

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, July 27, 2016

Members Present: Richard McLeod, Chairman
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Ed Foley
Brad Vinton

Also Present: Bob Luongo, Planning Director
Eric Schneider, Principal Planner
Lee Hultin, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:06 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

Case #3297 – The petitioner, BJ’s Wholesale Club, Inc., for property located at **110 Main Street and 559 Washington Street**, also shown on the Weymouth Town Atlas sheet 29, block 329, lot 10, 12, 15, & 21, located in the B-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-24 (A) Use by Special Permit – Service Station

120-40 Extension or change to a non-conformity – Sign Height (120-64.3)

The petitioner seeks to construct a service station for the sale of gasoline and related products on a vacant ~57,797 SF lot (lot 21) to the rear of an existing retail shopping mall and several other retail businesses, and to extend an existing non-conforming sign located on Washington Street by ~5.333’.

Sitting Members: Richard McLeod
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty

Eric Schneider said that during the review process they found that the property was located within a watershed protection district. Gas stations with underground storage tanks are prohibited within this district. All departments have concerns with this.

Eric Schneider said the applicant has asked for a continuation until September 7, 2016.

Jonathan Moriarty made a motion to continue this Case to September 7, 2016 and was seconded by Chuck Golden. VOTED 5-0

Old Business:

1. Case #3288 – The petitioner, Frank Bridgeman, for property located at **82 Broad Street**, also shown on the Weymouth Town Atlas sheet 20, block 269, lot 19, located in an B-1 zoning district and Village Center Overlay District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit;	120-40	Extension or change of non-conforming use or structure
Variance;	120-25.3	Multi-family dwelling units

Presently located on a ~10,000 SF lot is an existing ~10,000 SF two-story building. The petitioner is proposing to convert the building to all residential use by constructing 8 units, 3 1-bedroom units and a studio on the first floor, and 4 1-bedroom units on the second floor, with 12 parking spaces.

Sitting Members: Richard McLeod
 Chuck Golden
 Jonathan Moriarty
 Brad Vinton

Appearing before the board was Attorney Greg Galvin, 775 Pleasant Street, Weymouth and the applicant Frank Bridgeman. The applicant has presented an updated plan showing a landscaped area along Washington Street and Fields Avenue, proposed a dumpster with screening and distance from back entrance to the first handicap parking space.

Brad Vinton is concerned about the distance between the handicap parking space and the building. Attorney Greg Galvin stated that the plan show there is at least 20 feet and the plan is to scale.

All the shrubbery will be low to the ground to avoid obstructing the line of site for vehicles. The Planning Department said the landscape plan will be reviewed and approved by them prior to any permits issued.

Bob Luongo said he met with the applicant and they discussed a number of conditions. They also discussed mitigation for improvements to the traffic signals and the applicant has agreed on \$20,000 towards it. Payments would be made prior to an occupancy permit or the sale of the property. The list of conditions go with the property and the mitigation will be one of them.

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

Jonathan Moriarty made a motion to close the public hearing on Case # 3288 and was seconded by Chuck Golden.

VOTED 4-0

Chuck Golden made a motion to approve this application of a special permit on Case # 3288 and the variance and the conditions listed by the staff will be applied to both as well as the mitigation fee. This motion was seconded by Brad Vinton. VOTED 4-0

Special Permit Criteria for Approval. The Board of Zoning Appeals may approve any Special Permit applications only if it finds that, in its judgment, all of the following conditions are met in accordance with Zoning Ordinance Section 120-122D.

1. The specific site is an appropriate location for such a use.
2. The proposed use or 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, utilities 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.

Chuck Golden made a motion to approve the variance on Case #3288 and was seconded by Jonathan Moriarty. VOTED 4-0

Chuck stated that he believes the siting and the structure provides the hardship for this facility.

Variance Criteria for Approval. Weymouth Zoning Ordinance Section 120-119A(3). The Three Required Findings For Granting A Variance:

Finding #1: Soil, Shape, Topography

Owing to circumstances relating to soil conditions, shape or topography of the land or structure and especially affecting such land or structure but not generally affecting the zoning district in which it is located.

- The board must also find that the peculiarity is unique to the zoning district where the parcel is located.
- The peculiarity must not be found in the district as a whole.

Finding # 2: Hardship

A literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise.

Finding # 3: Public Good

Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance or bylaw.

The following conditions will apply to both the Special Permit and the Variance:

- Any exterior changes to the building façade will be reviewed and approved by the Office of Planning and Community Development.
- Outdoor lighting fixtures and decorative fencing along the streetscape will be consistent in style with those currently existing in the Weymouth Landing neighborhood and will be

submitted to the Office of Planning and Community Development for review and approval.

- Access will be limited to Fields Avenue. No access to Washington Street will be permitted.
- The applicant will provide easements to the Town of Weymouth to permit access to a traffic control box and associated conduit located on the property.
- Proposed landscaping will be extended to Fields Avenue and a detailed landscape plan will be submitted to the Office of Planning and Community Development for review and approval.
- All dumpsters and HVAC equipment will be screened from view.
- Snow removal will be monitored and snow will be removed from the site as needed.
- The applicant or successor will be required to pay \$20,000 towards the modification of the traffic signal, to be paid prior to an occupancy permit.

2. Case #3289 – The petitioner, Tony Yu, for property located at **22 Drew Avenue**, also shown on the Weymouth Town Atlas sheet 19, block 250, lot 8, located in the R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-40 Extension or change of non-conforming use or structure

Presently located on an 8,478 SF lot is an existing two-family dwelling. The petitioner seeks to extend the first floor foundation ~10' and construct a 24.3' x 40.5' second floor addition.

Sitting Members: Richard McLeod
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Brad Vinton

Jonathan Moriarty made a motion to open the public hearing on Case #3289 and was seconded by Chuck Golden.

VOTED UNANIMOUSLY

Jonathan Moriarty made a motion to waive the reading of the publication on Case # 3289 and was seconded by Chuck Golden.

VOTED UNANIMOUSLY

Appearing before the board was Tony Yu, trustee of the property who owns the existing two-family house in an R-1 Zone. He would like to extend the side of it.

Kemal Denizkurt asked about the 10 foot addition. Mr. Yu stated it will be an extension of the current kitchen and the second level will enlarge the bedroom upstairs. There will be 3 bedrooms in each unit.

Eric Schneider said this has been a troubled property for the neighborhood and this would be an improvement.

Public Comment:

Michael Perriello, 34 Drew Avenue – Stated it has been an eye sore for years. There was an oil spill there and the property still smells of oil and wants to make sure it was cleaned up correctly.

The applicant said on 3/23/2016 when they began renovations, there was vandalism and it has been cleaned by DEP, CEC and LSP to oversee the clean-up.

Eric Schneider confirmed it was properly mitigated and released by DEP.

There is a 15 yard dumpster that we has not been removed due to a weight issue as it is filled with dirt and is now on its side and stuck. They removed most of the soil and the company still will not come and remove it as they claim their truck cannot drag it out.

Michael Perriello asked about the second floor with 3 bedrooms. Where will all the cars park. All cars will be parked in the driveway for both units on the left side of the house and not on the road.

Kemal Denizkurt clarified that you are not adding any additional bedrooms, you presently have 3 bedrooms and are going to only expand them to make them larger and there will still be 3 bedrooms.

Michael Perriello said it is not currently 2 (3) bedroom units therefore you are expanding the living space. Bob Luongo said the requirement is 2 parking spaces for each unit regardless of the number of bedrooms.

Eric Schneider asked what the plans are for the property? The applicant stated he will be renting it.

Jonathan Moriarty asked what the field card says as far as number of bedrooms. Eric did not know off hand, it would likely say 2-4 or 4-8 bedrooms as the cards are not specific.

There is a revised plan dated July 20, 2016 which is what the board is going by.

Jonathan Moriarty asked what year the house was built. The applicant did not know.

Jonathan Moriarty made a motion to close the public hearing on Case # 3289 and was seconded by Chuck Golden.
Voted 5-0

Jonathan Moriarty made a motion to approve the special permit for Case # 3289 and was seconded by Chuck Golden.
Voted 5-0

Special Permit Criteria for Approval. The Board of Zoning Appeals may approve any Special Permit applications only if it finds that, in its judgment, all of the following conditions are met in accordance with Zoning Ordinance Section 120-122D.

1. The specific site is an appropriate location for such a use.
2. The proposed use or 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, utilities 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.

Added conditions

1. Before permit is issued the dumpster will be removed.
2. All parking will be off street to the left side of the building on paved lot.

3. Case #3291 – The petitioner, Donald J. Rafferty, Jr., for property located at **36 Oak Cliff Road**, also shown on the Weymouth Town Atlas sheet 30, block 396, lot 36, located in the R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-56 Required frontage

The ~49,228 SF lot is presently vacant. The petitioner seeks to construct a new single family dwelling.

Previous Special Permit has expired.

Sitting Members: Richard McLeod
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Brad Vinton

Appearing before the board was the applicant Mr. Rafferty. There were some concerns about what the prior conditions were when this lot was approved in 2010.

Eric Schneider said he supplied the board with the conditions of 2013, 2014. The original variance had 5 conditions and a subsequent modification deleted the second condition so there are 4 remaining conditions that would follow along with this approval.

Eric said when speaking with DPW they requested that the two driveways be kept 2 feet apart due to the topography and ledge, but it may be a difficult task so Eric suggested the condition should read “as much as is practical”.

Public comments:

Frank Younie, 16 Oak Cliff Road said the previous owner also proposed to build a house but the stipulations said it could only be one house, loop the road, fix the road, and put lighting up there and that is why it was never done. These stipulations should be put on this applicant as well.

Eric Schneider said he did some research and the conditions were interpreted that any disruptions to Oak Cliff Road made by the applicant to extend his water line would need to be patched and brought to DPW standards. The town had a plan years ago to loop the water main at Oak Cliff Road but since there was so much ledge the town abandoned the idea. It was never a condition of the property owner to loop the water main.

Frank said there is not enough room to put his equipment. On 6-2-10 there were conditions placed on the previous owner. Mr. McLeod said these conditions will remain in effect.

Mr. Rafferty said he will not be doing any blasting.

Karen Younie, 16 Oak Cliff Road said her house shook when he chipped the rock. She put up with him building two other houses.

Eric Schneider said perhaps they could regulate the hours of rock removal. It was suggested 8:00 am to 5:00 pm. Frank Younie is a disabled vet and can't sleep at night. 8:00 am is too early.

Mr. Rafferty said he only needs 12 feet and is going to do as little as possible. It would probably be only 3 days.

There were no other comments.

Jonathan Moriarty made a motion to close public hearing on Case # 3291 and was seconded by Kemal Denizkurt.
Voted 5-0

Jonathan Moriarty made a motion to approve Case # 3291 for a Variance under Section 120-56 frontage and width of parcel 4 as referenced on the plan filed with the application dated 1/22/2013 and was seconded by Chuck Golden. VOTED 5-0

The lot is currently a vacant lot, comprised of 4 lots and he seeks to build a single family home in an R-1zone. There are currently two approvals on record with the town dated 2010 and 2014.

Additional Conditions:

1. only one lot can be built on this land and the applicant cannot come back in the future to try to subdivide this lot. (as written in the original condition) only this lot can be built upon with only one dwelling and cannot be further subdivided.
2. Repair utility trenches in Oak Cliff Road to be patched following DPW standards and specifications.

3. A separate driveway to the left of the lot is to be included. Pursuant to DPW's specification and requirements of 2 feet between both driveways be maintained at all points as practical given the existing ledge and rock outcroppings.
4. The roadway is to be repaired up to DPW standards prior to occupancy permits being released.
5. Hammering cannot take place until 9:00am and must end by 4:30pm and no weekends.

4. Case #3292 – The petitioner, John Deady, for property located at **958 Commercial Street**, also shown on the Weymouth Town Atlas sheet 18, block 189, lot 8, located in the R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit;	120-40	Continuation of non-conforming use
Variance;	120-48 & Table 1	Required frontage

Presently located on the property is a single-family dwelling and one-car garage. The petitioner seeks to reduce the frontage on Commercial Street and on the right side of the dwelling to allow access to the rear lot and to allow the existing structure to remain.

Sitting Members: Richard McLeod
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty

Eric Schneider said the applicant is not here and he has not heard from the applicant and would suggest to dismiss this case without prejudice.

Jonathan Moriarty made a motion to continue this public hearing to September 7, 2016.

Chairman McLeod said it was clear it was continued to tonight and he did not show. Chairman McLeod does not want to continue this. If we dismiss without prejudice it allows him to come back before the board at any time.

Jonathan Moriarty withdrew his motion.

Jonathan Moriarty made a motion to dismiss this case without prejudice and was seconded by Chuck Golden.
 VOTED 4-0

Wayne Matthews asked if they could dismiss this case with prejudice? Jonathan Moriarty said he would not be comfortable with that as maybe it was an oversight on his calendar.

Wayne Mathews asked if he has to resubmit to zoning or planning only.

Eric Schneider said anything before the Planning Board that requires approval from the BZA he does not have it with the plan he has now.

New Business:

1. Case #3293 – The petitioner, Ed Kelcourse, for property located at **1072 Washington Street**, also shown on the Weymouth Town Atlas sheet 30, block 399, lot 3, located in an HT zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-22.7 (B) Conversion of an existing dwelling for up to four dwelling units.

Presently located on the ~24,837 SF lot is an existing two-story building consisting of 3-first floor commercial spaces and 2-one-bedroom residential units on the second floor. The petitioner is proposing to convert ~1200 SF of commercial space on the first floor, rear of the building to 2 one-bedroom residential units.

Sitting Members: Richard McLeod
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty
 Brad Vinton

Chuck Golden made a motion to open the public hearing on Case # 3293 and was seconded by Kemal Denizkurt. VOTED 5-0

Chuck Golden made a motion to waive the reading of the publication on Case # 3293 and was seconded by Kemal Denizkurt. VOTED 5-0

Appearing before the board was the applicant Ed Kelcourse and he stated he can't rent out the commercial space and has decided to convert them to two (1) bedroom units.

The property is an L-shaped building fronting on Washington Street. The portion of the building facing Washington Street contains two ground-floor businesses with 2 one bedroom apartments on the second floor. The portion of the building extending back perpendicular to Washington Street currently contains one commercial business. The applicant is requesting a Special Permit to convert the commercial business in the rear into two additional one bedroom apartments. The only exterior changes to the building will be to the rear façade. Plenty of off-street parking is currently available and the parking demand will likely decrease with the shift to residential.

Eric Schneider said the fire department had a comment that it would need to be sprinklered. He said that the entire building is currently sprinklered.

Bob Luongo said Mr. Kelcourse came in 2011 to construct this commercial space. The project came out as per the plan. Due to the economy he now would like residential units. The building looks great. Mr. Luongo would like to see landscape in front of the converted space. He will submit a landscape plan to the Planning Department prior to permits being issued.

Public comment:

Neighbor who had the original concerns and said she was very pleased with what he did and wanted to say thank you.

Councilor Arthur Matthews said the building is always kept up and well maintained. It is unfortunate he can't get another commercial tenant but he supports this change.

Chuck Golden made a motion to close the public hearing on Case# 3293 and was seconded by Jonathan Moriarty. VOTED 5-0

Chuck Golden made a motion to approve the application for a Special Permit for Case #3292 and was seconded by Jonathan Moriarty. VOTED 5-0

Special Permit Criteria for Approval. The Board of Zoning Appeals may approve any Special Permit applications only if it finds that, in its judgment, all of the following conditions are met in accordance with Zoning Ordinance Section 120-122D.

1. **The specific site is an appropriate location for such a use.**
As currently configured this is a mixed use development. This proposal preserves the intent of the Highway Transition District (HT) by maintaining the commercial businesses fronting on Washington Street.
2. **The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.**
No Change to the existing building footprint is being proposed and the street-facing façade will be unchanged.
3. **There is not a potential for nuisance or serious hazard to vehicles or pedestrians.**
Plenty of on-site parking is available. The conversion to residential will likely reduce both traffic and parking demand.
4. **There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.**
All construction will be monitored by the Inspector of Buildings and comply with the Massachusetts Building Code and Board of Health Regulations.
5. **That the public convenience and welfare will be substantially served with the proposal.**
The goal of the Highway Transition District is to "provide for a mixed residential, business and commercial development along major arterials". This proposal adheres to that goal.

Condition:

1. Landscaping plan be submitted and approved to the Planning Department prior to issuing a building permit.
 2. Proof of sprinklers to be submitted to Planning Department
2. **Case #3294** – The petitioner, Kenneth Fitzgerald, for property located at **41 Jessica Lane**, also shown on the Weymouth Town Atlas sheet 61, block 639, lot 40, located in the R-1 zoning

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

Variance; Table 1 Dimensional Requirements – Rear Setback

Presently located on the ~15,612 SF lot is an existing single-family dwelling. The petitioner seeks to extend an existing deck for construction of a ~12.5' X 20' sunroom.

Sitting Members: Richard McLeod
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty
 Brad Vinton

Jonathan Moriarty made a motion to open the public hearing on Case # 3294 and was seconded by Chuck Golden. VOTED 5-0

Jonathan Moriarty made a motion to waive the reading of the publication on Case # 3293 and was seconded by Chuck Golden. VOTED 5-0

Appearing before the board was Kenneth Fitzgerald. He is looking to extend the deck and add a sunroom.

Chairman McLeod asked what is behind the property and the applicant stated two neighbors. He has not spoken to them but they were notified as abutters.

Eric Schneider stated that all the taxes are up to date and he has no staff comments.

Jonathan Moriarty made a motion to close the public hearing on Case #3294 and was seconded by Chuck Golden. VOTED 5-0

Kemal Denizkurt made a motion to approve a variance for Case #3294 and was seconded by Chuck Golden. VOTED 5-0

The applicant has shown hardship as there is nowhere else to locate this proposed sunroom. One side of the property would be economically and financially unfeasible and on the other side it would not be consistent with the use of the house.

Variance Criteria for Approval. Weymouth Zoning Ordinance Section 120-119A(3). The Three Required Findings For Granting A Variance:

Finding #1: Soil, Shape, Topography

Owing to circumstances relating to soil conditions, shape or topography of the land or structure and especially affecting such land or structure but not generally affecting the zoning district in which it is located.

- The board must also find that the peculiarity is unique to the zoning district where the parcel is located.
- The peculiarity must not be found in the district as a whole.

Finding # 2: Hardship

A literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise.

Finding # 3: Public Good

Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance or bylaw.

3. Case #3295 – The petitioner, Ellen Corbett for property located at **42 Jaffrey Street**, also shown on the Weymouth Town Atlas sheet 17, block 228, lot 1, located in the R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Variance; 120-40 Extension or change of a non-conforming lot. Setback.

Presently located on the ~12,605 SF lot is an existing single-family dwelling. The petitioner seeks to demolish an existing deck on the rear of the dwelling and construct a ~240 SF addition.

Sitting Members: Richard McLeod
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty

Jonathan Moriarty made a motion to open the public hearing on Case # 3295 and was seconded by Chuck Golden. VOTED 5-0

Jonathan Moriarty made a motion to waive the reading of the publication on Case # 3295 and was seconded by Chuck Golden. VOTED 5-0

Appearing before the board were Ellen and David Corbett who are looking to add on to the house with the existing footprint of the deck and will not exceed it. This addition will make the living room space an open concept and it will extend the dining room/kitchen.

They purchased the house 6 months ago.

There were no public comments.

Kemal Golden made a motion to close the public hearing on Case # 3295 and was seconded by Chuck Golden. VOTED 5-0

Kemal Denizkurt made a motion to approve the application for a Special Permit under section 120-122D.

Appearing before the board are Brian and Mary Wilkins who are looking to add on to the house 6x15 feet to extend the kitchen. This will “square off” the rear of the house. They have already spoke with their neighbors and they are all aware.

Eric Schneider said there is a variance because it is under 5,000 square feet.

There were no public comments.

Jonathan Moriarty made a motion to close the public hearing on Case # 3296 and was seconded by Brad Vinton. VOTED 5-0

Variance Findings:

The existing home was built in 1928 and is part of an established neighborhood consisting primarily of small lots. The home is currently only 664 square feet and, given the size and shape of the lot, options for expansion are limited. Reducing the size of the existing deck and squaring off the existing building is the most appropriate option.

Jonathan Moriarty made a motion to approve the application for a variance on Case # 3296 and was seconded by Chuck Golden. VOTED 5-0

Special Permit Criteria for Approval. The Board of Zoning Appeals may approve any Special Permit applications only if it finds that, in its judgment, all of the following conditions are met in accordance with Zoning Ordinance Section 120-122D.

1. The specific site is an appropriate location for such a use.
The current building is a single family home. The proposed addition will allow an expansion of the existing kitchen.
2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
Although small, the lot is in keeping with the neighborhood character.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
The addition will be at the rear of the existing home and screened by existing garage.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
All construction will be monitored by Inspector of Buildings and comply with the Massachusetts Building Code.
5. That the public convenience and welfare will be substantially served with the proposal.
The project will increase the assessed value of the home.

Jonathan Moriarty made a motion to approve the Special Permit on Case #3296 and was seconded by Chuck Golden. VOTED 5-0

Minutes --June 22, 2016

Jonathan Moriarty made a motion to approve the minutes of June 22, 2016 and was seconded by Kemal Denizkurt. VOTED 5-0

Upcoming Meetings –August 24, 2016, September 7, 2016, September 28, 2016

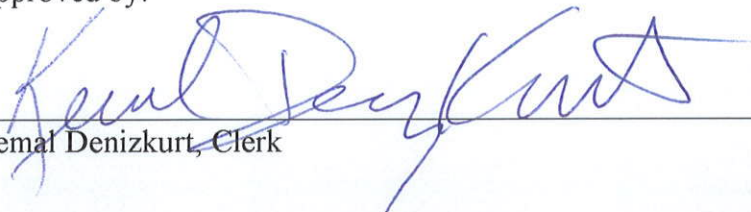
ADJOURNMENT

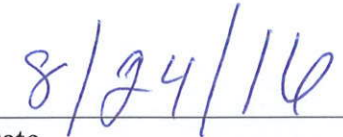
Jonathan Moriarty made a motion to adjourn at 8:50 pm and was seconded by Chuck Golden. VOTED 5-0

Respectfully submitted by,

Lee Hultin
Recording Secretary

Approved by:


Kemal Denizkurt, Clerk


Date