

**BOARD OF ZONING APPEALS (BZA)**  
**RECORD OF MINUTES AND PROCEEDINGS**  
Wednesday, November 29, 2017

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

**Also Present:** Robert Luongo, Director of Planning  
Eric Schneider, Principal Planner  
Janet Murray, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:00 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

**New Business:**

**Case #3344** - The petitioner, McDonald's USA, LLC for property located at 90 Main Street, also shown on the Weymouth Town Atlas sheet 29, block 329, lot 21 & 22, located in a B-1, Watershed Protection Zoning District, seeks relief from the Board of Zoning Appeals to reconfigure the existing drive-thru order stations from (2) in-line stations to side-by-side drive-thru order stations. The following is requested:

Special Permit:	120-125B	Lot Area Over 40,000 SF
Special Permit:	120-25C	Drive-Thru Service

Mr. Foley made a motion to open the public hearing on Case #3344 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Eric Dubrule, Bohler Engineering, appeared before the board with the applicant, Mr. Brewster from McDonald's.

Mr. Dubrule stated that the applicant would like to reconfigure the drive-thru. The current drive-thru layout is tandem (one behind the other). This proposal would create a second lane with a landscaped island and another order point. He noted that this configuration is more efficient and provides better customer service with a shorter wait time. There will be a digital menu board.

The applicant also is proposing ADA improvements which includes replacing sidewalks. This is an Investment to site to keep in ADA compliance.

Some parking will be removed in the front which will create an additional 350 SF of green space

Mr. McLeod asked about the coordination of order taking.

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Mr. Brewster stated that there will be cameras to help determine which order goes with which car. This will help reduce stacking of vehicles.

Mr. Foley asked if there are other McDonald's with this approach. Mr. Brewster stated that he uses this layout in his Norwell and Everett locations.

Mr. Foley asked about the ADA compliance.

Mr. Dubrule stated that overtime, requirements change. The slope of the ramp was 2.2% but now has changed to 2%. There will be repaving and grading changes.

Mr. Denizkurt asked about the first handicap stall closest to drive-thru: has there been a change in size of the spot.

Mr. Dubrule pointed out that two spots will be redesignated as handicap. No new parking has been created. The spaces are 8' wide and the length is the same

Eric Schneider stated that the town's traffic engineer, Owen McDonald, reviewed the plans and had no comment.

Mr. Moriarty asked when McDonald's decided to remove the six spots. Mr. Luongo stated that this change was suggested as part of this application.

Mr. McLeod asked if there was anyone present who would like to speak. There was no response.

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

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3344.

**SPECIAL PERMIT**

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilizes and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

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

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**Case #3345** - The petitioner, Henley Enterprises, Inc. for property located at 186 Main Street, also shown on the Weymouth Town Atlas sheet 29, block 375, Lot 2, located in a B-1, Watershed Protection Zoning District and Groundwater Protections District, seeks relief from the Board of Zoning Appeals to construct a 2,535 SF Valvoline Instant Oil Change facility on a vacant 23,283 SF lot. The following is requested:

Special Permit:	120-24	Special Permit Use in B-1 District
Special Permit:	Article III A	Watershed Protection District
Special Permit:	Article III B	Groundwater Protection District

Mr. Foley made a motion to open the public hearing on Case #3345 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Attorney Frank Marinelli appeared before the board on behalf of the applicant, Henley Enterprises. David Kelly, Kelly Engineering Group, was also present.

Mr. Marinelli stated that this property was part of ANR plan from July of 2017. This is Lot 1 and is 23,000 SF. Lot 2 is Castle Self Storage.

The building is 2585 SF which represents 11% of lot coverage; 50% lot coverage is allowed in a B-1 zone

The building will be red brick. The hours will be 8am to 7pm Monday through Saturday and 9am to 7pm Sunday. There will be eight to ten full and part-time employees.

Mr. Marinelli pointed out that other motor vehicle business are located in the immediate area.

He noted that storm water will be treated on-site which will decrease the run-off rates. He added that they expect draft conditions from Conservation Commission on 12/6/17.

A traffic study was completed in conjunction with Castle self-storage expansion dated 10/19/17. The study showed that there will be less traffic with Valvoline as opposed to a previous plan for a bank.

David Kelly with Kelly Engineering spoke about the storm water management. He stated that they have addressed comments that came up at the Conservation Commission meeting. The lot is adjacent to a vernal pool. He noted that the owner,

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Mr. Gardner, was made aware of water issues on Mr. Deluca's property. He stated that Mr. Gardner has worked with Mr. Deluca and installed a sub-drain.

Mr. McLeod accepted Exhibit #1 Awards and Acknowledgements into the record.

Mr. Denizkurt asked if the applicant will comply with the town's sign requirements.

Mr. Marinelli stated that there are two 45-foot signs, and one pylon sign which is 35 SF.

Mr. Schneider stated that the applicant would need to return if the signage square footage exceeds 75 SF.

Mr. Denizkurt asked for clarification on lot coverage.

Mr. Marinelli stated that the building coverage is 11% - not including parking lot.

Mr. Kelly stated that there will be landscaping along Route 18. He noted that there is existing street frontage landscaping along the road. The plan calls for in-fill between the plantings that were placed three years ago. There will be no plantings on the rest of the site, except that the vernal pool will be left in its natural condition

Mr. Foley asked if Vehicle pollution control is used. Mr. Randy Kazazian, Director of Real Estate for Henley Enterprises, stated that vehicles are turned off. He also stated that there is a fresh air exchange system with exhaust in the cupola.

Mr. Foley asked about dumpster pick. Mr. Kazazian stated that pick-up is typically weekly, Monday through Friday, before business is opened around 8am. He noted that they recycle plastic, paper and cardboard, as well as other material.

Mr. Foley asked about snow removal. Mr. Kazazian stated that they hire local contractors and excessive snow is trucked off-site. No snow will be plowed into the vernal pool.

Mr. Moriarty asked if the dumpsters are enclosed. Mr. Kazazian stated that they are enclosed.

Mr. Moriarty asked if there will be landscaping provided around the transformer. There will be landscaping.

Mr. Moriarty asked if there will be vehicle storage or major vehicle repair. There will not.

The goal is to service 50 vehicles per day after 3 years.

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Mr. Moriarty asked if they typically use people holding signs in front of business. Most advertising is digital.

Eric Schneider noted comments from James Donovan 11/17/17 have been mostly satisfied; there are some punch list items.

Conservation issues will be addressed separately with Commission as their approval is required.

Mr. Schneider noted a memo dated 11/7/17 from Dan McDormack, director of Health. There were no objections.

Mr. Kazazian noted that the façade will be brick on all sides

Mr. Schneider clarified for the applicant that a ground sign and 75 SF of wall signs are allowed.

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

Paul Deluca, property owner of 208 Main Street, stated that he owns a small shopping plaza between DQ and Super Shine Carwash. He noted that he did not have any water issues until the current development; last year the basement was completely flooded. He added that in 2014/15 there was not a significant amount of rainfall. Last year, there was more rain, which resulted in water in the basement. For several months, his tenant was unable to use basement.

Mr. Deluca stated that a new pipe has been put in place. He is concerned about the consequences of this new development on the size of the vernal pool. He pointed out that ledge pushes water onto his property

Mr. Foley asked Mr. Deluca if his engineer agreed with the applicant's plan.

Mr. Deluca stated that his engineer disagreed with Mr. Kelley's calculations. He suggested an exit valve in vernal pool, for when pool is full. He noted that this is being discussed with the Conservation Commission.

Mr. Foley asked if Mr. Deluca's concerns are being addressed. Mr. Schneider stated that this issue is being addressed through the Conservation Commission and the Engineering Department. They are working on a solution through the storm water management.

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

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Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3345.

**SPECIAL PERMIT**

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilizes and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

With the following conditions:

- Snow removal plan will be submitted to staff - no storage of snow on site
- Comments in memos dated 11/17/17 and 11/7 will be satisfied
- Dumpsters enclosed
- No trash pick-up before 7am
- Transformer landscaped
- No over-night vehicle storage
- Encouraged to work with Mr. Deluca

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

**Case #3346** - Remand in accordance with Land Court Order 17 MISC 000151. The petitioners, Kevin and Laura Fall, for property located at 245 Ralph Talbot Street, also shown on the Weymouth Town Atlas sheet 46, block 534, lot 9, located in an R-1 Zoning District, seeking relief from the Board of Zoning Appeals to subdivide an existing 41,650 SF lot with an existing single-family dwelling, to create one lot with 21,605 SF, for construction of a new single-family dwelling, and a 20,045 SF lot, with the existing dwelling. The following is requested:

Special Permit:      120-53      Minimum lot area and minimum lot width

Mr. Foley made a motion to open the public hearing on Case #3346 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

David A. Kelly, attorney for the applicants, appeared before the board along with the applicants.

Mr. Kelly submitted additional information which were marked exhibits 7 and 8. Exhibits 1-6 were previously submitted with the application.

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Mr. Kelly stated the he considers this to be a brand-new case. He noted that there is a different make-up of members of the board.

Mr. Moriarty asked about the consideration of the prior notes and minutes.

It was suggested that the previous notes and minutes be used for guidance.

Mr. Kelly stated that this is not a variance, but a special permit under 120-53. He noted that this regulation has since been repealed by the town. He added that this application was filed prior to the repeal of 120-53 so it is governed by it.

Mr. Kelly pointed out a recent case for property on Ralph Talbot Street that was denied. He clarified that in that case, the request was for a variance, not a special permit.

Mr. Kelly stated that the requirement of 40 feet of frontage and 17,500 SF, results in this is the type of configuration. He referenced Exhibit #8. He pointed out that he believes that the town's intention is to avoid contorted, irregular shaped configurations.

Mr. McLeod pointed out that although this lot appears to be a pork chop lot, this type of configuration is allowed at the end of a cul-de-sac. He asked Mr. Kelly if the by-law references that this configuration is allowed only in cul-de-sacs. Mr. Kelly stated that he did not believe there was such a restriction in the by-law.

Mr. Kelly discussed the size of the lots along Ralph Talbot Street in the general neighborhood referring to Exhibit #5. Mr. Kelly stated that it was also included in Exhibit #8.

Mr. Kelly then presented a concept plan with a drawing showing the location of the proposed dwelling along with set-back notations. Mr. Kelly also referenced renderings of possible buildings for illustration.

Mr. McLeod asked if the condition of the location would this condition go along with the lot when it is sold. Mr. Kelly stated that purchaser of property is subject to the conditions.

Mr. Kelly stated that the board could place a condition as to the location of the foundation and size but not necessarily style.

Mr. Foley asked if the applicant has spoken with the abutter about the location, size,

Mr. Kelly stated that it was not required but acknowledged that he could have done a better job with the presentation at the previous hearing.

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Mr. McLeod entered the letter from an abutter, Tina and Joseph Gottron, into the record as Exhibit #9.

Mr. McLeod asked if the conditions will survive the purchase of the property.

Mr. Kelly stated that the applicant will agree to conditions.

The question was asked again if the conditions will survive. Mr. Kelly clarified that unless there is an appeal within 30 days of the filing, the conditions will stand.

Mr. Kelly stated that if the Board approves this application and the decision is appealed, the case will go back to Judge Foster.

Mr. Moriarty discussed the lot size and configuration and the definition of the neighborhood.

Mr. Denizkurt stated that he was opposed to the previous application. However, he agreed that the by-laws 40-foot minimum frontage and 17500 SF or greater lot size, by nature, creates this type of configured lot.

Mr. McLeod agreed with Mr. Denizkurt and added that he would like to see the neighbor's privacy protected.

Mr. Foley suggested that staff come up with a list of conditions.

Mr. Schneider stated that he could condition buffers and lot line.

There was discussion regarding types of conditions such as: fencing, privacy, foundation location, size of foundation and required buffer zone.

Mr. Moriarty suggested that the abutters be given an opportunity to respond to tonight's hearing.

Mr. Foley recommended that the hearing be continued to establish conditions.

Mr. Foley asked about wetland. Mr. Kelly stated that this site is not within Conservation Commission jurisdiction. There is a puddle that forms due to drainage.

Mr. Luongo stated that the town has a broader interpretation of configuration.

The governing language on 120-53 E is that the Board of Appeals

Similar lot size

Not just lot size, similar shape of lot, lots tend to be square

Proposed lots of a similar lot size configuration and shape of lot



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Configuration of neighborhood lots. Only one lot similar to the proposal. It is the town's position is that configuration is germane to the neighborhood.

Mr. McLeod asked if there was anyone present who would like to speak. There was no response.

Mr. Kelly asked if there is anything else is needed from the applicant. Mr. McLeod stated that there is nothing more required.

Mr. Diem asked for the map to showing more context of the abutting properties.

Mr. Foley made a motion to continue the public hearing until December 13, 2017 and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

**Modification of Case #3330**

Mr. Luongo stated that the board approved a special permit for Metri Metri for a 42 unit building in Weymouth Landing. There is a 40' town right of way (Weston Street) going into the park. The plans called for sidewalks on both sides. Due to ledge, one sidewalk needs to be eliminated. The drawing referenced is C-1, dated 2/11/17.

Mr. Foley made a motion to accept the change to \_\_\_ Washington Street, case #\_\_\_ as a minor modification and was seconded by Mr. Moriarty and UNANIMOUSLY VOTED.

**Other Business**

**Minutes - 10/18/17, 11/8/17**

Mr. Foley made a motion to approve the minutes of 10/18/17 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Mr. Foley made a motion to approve the minutes of 11/18/17 and was seconded by Moriarty. VOTED UNANIMOUSLY.

**Upcoming Meetings - December 13, 2017, January 3, 2018, February 14, 2017**

**Adjournment**

Mr. Foley made a motion to adjourn at 9:15pm and was seconded by Moriarty. VOTED UNANIMOUSLY.

Approved by:  
Mr. Denizkurt, Clerk

 1/3/18