

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

August 9, 2023, 7:00 p.m.

Weymouth High School, Humanities Center
1 Wildcat Way, Weymouth, MA 02190

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Members Present: Kemal Denizkurt, Chairperson
Jonathan Moriarty, Vice-Chairperson
Brandon Diem, Clerk
Carsten Snow-Eikelberg
Nicole Chin
Jon Lynch, Alternate

Also Present: Robert Luongo, Director of Planning
Eric Schneider, Principal Planner
Monica Kennedy, Assistant Planner
Richard McLeod, Town Solicitor

Recording Secretary Janet P. Murray

Chairperson, Kemal Denizkurt, called the Board of Zoning Appeals meeting to order at 7:00 p.m. in the Weymouth High School, Humanities Center, 1 Wildcat Way, Weymouth, MA 02190 and explained the procedures that would be followed to the people present.

Old Business:

Members Present: Jonathan Moriarty, Acting Chairperson
Brandon Diem, Clerk
Carsten Snow-Eikelberg
Nicole Chin
Jon Lynch, Alternate

Case #3473 - Remand in accordance with Land Court Docket Number 23MISC000052. The petitioners, McDonald Keohane Funeral Home, Inc, for properties located at **809 Main Street** also shown on Weymouth Town Atlas sheet 45, block 515, lots 4, 5 & 14 located in the Medical Services, R-1 & Watershed Protection Districts, seeking relief from the Board of Zoning Appeals to grant a special permit for the expansion/alteration of its funeral home.

Mr. Denizkurt stated that as in the original hearing of this case, he is recusing himself from hearing the case. Board Member Jonathan Moriarty will be the acting chairman. There will be an alternate seated so there will be five seating board members to act on the application.

Ms. Snow-Eikelberg made a motion to open the public hearing on **Case #3473** which was seconded by Ms. Chin. **UNANIMOUSLY VOTED.**

Richard McLeod, Town Solicitor, stated that he was before the Board in July, and he explained the remand process. At that time, the applicant had applied for a special

permit but did not achieve a supermajority vote. This result was tantamount to a denial of that application. The applicant filed an appeal in land court. Mr. McLeod stated that his office filed an answer supporting the board's decision to reject it.

During the course of that procedure, the parties attended a status conference with the judge assigned to this case. She reviewed the materials, reviewed a joint submission of a memorandum on the status, and the evidence that was relied upon. She recommended that both parties attend mediation, looking at the issues that were involved. The parties had agreed and retained the services of a retired Land Court judge by the name of Leon Lombardi.

Mr. McLeod explained that “the parties” means the town of Weymouth and the applicant and does not include the residents. He stated that the parties who attended mediation on behalf of the town was himself, Mr. Luongo, the Director of Planning and Development, as well as his assistant Marsha Geronitis. After about three hours of mediation, the parties came up with a list of conditions in a revised plan; a plan that the parties believe would be suitable to remand this matter for the Board’s consideration. He reminded the board that what the parties did at mediation has no impact on their ability to decide this case. The Board has the sole and exclusive authority to decide this case; whether to approve it, reject it, or approve it with conditions submitted or other conditions the Board may have.

He reminded the Board to treat this as an application that has come before the Board for the first time. He noted that the Board has the benefit before them of the decision that was made by the prior board, the basis of the decisions, and the board members that spoke in favor and against the application.

Mr. McLeod stated that at the time of the mediation, the parties believed they reached an agreement that should be remanded to the Board. After mediation was concluded the parties continued to engage in discussions and modifications of that plan. Those additional considerations were put into the plan that’s before the Board.

Mr. Moriarty asked if there was a list of exhibits. Mr. McLeod stated that the Board should have one and suggested that these exhibits be marked.

Attorney Tocchio agreed to the listing of the exhibits discussed.

Mr. Schneider reported that the ones he is aware of are as follows:

- Exhibit A: letter from Attorney Joanna Schneider representing the neighborhood
- Exhibit B: Correspondence sent to the board from resident Cathy Swain.
- Exhibit C: Letter from George Berg as president of the Weymouth Chamber of Commerce
- Exhibit D: Letter from Eric Dykeman as president of the South Shore Chamber of Commerce
- Exhibit E: Copy of the plans and proposed conditions numbered 1-20

Mr. Moriarty explained that, procedurally speaking, this is not a remand with conditions from a judge saying this is what the Board must do. He continued that is a plan that came from the mediation process.

Mr. Moriarty further explained the possible outcomes of today's hearing.

Attorney Jeff Tocchio appeared before the Board with Scott Golding from his office as well as with John Keohane and Tim Keohane, the applicants. He stated that Chris Mulrey from Crocker Design Group was also present.

Mr. Tocchio stated that he would concentrate on the changes that resulted from the mediation with Judge Lombardi. He explained that after mediation they reported the mediation case settled and it went back to Judge Reuben; she issued the order. He continued that he has submitted to the Board a remand application.

Mr. Tocchio stated that they have made changes to where the doors are as there were concerns that people would want to line up there. He continued that they removed those stairs. He noted that instead of having a switchback handicap ramp they extended the ramp all the way down to the east side/Main Street side of the building. He added that the handicap ramp is wider and allows for two way passage.

Mr. Tocchio reviewed the rendering as to where the stairs and the doors were and pointed out where the ramp would now go. He added that they came up with a landscaping regimen that includes very high plantings. There will also be an overhang.

Mr. Tocchio stated that they eliminated two spaces in the Southwest in the medical services district. He continued that they additionally eliminated five spaces which were to the south of the garage. This space will be replaced with grass.

Mr. Tocchio stated that with the zoning freeze, the request was made to re-isolate 19 Cypress Street to remain a residential property consistent with the R-1 zoning designation. He pointed out that they have agreed to do that.

Mr. Tocchio stated that there was a request by Council from the neighbors that there be a deed restriction basically restricting it to residential use as a residentially zoned house. He continued that this is not necessary, goes against public policy, and does not make sense.

Mr. Tocchio pointed out that the only things that are in the residential in addition to the four-bay garage are 11 spaces which eliminates all of the previously proposed residential spaces at the southwest corner.

Mr. Moriarty stated that he likes the screening on the ramp and that the patio is gone.

Ms. Snow-Eikelberg asked about the drop off procedures for someone who needs to access the ramp.

Mr. Tocchio referred to the rendering on the screen and explained there is an opening on the front of the ramp on the east side. There is also an opening that is conforming with respect to the Americans with Disabilities Act (ADA) requirements on slope. He then indicated where there is another opening.

Mr. Lynch asked about snow removal with the removal of the five spaces in the back.

Mr. Tocchio stated that the current plan is for the snow to go onto the grassy area where the paved spots were eliminated.

Mr. Moriarty asked if the garage was relocated.

Mr. Tocchio stated that it is in the same spot. He reported that they offered to move the garage, but the answer was no and to keep it as far away from the residential properties is possible. He noted that the dumpster is there as well.

Mr. Moriarty asked about the pitch of the garage roof.

Mr. Tocchio stated that they lowered the pitch in response to complaints that it was too high. He noted that the garage will be used to store the hearse and the other professional vehicles that are currently parked outside.

Ms. Chin asked if the screenings are evergreen type.

Mr. Tocchio stated they are all evergreen and will be seven to nine feet as planted.

There was discussion about the garage; it will be 17.7 feet high, have a hip roof, and carriage doors constructed with all residential materials.

Mr. Diem asked about condition number 20, which states that the 11 spaces in the R-1 District are supposed to be used as a last resort as overflow parking area and how this would be managed/monitored.

Mr. Tocchio stated that as noted in condition 11, there will be people outside in the lot. He noted that there are various requirements in the conditions as far as making sure that people are not congregating.

Mr. Diem asked if there was intention to rope the back spaces off.

Mr. Tocchio stated that no roping is planned.

Mr. Moriarty stated he would like to modify condition number 20 to the extent that it imposes an obligation to monitor. He noted that he does not want to see 11 fluorescent orange cones.

Mr. Diem suggested that the employees park in those 11 spaces.

Mr. Tocchio noted that this could happen and stated that employees currently park to the rear.

Mr. McLeod stated he represented the Zoning Board of Appeals and its decision and filed an opposition to the appeal. He continued that the residents do not fully agree with the plans that have been presented. He noted that during the course of mediation, before and after, and for transparency reasons, he had direct communications with the residents' representatives, not the attorney, to keep them in the loop as to what was taking place. He stated that the residents are strongly opposed to this plan.

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

Ken DiFazio, District Three counselor, thanked the board for conducting the mediation as it sounds like it was successful in that they came to an agreement. He stated that he would concede that the applicant has gone the extra yard to make as many changes as possible, however, he pointed out that this is a special permit application and he has had no less than, nine or 10 emails or telephone calls over the last two weeks. There is still displeasure with some of the design of this project. He asked that the residents' concerns be heard tonight and taken seriously.

Greg Shanahan Counselor-at-Large echoed Councilor DiFazio's comment regarding the neighbors. He stated that any project going forward needs to have at least some participation and that he is disappointed to hear that the neighbors were not brought fully on board. He added that more discussion needs to be heard and the neighbors need to be listened to.

Counselor Shanahan questioned the location of the garage in the R-1 area. If it is to be as far away as possible from the residences, would it be better for it to abut the South Shore Hospital property.

Mr. Tocchio stated that there are a lot of other places where it could be located. He stated that they have it along the back for access and for the aisle widths coming in. He continued that this location ended up being the place that fits to get all of the vehicles into the garage. If the garage were moved, it would put more active cars into the residential area.

Mr. Tocchio pointed out that the garage will be surrounded by eight foot high cedar solid fencing, all the plantings, and the existing trees which will remain. It will have clapboard on that side.

Gary MacDougall, District Five Councilor stated that hard work has been done on both sides for a long period of time. He stated that there are criteria this project has to meet in order to be approved. One of those criteria is that if the project is a detriment to the neighborhood or the community it should not be approved. He stated that this project as a whole is absolutely a detriment to this neighborhood. This will change the scope of Cypress Street and the neighbors on Columbian Street; they will forever have a very large building that they didn't have when they bought their homes. The proposed project will increase the amount of business, traffic, noise, and light associated with this property. He added that the first decision made was appropriate; he wished that more board members felt the same way.

Jim Kirkcaldy, 181 Columbian Street read a letter that was submitted to the Board from attorney Johanna Schneider.

Mary Beth Barnard, 19 Sargent Road, stated that she and her neighbors remain opposed to this plan as they are still united in their belief that this revised plan presented tonight is too large and intrusive and does not meet all five of the required criteria needed for approval by the board.

Ms. Bernard referenced the BZA decision on November 16, 2022. When reading his decision, Mr. Moriarty stated that he was pleased that the size of the proposed addition was significantly reduced from 6200 square feet to 2600 square feet. This statement was incorrect. She pointed out that the size of the addition has only been reduced to 5400 square feet which will double the size of the existing building to over 11,000 square feet making it twice the average size of funeral homes on the South Shore. She noted that this mistake has since been corrected with the town.

Ms. Bernard stated that the public and the other board members were given the impression that the size of the addition had been greatly reduced; it has not. She continued that Mr. Diem, in voting to approve the prior plan, repeated claims made by the applicant that there will be no substantial increase in the number of guests or services. However, in October the applicant stated there could be up to 125 guests at a service which is significantly more than 50 to 60 guests they now have at such services. In fact, this plan includes a 45 by 60 foot hall that has a seating capacity for up to 200 people. She questioned if these two aspects had been presented correctly, would other board members that voted in favor of this project have voted differently.

Ms. Bernard stated that the plan contains a 52-foot four-bay garage for commercial vehicles located inside the residential district. This garage is more than twice as large as any two car residential garage in the neighborhood. She stated that two parking spaces near 143 Columbian Street have not been eliminated but in fact had been relocated to the other side of the South parking lot. The total number of commercial

parking spaces in the south parking lot nearest the residential homes remains at 31 spaces. There will be a total of 104 commercial parking spaces including the four garage spaces, which is more than twice the number of spaces at most funeral homes in the area. She noted that 12 of these spaces or 11 depending on how you count the plan, are still in the residential zone. This is a reduction of only five commercial spaces from the prior plan.

Ms. Bernard stated that the main visitor entrance is being moved from the front of the building facing route 18 to the south side of the building. The appropriateness of the side entrance has also been questioned by board members Mr. Diem, Ms. Chin, and Mr. Drysdale. Mr. Diem has stated that this side entrance would be intrusive to the neighborhood and expressed concern about it being a nuisance and detrimental to the neighbors. She noted that despite these concerns, the entrance remains on the residential side of the property. She continued that before the mediation process began, Solicitor McLeod and Mr. Luongo met with the neighbors to discuss the plan. Solicitor McLeod asked what the neighbors' priorities would be regarding changes to the plan. She listed three things:

1. Moving the proposed south side entrance to the front or north side
2. Removing the 17 parking spaces in the residential zone
3. Removing the four-bay garage out of the residential zone

Ms. Bernard stated that the Keohane's would not agree to any of these three requests. She stated that they had been told repeatedly, in meetings with Solicitor McLeod, that the placement of the side entrance facing the residential area was non-negotiable. During mediation, Keohane's would not agree to move the side entrance. She continued that what was agreed to in mediation was the removal of the side stairway of the entrance and replacing it with a ramp directly facing the residences along the south side of the building. The ramp would start at the front of the building and all persons entering the building would use the ramp. She pointed out that they recently discovered that the ramp agreed to in mediation has been changed due to ADA compliance and an engineering issue. There will now be an entrance to this ramp coming from the south side of the parking lot. She stated that no one agreed to this change during the mediation as far as she knows.

The result of the mediation between the town and Keohane's is the removal of five parking spaces from the residential zone and a ramp with an entry point not agreed to. She stated that this does not seem to be a compromise as expected through mediation.

Ms. Bernard stated that she resents being labeled as unreasonable by the applicant. She pointed out that she and her neighbors live here, and the proposal will affect them for years to come.

Ms. Bernard reported that today Mayor Hedlund had asked the neighbors to meet with Town staff which they agreed to; however, the Keohane's were not willing to meet.

She also reported that Mayor Hedlund had asked the Keohane's about moving the side entrance to which the answer was no.

She noted that they were not allowed to participate in mediation, and they believe that the Keohane's did not mediate in good faith. The revised plan still does not pass all five criteria required by the town.

Criterion one - this is not an appropriate use due to the major site alterations needed including property regrading, an underground drainage system, the digging up of Columbian and Cypress Streets to provide a new water line, the removal of trees and shrubs, and the placement of a large commercial garage and paved parking lot in a residential zone. The new addition to the funeral home will nearly double the size of the existing building.

The current funeral home, which opened in 1961, is a converted residential home intended to be used for wakes and small funeral services. What is proposed will be a large commercial one stop shop with events that not only include wakes and small services, but larger funeral services and celebrations of life for up to 200 people.

These types of events were not envisioned or intended in 1969 when the special permit for funeral homes was implemented. The fact that this project requires four special permits, in addition to 20 proposed conditions clearly indicates that this is not an appropriate location for this project. It is just too large and too intrusive on a site abutted by a residential zone.

Criterion two - it will be detrimental to the current and future character of the neighborhood. Moving the main entrance to the south side directly facing residential homes will be detrimental to the neighborhood and totally change its character. The current front entrance is far enough away that it causes little distraction unless there is an unusually large gathering. While some trees and shrubs around the ramp may block some of the view, no number of bushes will block noise from people queuing at the side entrance. The noise will intrude on neighbors' homes and backyards and thus become a nuisance and a disturbance. With larger services and celebrations of life in the new hall, there will be more people and more cars at these events bringing more traffic, more noise, and more nuisance to the residential neighborhood. Cars circling through the Columbian Street south side parking lot in direct proximity to residential homes, to get to spaces, and to the exit will disturb neighbors with noise and headlights, often into the evening hours when families are at home with their young children. Having a commercial facility with cars and people on site for much of the day and the evening, so close to neighbors' backyards, will absolutely change the character of this neighborhood.

Criterion five - it will be a nuisance and potential hazard to vehicles and pedestrians. The neighbors still have concerns about the impact this expansion will have on traffic. The traffic study did not account for the impact on route 18 if 50 to 100 cars try to

exit the funeral home at the same time after a large service or celebration of life during the hours of 9am to 2pm.

Ms. Bernard reported that Member Chin, in her decision to deny the permit, expressed concern about the traffic pattern on the site of the funeral home itself due to the design of the traffic flow. The same 50 to 100 cars trying to exit out to route 18 will back up along the front parking lot and along the south parking lot within feet of the backyards on Columbian Street. The noise from idling cars and the buildup of exhaust will have a detrimental effect on the neighborhood as well as become a nuisance and a potential hazard to pedestrians walking on the sidewalk on route 18.

Ms. Bernard requested that the following conditions be added if the board is inclined to approve this project:

1. All work relating to this project be shall be conducted only between the hours of 8am and 5pm, Monday through Friday. No work will be conducted on the weekends.
2. A police detail will be provided if a larger gathering is expected.
3. 19 Cypress Street will have a deed restriction added for this property to preserve it as a single family dwelling in perpetuity. This request will ensure that in the future, the property at 19 Cypress Street will never be turned into commercial usage regardless of what zoning relief a future zoning board may be inclined to grant.
4. The main entrance will remain at its current location at the front of the existing building or be moved to the north side of the building to protect the privacy and safeguard the peace of the homeowners who directly abut the site.

As stated previously, the neighbors remain opposed to the current plan based on the belief that all five criteria have not been met. She continued that while the existing funeral home is located in a large medical corridor in the Medical Services (MS) district along Route 18, those commercial/medical facilities are not permitted to encroach into the surrounding residential land.

The proposed changes to the funeral home will alter the character of the neighborhood as the plan changes it from a structure that fits in with the single family home character to a large commercial facility and parking lot. As residents of this town, she noted that the town cannot afford to continue to lose residential land to commercial use. She asked that the Board reject this plan to preserve the neighborhood.

Ms. Bernard's letter noting the requested conditions was marked Exhibit # _____.

Mr. Moriarty asked if there was anything about the garage in the condition. Ms. Bernard stated that there was not.

Sonia Poulin, 143 Columbian Street, read a brief statement accompanied by visuals to underscore some of the concerns. Ms. Poulin state that her home is just over the

property line from where Keohane is proposing their expansion and will be most impacted by the sheer size of the addition which will result in an 11,000 square foot complex bringing people in and out morning to night.

She expressed concern about the entrance being located on the Columbian Street side. She noted that all the homes along Columbian street have raised patios, decks, and second story windows that overlook what is currently a wooded area which creates a peaceful, private sound barrier. This will change if this project is approved.

Ms. Poulin reviewed a number of slides showing different views to give the board a sense of what the neighborhood currently looks like. She pointed out that this residential neighborhood is far from being part of a medical mecca as the applicant has previously implied.

Ms. Poulin described a gathering at the site and stated that while they appreciate the value of honoring loved ones, this particular gathering was a nuisance. It was a disruption to a peaceful Sunday. The proposed expansion will increase events like this and will allow the applicant to steer even larger groups to this venue. She noted that they have attempted to mitigate the impact through the installation of fencing and of plantings, but the reality is that due to configuration of the abutting homes, they will not be spared the impacts of the expanded commercial use.

She stated that she can confidently proclaim that this project will be detrimental to the neighborhood.

Shira Levine, 165 Columbian Street, stated that most of the neighborhood is residential. She stated that they are all here fighting to protect their families and live in peace. This project should not be in this neighborhood. In contrast to the quaint, quiet residential neighborhood just described, these homes are also in the vicinity of the Keohane funeral home and a medical corridor, however, none of which, in their current state, are close enough to the residential properties to cause a disturbance.

When the applicant says this proposal will not be detrimental to the neighborhood, they are blatantly ignoring the residential portion of the neighborhood. In addition, the applicant has said that they need this addition to become a one stop shop. That's going to entirely change the funeral home. It's going to consist of typical funeral functions, typical church functions and typical celebration of life functions. However, this will bring large amounts of people, coming and going from early morning to late night in large groups seven days a week. The abutting neighbors' daily lives will be forced to change if this project is approved. She noted that the location of the main entrance on the Columbian Street side of the property will be most detrimental.

She stated that the only changes made are the elimination of five parking spaces, and stairs at the side entrance changing to a ramp. That ramp also has entrance on Columbian Street. She pointed out that the neighborhood as it currently stands has a healthy barrier between any commercial building and the residential houses.

In order for the Board to approve this project, this project must meet each of the five required criteria. The last time this proposal came in front of this esteemed board, members who voted in favor of the proposal did so citing how many changes the applicant has made over time. However, whether the applicant has made changes is not part of the five required criteria. In fact, it would be a terrible precedent if future applicants knew that the trick to getting a permit from this board would be to start off with an egregious version of a project and simply carve it back over time because they know the board would approve it simply because they had made changes from the initial proposal.

She asked the board to only look at the current version of this project as the law states in making their decision and decide whether the current project meets each of the five required criteria considering that this project includes an 11,000 square foot building, 100 plus parking spots, and a garage in the R-1 zone. She reminded the board that in order to approve this project, they must definitely say that it is not detrimental to the neighborhood.

Laurie McGrath, 165 Columbian Street, stated that she is completely opposed to this project because it does not meet the five criteria.

Alison Thompson, 56 Belmont Street, stated that she had the privilege of visiting the neighborhood and its backyards. She noted many unique aspects of the area. She pointed out that there are five criteria that must be met for this project to move forward. However, there is one which can never be met with the project as planned. The board need look no further than the criterion which protects against negatively changing the character of the neighborhood. She stated that this is a working class neighborhood where residents simply want to enjoy their lives and who have done everything asked of them in terms of supporting the community through good works and taxes and who are looking forward to enjoying their golden years in the neighborhood, which they have called home and hope to always call home.

The Funeral Home has space on the route 18 side of their property on which to develop yet, ironically, they seek to preserve their own property's character, curb appeal, and landscaping while seemingly minimizing the value that the neighbors seek to place on their own.

In closing, a reversal of the decision may very well set precedent for other parts of Weymouth, particularly when developers use the magic words medical mecca. Weymouth is actually not a medical mecca. She noted that this term seems to be being used on the front end of this project to potentially promote interest by those seeking possible future investments. She continued that rather than sacrificing properties and neighborhoods such as those in the Columbian/Cypress area, the administration, boards, and their appointees should be doing everything in their power to establish guardrails around these precious spaces in anticipation of future investment interest and the disruption to family neighborhoods.

Ann and Bob Marini, 160 Columbian Street, at the corner of Nevin Road, stated that they are very much against this project.

Derek and Catherine Uluski, 176 Columbian Street, diagonally across from this development, stated that they are against this proposal.

Tom Welch, 20 Cypress Street, stated the agrees with those who have spoken previously; he is not in favor of this intrusive project which clearly will change the nature of the neighborhood

Steve McCluskey 10 Millstone Lane, agreed with everything that has been said and supports his neighbors. He is not in favor of the current configuration. He stated that many of these same residents have been before this board regarding the Park Ave. West project. He noted that they worked constructively with the developer and came to a compromise and moved forward. He stated that they are not anti-development. He thinks that the requests that the residents have made are reasonable.

Patricia and William Coyte, 22 Sargeant Road, stated that they are against this project.

Mary Hay, 19 Sargeant Road, stated that she is against this project. She asked the board to consider voting in favor of the residents, the people who actually live in this neighborhood, not businessmen and developers who are just here to make money.

Peter Fallon, 159 Columbian Street, stated that he is against this project.

Nancy O'Neill, 52 Great Hill Drive, stated that although she lives in North Weymouth she stands with the residents as she believes that this project has no place in the town, and would not want to see it go through.

Kathy Midi, 30 Nevin Road, stated that she thinks that this project will be detrimental to the neighborhood and will change it significantly.

Julianne and Art Cormier, 29 Sargeant Road, stated that they are extremely opposed to this project; please do not vote to pass this.

Glen and Rebecca McGilvery, 226 Columbian Street, stated that they are in opposition to this proposal.

Mary Fowkes, 187 Columbian Street, stated that she is against this project.

Susan and Michael Doyle, 3 Nevin Road, stated that they are against this project.

Dave and Erin Stevens, 151 Columbian Street, stated that they have seen all the changes. He added that he would like to hear the opinion of the planning board on this project before the hearing is closed.

Joan Conkling, 56 Keating Circle, stated that although she is not a direct abutter, she thinks that the scope and necessity of this project is still debatable; if the McDonald Keohane Funeral Home thinks they need an expansion, they could find a location in another part of town.

Eddie Cowan, 56 Wilson Ave, stated that he does not live in this neighborhood but just looking at the pictures shown earlier and from the size, if it does not meet the requirements and should be voted down.

Mr. McLeod spoke in regard to the mediation process. He stated that he and Mr. Luongo were very outspoken with the residents, inviting them into all aspects of the case from the beginning of the appeal down to the mediation process. He pointed out that they invited the residents into town hall and explained the mediation process which was that the parties were going to attempt to reach an agreement and hopefully incorporate some of the residents' concerns. It was explained that mediation is a suggestion, not a binding process, unlike a court decision or arbitration.

The parties selected an experienced trial judge from the land court who has heard hundreds of these cases. He gave the benefit of his opinion which, like during a trial, reviewed the facts that support the decision to reject the request. He gave the parties his opinion during the course of mediation, line by line, looking at the decision of two of the board members who made the motion to reject it. He also looked at the comments made by the three board members that supported the application.

Mr. McLeod stated that there was a site visit to the backyard of a property on Columbian Street where they were able to visualize the proposed use and the applicant had a plan that showed the judge where the addition would end. He added that there was full foliage at the time. He reiterated that they did have the benefit of what the residents were showing the Board prior to beginning mediation.

Mr. McLeod stated that the reason why the residents were not invited to the mediation is because they were not parties to the action. In any type of legal proceeding, the only people that are entitled to attend mediation are the parties involved in the action. He stated that he and Mr. Luongo had multiple conversations with the residents before, during, and after mediation, incorporating their comments into the town's response at mediation.

Working with the mediator, Mr. McLeod stated that they came up with a plan that the parties believed would at least come to a middle ground. It was not everything that the residents wanted nor was it everything that the applicant wanted.

The applicant agreed to eliminate one of the stairs on the side but acknowledged that there was no agreement to move the entrance to the north side due to possible

engineering reasons as there is an elevator on that side on the existing structure. The 19 or 20 conditions address some of the impacts that neighbors are concerned about.

Mr. McLeod stated there is a risk that the decision of the actual Land Court judge, similar to the judge in mediation, would make the same decision. He noted that this would not be a jury trial, where jurors can be convinced because the neighbors do not want it. It is about having sufficient facts to support a criterion. He continued that during mediation, the judge gave his wisdom and experience as to why that would fail for the town.

Mr. McLeod reiterated that he is not attempting to give his opinion he is trying to do what is in the best interests of the town and the residents. If this application is rejected, they will resume the case that is pending in court. The case will go to trial and the judge will decide based on all of the records submitted.

The judge will review everything like the judge did during mediation and will decide. If this judge upholds or overturns the decision by the board, what will be approved is the plan with the stairs entering from the south parking lot; there will be no conditions placed to ensure the safety and control at some of these large events.

Mr. Luongo stated that the residents understand the crapshoot they are in. They understand that they could come out of this and they are going to get a funeral home with minimal landscaping and no real conditions. They have said that they are willing to accept that.

Mr. McLeod stated that due to ADA requirements concerning slope, the ramp needed to be changed. The town had their engineer review the plan to ensure it was accurate.

Mr. McLeod informed the residents that they still have the right to appeal a decision in favor of the project.

Mr. Tocchio followed up on the mediation. He noted that the applicant was present and that both sides had to make the same assessments because areas were pointed out where each was strong and not so good. He added that the judge steered them towards adapting to mitigation areas where he thought changes needed to be made.

Mr. Lynch made a motion to CLOSE the public hearing which was seconded by Ms. Snow-Eikelberg. UNANIMOUSLY VOTED.

Mr. Diem asked for clarification regarding the ramp. He asked if the existing ramp is ADA compliant.

Mr. Tocchio stated that it is not. He noted that there is a ramp on the south side. He stated that its slope is not necessarily ADA compliant, but it has been there for a long time.

Mr. Diem questioned if the ramp could be mirrored on the north side. He noted that there is an existing stair into the sitting room.

Mr. Tocchio stated that this was discussed some months ago and he was not prepared to discuss it this evening. He stated that they had asked the architects to go forward and take a look internally at what could happen between the bathroom locations, and things of that nature. He stated that the professionals came back and indicated where the bathrooms needed to be due to the location of the connections.

Mr. McLeod pointed out that the public hearing had already been closed, therefore if there is to be further testimony, the public hearing needs to be re-opened.

Mr. Diem made a motion to re-open the public hearing which was seconded by Ms. Snow-Eikelberg. UNANIMOUSLY VOTED.

Mr. Luongo stated that they had a direct conversation with Mr. Keohane this afternoon where he definitively stated that he will not relocate the ramp to the north side.

Mr. Tocchio reviewed the previous plan and noted differences with the plan currently proposed. He noted the proposed queuing which will be inside of the building. The body transfer would happen on the MS side.

Mr. Diem asked if the front door will be used as an entry point.

Mr. Tocchio stated that it will be used as an exit only, depending on the size of the event. He noted that a piece of that also has to do with not segregating handicap access from the able-bodied access.

Ms. Levine stated that they were told that the side entrance was going to be used for all events in the proposed 5500 square foot addition, but it sounds like they are saying it is a handicap ramp; she asked if that is the entrance that people will use to get in.

Mr. Tocchio stated that both are used for able-bodied people as well as the handicap as that is the requirement. The front door will be used depending on the size of the event. He stated that it is not the plan to bring people in the front door. The front entrance is not intended to be the main entrance.

Ms. Levine asked if there is an event scheduled for this 5500 square foot addition, what entrance will be used.

Mr. Tocchio stated that the plan is to have the people come up on the side, but they can also come into the front if they wish.

Mr. Moriarty asked if there is a handicap ramp for the front entrance.

Mr. Tocchio stated that there is not.

Mr. Moriarty stated that this goes against the grain of what was said before about keeping everything consistent with everybody going through the same door/same entrance.

Mr. Tocchio stated that there can be a secondary entrance which has stairs, but the main entrance is for handicapped people as well as the able bodied. He continued that the complaint has been that people will be outside; this plan will bring them inside so the neighbors will not hear them, but then the response is that the building is too big.

Gary MacDougall, District Five Counselor, stated that the criteria have to be factual; the biggest issue is that this is a detriment to the neighborhood. He noted that he does not think it is any more factual to see that that entrance being there is the big detriment. He questioned how this project is moving forward because the location of the ramp is absolutely a detriment to the neighborhood. There is an impasse.

Mr. Moriarty stated that they have been presented with the best version from the parties. He continued that this is the decision that needs to be made.

Mr. Luongo clarified that in the MS District, by right, they could put up a medical building of no larger than 20,000 square feet and a maximum height of three stories. With a special permit, they can have a larger medical building and up to six stories.

Ms. Snow-Eikelberg made a motion to close the public hearing on **Case #3473** which was seconded by Mr. Lynch. **UNANIMOUSLY VOTED.**

Mr. Diem made a motion to **TAKE UNDER ADVISEMENT** the request for a **SPECIAL PERMIT** for **Case #3473** which was seconded by Ms. Snow-Eikelberg. **UNANIMOUSLY VOTED.**

Members Present: Kemal Denizkurt, Chairperson
Jonathan Moriarty, Vice-Chairperson
Brandon Diem, Clerk
Carsten Snow-Eikelberg
Nicole Chin

Case #3496-The petitioner, NLTT, LLC, for property located at **217-219 Washington Street** also shown on Weymouth Town Atlas sheet 20, block 275, lot 19, located in the B-1, R-1 Village Center Overlay Districts. The petitioner is seeking to:

Special Permit	120-25.3	Village Center Overlay District special permit use
Special Permit	120-25.9	Village Center Overlay District shared parking

The subject property is a 28,750 sf parcel of land with a vacant building that was the former site of a bicycle shop and car parts store. Petitioner seeks to remove the existing structure and construct a 3-story multi-use building with parking under and on first level, commercial retail space and two additional stories of residential space totaling 27 units.

Ms. Snow-Eikelberg made a motion to re-open the public hearing on **Case #3496** which was seconded by Mr. Moriarty. **UNANIMOUSLY VOTED.**

Attorney Gregory Galvin appeared before the Board with James Christopher and William Christopher of Architects 686; Paul Tirrell, Civil Engineer; and Melissa Restrepo, Traffic Engineer with Howard Hudson.

Mr. Christopher reviewed what has changed since the last hearing. The number of units has been reduced by two; there will be 25 2 bedroom, 2 bathroom units. Below grade there will be 44 interior parking spaces.

Mr. Christopher reviewed the landscaping and lighting plans. He noted that the trash room is on the lower level.

Mr. Christopher reviewed the shadow study. He noted that the primary effect is on Washington Street.

Mr. Denizkurt asked for clarification on the height of the abutting house and the height of the proposed structure.

Mr. Christopher noted that the high point of the elevation is 125 feet for the home and 139 feet for the stair tower. The building's roof tower is down about 10 feet.

Ms. Chin asked about the front streetscape and the ramps and the stair along Washington Street.

Mr. Christopher stated that they did additional engineering to make the retail on the first floor more accessible.

Mr. Christopher stated that they are committed to and confirm that they are making no grading changes along the property lines and will not be affecting the rear abutter and how they park and get through the area.

Mr. Christopher stated that they did receive review comments from the town engineer relative to utilities, grading, and drainage. The town engineer had no comment.

Ms. Restrepo reviewed the traffic design. She noted that as part of the transportation analysis, it was requested that Broad Street driveway as to the intersection be analyzed to understand the current activity of the existing convenience store and laundromat, which are located right behind the proposed site. She noted that they

have included revisions to the trip generation and trip distribution at the request of the town traffic engineer.

A field observation was conducted on July 11, 2023, during the morning peak period, at the side driveway on Broad Street. On average, there was one vehicle entering through the side driveway during the morning peak hour. On average, there were about two to three vehicles entering during the evening peak hour. She noted that at five vehicles, the queue would extend past the driveway, but it was observed that vehicles would often just leave space for all other vehicles entering and exiting the driveway. She added that the queuing was very minor and cleared super quickly, this was also observed during the evening peak period.

Ms. Restrepo reported that they changed the land use of the retail to provide a more conservative analysis. In this analysis it actually increased by nine vehicles in the morning and by 21 vehicles in the afternoon; this provides a more conservative analysis. The build condition with the proposed project there will be only one new vehicle every three minutes in the morning peak hour and one new vehicle every minute and a half in the afternoon peak hour. Both intersections, Washington Street at Broad Street and then Broad Street and the side driveway will continue to operate at the same level of service. No queuing was really observed causing any issues with both intersections.

Ms. Restrepo stated that she spoke with the town traffic engineer today, who agreed with this assessment and he actually went outside and observed the side driveway and agreed that there was not really any queuing. Occasionally there will be a car that would block the driveway, but it was very minor, and he stated that the project could include a painted "do not block" box at the intersection and provide some signage. She noted that the team has agreed to do that. She reported that he agreed with the revised analysis was satisfied.

Ms. Restrepo that the on-street parking plan was revised according to parking regulations; they updated the plan to show that south of the site, there is no on-street parking on Washington Street.

Mr. Galvin stated that there are two public parking lots west of the site. One is behind the library, which also takes into consideration the usage for Weston Park. Also, directly across Broad Street from the front entrance to the library, there is also a small public parking lot.

Mr. Schneider asked about Mr. MacDonald's question concerning the increased traffic generated by the commercial parking inside of the building. This is about how traffic is affected if someone goes into the parking area and there is no available space. How is it planned to determine whether there is available parking inside. This is going to increase traffic within the garage, circulation conflicts, and conflicts at the intersection, the entrance and entryway.

Mr. Christopher stated that this could be mitigated with an electronic censoring device that illustrates at the entrance whether there is availability for parking or not. He stated that they are willing to provide that, along with whatever signage the town engineers feel would be appropriate for the site.

Ms. Chin stated that this brings up security concerns of public vehicle access and where exactly that signage might be located or if there will be a count of spaces.

Mr. Christopher stated that this would all be dealt with in the form of signage. The electronic sign would be before you enter onto the ramp to say whether there was any public spaces available or not.

Ms. Snow-Eikelberg asked if the 10 retail commercial parking spaces will be designated and separate from the residential.

Mr. Christopher stated that they will be separate and that there will be an electronic-sensor device which would reflect the retail availability not including the residential.

Mr. Diem asked about access to the retail space that is on the west portion of the property. Mr. Christopher stated that it will be lower at that point than the current sidewalk on Washington Street.

Mr. Diem stated that it is reminiscent of a store on Newbury Street where there are steps to go down to a garden level from the street. He questioned the ramps and stairs shown on sheet 13 and if they are fully accessible.

Mr. Christopher stated that they would be accessible.

Mr. Diem questioned the grade and slope.

Mr. Christopher stated that sheets seven and 13 should be used together. Number seven is the existing site plan that has the grades on it and sheet 13 shows the elevation of the sidewalk.

Ms. Chin stated that this is also showing the existing property and should have some grading lines to show context.

Mr. Christopher stated that the base elevation in the retail is 96 and the sidewalk is 96.96 and goes all the way up to about 101. He stated that the sidewalk is town property and cannot be touched. If disturbed, it has to go back to city standards.

Mr. Christopher stated that he believes that the steps illustrated in the drawings are wrong.

Mr. Moriarty questioned the easements and the ability of two vehicles to pass in the ramp driveway.

Mr. Galvin stated that they are not interfering with the easements that the abutters have; whatever they have, they will continue to have going forward.

Mr. Moriarty stated that the applicant is building this project to a scale and intensity that does not currently exist, so the abutter has to be accommodated.

Mr. Galvin stated that they do not have to give them anything more than they have.

Mr. Denizkurt stated that the abutters will have to back out into the access area. He noted that this situation exists in other parts of the town. He also noted that there could be potential for the abutting building to remove some of their sidewalk.

Ms. Chin questioned the placement of the trees and the balconies as shown on the plans as well as the placement of bushes.

Mr. Christopher stated that the bushes should actually be trees. He also stated that they would look at the placement and number of trees.

Ms. Snow-Eikelberg noted that the roof deck looks pretty open on the residential side.

Mr. Christopher stated that they are willing to use vertical screens but noted that the deck was pulled back so that it was not visible from the grade level.

Mr. Schneider stated that in looking at the engineering memo that was submitted back on March 3, 2022. He noted item number six, which states, based on the proposed basement slab elevation 82.5, it is estimated the top of the concrete slab above the parking garage to be approximately elevation 91. The cross section of the proposed paved areas located above the parking garage will add another 1.5 to the finished grade, bringing the minimum finished grade to an elevation of 92.5. The minimum proposed grade above the parking garage is shown on the plan at elevation 9 to accommodate the parking layout as shown and allow the site grading required for access to the site. The garage floor elevation will need to be lowered approximately 3.5 feet or six parking spaces located outside the building footprint will be eliminated.

Mr. Schneider continued that the applicant's architect spoke with DPW as late as today and there seems to be disagreement on that assessment of the situation. He continued that there is correspondence from William Christopher to staff in the engineering department that if they encounter any issues during engineering or construction, they will lower the elevation of the parking deck and will not raise the existing site grade.

Mr. Schneider stated that he has read all of this into the record so that it is clear that if in fact that grade does need to drop three and a half feet, there could be repercussions outside of lowering the floor, three, three and a half feet; it could

impact parking, it could impact the grade of the ramp, it could impact many other things. He stated that this should be a condition if this plan is approved by the board.

He added, for the record that that if subsequently, the applicant needs to make changes to this plan that alters the site plan in any significant way, they are going back to the board with a new plan.

Mr. Christopher stated that he concurs with this statement completely and if there was a substantial change to the site plan, they would voluntarily come back to the Board.

Mr. Schneider stated, for the record, as a personal note, he can't help but see the irony in this evening of two and a half hours of neighborhood testimony about the impacts of a 12-foot-high garage 200 feet away from a property line; the amount of support, the amount of outrage, and yet now he is looking at a project that will drop a bomb literally on abutters.

Mr. Denizkurt stated that the site is unique in the shape of it and is surrounded by residential property on three sides. It appears part of their property is being used by neighbors.

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

Colleen Donellen, 27 Lindbergh Avenue, stated that she is a direct abutter. She stated that she is opposed to the project as it is right on top of her property.

She introduced dad, Tom Donellen who comes to stay with her every summer, to speak on her behalf.

Ms. Donellen submitted a photo and four pages of paper that were marked Exhibit C.

Mr. Donellen pointed out his daughter's property and stated that rule number eight **limits** will not interfere or negatively impact abutting properties particularly zoned for single-family residents.

Mr. Donellen referenced the sheet showing the exterior of his daughter's house where he has drawn the actual elevation of her property. He stated that area is granite stone, and her house is sitting on part of that stone. He continued that the applicant plans to chop away at the stone all the way down below ground and stated that they will be digging into granite down about 13 feet.

He stated that his daughter will be adversely affected by headlights hitting her house where the bedrooms are. He also expressed concern about carbon monoxide buildup because there is nothing below ground to let that out.

Shiva Scalzo expressed concern about the blasting of the granite, the traffic, access to the store and laundromat with the cars going down the proposed ramp.

Mark Bourbeau stated that he represents the abutters, the market and laundromats.

Mr. Bourbeau stated that he does not understand why one hour in the morning and one at night on one Tuesday in the summer is adequate to understand what happens at that intersection. It does not accurately show how the site functions throughout the day.

He questioned the traffic study in that the engineer said that people kindly made a gap and let people come in. Relying on the kindness of drivers is not how it works. He pointed out conflict points in his clients' parking area.

He then stated that the way the ramp is slanted up, it is angled so that the traffic coming in and out on the ramp is almost crisscrossing itself because of the way the parking easements have to happen. He stated that there are turning point conflicts.

He noted another concern regarding fire department accessing the site in case of fire in the rear of his clients' building. He also questioned the availability of the water supply.

Mr. Schneider stated that the application was routed through the fire department but did not receive any comments. He added that there is a separate permit process with the fire department.

Mr. Bourbeau stated that he will electronically send his exhibits to the town.

Mr. Galvin stated that the applicant owes Mr. Diem information about the grading.

Mr. Denizkurt asked the town to double check with fire and make sure there are no issues that are outstanding with them.

Mr. Galvin stated for the record that they are willing to grant an extension to September 6, 2023.

Mr. Luongo asked the applicant to provide 10% or 3 units as affordable. He stated that he will provide the applicant with information about how the program works.

Mr. Luongo stated that there was a previous plan that would have also included the acquisition of the directly abutting home on Lindbergh Avenue as well as the convenience store and laundromat. That plan called for a five-story building in order to be economically feasible. He continued that this current plan is not perfect, but the alternative is the existing conditions where the properties are unkempt.

Ms. Snow-Eikelberg made a motion to **CONTINUE** the request for a SPECIAL PERMIT for **Case #3496** to 9/6/2023 which was seconded by Mr. Moriarty. **UNANIMOUSLY VOTED.**

Case #3502- continued to 9/6/23 The petitioner, Pond Street Acquisitions, LLC, for property located at **505 Pond Street & 1537 Main Street** also shown on Weymouth Town Atlas sheet 61, block 639, lots 4 & 7, located in the B-1 District. The petitioner is seeking to:

Special Permit	120-25	(A), (B), and (C)
Special Permit	120-40	extension or change by special permit

The subject property is a 71,581 sf parcel of land with a 40,950 sf warehouse building that was previously Factory Paint & Decorating store and a 19,178 sf parcel with an unoccupied single family dwelling. Petitioner proposes two buildings, 9,710 sf and 7,916 sf, totaling 17,626 sf. The uses will include restaurant and retail operations, a drive through lane, a mobile-order pick-up window, and a modest outdoor seating area. The remainder would be parking, vehicle aisles, & landscaping.

Minor Modification - Case #3434 - 655 Washington Street - Request to convert existing space within the building into 4 guest rooms to be used by tenant's visitors only.

Chris Kane, one of the developers for the property, and Emily Rodricks, property manager at Greystar, appeared before the Board.

Mr. Kane stated that they have hired Greystar as their property manager. The property is scheduled to open in two months.

Mr. Kane stated that the original design of the project had two trash rooms on each floor, about 300 square feet with windows looking out onto the courtyard; the trash program was originally designed to have residents bring their trash to a trash room, which would have bins. The property manager would then take the trash down through the elevators to the compactor or dumpsters on site. However, Greystar recommended hiring a third-party, trash valet service that comes in five days a week. Residents would be given a window of time to leave their trash outside their door; the valet service would do a full sweep of the building and remove the trash. This change eliminates the need for the trash rooms on each floor.

Mr. Kane continued that they are requesting to repurpose these rooms as guest suites that could be used if a resident had an out-of-town guest; they would have a room that has a bed and a full bath and possibly a desk and a closet. It would act as a hotel room for overnight guests of tenants, not for the public.

Ms. Rodricks stated that the guest suite would be reserved through the resident and would be separate from the lease they have with management. The reservation is in the resident's name, the deposit is in the resident's name, and the keys (fobs) are

handed to and collected from the resident. She noted that this is an amenity for the resident so, in theory, management may not even see their guest as it is the resident making the booking. Ms. Rodricks noted that they have several locations in Boston with this type of guest suite.

Ms. Rodricks stated that they do limit the number of nights someone can stay consecutively. Typically, it is no more than three nights consecutively with perhaps a restriction of no more than five nights in a 90 day window. She added that they can always modify the agreement, but this is the general concept.

Mr. Kane pointed out that there are a lot of studios and one-bedrooms in this building which can be tight if there are people coming from out of town

Mr. Denizkurt asked for a count of one-bedrooms versus studios.

Mr. Kane stated that he will have to follow up to make sure, but he believes it's 110 one bedrooms and 43 studios. He noted that there would be two guest suites on the third floor and two on the fourth.

Mr. Diem asked if the rooms meet all egress requirements for emergency. Mr. Kane reported that they do; each guest suite will have sprinklers and will meet the same code used to build a unit but there will not be a kitchen.

Mr. Denizkurt asked if the town has any comment on the minor modifications.

Mr. Schneider stated that there are no concerns or objections. The town recognizes it as a valuable amenity. He noted that the Department of Public Works (DPW) took a look at it, and they are going to apply the same mitigation fees for any other bedroom. He added that they are comfortable with the management company and their ability to manage this.

Mr. Moriarty asked how a guest would access the suite.

Ms. Rodricks stated that this is part of the reservation agreement. At the set check-in time, the resident will come down and once they've signed the agreement and paid the fees, the resident will be handed a key to the unit; if the key is not returned at the given checkout time, there is a charge for that, and the room will be re-keyed.

The rooms will be cleaned by a third-party janitorial service after each use.

Mr. Luongo asked if there are enough parking spaces on the residential side to accommodate this use.

Mr. Kane stated that they are not taking any parking spaces away from the commercial side.

Mr. Luongo pointed out that if this is approved, it would be recorded as part of the amendment to the special condition.

Ms. Snow-Eikelberg asked if the suites were not getting used, would they want to turn them into another unit.

Ms. Rodricks stated that it has proven to be a really strong amenity at other assets. She continued that if it is not worth their while, they would reassess. It is too small for a unit but could possibly be used for a home office or tenant storage.

Mr. Kane confirmed that there would be no microwaves or hotplates.

Mr. Denizkurt asked if there needed to be public comment for a minor modification.

Mr. Schneider reported that it is not required as this is a public meeting not a public hearing.

Mr. Moriarty made a motion to **APPROVE** this application for minor modification on **Case #3434**. The following conditions will apply:

- No hotplates allowed in the guest suite
- No microwaves allowed in the guest suite
- No more than three consecutive nights
- No more than five days within a 90 day period
- No Airbnbs
- Restricted to residents or relatives of residents only.

The motion was seconded by Ms. Snow-Eikelberg. **UNANIMOUSLY VOTED.**

New Business: - NONE

Other Business

1. Election of Officers:

Ms. Snow-Eikelberg made a motion to appoint Brandon Diem to Secretary which was seconded by Mr. Moriarty. **UNANIMOUSLY VOTED.**

Ms. Snow-Eikelberg made a motion to appoint Jonathan Moriarty to Vice-Chairperson which was seconded by Ms. Chin. **UNANIMOUSLY VOTED.**

Ms. Snow-Eikelberg made a motion to appoint Kemal Denizkurt to Chairperson which was seconded by Ms. Chin. **UNANIMOUSLY VOTED.**

2. Minutes: 4/26/2023, 5/17/2023

Mr. Moriarty made a motion to approve the minutes from 4/26/2023 and 5/17/2023 which was seconded by Ms. Snow-Eikelberg. **UNANIMOUSLY VOTED.**

3. Upcoming Meetings: September 6, 2023

4. ADJOURNMENT

Mr. Moriarty made a motion to adjourn at 11:10 p.m. which was seconded by Ms. Snow-Eikelberg. VOTED UNANIMOUSLY.

Approved by:
Mr. Diem, Clerk



10.11.23
Date