

**BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, September 23, 2015**

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

Also Present: Jim Clarke, Director of Planning
Eric Schneider, Principal Planner
Jeffrey Richards, Building Inspector
Lee Hultin, Recording Secretary

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

Old Business:

Case # 3258 – For Deliberation, Public Hearing closed 9/2/2015

The petitioner, Joanne Marques, of 60 Circuit Road, has filed an application to Appeal a decision by the Inspector of Buildings to issue building permits for property on Burkhall Street, shown on the Weymouth Town Atlas Sheet 38 & 42, Block 467, Lots 2 & 3, Block 469, Lots 2, 21, 22, 23, located in an R-4 & R-2 zoning district. The petitioner seeks to:

Appeal: Appeal of a decision of the Inspector of Buildings (Article XXIV, Section 120.119A(1))

The petitioner seeks to have the Board of Zoning Appeals rescind building permits issued.

Sitting Members: Richard McLeod
Chuck Golden
Jonathan Moriarty
Ed Foley
Brad Vinton

Chairman McLeod stated there was an open public hearing at the last meeting and this meeting is to determine the following:

1. Approve the appeal and find that the permits were not issued properly under the Zoning By Laws by the Inspector of Buildings or
2. Find that the permits were issued properly under the Zoning By Laws and deny the appeal.

Mr. Foley said he sat on this case 11-12 years ago, he believes all of Ms. Marques concerns were addressed within the court systems. Floor area ratio, height, school situation and the courts have

all affirmed the board's decisions in the past. He believes the reasons given to appeal this decision do not play out. He does have some concerns about the conditions that were placed on this project and heard them during the public hearing.

Mr. Foley's main concern is that there were 3 pieces of property that would never be developed (Condition #8). This has not been done and asked Jim Clarke for an update on the restrictions.

Mr. Clarke said the town's legal department is reviewing a draft of conservation restrictions on this and it should be ready shortly. This work would not have happened until the project came back before the town and that just recently happened. Regardless of the decision this evening those 3 lots (Lot 21, Lots 22 & 23 and Lot 2) will never be developed or built on.

Chairman McLeod said one of Ms. Marques concerns were the incomplete applications; how does the board feel about that. Mr. Foley said if they were filled out properly then they would have the conservations restrictions on that land. Mr. Clarke stated that the application was generic and the Building Inspector testified to that. There are other conditions that will need to be fulfilled but cannot be done before the building permit is issued. There are traffic improvements that will need to be done as well; therefore it does not tie into the issuance of the permits.

Mr. Moriarty said he felt the applications were sufficient but was offended as they were sloppy and the timing was not good. To have a citizen come in to look at the permit that was just filed and was handed a copy of this application was offensive.

Mr. Golden said he can't find enough facts to overturn what has already been decided either by the board or the courts. However, as a board we need to confirm that all the conditions will be met.

Jonathan Moriarty said in regards to the FAR issue, he would uphold the numbers that were submitted by Gale. The town approved them and they haven't been challenged sufficiently to date.

Ed Foley made a motion to conclude the discussions on Case # 3258 and was seconded by Brad Vinton. Voted Unanimously

Ed Foley made a motion to deny this appeal on Case # 3258 that the applicant has not met the burden of proof on the issues with the FAR and introduces the following evidence:

- 5/27/2004 Gale's letter regarding the FAR ratio
- 6/23/2009 Court's decision on the school and the height limitation
- A 2007 letter from Mr. Lampke referring to the Superior Court's decision granting the Special Permit to TCR Mid-atlantic that it has ruled in favor of the town's decision that the special permit was issued appropriately.
- All conditions that were issued for this project will be met and fulfilled.

This motion was seconded by Jonathan Moriarty.

Voted Unanimously

Other Business:

Kemal Denizkurt replaced Brad Vinton on the board

Review of Minutes – September 2, 2015

Ed Foley made a motion to approve the minutes of September 2, 2015 Case # 3260 as written and was seconded by Jonathan Moriarty. Voted unanimously

Jonathan Moriarty made a motion to approve the minutes of September 2, 2015 Case # 3259 as written and was seconded by Chuck Golden. Voted unanimously

Jim Clarke stated that he has been in discussions with Foxrock Properties who owns 4 buildings in Libbey Parkway. They have some long term plans to build new buildings and add on to existing buildings such as 90 Libbey, put a building where the parking lot at Performance Drive and Libbey Parkway is, they own Planet Fitness and will make improvements to that property and they own a paper recycling building which they would like to take down and build a new building.

Improvements to Libbey and Middle Street will be scheduled to go out for bid in July of 2016 and will be funded with Federal funds. Mr. Clarke and Eric Schneider have been meeting with Foxrock Properties and they would like to have a semi permitted site ready to go to be able to try to get medical clients into their properties and then let them have the final input on the design of the building.

The economy is looking good and the Planning Department is suggesting a two-step special permit process where the applicant would come before the board with the footprint, parking layout with # of spaces, general square footage, traffic analysis and general water and sewerage. If approved they would have a condition that states they would need to return with the client and have elevation and more detailed drainage for a final plan etc. This would give Foxrock Properties something to market.

This is new for the Planning Department and have been talking to other communities and would like some input from the board on their opinion of this process.

Chairman McLeod asked if there a time frame from stage 1 to stage 2? It was stated that they could make that a condition.

Kemal Denizkurt asked how does Jim see the parking piece work out since there are so many requirements for so many different types of properties? Jim said they would be permitted as medical and they would be looking for a reduction in parking which we can give consistently in the past. The town needs to look at that regulation anyway in the future to change it.

Ed Foley asked how would they do a traffic study? It would be a traffic study provided by Foxrock Properties on everything they want to do within the park and then each individual building and the impact on that. The traffic study would be over 7 years on the full picture.

Eric Schneider said Needham has a similar two-tier process and also Somerville's Assembly Row Development. Eric will be talking with Needham about their process.

The Board likes this idea and has agreed to move forward.

Ed Foley left the meeting at this point as he has already heard the following presentation.

Complete Street Presentation:

Mr. Eric Schneider presented a draft Complete Streets Policy to the board. This is a state policy that is encouraging towns to consider to make streets safer and easier to get around.

The program will be coordinated through the Planning Department but distributed to all departments for their comments.

In 2014 the Massachusetts Legislature authorized \$50 Million dollars for this program. For the coming fiscal year they will be releasing \$5 Million and the town would need to adopt this policy in order to apply for these monies. The state will rate our policy and the more formal the town does this, the more "points" we will get.

This will be given to the Planning Board for their approval/adoption as well and Mayor Kay plans on signing a resolution adopting the Complete Streets Policy for the town.

Jim Clarke stated that this would be an amendment to the BZA Rules and Regulations and the Planning Board will do the same. There are conditions for waivers when certain conditions come up.

Chairman McLeod asked if you can spot certain areas you want to be improved and it was stated yes.

Chapter 90 monies allowed us to do as many streets as we could fit in and we never did the sidewalks the town just paved as many streets as possible. Now they want to focus on sidewalks as well.

Eric Schneider said that there is flexibility on what makes a complete street.

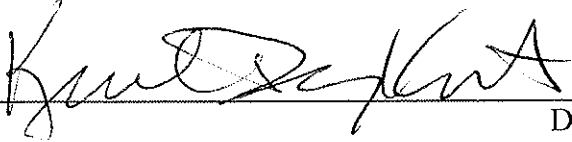
Upcoming Meetings -- October 7, 2015, October 21, 2015, November 4, 2015

ADJOURNMENT

Chuck Golden made a motion to adjourn at 8:02 pm and was seconded by Jonathan Moriarty.
Voted unanimously

Respectfully submitted by,
Lee Hultin
Recording Secretary

Approved by:

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Date 10-7-15