

**BOARD OF ZONING APPEALS**  
**RECORD OF MINUTES AND PROCEEDINGS**  
**March 21, 2012**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, March 21, 2012 at 7:15 pm at McCulloch Building, Mary McElroy Meeting Room, 182 Green Street, Weymouth, MA for the purpose of passing on the application of certain persons whose petitions were properly before the Board. Notice of public hearing had been given by mail to the parties in interest of the subject locus and by publication in the Weymouth News.

Present:                       Richard McLeod, Chairman  
                                  Edward Foley, Vice-Chairman  
                                  Kemal Denizkurt, Clerk  
                                  Chuck Golden  
                                  Jonathan Moriarty

Staff:                         Robert Luongo, Economic Development Planner

Also present:               Arthur Mathews, President, Town Council

Recording Secretary:       Mary Barker

The Chairman called the hearing to order at 7:15 PM and explained the procedures that would be followed to the people present. A motion was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and unanimously voted.

**BZA CASE # 3152- 75 Finnell Drive, Request to Withdraw**

Application of Weymouth Club, Inc. for property located at 75 Finnell Dr., also shown on the Weymouth Town Atlas as Sheet 36, Block 452, Lots 5 & 11, located in I-1 zoning district, seeking a Special Permit and/or Variance to add approximately 650 sq. ft. of office and conference space in an alcove at the south side of the building above the entrance to the mechanical room. Applicant has requested to withdraw.

Members sitting:       Richard McLeod, Chairman  
                              Edward Foley, Vice Chairman  
                              Kemal Denizkurt, Clerk  
                              Chuck Golden  
                              Jonathan Moriarty

Bob Luongo reported to the Board that the Public Hearing was continued without any testimony until April 18, 2012; the applicant has requested to withdraw the petition. A motion was made by Vice Chairman Foley to approve the applicant's request for withdrawal of the petition and was seconded by Jonathan Moriarty and unanimously voted.

**BZA CASE #3155– 200 Liberty Bell Circle, Public Hearing**

Application of Joanne McBride for property located at 200 Liberty Bell Cir., also shown on the Weymouth Town Atlas as Sheet 14, Block 121, Lot 153, located in a R-1 zoning district, seeking

to construct a 12 x 12 shed on the side of the house within 5 ft. of property lines from side, back and front.

Members sitting:      Richard McLeod, Chairman  
                                 Edward Foley, Vice Chairman  
                                 Kemal Denizkurt  
                                 Chuck Golden  
                                 Jonathan Moriarty

Joanne McBride presented her application. Bob Luongo noted that the application was presented because under by-law, sheds are not allowed within property side yards. Chairman McLeod asked why the shed can't be located in the rear yard. Ms. McBride responded because there is a pool in the yard and a steep hill beyond it. The Chairman asked if the proposed shed location was discussed with the abutting neighbor. Ms. McBride responded that she has not. She provided pictures of the proposed location, architectural rendition of the proposed shed and a picture from a magazine indicating the style of the shed that matches the style of the house. Vice Chairman Foley asked if the shed was to be used as a cabana. Ms. McBride responded that the only use will be to store pool furniture. Jonathan Moriarty asked when the pool was installed and noted that there is a large amount of impermeable surface on the property. There is also a boat currently parked on the side yard, and he asked where it will be relocated to if the shed displaces it. He noted the need or hardship was self created. Ms. McBride responded that the pool was installed last year. The boat will be relocated to the driveway, as it was last year. Chairman McLeod asked if the shed can be relocated to the grass area on the other side of the property away from the patio, and Ms. McBride responded that side of the yard has a steep slope. Chuck Golden asked about the retaining wall that runs across the base of the slope and the iron fence and gates. The house is 33' off the street and the boat is parked about 20' off.

Bob Luongo reported that the application was routed to the various departments. He noted that there is one other shed, at 228 Liberty Bell Circle on the side yard. Jonathan Moriarty asked what the size of the proposed shed is. It is a 10 x 10 prefabricated shed. He also asked if the applicant had any letters of support from the neighbors, or has discussed with the abutter on whose side the shed is to be located. He asked if there is a rush to build, or would she be willing to get something from the neighbor showing support. There was a brief discussion. The Vice Chairman noted the topography appears to be an issue. The Chairman asked if the applicant could get some supporting letters from the neighbors and pictures showing the view of the property from the deck. Jonathan Moriarty noted that this is a newer development with better-spaced homes and he does not want to create a precedent; he would like to see some justification for locating the shed on the side yard.

A motion was made by Vice Chairman Foley to continue the Public Hearing to the first meeting in May, since Chuck Golden is not available for the April meeting, to allow the applicant time to produce a letter from the abutters and pictures, and was seconded by Jonathan Moriarty.  
Unanimously voted.

Submission- Exhibits 1-3- photograph- proposed shed placement, architectural rendering and magazine picture of the shed style.

**BZA CASE #3156– 60 Regatta Road, Public Hearing**

Application of John and Joan Donovan for property located at 60 Regatta Rd., also shown on the Weymouth Town Atlas as Sheet 5, Block 12, Lot 3 & 62, located in a R-1 zoning district, seeking to reestablish lot as two building lots, one with a size of 9,508 sq. ft. and the second one with a size of 10,546 sq. ft.

Members sitting:      Richard McLeod, Chairman  
                                 Edward Foley, Vice Chairman  
                                 Kemal Denizkurt  
                                 Chuck Golden  
                                 Jonathan Moriarty

Attorney Gregory Galvin, with offices at 775 Pleasant Street presented the petition with applicant John Donovan for a Special Permit to reestablish the property as two lots. The property was originally laid out as two lots, with two deeds and the applicant receives and pays two tax bills. When the zoning was changed, the property was considered as one parcel with a slightly altered rear property line. There is a shed located in the back. He would like to establish it as a buildable lot; with the rear lot it has adequate space to meet the set back requirements to develop two properties. He provided a petition signed by neighbor Frank Baldassini who did not object to the application. He was not able to reach the other abutter. Mr. Galvin also presented a portion of the town atlas showing the proposed lots. The area is substantially developed, and there are other smaller lots than required under the zoning. Mr. Galvin reported that the application meets the criteria for a Special Permit; it will add one house lot to the area.

Vice Chairman Foley noted there are two lots on the deed and two tax bills; 872' will be taken from the rear lot to the front lot to accommodate the zoning requirement and due to the shed placement. Jonathan Moriarty asked whom the passageway benefits and if it is measured in metes and bounds to the center. He asked if the chain of title was reviewed to determine if the passageway is exclusive to the two lots. Attorney Galvin responded that he didn't recall what the deed said but that the passage is an old grassed over area. Jonathan Moriarty asked if that is where utilities would be brought in and asked how old the plan was. Attorney Galvin responded that it's a 2010 plan that is cropped; the view doesn't show across Regatta Road.

Harriet Whisman of 76 Baylee Rd. addressed the Board. She reported that the passageway was intended for the use of all of the residents. The Town took the land by eminent domain and the abutters have rights to the center. There is no water service in the passageway or from Baylee Road; water comes in from Great Hill Road. Absent the ability to bring in water, they would have to grant easement over lot 62 to access lot 3. Attorney Galvin responded that the DPW indicated there is a 12" main on Baylee Road. The sewer would be an issue. Kemal Denizkurt noted the steep grade of the lot towards 62 would impact ability to bring in sewer. Vice Chairman Foley asked if the applicant currently has a plan to build a home on the lot. The applicant responded that he does not have the opportunity or the intent at the present. The application is a means to estate planning to give his children the future opportunity.

Bob Luongo reported that the application was routed to the various departments and reviewed the comments. A motion was made by Vice Chairman Foley to close the public hearing and was seconded by Jonathan Moriarty and unanimously voted.

**To vote on the of BZA Case No. 3156 to approve a Special Permit to re-establish lots as two building lots, one with a lot size of 9,508 sq. ft. and the second with a size of 10,524 sq. ft.:**

A motion was made by Edward Foley to approve the application for a Special Permit and was seconded by Jonathan Moriarty.

**FINDINGS**

Further, the Board finds that:

1. The specific site is an appropriate location for such a use. The lots are the same size or slightly larger than the surrounding lots.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town. The passageway will remain for the benefit of access by all of the residents to the beach and to access the water main over the passageway. Any proposed building plan for potential future construction of a home on Lot 3, due to the steep grade of Lot 3 towards Lot 2 should address preventing stormwater from being directed onto Lot 62 and restore the passageway to preexisting condition.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. Water service shall be 1" K copper.
5. The public convenience and welfare will be substantially served.

**DECISION OF THE BOARD** - Due to the above findings, it was voted 4/1 to approve the application for a Special Permit (Kemal Denizkurt-nay).

Submission: Exhibit 1- petition  
Exhibit 2-cut and pasted portions of town atlas, with the parcels marked

**BZA CASE #3157– 1090 Washington Street, Public Hearing**

Application of 1090 Washington Street LLC for property located at 1090 Washington St., also shown on the Weymouth Town Atlas as Sheet 31, Block 399, Lot 6, located in a HT zoning district, seeking to construct a new structure containing office business

Members sitting: Richard McLeod, Chairman  
Edward Foley, Vice Chairman  
Kemal Denizkurt  
Chuck Golden  
Jonathan Moriarty

Brendan Lee of Kelly Engineering Group, Inc. and Mike Glynn, General Manager of C. Spirito presented the application. The property has a single-family house with a barn in the rear. The property to the left of it is in the watershed protection zone and slopes down from the back. The existing buildings on the property will be demolished and an office and storage buildings will be constructed. The office building will house two businesses; C. Spirito and Groundwater Resource, Inc., that is an oil/grease trap eliminator business. Groundwater Resources, Inc. will receive/deliver by small cube trucks only. The proposed office building will be moved closer to the street than the present house; 5 parking spaces are proposed in front for customers and 8 in the back for employees. There is a dumpster pad in the rear and utilities are all on Washington

Street. A proprietary drainage system will be installed to treat runoff with a subsurface recharge system meeting DEP standards that can handle a 100-year storm and peak runoff. Mr. Lee reviewed the landscaping and lighting plans. He noted the proposal is an appropriate location and business for the site in a HT zone with a quiet daytime business. The plan will comply with all site plan review recommendations.

Mike Glynn, the General Manager of C. Spirito and owner of Groundwater Resource, Inc. reviewed the history of his company. He invented a device that removes oil and grease from catch basins. Manufacture of the eliminator was brought back from overseas and will continue to be manufactured in Leominster. Stock is currently housed in Rockland, and is not easily palletted or stacked. It will not be mass handled. The largest anticipated orders will be handled by Uhaul rental truck. Storage in the rear building will not be staffed. He noted this is not an invasive business but passive use of the property. C. Spirito's offices are currently located at 1382 Pleasant Street in a building with an attorney's office that is not compatible to either business. The new location will more conducive to the type of business. It will be purely office use for Spirito; the yard will remain at its location in Hingham. The Historical Committee has approved the demolition of the house and barn and the architectural feel of the new property will echo the historic nature. The planning staff has made some recommendations incorporating this.

Kemal Denizkurt asked about the parking. The plan calls for one more space than is required and is at the discretion of the Building Inspector. Jonathan Moriarty asked for sizes on the eliminators and how they will be moved. Mr. Glynn provided sizes and the cut-sheets and noted all of the pieces can be moved by hand. There will be 12-1500 pieces on hand at any given time. There are no hazardous materials; the product is manufactured of high-density polyethylene. The rear building will be storage and a shipping office. Bathroom facilities will be located in the storage building as required. No sublease of the property is intended. The main building will house only the two businesses, and can't be subdivided. Snow removal plan was discussed. The back and rear of the property will be used for snow removal. No vehicles will be stored on the property. Signage will conform to requirements. Demolition will begin as soon as the plan is approved, and the nuisance opening in the barn will be closed off immediately. The Vice Chairman asked about dumpster and pickup. The dumpster size is 5x8x6 and the company picks up at 11AM on Fridays. Fencing will run around the dumpster pad and in a complimentary style.

Bob Luongo reported that the application was routed to the various departments and noted the comments. There is a chain link fence around the property and is in disrepair in some places. Mr. Glynn responded that the fence currently is covered in ivy on the right side and is providing a buffer, but if the abutter wants to have it replaced, he will do it. Bob asked if the applicant would agree to modify the building location from 24' to 20' between the sidewalk and entrance and to increase the landscape buffer. Mr. Lee responded that the 24' was designed for parking aisle minimum. Plan includes replacing the entire front public sidewalk with bituminous material. Mass Highway will determine the curb cut. There will be no outdoor materials or overnight vehicle storage allowed. Vice Chairman Foley asked if the stormwater management plan requires Peer Review. Bob Luongo responded that the proposed system is state of the art and does not. Bob Luongo asked about sign lighting. Mr. Lee responded that the sign will be uplit from the ground. Lighting plan was discussed. A light pole will be located in the landscaped area and one in the front, wall lights on the side and 2-3 in the back over the doors. Jonathan Moriarty asked

that the right side fence accommodate the request of the abutter and they consider stockade at the rear if that's what the neighbors want.

Barbara Conant, 1087 Washington Street noted that the fence along the right side of the property belongs to the abutter. She is in favor of the plan and the upgrade to the neighborhood but noted her concern with commercialization of a largely residential area and with poor water drainage/runoff in the area.

Bob Luongo reviewed the zoning in the HT area; providing for mixed residential, business and commercial use along major roadways that doesn't limit but controls development and preserves the existing scale. He also noted there was severe drainage issues in the back of the property. Test pits were dug, and the storm management plan will address and treat/discharge all water on the lot.

Council President Arthur Mathews addressed the Board. He requested an order of conditions be imposed if the application is approved that will protect the future use of the property and limit proposed use. He does not want to see construction equipment stored on the site, nor any change of use if the building is sold or leased. Chairman McLeod responded that any conditions stay with the application. Any proposed change in use will require hearing before the BZA. Mr. Glynn referred to the permitted uses and restrictive nature of the zoning. Mr. Mathews reminded the committee of the car dealer storage issue that was previously before the Board.

Vice Chairman Foley noted that as conditions of approval the Board impose no overnight vehicle storage, no manufacturing and no sales conducted on the site. Mr. Glynn responded that all deliveries are to take place between normal business hours, 7AM to 5PM.

Marlene Earl, 45 Pine Cliff Rd. asked about the set back of the storage building and proximity to the rear property line. There was a brief discussion on her preference for fencing between the properties. Because deer go through the properties, arbor vitae or similar screening was not recommended by Mr. Glynn. He will install stockade fencing along the back line.

A motion to close the public hearing was made by Vice Chairman Foley, seconded by Jonathan Moriarty and unanimously voted.

**To vote on the of BZA Case No. 3157 to approve a Special Permit to construct a new structure containing office business:**

A motion was made by Edward Foley to approve the application for a Special Permit and was seconded by Jonathan Moriarty.

**FINDINGS**

Further, the board finds that:

1. The specific site is an appropriate location for such a use in HT zoning.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town. The applicants will keep the historic nature of the property.
3. There will be no nuisance or serious hazard to vehicles or pedestrians. The front sidewalk will be replaced and a 24' aisle will be maintained between building walkway and parking spaces to maneuver vehicles.

4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. Applicant will provide stormwater management plan.
5. The public convenience and welfare will be substantially served. The business markets a product that contributes to a cleaner environment.

**DECISION OF THE BOARD** - Due to the above findings, it was unanimously voted to approve the application for a Special Permit, with the following conditions:

1. Memorandum of Agreement from DPW Director Jeff Bina to Planning Director Jim Clarke becomes a part of the approval.
2. The public sidewalk will be replaced with bituminous concrete. Mass Highway will determine curb cut.
3. There will be no outside or overnight storage of vehicles.
4. No construction equipment will be stored on the property.
5. The applicant will erect stockade fencing along the back property line.
6. Sign will require uplighting.
7. Construction vehicles during demolition and construction will be parked on the property.
8. There will be no manufacturing on the property.
9. There will be no retail sales conducted on the property.
10. Any change of use is subject to Board of Zoning Appeals hearing and approval.
11. Fencing will surround the dumpster.
12. Nuisance opening in existing barn will be secured until demolition.
13. Downed wires on property will be cleared.
14. Traffic plan to be reviewed with Weymouth Police Department and Building Department prior to issuance of Building permit.

### **Other Business**

Chairman McLeod thanked the Board for accommodating his schedule over the last several meetings with the later start. Future meetings will revert to a 7PM start time.

### **Minutes-February 15, 2011**

A motion was made by Vice Chairman Foley to approve the minutes of the February 15, 2011 meeting; Case #3149 and Case #3144-R, seconded by Jonathan Moriarty and was unanimously voted.

### **Adjournment**

At 9:10 PM, there being no further business, a motion to adjourn the meeting was made by Vice Chairman Foley, seconded by Kemal Denizkurt and unanimously voted.

Approved:

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Kemal Denizkurt, Clerk

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Date