

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, August 20, 2014**

Members Present: Richard McLeod Chairman
Edward Foley, Vice Chairman
Chuck Golden
Jonathan Moriarty
Kemal Denizkurt
Brandon Diem, Alternate Member
Rob Stevens, Alternate Member

Also Present: Jim Clarke, Planning Director
Abby McCabe, Principal Planner
Lee Hultin, Recording Secretary

Vice Chairman Foley called the Board of Zoning Appeals meeting to order at 7:10 p.m. at the McCulloch Building and explained the procedures that would be followed to the people present.

Case # 3227 – 1434 Pleasant Street – Public Hearing (continued from 5/7/14 & 6/18/14)

The petitioner, My Journey's End, LLC, is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Multiple dwelling (Section 120-27 C "Special Permit Uses").

Variance: Relief of nine (9) parking spaces from the minimum required off-street parking spaces (44 spaces required, 35 spaces proposed) (Section 120-74)).

Presently located on the premises is a ~2,000 SF two story building with one commercial unit on the first floor and one residence on the second floor in the B-2 zoning district. The petitioner is proposing to remove a portion of the existing building to construct a new 2.5 story building for 18 residential dwelling units and 35 off-street parking spaces. The residence and the commercial space in the existing building are proposed to remain.

Members sitting: Edward Foley, Vice Chairman
Chuck Golden
Jonathan Moriarty
Kemal Denizkurt
Brandon Diem

Jonathan Moriarty made a motion to reopen the public hearing on Case #3227, 1434 Pleasant Street and was seconded by Chuck Golden. Voted Unanimously.

Appearing before the Board was the applicant, Mr. Joseph McClaughlin and his Attorney David Kelly of 45 Braintree Hill Office, Suite 302, Braintree, Ma. Also in attendance was James Burke the project Civil Engineer, Arthur Choo of Choo & Company, and Mark Kopchell of MKA Landscape Architects.

Attorney Kelly stated that after listening to the Board's and resident's concerns, the project has been reduced to 14 units in the new building and a mixed use building with one unit above it. The new building includes only 1 micro unit and 11 (1) bedroom units at 433 sq ft. each and (2) 1 bedroom units at 457 sq ft. each. There is no longer a parking variance request needed.

Mr. Burke reviewed the engineering changes. The Department of Public Works (DPW) concerns have been addressed with the issues of the storm drains and looped water mains from Pleasant Street.

Mr. Choo reviewed the architectural changes which include the reduction of the size of the building.

Mark Kopchell reviewed the landscape plans. Additional greens were added to the parking lot and the dumpster was relocated.

Kemal Denizkurt was surprised by the new plans as they are completely different from the plan submitted. They are now one bedroom units and not micro units. There are skylights all across the top with one bedroom units. Mr. McLaughlin responded that the reason is because he heard from the Board and the residents and tried to create what everyone wanted. He has tried to accommodate all the changes that were requested.

Kemal Denizkurt asked about the balconies and the applicant responded that the building department has approved them as long as they are metal.

Parking space #26 (adjacent to the new building) has been reviewed by the Traffic Engineer in the Planning Department as submitted with the new plans.

Abby McCabe, Principal Planner, reviewed comments from staff departments and summarized that the planning, building, fire and DPW departments were largely satisfied with the revised plans that have been submitted. The balconies can be constructed with fire rated material to meet the building code, the fire department was satisfied with the revised plans that included the addition of the fire lane, the applicant met with planning staff and the traffic engineer to revise the parking layout, and the DPW worked with the applicant over the last couple of days to have all comments addressed since the August 15 memo from the DPW. The density analysis that the Planning Department has was reviewed with the Board.

Jonathan Moriarty stated he has concerns with several parking spaces. He asked if the applicant could try to park the smaller cars in the front spaces and the larger oversized vehicles in the spaces towards the exit.

Jonathan Moriarty asked if the applicant could mark those spaces (24 & 25) as visitor parking spaces and it was stated yes.

Vice Chairman Foley opened the hearing to public comment.

Public Comment:

Councilor DiFazio stated that it has been difficult communicating with the residents during the summer and has not received many comments due to the summer hearing schedule. He is pleased with the efforts the applicant has made to revise his proposal from the original application. However, he still feels it is too crowded. He asked the Board to consider using the criteria to disqualify this project based upon the fact that there is no room left on this lot. This doesn't fit into the Village Center Plan that the town has in place. He asked the Board to consider having the applicant pay for plantings on the library side of the lot.

Mark Kilban, spoke that he was totally against this project as he believes there are enough apartments in Weymouth. The residents don't want any more apartments in the area.

Bob Montgomery Thomas, 848 Washington Street, asked if a new application has been made for this plan and read a statement to the Board. There is no loading space for the retail business along Pleasant Street and there is no viable snow removal plan. The retaining wall encroaches in the watershed protection district. Weymouth needs commercial development, not more housing. He doesn't believe they have met the criteria for this project and urges the Board to reject the plan.

Terry Gibbons, Essex Street, stated that he and his family frequent Jackson Square and he said this is like living in New York. He is opposed to this plan.

Joanne Stinson, 28 Randall Avenue, has lived there for 25 years and shares the same concerns as Councilor DiFazio and is opposed to the project.

Glen Fitzimmons, Shawmut Avenue, stated that he believes this project may affect the value of the homes in this area. This building does not give a small town atmosphere. According to the village center design guidelines (general building design criteria) the building should be alongside the front of the street with parking behind or off to the side. Rooflines should be broken up. The Master Plan states on page 158 this area should be developed with multi-family dwellings. East Weymouth already has 3 out of the 5 affordable housing projects and it doesn't need another one. He is opposed to this project.

Attorney Kelly reminded the Board that this project is not within the Village Center Overlay zoning district.

Peter Farrell, 91 Hill Street, Weymouth resident for 10 years, stated that the Villages are what makes Weymouth unique and this plan takes away from it. He believes families will move in and it will add kids to the school system. He is opposed to this project.

Peter Lydon, Church Street, has three little girls and is concerned it will turn into a halfway house. Vice Chairman Foley responded that the applicant stated that the property will have leases with residents.

Neil Baker, 1210 Commercial Street, commented that Weymouth is at 90% build out and he is opposed to this project. This is a quality of life issue for the residents.

Kristine White, Stillman Street, thinks it is great that the applicant has made changes but it is still too large. It is already too congested with the library, teen center and shops. Maybe if this project was reduced in half it would be ok.

Mr. McKay, 1429 Pleasant Street, wants to know where the snow will go and questioned fire fighting ability. People will live in the area with skylights. There will be kids living there. He is going to be looking at a hotel every day.

Joe Spalding, 7 Shawmut Avenue, believes it is a fire hazard to have the doors open inward. He appreciates the changes but he really doesn't see much of a change. He believes this project is too much. It should reduce the number of units, more commercial space and more green space. He is opposed to this project.

Wayne Mathews, President of East Weymouth Neighborhood Association (EWNA) – The majority of the residents and members of this association are opposed to this project.

Pat O'Leary, 999 Commercial Street, she commends Mr. Thomas's comments on handicap accessibility and wants to know if the handicap spaces will be moved by the door to the commercial space or the housing.

Kemal Denizkurt asked how deliveries will be made to the 1,400 sq. ft. retail space if there are not accommodations on site. The applicant stated that he is consistent with all the other commercial space in the area.

Stephanie Fox of Fox Salon stated that all the commercial shops have on street parking and this location does not. The applicant stated that he has the right to the 19 spaces in the municipal parking lot and any truck deliveries has full use of them.

Councilor DiFazio stated that if the applicant doesn't amend his application and the Board closes the public hearing, he urges the Board to make comments to the Planning Department to make changes to the zoning ordinances so this doesn't happen again.

Attorney Kelly stated that in reviewing the five special permit criteria be aware that all the departments have signed off on this project and it is not within the Village Center.

Dennis Jones, Shawmut Avenue, stated that Shawmut is a one-way street and he was concerned about traffic turning down Shawmut Avenue. The Board responded that the applicant submitted a traffic analysis that was reviewed by the Town's Traffic Engineer and the project has been reviewed by staff. He reiterated that he believes traffic will be an issue for his street.

Jonathan Moriarty made a motion to close the public hearing on Case # 3227, 1434 Pleasant Street, the motion was seconded by Kemal Denizkurt and voted unanimously.

Jonathan Moriarty made a motion to take case # 3227 under advisement, the motion was seconded by Kemal Denizkurt and voted unanimously.

Alternate Board Member Brandon Diem left the meeting and Chairman Richard McLeod joined the meeting.

BZA Case # 3230 – 1224 Commercial Street - Public Hearing Continued from 5/21/14, 6/18/14 & 7/23/14

The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Multiple dwelling (Section 120-27 C “Special Permit Uses”).

Presently located on the premises is a single-family residence. The petitioner is proposing to remove the existing building to construct nine (9) new residential dwellings and 18 off-street parking spaces.

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

Jonathan Moriarty made a motion to reopen the public hearing on Case #3230, 1224 Commercial Street and was seconded by Chuck Golden. Voted Unanimously.

Appearing before the Board was Attorney Frank Baldasini representing the applicant Mr. James Miller, also Shawn Hardy, the project engineer.

Mr. Baldasini stated that originally this application was for 9 units and has since been reduced to 8 units. The project is below the maximum required FAR (Floor Area Ratio) and meets the parking requirements.

Mr. Hardy stated the revised plans incorporated all the department’s comments and summarized the changes. He stated that an Operation and Maintenance Plan was submitted and revised to incorporate DPW’s comments and the catch basin will be cleaned twice a year.

Chairman McLeod opened the hearing to public comment.

Public Comment:

Councilor DiFazio stated that his two concerns were the placement of the middle units and recommend that they should be on the school side and not on the abutter's side and parking from the corner should be eliminated from the corner to the property. It has not been reduced enough (only 1 unit was eliminated). There should only be one building in the front with 3 units and one in the back with 3 units with green space in between. Again, the applicant is proposing too much on one lot.

Helen Baker, 1210 Commercial Street, has lived there for 40 years. She stated that there are always accidents in front of her house. Parking on the street is very dangerous.

Pat O'Leary, 999 Commercial Street, asked if there are any plans to have them owner occupied. It was stated by the applicant that in order to get finance they have to be 75% owner occupied.

Dave Baker, 1216 Commercial Street, stated that he is opposed this project. As an abutter the phasing of the construction is not reasonable.

Councilor Bob Conlon stated that he agrees with Councilor DiFazio, it is affecting the community quite a bit. If it was only 6 units would be probably be ok. He is opposed to the project.

Julie Doyle, Bantry Drive, asked the Board to consider the citizens in Weymouth who pay taxes and have it be the way the citizens want it and not the applicants.

Zack Baker, 1216 Commercial Street, he is concerned about the traffic issues and construction over 2-3 years. He is opposed to this project.

Ed Foley stated that he was also concerned about the 8 units on a ½ acre lot.

The applicant stated that the construction will not be phased in but will be working around the school hours. Moving the 2 unit building to the other side of the lot would be problematic given the zoning requirements with setback's from schools and the slope of the property.

Jonathan Moriarty asked if there is a parking plan on this project. The applicant stated that it is going to be deeded parking and they could designate "No parking areas" as a condition of approval.

There was a question on trash and the applicant responded that there will be two dumpsters on site.

Stephanie Fox, Church Street, she has deeded spaces at her home and more than ample parking but during the holidays it is lined with cars and very difficult to enforce.

Jim Clarke, Planning Director, stated that the B-2 zones are the older areas in town and the proposal still needs a special permit which means the Board has the right to review it. One of the special permit criteria is the established and future characteristics of the neighborhood and that is

something the Board will look at. There could still be a negative determination from the Board if the Board finds that not all of the criteria have been met.

Ed Foley made a motion to close the public hearing on Case # 3220 for 1224 Commercial Street, the motion was seconded by Jonathan Moriarty and voted unanimously.

Ed Foley made a motion to take Case # 3220 under advisement and continued to the next meeting on September 3, 2014, the motion was seconded by Jonathan Moriarty and voted unanimously.

BZA Case # 3233 – 211 Main Street – Public Hearing Continues from 7/23/14

The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

- Variance: Relief of 321 SF from the maximum sign area requirements for wall signs (396 SF total proposed, 75 SF maximum required per business) (Article XVI, Section 120-64.3A)
- Variance: Relief of 105 SF from the maximum sign area requirements for the free-standing sign (225 SF proposed, 120 SF maximum required for double sided signs) (Article XVI, Section 120-64.3B(1)).
- Variance: Relief from the maximum allowance of one sign per lot to allow a second free-standing sign on the lot (Article XVI, Section 120-64.3B).

Presently located on the property are two retail buildings in the B-1 zone. The petitioner has applied to remove the existing building, wall, and free-standing signs and replace with new signage that exceeds the maximum allowable sign area and install a second free-standing sign.

Members sitting: Richard McLeod, Chairman
Edward Foley, Vice Chairman
Chuck Golden
Jonathan Moriarty
Rob Stevens

Appearing before the Board was Andrew Gordon from Weymouth Honda. The applicant stated that they have removed the north facing wall sign and reduced the rear south facing sign since the original application presented at the July 23 meeting.

The public was given the opportunity to speak and there were no public comments.

Ed Foley made a motion to close the public hearing on Case # 3233 and was seconded by Jonathan Moriarty. Voted unanimously.

Ed Foley made a motion to take Case # 3233 under advisement and continued the vote until the next meeting on September 3, 2014. The motion was seconded by Jonathan Moriarty and voted unanimously.

Alternate Board member Rob Stevens left the meeting.

NEW BUSINESS:

Case # 3238 – 11 Wildwood Road – Public Hearing

The petitioner, Mounier Nahas, for property located at **11 Wildwood Road**, also shown on the Weymouth Town Atlas Sheet 27, Block 352, Lot 13, located in a R-1 (Residence Single Family / Low Density) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit:	Extension or change of a nonconforming structure. The existing structure is nonconforming with respect to the side yard setback. Relief of 6.8 ft. from the minimum side setback for a second floor addition on the existing dwelling (10 ft. required, 3.2 ft. proposed) (Section 120-40).
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Presently located on the premises is a one story single-family residence. The petitioner is proposing to construct a 28' x 21' second story addition onto the existing dwelling within the same footprint. The existing structure is within the side yard setback from the northerly property line.

Members sitting:	Richard McLeod, Chairman Edward Foley, Vice Chairman Chuck Golden Jonathan Moriarty Kemal Denizkurt
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Ed Foley made a motion to open the public hearing on Case #3238, 11 Wildwood Road, and was seconded by Jonathan Moriarty. Voted Unanimously.

Ed Foley made a motion to waive the reading of the published legal notice on Case #3238, 11 Wildwood Road and was seconded by Jonathan Moriarty. Voted unanimously.

Appearing before the Board was Mounier Nahas and he stated he is looking to add a second floor with three bedrooms and a bathroom and will not change the existing footprint of the existing one story single-family building.

The public was given the opportunity to speak and there were no public comments.

Ed Foley made a motion to close the public hearing on Case # 3238, 11 Wildwood Road and was seconded by Jonathan Moriarty. Voted Unanimously.

Ed Foley made a motion to approve the application for a Special Permit on Case # 3238 for 11 Wildwood Road:

The applicant has met the following Special Permit findings under Section 120-40:

1. That the specific site is an appropriate location for such a use.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town. The existing dwelling is currently within the side yard setback and there will be no further encroachment with the proposal for the second floor.
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. The Department of Public Works and Town Engineer will verify that the sewer is appropriate for the addition.
5. The public convenience and welfare will be substantially served.

The motion was seconded by Jonathan Moriarty and was unanimously approved.

Case # 3239 – 90 Tower Avenue - Public Hearing

The petitioner, John Christopher, for property located at **90 Tower Avenue**, also shown on the Weymouth Town Atlas Sheet 45, Block 523, Lot 14, located in a R-1 (Residence Single Family / Low Density) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Conversion of a single-family to a two-family dwelling (Section 120-13A).

Presently located on the premises is a single-family residence with an in-law apartment. The petitioner is seeking to convert the existing in-law into a legal two-family residence.

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

Ed Foley made a motion to open the public hearing on Case #3239 for 90 Tower Avenue and was seconded by Jonathan Moriarty. Voted Unanimously.

Ed Foley made a motion to waive the reading of the published legal notice on Case #3239 for 90 Tower Avenue and was seconded by Jonathan Moriarty. Voted unanimously.

Appearing before the Board was John Christopher and Jane McKenzie, the property owners and petitioner. Mr. Christopher explained that they recently purchased the property believing it was a two-family house as the house was marketed by the realtor as a two-family and received a certificate of occupancy from the Fire Department. The town's Assessors Office has also considered it a two-family for 15-20 years (since the 1990s). It was later discovered that the

property was not a legal two family and the building department had allowed the former owner to construct an in-law apartment in 1994. The applicant provided information that there are other two-families in the neighborhood and the applicants are looking for approval for this Special Permit to convert the single-family to a two family.

Kemal Denizkurt asked how many parking spaces are there and the applicant responded that there were five in the driveway, one car space in the garage and a paved area parallel to the street. They are looking to rent the one bedroom apartment and share the utilities with the owner. It was appraised by the bank as a two-family and therefore their mortgage is higher.

Jonathan Moriarty stated that there could be a law suit against the sellers and that he was sympathetic to their situation.

Jim Clarke stated it was originally built as an in-law by a former owner. The applicant stated that it has been rented as a two-family for 15 years. Several Town Departments recognize it as a two family although it did not come to the Board for the proper zoning approval.

Jonathan Moriarty states he has a problem with making it a two family just because several town departments mistakenly considered it a two family.

Jim Clarke stated that the applicant provided testimony that there are other two-families in the area and he has ample parking to meet off street parking requirements (2 per unit required).

Abby McCabe stated that the Building Department commented that in 1994 they approved an in-law with the intent that it would not be a two family apartment.

Chairman McLeod stated this is a home that has been recognized and lived in as a two family and the applicant is just trying to make it legal and there are several other two-families in the area.

Chairman McLeod opened the hearing up to public comment.

Public Comment:

Pat McNeil, 70 Tower Avenue, abutter to the property stated that the addition was built in the late 1980's and it was rented almost immediately as a two family and she was supportive of this application.

Jim Clarke stated that the staff believes this has been a two family rental for many years and there is testimony to that. He believes this is a unique situation.

It meets all the criteria of a two-family by the town's departments. There are several two-family homes in the area already.

Chuck Golden believes the owners bought it thinking it was a two-family and only found out now that it's an in-law and wants to fix it. He has no problem approving this.

Ed Foley made a motion to close the public hearing on Case # 3239 for 90 Tower Avenue and was seconded by Jonathan Moriarty. Voted Unanimously.

Ed Foley made a motion to approve the Special Permit for a two family conversion, recognizing the history and seeing the town did not due its due diligence ensuring that this didn't happen, due to the fact it has been rented as a rental property for 20 years and due to the uniqueness of this situation the applicant is suffering a financial hardhsip. This is very unique and has met the criteria in Section 120-22D.

The applicant has met the following special permit criteria under Section 120-22D:

1. That the specific site is an appropriate location for such a use.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town.
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.
5. The public convenience and welfare will be substantially served.

The Board also found that the lot has sufficient parking. The motion was seconded by Chuck Golden and voted 4-1 (Jonathan Moriarty voted No).

Case # 3240 – 1235 Main Street – Public Hearing

The petitioner, Hoa T. & Quy Vu, for property located at **1235 Main Street**, also shown on the Weymouth Town Atlas Sheet 53, Block 593, Lot 5, located in a HT (Highway Transition) and partially within the Watershed Protection Overlay zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit:	To construct a new building for retail sales and services (Section 120-22.8A(1)).
Variance:	Relief of 4,600 GFA from the maximum size requirements for the new building (maximum of 5,000 SF of gross floor area (GFA) required, 9,600 GFA proposed) (Section 120-22.8A(1)).
Variance:	Relief of three (3) parking spaces from the minimum required off-street parking spaces (22 required, 19 proposed) (Section 120-74L & O).

Presently located on the premises are two buildings previously used for warehouse and office uses totalling ~7,000 GFA. The petitioner is seeking to redevelop the site to construct a new one story ~9,600 GFA building, 19 off-street parking spaces, install landscaping and other associated site improvements.

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

Ed Foley made a motion to open the public hearing on Case #3240 for 1235 Main Street and was seconded by Jonathan Moriarty. Voted Unanimously.

Ed Foley made a motion to waive the reading of the published legal notice on Case #3240 for 1235 Main Street and was seconded by Jonathan Moriarty. Voted unanimously.

Appearing before the Board was the applicants, Hoa T & Quy Vu, and their Attorney Hang Nina Nguyen. Attorney Nguyen explained that the applicants own a granite company at 1390 Main street that will be taken by eminent domain during the Route 18 street widening performed by MassDOT. The applicant has found another location at 1235 Main Street that is vacant that they wish to relocate to. Mass DOT is taking the land in 2015 so they only have one year to build a new location.

Attorney Nguyen explained that after receiving staff comments from Abby McCabe, they are no longer seeking a variance for the parking spaces as they can add in the three parking spaces to meet the parking requirements. The applicant submitted revised plans to the Board members.

Ed Foley also asked for the proper ventilation plans for the cutting of the stone.

Abby McCabe stated that staff has not seen these revised plans. She also added that one of her comments in the staff memo to the Board was regarding the landscaping. The applicant responded that the landscaping has not been incorporated yet and they will submit a final plan as soon as possible and will also include the lighting details. Ms. McCabe added that the project also requires Conservation Commission review for work within the 100 foot resource area.

The Chairman opened the hearing up to public comment.

Public Comment:

Christopher Burn, Sunrise Drive, has worked at the existing business for almost 11 years and he never had a problem with anyone. All the area businesses want to see the redevelopment of the existing vacant site.

Attorney Nguyen added that there will be three small commercial rental spaces in the building but no prospective tenants have been finalized at this time.

Jonathan Moriarty asked what they were planning for signage. The applicant responded that they will likely have two signs; one on the building and one out front. They are hoping not to seek a variance on the signs. John added that the signage should be incorporated with this application if they will be seeking zoning relief for signage.

Ed Foley made a motion to continue this public hearing until September 3, 2014 and was seconded by Jonathan Moriarty. Voted Unanimously.

APPROVAL OF MINUTES – July 23, 2014 and re-sign the approved June 18, 2014

Ed Foley made a motion to approve the minutes of July 23, 2014 as written and the motion was seconded by Jonathan Moriarty and voted unanimously.

SIGNING OF DECISIONS FROM PRIOR MEETINGS

Case # 3234 – 24 Parnell Street, Case # 3235 – 201 Wessagusset Road, Case # 3236 – 65 & 67 Grant Street. These cases were approved by the Board as part of the approval of the July 23, 2014 meeting minutes.

OTHER BUSINESS

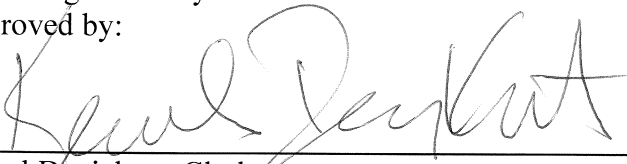
UPCOMING MEETINGS – September 3, 2014, September 17, 2014 and October 1, 2014

ADJOURNMENT

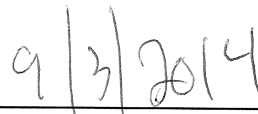
Ed Foley made a motion to adjourn at 10:30 pm and the motion was seconded Jonathan Moriarty and voted unanimously.

Respectfully submitted by,

Lee Hultin
Recording Secretary
Approved by:



Kemal Denizkurt, Clerk



Date