceed 60% lot coverage area
- Section 120-38.3/120-38.4 - Flood Plain Special Permit;
- Section 120-62.1 Landscaping - Variance from Front Yard Landscaping requirement;
- Section 120-64.4 Signs in Industrial Districts - Variances from the square footage and location limitations for Wall Signs and Freestanding Signs
- Section 120-74.I. - Off-Street Parking - Variance from Minimum Required Spaces for Medical Office

The subject property is 187,308 sf parcel of land with a mostly vacant industrial building located on the property. Petitioner seeks to replace 2 story building with a 3 story medical office building.

Attorney Edward Fleming appeared before the Board on behalf of the applicant. He reviewed the relief being requested. He reported that the applicant is requesting a special permit for building height as well as a floodplain special permit.

Mr. Fleming stated that they are seeking variances for parking, lot coverage area, and front yard landscaping. He pointed out that a sign variance previously requested is no longer needed based on discussions with the Planning Board. Mr. Fleming reported that the applicant would ask to withdraw the request for the sign variance without prejudice.

Mr. Fleming addressed concerns about parking. He noted that there are 275 parking spaces, which he believes are adequate for the proposed use. He noted that the town's Building Director has submitted a letter that reports that the parking satisfies the requirements. He reviewed the sections of the town's bylaws regarding parking.

Mr. Fleming stated that they would still ask for the parking variance.

Mr. Fleming asked for the Board to affirm that the use of the building by a hospital for medical use complies with the medical office use in an industrial park provision. The building will be for medical office use, not hospital use.

Mr. Fleming reported that an Order of Conditions has been issued by the Conservation Commission.

Mr. Fleming stated that the hardship is the soil conditions on the site as a portion of the site is in the pond and part of site is unusable due to wetland provisions.

Josh Kleinman confirmed that Boston Children's Hospital would be the tenant if this proposal is approved. He reported that the project will use union labor and Bond is the contractor. He requested that tonight's comments be directed at the permitting aspect of the project and that any other questions be directed to him later for discussion.

Martin Batt reviewed the changes to the architectural design of the building.

Mr. McLeod stated that what the applicant decides regarding union labor and the trades is not relevant to this permitting process. He reiterated the point in requesting that those present keep their comments to the permitting process.

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

Edward Foley, 54 Harding Ave, stated that he is speaking as a resident. He reported that he is pleased with the architectural design.

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 two SPECIAL PERMITS, one for height and one for the floodplain for **Case #3437**.

#### **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.

Mr. Moriarty seconded the motion. UNANIMOUSLY VOTED.

#### **VARIANCES**

Mr. Denizkurt made a motion to APPROVE this application for a variance for LOT AREA COVERAGE on **Case #3439**. The lot area cover will be 69% which is a reduction compared to the existing site conditions. The applicant has demonstrated a hardship exists due to the location and the shape of the lot. Also, there are additional setbacks required by the proximity of Whitman's Pond and the wetlands restrict the site layout plans. The Board is able to grant the variance without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Denizkurt made a motion to APPROVE this application for a variance for FRONT YARD LANDSCAPING on **Case #3439**. The applicant has demonstrated that a hardship exists due to the shape and location of the lot abutting Whitman's Pond and wetland setbacks that restrict the location of site improvements and necessitates locating the off-street parking in the front of the lot, which will reduce the amount of space in the front yard to approximately 17 feet. The Board is able to grant the variance without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Denizkurt made a motion to APPROVE this application for a variance for PARKING on **Case #3439**. The applicant has demonstrated a hardship in the shape and location of the lot. The applicant has provided analysis based on medical use of the facility, which is allowed and has been reviewed and approved by town staff. The Board is able to grant the variance without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

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

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

**New Business:**

1. **Case #3433-** The petitioner, William Panarello, for property located at **245 Sea Street** also shown on Weymouth Town Atlas sheet 4, block 49, lot 17 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.
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The subject property is a 7,567 sf parcel of land with a single family home. Petitioner seeks to extend the existing third floor.

Mr. Moriarty made a motion to open the public hearing on **Case #3433** 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.**

Mr. Panarello stated that the plan is to take a dormer that is on the top and turn it sideways and extend it out over the boat house. This will bring the upstairs out over the boathouse using the existing footprint.

Mr. Foley asked if this request is for a variance. Mr. Schneider reported that this is only a request for special permit.

Mr. Schnider reported that this application has been through a rigorous review through town departments. He noted that there is a question about the number of bedrooms. He pointed out that this is not relevant to the current request but just a point of clarification for the applicant as there may be additional water/sewer fees.

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

Councilor Pascale Burga, District One Town Councilor, stated that she has met with the applicant and the neighbors. As the roof is not being raised, she reported that there are no concerns with the project.

Juliane Jessop and Christopher Boudreau, 239 Sea Street, stated that they are abutters and are in support of this project.

Bryan O'Brien, 14 Ocean Avenue, stated that he is an abutter and has no issues with this project.

Ms. Panarello stated that the home has four (4) bedrooms. They are making the master bedroom larger. Mr. Schneider reported that the town plans show three (3) bedrooms. Mr. Panarello reported that the downstairs library was used as a 1<sup>st</sup> floor bedroom for his father.

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 #3433**.

#### **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. UNANIMOUSLY VOTED.

2. **Case #3438**- The petitioner, 88 Pleasant St LLC, for property located at **88 Pleasant Street** also shown on Weymouth Town Atlas sheet 45, block 518, lot 26, and **22 Fogg Road** also shown on Weymouth Town Atlas sheet 45, block 518, lot 18, located in the B-2, R-1. MSD and WPD Districts. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit	120-27C	Multiple dwelling by special permit
Variance	Table 1	FAR requirement

The subject property is a 25,656 sf parcel of land with a two story 12,181 sf former bank building and a 8,250 sf parcel of land. Petitioner seeks to demolish the existing building and construct a mixed-use building of 30 residential units and two commercial units facing Pleasant Street. The new building will be 29,950 square feet.

Mr. Foley made a motion to open the public hearing on **Case #3438** 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.

Hugh McLaughlin and Jerry Cavanaugh appeared before the Board along with Michael Rocino, project architect, EMBR architects. Mr. McLaughlin stated that they are proposing mixed-use residential and retail. He reported that he has spoken at length with Mr. Luongo and Mr. Schneider.

Mr. Rocino gave a presentation on the design of this plan. He stated that the subject property is located in three zoning districts: B-2, R-1, and medical services. He reported that the requested variance is for the floor/area ratio (FAR). There will be a total of 30 units with nine studio, ten one-bedroom, and eleven two-bedroom units.

Mr. Rocino stated that there will be a pedestrian link to Pleasant Street from Fogg Road. He added that there will be no wall pack lighting. There will be sconce lighting and dark sky lighting in the parking lot. Although not required, a right-of-way access will be maintained for an abutter.

Mr. Rocino stated that the project is designed to be built only in the B-1 zone. The current FAR is .30. If the project were to keep this FAR it would reduce the project to half its size and would not be financially feasible.

Mr. McLeod asked where the parking for the commercial space will be.

Mr. Rocino replied that there is municipal parking across the street. He also noted that they have eliminated access to this property from Pleasant Street.

Mr. Foley asked what the project would look like if they did not obtain the variance. Mr. Rocino stated that the project would be reduced by 50%.

Mr. Foley asked if there is a potential tenant for the commercial component. Mr. Rocino reported that there is none at this time.

Mr. Foley encouraged the applicant to consider a restaurant for the location.

Mr. Foley asked if there were any material samples. Mr. Rocino stated that he did not have any. He noted that he could make a sample board.

Mr. Luongo stated that the applicant has agreed not to use "dryvit" material. He reported that the applicant will also be submitting material samples to the building inspector and the planning department to ensure that quality materials are being used.

Mr. Luongo reported that parking capacity is available in the municipal lot and on-street parking is also available. The curb cut on Pleasant Street will be eliminated. This will become part of the pedestrian walkway.

Mr. Luongo stated that there has been a community meeting. He added that although Councilor Dwyer is unable to attend the meeting this evening, he believes that he supports this project.

Mr. Rocino stated that there will be three affordable units in the project.

Mr. Diem asked about the existing footprint as compared to the proposed. The applicant provided a plan that showed the footprints.

Mr. Diem asked about rooftop mechanicals and where the main utilities will be located.

Mr. Rocino reported that some mechanicals will be on the roof but will be screened and kept towards the middle of the roof.

Mr. Luongo asked if the 1<sup>st</sup> floor parking will be screened. Mr. Rocino reported that it will be screened.

Mr. Luongo asked if there is a lighting plan that shows the fixtures. Mr. Rocino reported that there is a lighting plan.

Jeff Hassett gave an overview of the lighting plan. He noted that there will be no wall packs.

Mr. Luongo reported that the applicant will provide a permanent easement for the walkway that connects the hospital to Pleasant Street.

Mr. Luongo reviewed the three zoning districts as related to this application.

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

Phil Kelbeck, President of the Columbian Square Business Association and Chairman of the Fogg Library, stated that he welcomes the improvements in the square.

Michael Wilcox, 418 Union Street, stated that he also welcomes the improvements in the square.

James Southwood, 17-19 Blanchard Road, agreed with the previous two speakers. He suggested that a restaurant be part of the plan if possible. He also spoke of the need to address the pedestrian situation in Columbian Square.

Mr. Schneider pointed out that this project does not fall under the jurisdiction of the Conservation Commission. The town's traffic engineer reviewed the plan and made

changes that the applicant agreed to implement. DPW and Engineering will be looking for test pit and drainage calculations to be submitted before their final sign-off.

Mr. Foley asked when the siding samples would be available for viewing. Mr. Rocino stated that he will get them as soon as possible. Mr. Foley also noted that the cut sheets and hard copies of the architectural drawings need to be submitted.

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 #3438.

### **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:

- Test pit and drainage calculations will be submitted prior to approval of any permits being issued.
- Lighting Plan is subject to review and approval by the Planning Board.
- 10% of units (three units) will be affordable at 80% of the Metropolitan Boston Area median income.
- Grant an easement to the town of Weymouth for a walkway on the property from Fogg Road to Pleasant Street.

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

### **VARIANCE**

Mr. Foley made a motion to APPROVE this application for a variance because the applicant has shown a hardship due to the special circumstances of the property being in three zoning districts (B-2, R-1, MSD). The Board is able to grant the variance without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

3. **Case #3439-** The petitioner, Ann Fairchild, for property located at **125 Fort Point Road** also shown on Weymouth Town Atlas sheet 2, block 12, lot 6, located in the R-1 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:



Variance

Table 1

Maximum height requirement

The subject property is 8,596 sf parcel of land with single family dwelling located on the property in the Coastal A flood zone. Petitioner seeks to raise the existing structure in order to meet the minimum FEMA floodzone requirements.

Mr. Foley made a motion to open the public hearing on **Case #3439** 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. Moriarty. UNANIMOUSLY VOTED.

Attorney Raymond Jennings appeared before the Board on behalf of the applicant. He reported that this property is located in a Coastal Flood Zone. The raising of the house is mandated by the Federal Emergency Management Agency (FEMA). The petitioner is raising the house the minimum amount required to bring it into compliance with FEMA regulations.

Mr. Jennings stated that a 2 ½ story structure in Weymouth is not to exceed 35 feet. This proposal would bring the height to approximately 38 feet and 8 3/8 inches. He pointed out that only 10% of the house will be more than 35 feet high.

There was discussion regarding the height and that no more than 39 feet is approved. Anything higher will require further relief from the board.

The hardship is created by the regulation of FEMA and the coastal zone designation.

Mr. McLeod asked for details of the material covering the poles lifting the building

Mr. Foley asked if there will be additional construction on the building. Mr. Jennings reported that other than raising the building, there is no additional construction planned. The footprint will remain the same.

Mr. Diem asked about the screening at street level. Steve Lively, the applicant's husband, reported that he was uncertain but that it will meet FEMA and town requirements.

Mr. Jennings reported that the openness factor requirement of the screening is 20%.

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

Kevin Harris, 119 Fort Point Road, spoke in support of this request. He reported that the screening is required by FEMA. The structural engineer confirmed that there will be a 2 to 1 ratio of the space between the boards and the size of the board

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

### **VARIANCE**

Mr. Foley made a motion to APPROVE this application for a variance on **Case #3439** because the applicant has shown the hardship in that they are required by FEMA to meet flood zone requirements. The Board is able to grant the variance without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance. The following conditions will apply:

- The height of the house will not exceed 39 feet.
- The type and style of screening to be worked out with neighbors for consistency.
- The screening will be completed within six months of the completion of the project.

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

4. **Case #3440-** The petitioner, Brianna Mederios, for property located at **40 Nelson Road** also shown on Weymouth Town Atlas sheet 61, block 639, lot 3, located in the R-1 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit	120-13 B(2)	Garage structure made of prefabricated Metal
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The subject property is a 10,028 sf parcel of land with single family dwelling located on the property. Petitioner seeks to build a 30' x 30' free standing metal garage.

Mr. Foley made a motion to open the public hearing on **Case #3440** 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.

Brian Aldabeh, the applicant's fiancé, stated that he seeking to build a pre-fabricated garage in the back section of the property.

Mr. McLeod asked what the building material will be. Mr. Aldabeh stated that it will be galvanized steel, colored matched to the house.

Mr. Foley asked if there is a certified plot plan.

Mr. Schneider reported that the Building Department did not require a certified plot plan. He continued that two years ago the zoning ordinance was amended to have board review of the prefabricated structures primarily because they were going up without review. Per the Building Department, it is a temporary structure. The reason

for board review is also to give neighbors the opportunity to weigh in on the structure. This is not a dimensional request.

The structure will be 30 feet x 30 feet and will be five feet off both property lines. The height will not exceed 14 feet at peak. There will be one bay door (10 feet by 10 feet) and one side entry door. There is not an existing garage on the property.

There will be six-foot cedar fencing around the property and the front of the proposed structure will not be visible from the street except for the top half. The structure will be used as a storage shed for such things as a motorcycle, a dirt bike, and lawn equipment.

Mr. Denizkurt stated that a condition to be considered would be that no home business use is allowed.

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

Bob Joyce, 35 Jessica Lane, stated that he abuts the applicant's property to the rear and has spoken with him. Mr. Joyce reported that he has no objections to the project.

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 #3440.

#### **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:

- There will be no home business, plumbing, or work in the structure.
- The unit will have a gabled front with a garage door on the front and the entry door on the right side

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

5. **Case #3441-** The petitioner, John Larmey, for property located at **69 Old Country Way** also shown on Weymouth Town Atlas sheet 17, block 226, lot 70,

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

Variance	120-54	Confinement of Accessory Uses to rear yard
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The subject property is 9,700 sf parcel of land with single family dwelling located on the property. Petitioner seeks to install an above ground pool, deck and 6ft fence.

Mr. Foley made a motion to open the public hearing on Case #3441 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. Moriarty. UNANIMOUSLY VOTED.

Mr. Larmey stated that he would like to install an 18 foot diameter pool in his front-facing side yard with a deck surrounding half of the pool. He stated that this type of use is not allowed in the front-facing side yard; however, the hardship is due to the shape of property, which is narrow, and there is not sufficient room in back yard.

Mr. Larmey submitted a petition from neighbors in favor of the application.

Mr. Larmey stated that the pool will be 10 feet off the rear property line and 11 feet from the front. The deck around the pool will be 22 feet x 16 feet.

Mr. Schneider pointed out that this application is similar to one approved by the Board in 2015 on Clematis avenue in North Weymouth. He also noted that this situation is similar to his abutters. The request is in keeping with the character of the neighborhood. Due to the shape, size and topography of the lot, there is not enough room in the back for the pool.

Mr. Moriarty asked if the pool is fenced. Mr. Larmey reported that one of his abutting neighbors has a wooden picket fence, and the other has a stone wall with a six-foot vinyl fence. The pool will be screened on all sides as Mr. Larmey will install a vinyl fence on the front side of his property so that the pool will be completely fenced. The pool will be aluminum and the deck will be wooden with concrete footings.

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. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3441.

## **VARIANCE**

Mr. Foley made a motion to APPROVE this application for a variance on **Case #3441** because the applicant has shown that the shape, size, and topography of the lot create a hardship. The Board is able to grant the variance without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

**Other Business:**

1. Minutes: NONE
2. Upcoming Meetings: May 5, 2021
3. ADJOURNMENT

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

Approved by: \_\_\_\_\_

Mr. Denizkurt , Clerk



06-16-2021

Date