

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
September 21, 2011**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, September 21, 2011 at 7 pm at McCulloch Building, Mary McElroy Meeting Room, 182 Green Street, Weymouth, MA for the purpose of passing on the application of certain persons whose petitions were properly before the Board. Notice of public hearing had been given by mail to the parties in interest of the subject locus and by publication in the Weymouth News.

Present:                      Richard McLeod, Chairman  
                                 Edward Foley, Vice-Chairman  
                                 Kemal Denizkurt, Clerk  
                                 Chuck Golden  
                                 Jonathan Moriarty  
                                 Martin Joyce

Staff:                         James Clarke, Director, Planning & Development  
                                 Robert Luongo, Economic Development Planner

Recording Secretary:     Mary Barker

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A motion was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and unanimously voted.

A motion was made by Jonathan Moriarty to take Case #3144 out of order and was seconded by Chuck Golden and unanimously voted.

**BZA CASE #3144 – Discussion and/or Decision 102 Weyham Road**

Application of Claire and Neal Drew for property located at 102 Weyham Rd., also shown on the Weymouth Town Atlas as Sheet 8, Block 111, Lot 29, located in R-1 zoning district, seeking an appeal from the decision of the Inspector of Buildings.

Members sitting:         Edward Foley, Vice-chairman  
                                 Kemal Denizkurt, Clerk  
                                 Chuck Golden  
                                 Jonathan Moriarty  
                                 Martin Joyce, Alternate

Ed Foley stated that he tended to agree with the decision of the Building Inspector, however based on the hearing he thought an additional section of fence, 4' in length, should be added perpendicular to the privacy fence on the deck. Kemal Denizkurt thought that it should be a solid fence.

**To vote on the of BZA Case No. 3144 to Appeal the decision of the Building Inspector**

A motion was made by Vice Chairman Foley to deny the application for appeal and require an additional section of fence, 4' in length, be added to the deck for privacy fence, and was seconded by Jonathan Moriarty.

**FINDINGS**

Further, the Board finds that:

1. 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 will be substantially served.

**DECISION OF THE BOARD** - Due to the above findings, it was unanimously voted to deny the appeal of the decision of the Inspector of Buildings and require an additional section of fence, 4' in length, be added to the deck for privacy fence.

Chairman Richard McLeod arrived. Jim Clarke reported that the mayor has approved the appointment of Jonathan Moriarty as a regular member of the Board, and that Rob Stevens, a planner with the City of Quincy is under consideration for appointment as an alternate member.

**BZA CASE # 3147- Public Hearing, 185 Washington Street**

Application of Walid Metri for property located at 185 Washington St.; also shown on the Weymouth Town Atlas as Sheet 20, Block 276, Lot 32, located in B-2 & VCOD zoning district, seeking to remove an existing repair garage and construct a new retail building with a drive-through window for coffee and pastries as well as an automatic car wash freestanding building. The gas pumps will remain.

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

A motion was made by Vice Chairman Foley to open the public hearing and waive the reading of the legal advertisement, was seconded by Chuck Golden and unanimously voted.

Attorney Gregory Galvin, with offices at 775 Pleasant Street, Weymouth appeared with the applicant before the Board. The applicant seeks to demolish the garage, keep the gas pumps and construct two buildings on the lot; one a retail establishment with a drive-through window and a second building which will be a freestanding self contained car wash. They have met with the town planning staff and Traffic Engineer George Bezkorovainy and met in July with Councilor

TJ Lacey and Homestead Landing Civic Association. Attorney Galvin noted that under the zoning for Village Center Overlay District, the buildings are set back uniformly on the lots; however, the original building is already set back; this will be an extension or change of an existing nonconformity.

Mark Smith, Planner with TO Design, LLC reviewed the plans and layout. Two buildings are proposed; the gas pumps and canopy will remain. Curbs cuts will be changed to (2) 30' cuts, with a planting island between. There will be a one way entrance and exit, and curb cuts were marked from traffic observations. Observation occurred during a gas tanker delivery and there were no issues noted. The sign will be a ground sign in the northeast lot corner, and there will green space perimeters around the buildings, and ivy screening to grow over the fence in the back bordering Weston Park. Current site lighting will be removed and replaced with 15' side shielded lights. The dumpster area will be screened as required and there is sufficient space for loading and pickup. There are 9 parking spaces proposed in the front, and 4 parallel, with a dedicated queuing lane for the drive-through window.

Dan Mills, Transportation Engineer with MDM Transportation reviewed the traffic study. The traffic flow from Washington Street, on site and exiting from the gas bays was observed. The traffic amount will increase, but this will be due to complementary uses. Because of the nature of each of the businesses on the lot, the peak times will vary. The layout allows for stacking up to 13 cars for the drive through. With the interaction between uses on the site, each will be able to be exit without impacting the other uses. He reviewed several circulation maps.

Ron Compagna with Oasis Car Wash Systems briefly outlined the design of the car wash system. It will be an automatic closed-door point of service system.

Attorney Galvin reported that the project will include adequate signage and the gas bays will have an attendant at all times.

Chairman McLeod noted that Councilor Lacey was not able to be present but provided a letter to the Board with his concerns. A motion was made to accept the letter as Exhibit #1 by Vice Chairman Foley, seconded by Chuck Golden and voted unanimously.

Attorney Galvin summarized that although they cannot provide for every contingency, the plan is reasonable, with complementary uses, and peak times offset.

Chairman McLeod asked for the current and anticipated levels of service; Mr. Mills responded that it currently is a conservative F and will be a level B. There will be a slight increase in exit time, but less than 15 seconds. He also noted the traffic signal light at Washington and Broad Streets will create gaps in traffic allowing exit. Kemal Denizkurt noted the traffic study was done in January and asked if adjustment made for holiday/vacation period traffic. Mr. Mills responded that the study incorporated MA DOT regional data, and a 10% allowance was included to address the issue. Jonathan Moriarty noted his concern with traffic going from the car wash to the convenience store and asked if there are plans to include self-vacuuming on site. Mr. Metri and Attorney Galvin both noted that many of the clients will be repeat traffic and there are no

plans now to add self-vacs, but it might be something he would add. Kemal Denizkurt asked if the applicant has considered contingencies if the coffee service fails; would he sublease the drive-through space. It could be a coveted space for a fast food entity and could generate even more traffic. Jim Clarke responded that restrictions could be placed on the type of use allowed. Kemal asked for the proposed hours of operation, whether the gas pumps will be fenced off during construction and snow removal plan. Attorney Galvin responded that the convenience store would open around 6 AM and close 10-11 PM. The gas pumps are open 24 hours; and the coffee shop would not be open unless the convenience store was. Car wash hours have not been determined. There is nowhere on the site to stack snow; any accumulated snow will be trucked off site. Chuck Golden noted his concerns with the traffic study and the calculations showing 30% of all internal traffic will be going against the one-way flow. Foot traffic will be generated for some of the internal traffic, and cars can be left unattended at the bays. There is an attendant for the gas bays; Weymouth ordinance does not allow for self service. There was also discussion of the ratio of left or right side gas tank locations and how they factor in. Jonathan Moriarty noted that marked pavement lines should be considered as a condition.

Jim Clarke reported that the application was routed to the various departments and reviewed the comments and generated memos from Jeff Richards, Building Inspector, George Bezkorovainy, Traffic Engineer, Dan McCormack, Public Health Director and Jeff Bina, Public Works Director. Taxes on the property are up to date.

Tom Joyce of Homestead Ave. spoke in dissent of the project. He cited the traffic in the area. He also noted that when the project came up at a neighborhood meeting, there was talk of tables in the convenience store for coffee, which will tie up parking on the lot. He also voiced concern with adding Keno, the possibility of beer and wine license, asked if adding another convenience store to an area already saturated might put an existing one out of business.

Colleen Kelly of Ledgehill Rd. and President of Homestead Landing Civic Association voiced her support of the proposal noting it is a good use of the property. She also read a letter from member Ed McDonald of 17 Granite St. in opposition to the project. He noted the proximity of 2 schools and the contamination on the site.

Vice Chairman Foley noted there are no tables shown on the plans and asked if they were planned, and whether Keno is a consideration and the type of sandwiches. Mr. Metri responded that there will not be tables. Keno is determined by the state Lottery Commission. Sandwiches will be deli meats prepared in the store. There will be no cooking.

George Berg, 74 Summer Street and Trappani & Associates in Weymouth Landing voiced his support of the proposal. He noted traffic is what it is; the applicant has addressed the concerns of the HLCA and another convenience store will not take away business from the existing stores. He noted the project meets the five criteria in zoning and urged support.

Vice Chairman Foley asked about the setbacks. The property is not set back further than the abutting property on Washington Street. The existing freestanding signage will be moved back

and made more conforming. The existing sign is right on the property line; the new sign will be set back 10 ft. further and will meet regulations.

A motion was made by Vice Chairman Foley to close the public hearing, seconded by Chuck Golden and voted unanimously. A motion was made by Vice Chairman Foley to take the matter under advisement, seconded by Jonathan Moriarty and voted unanimously.

Submission:

Exhibit #1-Letter from Councilor T. J. Lacey

Exhibit #2- letter from Ed McDonald, 17 Granite St.

### **BZA Case #2818 – Minor Modification, 679 Pond Street**

Jim Clarke reported that the as built dated September 6, 2011 in response to a letter dated 9/1 from Merrill Associates has met the conditions imposed by the Conservation Commission and the changes requested are minor in nature. In April, the Board approved the setting of a propane tank (National Grid would not run a gas line) and the water will connect to Main Street running from Pond to the Abington line. Councilor Michael Smart noted that the adjacent property owner is allowing cut through of his property although unwilling to have a formal agreement without remuneration. The turnaround on the property is sufficiently wide for a bus to make the turn. The width of the turnaround was reduced. A motion was made by Vice Chairman Foley to accept the changes as they are not substantially different than what was intended, seconded by Chuck Golden and unanimously voted.

### **Minutes-August 24, 2011, Case #3141, #3142, #3144, #3145, #3146, #3126, and #2849**

A motion was made by Vice Chairman Foley to approve the minutes of August 24 2011; Case #3141, #3142, #3144, #3145, #3146, #3126, #2849; was seconded by Chuck Golden and was unanimously voted.

### **Other Business**

Jim Clarke also reported that the board had requested at its last meeting an updated plan from the Case #3126 (Weathervane Golf Club) showing the location of the additional parking spaces; Jim received a letter and a copy of the plan- there are no additional spaces.

### **Adjournment**

At 9:00 PM, there being no further business, a motion to adjourn the meeting was made by Chuck Golden, seconded by Jonathan Moriarty and was unanimously voted.

Approved:

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Richard McLeod, Chairman

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Date