## TOWN OF WEYMOUTH, MASSACHUSETTS **BOARD OF ZONING APPEALS** NOTICE OF DECISION ON SPECIAL PERMIT & VARIANCE 75 FINNELL DRIVE

(To be mailed forthwith to the owner and applicant, if not the owner.)

Owner:

Finnell Drive Realty, LLC

Date:

April 1, 2015

Address:

75 Finnell Drive

Weymouth, MA 02188

Applicant:

Stephen E Goldman

Case #:

3248

Address:

75 Finell Drive

Weymouth, MA 02188

Representative:

Gregory F. Galvin, Esq.

Site Address:

Finnell Drives

Address:

775 Pleasant Street, #16 Weymouth, MA 02189

Sheet: Block: 36

452

Lots:

5 & 12

Zoning District: I-1 (Limited Industrial) and Watershed Protection Overlay

Zoning Board of Appeals application filed on December 26, 2014.

After the scheduled January 28, 2015 and February 11, 2015 meetings were canceled due to inclement weather, the public hearing was opened on March 4, 2015 and continued to March 25, 2015, advertised in the Weymouth News on January 14, 2015 and January 21, 2015, the Board of Zoning Appeals at its meeting of March 25, 2015:

VOTED 5-0 TO GRANT THE SPECIAL PERMIT under Weymouth Zoning Ordinance Article XIII, Section 120-39 and 120-40 "Continuation of Nonconforming Uses or Structures" with respect to Article XV, Section 120-51 "Schedule of District Regulations" Table 1 and Article IX, Section 120-129E "Place of Recreation or Assembly"; and

VOTED 5-0 TO GRANT THE VARIANCE for parking relief from Article XVII, Section 120-74N & Q for relief of 16 parking spaces from the minimum required (297 required, 281 provided).

The petitioner sough to eliminate the tennis court use on the first floor and use the space for an exercise and spa area. The existing unused second floor space above the tennis court was approved to be used as a ~3,200 SF multi-use area, a ~1,350 SF function area, storage, and office use. The proposal also included a ~2,000 SF splash pad in the rear outdoor pool area. The Board approved the plan entitled "Proposed Fence Location" for Weymouth Club 75 Finnell Dr.; prepared by S3 Design Inc.; dated March 11, 2015" based on the following findings and with the following conditions.

# CONDITIONS:

1. That the existing chain link fence in the rear of the building be removed and an eight (8) ft. high stockade fence of a natural wood appearance with a sound barrier substantially similar to the Acoustifence specification provided to the Board, be installed along the rear property line from the southerly property line ~550 ft. to the gate, as per plan by S3 Design, Inc., dated March 11, 2015.

- 2. That the hours of operation for the splash pad and pool area be from 9:00 A.M. to 8:00 P.M. daily.
- 3. That there be no lighting angled towards the rear abutters so there is no glare onto the abutting properties on Waterford Drive.
- 4. That the gravel parking spaces remain in use for the facility.

### **SPECIAL PERMIT FINDINGS:**

The Board found that:

- 1. The specific site is an appropriate location for such a use:
  - The site is presently used as a multi-use health and recreational facility and the owner's intentions are to keep up with the changes in the industry and provide the amenities that are sought by their membership base.
- 2. The use involved will not be detrimental to the established or future character of the neighborhood or town
  - This is a continuation of an ongoing use with the offering of an additional open exercise space and converting open seating area to a child water park area.
- 3. There will be no nuisance or serious hazard to vehicles or pedestrians:
  - The applicant has adequate existing parking for the added uses and the changes are internal and or conversion of an existing area.
- 4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use:
  - The approved changes will be properly incorporated in the existing facility.
- 5. The public convenience and welfare will be substantially served:
  - The changes are designed to provide the opportunity to enjoy all of the new innovations in the health, fitness and recreation industry.

## **VARIANCE FINDINGS:**

## The Board found that:

1. Owing to circumstances relating to the soil conditions, shape or topography of the land or structure, a literal enforcement of the provisions of the Zoning Ordinance would involve substantial hardship, financial or otherwise.

The proposed changes keep the pace with the evolution of the business industry. The property and business has existed for over 45 years and the approved changes are altering the existing use. The additional exercise space required additional parking that can be absorbed into the existing unpaved parking spaces. Although the unpaved parking spaces are not considered official parking spaces under the Zoning Ordinance, they help provide adequate parking for the current use.

2. Relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance.

The addition of the children's splash pad is merely adding an additional use of play area next to a children's splash pool, and the second floor use is to add play space for children with the ability to have an open meeting area.

Under MGL Chapter 40A, Section 11, the approval of the Board of Zoning Appeals will NOT take effect until it has been recorded in the Norfolk Registry of Deeds.

After the twenty (20) day appeal period has passed, the Town Clerk will send to the petitioner: (1) the certificate that no appeal was filed, and (2) the certificate of granting of variance and/or special permit. The petitioner shall record these documents with the Norfolk Registry of Deeds, Dedham, MA, with the appropriate filing fee.

When a receipt from the Registry of Deeds is presented to the Building Inspector (to show that the decision has been recorded), the proper permit will be issued.

Decision filed with the Town Clerk on	April 1, 2015
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<u>IMPORTANT</u>: Notice is further given that any person aggrieved by this decision may appeal, according to MGL Chapter 40A, Section 17, and said appeal, if any, must be filed with the Town Clerk within twenty (20) days after the filing of the decision with the Town Clerk.

James Clarke, Director of Planning and Community Development

### THE COMMONWEALTH OF MASSACHUSETTS

#### WEYMOUTH

#### BOARD OF APPEALS

April 1, 2015

Certificate of Granting of Variance or Special Permit (General Laws Chapter 40A, Section 11)

The Board of Appeals of the town of Weymouth hereby certifies that a Variance or Special Permit has been granted to Stephen E. Goldman, 75 Finnell Drive. Weymouth, MA 02188, affecting the rights of the owner with respect to land or buildings at 75 Finnell Drive, also shown on the Weymouth Town Atlas Sheet 36, Block 452, Lot 5 & 12, and the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said variance – special permit, and that copies of said decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.

James F. Clarke, Jr., Planning Director

Kathleen Deree, Town Clerk

Case # 3248

Date of Hearing: 3/4/2015 and 3/25/2015