

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
JANUARY 12, 2005**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, January 12, 2005, at 7:00 pm at Town Hall – Council Chambers, 75 Middle Street, Weymouth, MA for the purpose of passing on the applications of certain persons whose petitions were properly before the Board. Notice of the 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<br>Mary McElroy, Clerk<br>Donald Holzworth<br>Sandra Carle<br>Martin Joyce |
| Staff:               | Rod Fuqua, Principal Planner  |
| Recording Secretary: | Janet Murray  |

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.

**BZA CASE #2837 562 Main Street**

Application of Derek J. Mourad, Mourad Company, LLC for property at 562 Main Street, also shown on the Weymouth Town Atlas Sheet 37, Block 463, Lot 6, located in a B-1 zoning district seeking a special permit and/or variance under Chapter 120-34, 120-40, 120-64.3, 120-101, 120-122 for alteration of existing nonconforming use.

Francis Kenneally represented the applicant before the Board. Mr. Kenneally noted that the building in its current state is an eyesore. It is currently used as a car wash. The proposal before the Board is to transform the building into an attractive two-story structure, resembling a single-family residence. There would be new water and sewerage as per DPW. There would be new lighting that would not wash onto abutting properties or onto Route 18. The dumpster would be within a fenced enclosure. The signage would be similar to the Bank of America sign, next door.

Mr. Kenneally noted that the Mourad family currently operates the Neponset Car Wash in Dorchester. He read portions of a letter dated January 7, 2005 from Philip Carver, President of Pope's Hill Neighborhood Association. The letter spoke favorably regarding the applicant.

Richard McLeod asked if the applicant was extending the footprint of the property. Mr. Kenneally stated that the building would go up to 2 ½ stories and would extend the frontage from 30' to 45' and would go 15' in one direction and 10' in the other direction. There would be two car wash bays. One would be automatic and the other would be self-serve.

Rod Fuqua stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission had no comment.
- Health Department had no concerns.

BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

- Police and Fire had no comment.
- DPW – Water and sewer noted that the plans need to show all utilities. Also, DPW wants the water line upgrades to 2” lines, and the sewer lines to be replaced.
- School Department had no concerns.
- Tax Department had no comment.

Rod Fuqua asked for clarification on whether the Route 18 curb cut would be closed off. It was noted that this could be done.

A drawing has been presented that showed potential queues on the property. Mr. Fuqua suggested that a line could be placed on the pavement. Once the queue reaches this line, the car wash should be closed or a detail be hired.

The Chairman asked if the public had any comments, to which there was the following comment.

David Walker, 25 Highland Place, asked for clarification on the flow through the lot. He stated that it was already impossible to exit his street onto Route 18. With a carwash stacked up, it would be even worse. He is opposed to closing the curb cut to Route 18.

Jeanne Hunter of Highland Place noted that the exit back onto Highland Place was previously used but is no longer necessary.

Billy Graham of Highland Place expressed concerns about water usage. He noted that the side street is narrow. With on street parking at the school, in addition to the problems created by snow accumulation navigating this street can be difficult.

A resident of Highland Place expressed concern regarding the entrance and exit to the site, as well as traffic flow.

Timothy Cronin of 10 Highland Place noted concerns with vehicles on Highland Place.

It was noted that the traffic engineer would review this application.

A MOTION to CONTINUE the public hearing until February 2, 2005 was made by Mary McElroy and was seconded by Sandra Carle, and was UNANIMOUSLY VOTED.

**HEARING CONTINUED UNTIL FEBRUARY 2, 2005**

BZA CASE #2837 562 Main Street 2/2/05

Present: Richard McLeod, Chairman  
Mary McElroy, Clerk  
Donald Holzworth  
Sandra Carle  
Martin Joyce

BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

Staff: Rod Fuqua, Principal Planner  
Recording Secretary: Janet Murray

The applicant requested a continuance until March 2, 2005.

A MOTION was made by Sandra Carle to APPROVE the request for a CONTINUANCE for alteration of existing nonconforming use and was seconded by Mary McElroy and was UNANIMOUSLY VOTED.

**HEARING CONTINUED TO MARCH 2, 2005**

BZA CASE #2837 562 Main Street 3/2/05

Present: Richard McLeod, Chairman  
Mary McElroy, Clerk  
Sandra Carle  
Martin Joyce  
Staff: Rod Fuqua, Principal Planner  
Recording Secretary: Rita Lounge

The applicant requested a continuance of the public hearing so that he could hold a neighborhood meeting.

A MOTION was made by Mary McElroy to APPROVE the request for a CONTINUANCE to April 6, 2005 for alteration of existing nonconforming use and was seconded by Martin Joyce and was UNANIMOUSLY VOTED:

**HEARING CONTINUED TO APRIL 6, 2005**

BZA CASE #2837 562 Main Street 4/6/05

Present: Richard McLeod, Chairman  
Mary McElroy, Clerk  
Donald Holzwoth  
Sandra Carle  
Martin Joyce  
Staff: James Clarke, Planning Director  
Rod Fuqua, Principal Planner  
Recording Secretary: Rita Lounge

The Chairman opened the continued hearing for Case # 2837, 562 Main Street and stated that the applicant was going to provide the Board with additional material.

Mr. Francis Kenneally, attorney representing the applicant, Derek J. Mourad, Mourad Company, LLC, stated that they have done a lot of work since the last time they were here on January 12<sup>th</sup>.

## BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

At the last hearing on January 12<sup>th</sup>, they decided to suspend the hearing so that they could meet with the residents of Highland Place. Following that hearing they spoke further with most of the residents of Highland Place. There was a hearing scheduled for February 2<sup>nd</sup>, but asked that that hearing be continued to allow them to meet in person with the residents of Highland Place. They met at the home of Timothy and Laura Cronin. Councilor Leary also attended that meeting. They made a lot of progress. The continued hearing was scheduled for March 2<sup>nd</sup> and as that date got closer, they wanted to make sure that they were all on the same page with the residents so they decided to ask for another continuance in order to have another meeting with the residents to make sure they had addressed all the concerns, fully and fairly. The second meeting with the residents was at the Hearth and Kettle. It was well attended and Councilor Leary was again present. What they were able to do at that meeting was to commit firmly to the residents to some revisions and changes to the plans that was before the Board on January 12<sup>th</sup>. The chief concern of the residents of Highland Place was the exit onto their street from the facility. What they committed to as a result of the residents concerns was to close off that exit so that no vehicle would be exiting off Highland Place. There would only be an entrance from Highland Place. They further agreed that the hours which are 6 to midnight as of right would be changed to 7 a.m. to 10 p.m. Further they agreed that after six months if in fact the 10 p.m. closing affected the quality of life for the majority of residents, they would scale back the time to 9 p.m. They further agreed because of the concerns about access to the site, after closing at night they would have a gate or some kind of gate blocking any kind of entry to the site once they are closed. They further agreed committed to some traffic issues. They agreed that there are a handful of days in a year when a car wash business is at capacity. They contacted the Weymouth Police and State Police about detail arrangements and they were assured that there was no problem having a police detail at the site for the orderly flow of traffic near the site, much like the Bank of America site. They further committed to post "Turn off the radios" signs because the neighbors were concerned about loud music coming from the site. During the summer time, that is certainly an understandable concern. They agreed to post a sign saying "Please turn off car radios" to make people aware that they are in a residential setting. They further agreed that they would engage in snow removal up to the property line so that access to the street would be made easier for the residents. Access to the street, in their opinion, was chief among the residents' concerns so they have tried to do everything they can so that nothing is blocking that. Also the detail officer would be responsible for making sure that the residents can get up that street without any kind of problem whatsoever. They were aware there was a third meeting of some residents. They are not sure who attended. They were not invited to that meeting so they do not know what transpired. Suffice to say that following the Hearth and Kettle meeting, they had a vote of the residents assembled and all but one, maybe two of the eighteen/twenty something people agreed to these commitments.

Mr. Kenneally stated that one component he needs to share with the Board is that they have worked for six months with abutters, knocking on doors and having these meetings and it has been very productive. One of the things they can't control is other competing businesses in town electing to interfere with the process. At their meeting with residents of Highland Place they became aware that a competing business sent an employee to the meeting to monitor what they were discussing. They were further aware that following their meeting and their intensive efforts in trying to forge an alliance that this competing business was contacting the residents in an effort to affect the process. It is somewhat upsetting to them because they have worked so hard

BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

to get to this point, so all they know is what they knew at the meeting on March 2<sup>nd</sup> at the Hearth and Kettle.

Mr. Kenneally stated that the record before the Board reflects the record of the Mourad Company car wash for the last thirty years, specifically to Derek Mourad for the last ten years. There has never been any record of civil or criminal complaints. They would be pleased to compare his record with the record any owner of a similar business or any business.

Mr. McLeod asked how it would be determined when there were high volume days when there would be a police detail. Mr. Mourad replied that typically when you have a snow storm, the next day or next couple of days after the snow storm is high volume. From knowing this, they would prepare ahead of time. The police detail's main goal would be to keep Highland Place open for the residents.

Mr. McLeod asked where the detail would be stationed. Mr. Mourad replied that he would have to use the expertise of the police detail but he would imagine the police detail would be right outside the facility in the Route 18 area.

Mr. McLeod asked if it was correct that they won't have outside radios going. Mr. Mourad replied that was correct.

Mr. McLeod asked if there were any conditions that the abutters wanted that Mr. Mourad refused. Mr. Mourad replied that best case scenario vehicles would enter from and exit onto Route 18. That was the one thing he couldn't commit to for two reasons, one being that the property is not as deep as it is wide and they have the property set up for the building going the long way so they couldn't fit the cars in. The other reason was that they felt it was a risk. Even if they did get it approved by Mass Highway, and their experience tells them that it most likely wouldn't happen, it wouldn't fit with the building layout. Mr. McLeod commented that you would probably have more risk with stacking cars on Route 18. Mr. Mourad replied that was correct. He stated that he would have less queue capacity if they did it that way. Right now he has 20 queue capacity; physically they can hold 20, but they show 18 on the plans.

Mr. McLeod asked if the competing business was on Route 18 by the Dairy Queen. Mr. Mourad replied that is what they were told by the neighbors.

Mr. McLeod opened the meeting for questions or comments from the public.

Mr. Ron Frado stated that he lives on West Street which is right around the corner from Route 18 and the proposed site. He's an entrepreneur himself and he promotes business. He is a businessman and hates to be negative on something like this. Usually when small businesses try to go out into town, the argument of traffic comes up. In this particular case the traffic on Route 18 is horrendous. He can't pull out of his driveway during the day from about noon on. On Saturdays and Sundays, it is bumper to bumper from 9 in the morning to 3 or 4 in the afternoon. From noontime on workdays it is bumper to bumper on the entire length of Route 18. He urged the Board to consider any new businesses in this area until the road is wider. The traffic is absolutely out of control. Again, he is a proponent of business, but he believes the Board must

## BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

consider postponing some of this stuff until the road until the road is wider. They tell us it's going to happen in a couple of years and hopefully it's going to happen before that. When businessmen come into a community and make various arguments about quality of life, he often wonders what they would do if the same situation was going in next to their house. As far as the other business in Dorchester, it is under a highway, it is in the middle of the city, the traffic goes 24/7, and there are no homes around it. He's sure these people are honest business people. He feels badly to have to stand up and speak against it, but the traffic is absolutely out of control. We are going to have some relief at some point. He's begging the Board to try to deal with this in way that would be helpful.

Mr. Ed Krasnow, 37 Highland Place, stated that he was one of the many residents who met with Derek Mourad about a month ago. He missed the first meeting; he was not informed of it. He was at the second meeting. He does not feel it's appropriate for him to dictate what Mr. Mourad should do with the business that he bought at the end of the street. It is an existing, small, very low volume car wash there that everyone of the residents knew very well when we bought our houses. If a new small car wash opened up, everyone, he believes, would have no problem with it. The problem with this is Mr. Mourad is a businessman and he wants to put a car wash that is very large has twice the capacity, high volume business. Mr. Mourad told the residents that he wants to make this a successful business and he plans on expanding it to include hundreds of cars per hour. In order to be profitable Mr. Mourad must have a very high volume of cars everyday. The problem is that in order to stop the traffic from Route 18, it has to be dumped onto Highland Place. What they are living on is a small residential dead end street that abuts woods where they already have an early childhood center on the corner. That has not been a problem and is also a fairly low volume business but they also have a very large parking lot which they also park along the street and block the street despite the no parking signs. It is not a big problem, but it is a problem that their very small street, even smaller in the winter time, is often blocked by one car and it is already one lane for most of the length of the street anyway. So they are already talking about a blocked situation right there are the school where the car wash is. In order to alleviate the traffic on Route 18, the proposal is to have a back up of cars on Highland Place. Despite Mr. Mourad's pledge to put police details there, and he appreciates all the concessions Mr. Mourad made, he came to the residents and said that he wants to offer all of these concessions, but as Mr. Mourad has told the Board he is not willing to concede on the entrance on their street. He would be willing to give up any concession made to stop an entrance/exit on their street. It is going to cause an already amazingly difficult situation worse. It's going to make their life miserable getting out. It is a different situation than other businesses. It is not Neponset Circle; it's not Route 18; it's a residential street with over 12 small elementary children who go to school every day. We are looking at putting cars stacked up on their street. Mr. Mourad can close off the parking lot, but he can't stop people, unless there is a police detail there, from lining up on their street. He was just at the car wash in Quincy by the Quincy Adams T Station. Those cars are lined up on a 2 wide street all the way out to the intersection because people are waiting at the car wash all the time. Several people have been by the Neponset car wash. It is busy all the time. This is what is going to be at the end of their street and having this entrance/exit on their street is going to make the traffic situation for all of the residents impossible. Mr. Mourad has plenty of room, plenty of frontage and access to this property on Route 18. If the state doesn't want traffic to back up on Route 18, then don't put a high volume car wash close to the

## BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

intersection. If there is going to be a high volume car wash, there is no reason to dump that traffic onto their street.

Mr. Bill Graham, 30 Highland Place, stated that looking at the plan that was given to them, he saw 31 cars marked on the plan with another 4 inside the building. He went around to other car washes and found the following:

- 685 Bridge Street – 89,500 square feet, located beside a self storage, gas station, package store and the Riverway Plaza.
- 200 Main Street – 29,700 square feet, located around it is a strip mall, Mass. Electric storage yard, across the street a used car lot, new car dealer and a tire retailer.
- 1060 Main Street – 103,000 square feet, their neighbors are a body shop, gas station, and Jannell's used cars.

Mr. Graham stated that Mr. Mourad is trying to build on 17,100 square feet. The adjoining neighborhood includes special needs school, bank, medical offices, Stetson medical center, Nash School, and a neighborhood on a dead end street. He did some measuring of Highland Place. It is 31 feet wide. It's actually 25 feet wide by the car wash and it's 19 feet wide at the top of the hill where it's a dirt road. If a car goes into the car wash and decides to turn around, what are they going to do? Does he go down Highland Place and turn around in a resident's driveway? Late at night, he understands there will be a chain across the property, but will there be attendants at night? In 1978 the town promised that the car wash would not affect the water. There is a water pressure problem on Highland Place. Back then the town promised that the entrance off Highland Place was going to be temporary. The town has not get promises made. This car wash just doesn't fit in the neighborhood.

Mr. Steve Brodeur, 46 Highland Place, presented Mr. Mourad's plan with how the residents see traffic pattern backing up onto Highland Place. The concern seems to be traffic backing up onto Route 18. While Route 18 is a major state highway, Highland Place is less than 200 square feet and 200 feet long and it is a dead end street. Also he brought some pictures of a regular day on Highland Place with a truck going up and a car coming down. He questioned where all the cars are going to be. He has no problem with Mr. Mourad putting in a car wash. He's in business as well and he understands that Mr. Mourad bought this property as a viable car wash and he can make a business out of it. He pays taxes at 46 Highland Place. He does not park his car at 562 Main Street. Mr. Mourad pays taxes at 562 Main Street and he does not plan on incurring the traffic up Highland Place. The way it is proposed now, no one wants the traffic on Route 18 so the default is to put it on Highland Place. They asked to see permits go in front of the Engineering Dept. and in front of Mass Highway so that they could see if Mr. Mourad could get a curb cut off Route 18. Five hundred forty Main Street is less than 50' away, it's medical center and has less than 40' and Mass Highway approved a curb cut. Mr. Mourad has over 100 square feet on Route 18 and there is an existing curb cut. From what he see, Mr. Mourad already has a curb cut; it's just a matter of lining it up. Granite, it might not fit in with Mr. Mourad's plans, but plans are made to be revised. Mr. Mourad needs to run a business there and the residents need to live there and the residents want to do it fairly. Mr. Mourad said that on busy days when they are overwhelmed they will put a police detail there. Bank of America does not have overwhelmed days. There is a police detail everyday. If they went by overwhelmed days Bank

## BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

of America would have police detail there only in the morning at 9 a.m. when they opened and 3 to 5 at night. What is to be determined overwhelmed? He can't speak for everyone in the room, but the residents have had quite a bit of discussion and are not opposed to a car wash going there but they want the permits and an application pulled for a curb cut on Route 18. If that's not an option, they want a full time police detail. He does not think that is unreasonable to ask.

Mr. Paul Leary, District 5 Councilor, stated that he attended 3 meetings of the neighborhood. The second meeting was at the Hearth and Kettle. A lot of conditions were asked and agreed to by Mr. Mourad. The next day he called Attorney Kenneally, went over the list that was agreed upon and thought that was the end of it. Another meeting was called for by a resident of Highland Place. There was some discussion and opposition to the car wash. The main thing that was determined was a letter would be sent to Mr. Mourad and a letter sent to him asking for whatever changes the residents wanted because we had agreed. Mr. Mourad never got a letter and he never got a letter. He thought it was the same as was agreed to and that there were no changes asked for. His concern has always been traffic on Route 18. If he had his druthers, there would be nothing, but that is not going to happen.

Ms. Laura Cronin, 10 Highland Place, stated that her property abuts the car wash. As far as she's concerned, she is not worried about one entrance in and one exit out. It's been a car wash since she moved there. They are on Route 18. Traffic is going to be traffic. Mr. Mourad didn't make the traffic. The traffic has been there since she's moved there. It's packed from morning to night at Highland Place. She is all for the car wash as long as Mr. Mourad sticks to what he has agreed to. She really has no problem with Derek Mourad and her property abuts the car wash property. As far as noise, she has lived there for 6 ½ years and people do play their stereos when they go to a car wash. The dryers are not allowed because she does not hear them. She realizes that the rest of the neighbors have concerns about the traffic, as does she, but she feels that Mr. Mourad has spent a number of months working with the neighborhood and she feels it's been a car wash and as long as Mr. Mourad can commit to all of his agreements, she is not opposed to it.

Mr. Dave Walker, 25 Highland Place, stated that he really only has one concern. The neighbors have all met together to discuss this. He does not think that anyone is against the car wash in general. The main concern is the residents of Highland Place are on a dead end street. If traffic is bad they can't drive out the other end. If the Board grants this application and this turns into a real traffic nightmare, can it be reversed? If this was to become really ugly and they are trapped on their dead end street, what could the residents do? He is not against the car wash. He likes Mr. Mourad, but he wonders if there is a way out if this becomes ugly.

Mr. Jeanne Hunter, 24 Highland Place, stated that Mr. Mourad has been more than fair. He has agreed to a lot of their concerns. She wants to make sure all of the cars exit onto Main Street. She thinks he's going to run a very good business there.

A resident asked if the temporary entrance off Highland Place has ever been written down any place. If the car wash moves out, will it still be an entrance. Mr. Fuqua stated that he did look at the files in the Building Department and go over to Engineering. He cannot find any record that the curb cut on Highland Place, either one of them, was granted a curb cut permit, but DPW does

BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

not routinely keep copies of, nor is he aware of any curb cut permits that are issued. There is no notation in Public Works record nor in the Building Department that it is temporary or that it was legal or illegal so they are existing curb cuts.

A resident asked about the water situation.

Mr. Mourad stated that he met with DPW and they asked that he tie into the main at Route 18.

Mr. Clarke stated that he would like to clarify one thing with regards to the entrance on Highland Place. Under the plan that's been submitted, one of those means of egress will be eliminated. If this Board goes ahead and votes the plan, that is what this property will have to abide by. So the question as to whether Mr. Mourad sells it or someone else comes in here, they have an approved plan from this Board that shows only the one access of Highland Place. If someone wanted to do something else, they would have to come back and have the plan amended.

Mr. Jeff Crocker, 40 Highland Place, stated that he's concerned about the water for the car wash. He asked if the water from the car wash will be recycled. Mr. Mourad replied that the water is fresh water. He explained the process and stated that there would be a sediment tank that would meet state and local codes and French drains to avoid water going off the property.

Mr. Crocker stated that traffic is going to be horrible. Regarding the police detail, he has been talking with Mike Molisse and Mr. Molisse was talking a detail constantly, but that is not what he is hearing this evening.

Mr. McLeod stated that Mr. Mourad is proposing to have a police detail on high volume days, but if there is a constant flow and back up on Highland Place, a police detail may be needed more often.

Mr. Crocker asked about the police detail at the bank and what was required as a condition of their approval.

Mr. Fuqua stated that there is a police detail at the bank. It was formerly South Boston Savings Bank. There was no requirement for a police detail at that bank. It was done by the bank as part of their operational procedure. The bank has changed names but that detail has been kept there; however there is no requirement for a detail there. He has talked to Sgt. Concannon of the Traffic Division and Sgt. Concannon informed him that South Boston Savings Bank did have a policy where they did have a police detail at every one of their branches for the entire time it was open. At every bank the police detail was located inside the building except for the one here on Main Street at this location, and that detail was put at the intersection by the driveway.

A resident stated that if traffic backs up on Route 18, all Mr. Mourad has to do is put the closed sign up and people will drive by. If the entrance is on their street, people will line up and back up. If they get five cars, which is very little and won't hurt Mr. Mourad's business to have five cars turned away, the hardship of those five cars is tremendous to the residents because of the size of their road the problems they already have. He understands that Mr. Mourad doesn't want the car to come in on his property because he has cars exiting the car wash and cars entering and

## BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

that is potential liability for him of cars maybe having accidents. He has driven by and looked at the site and there is plenty of room for cars to get in, but it means that Mr. Mourad must stack cars around his property and be more diligent about managing it. If you have twenty cars lined up inside the property that is more than enough people waiting. You don't need just five cars more on the street. It is such a hardship for the residents for five cars to wait, and they will wait as soon as Mr. Murad puts the closed sign on Highland Place. They will be waiting by the school rather than just saying that the car wash is closed for now, and have people go by and maybe go to the next car wash. It just seems fair not to make the residents life hard for many five cars. There is plenty of room there. It is quite a wide entrance, plenty of room for cars to come in, enter the property and come around to enter his car wash. Mr. Mourad already has so many cars stacked up he's not losing business. He could close for ten minutes, relieve the wait and open it again.

A resident urged Board members to go take a look at Mr. Mourad's car wash in Dorchester which is a very high volume car wash, and then ask themselves if they would want that at the end of their street.

A MOTION was made by Mary McElroy to close the public hearing and was seconded by Sandra Carle and was UNANIMOUSLY VOTED.

Mrs. McElroy asked if it was correct that all of the conditions that Mr. Mourad agreed to could be included as conditions of approval. Mr. Fuqua replied in the affirmative.

A MOTION was made by Sandra Carle to take the application under advisement and was seconded by Donald Holzworth and was VOTED 4 to 1 (Mary McElroy opposed).

### **CASE TAKEN UNDER ADVISEMENT**

Based on a consensus that all five members would be available, Mr. Fuqua stated that he would schedule this case for discussion and/or vote for the BZA meeting on April 20, 2005.

## BZA CASE #2837 562 Main Street (Decision) 4/20/05

|                      |                              |
|----------------------|------------------------------|
| Present:             | Richard McLeod, Chairman     |
|                      | Martin Joyce                 |
|                      | Mary McElroy, Clerk          |
|                      | Donald Holzworth             |
|                      | Sandra Carle                 |
| Staff:               | Rod Fuqua, Principal Planner |
| Recording Secretary: | Janet Murray                 |

Richard McLeod stated that the public hearing on this case is closed. Tonight's meeting is for discussion amongst Board members and for a possible decision.

Martin Joyce asked for clarification that there would be no stacking of cars onto adjacent Highland Place.

BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

Sandra Carle stated that a “temporarily closed” sign would be placed.

Martin Joyce stated that cars would be turning left onto Main Street/Route 18 against traffic.

Rod Fuqua stated that this location is an existing nonconforming car wash. It currently, by right, could open as such. This proposal is to revitalize the site. Fencing and landscaping would be added to create a buffer for the adjacent residential neighborhood. The plan also calls for eliminating one of the curb cuts on Highland Place. As a note, Mr. Fuqua pointed out that per Building Department files, the hours of operation could be 6am to 12pm. Mr. Fuqua also pointed out that the plan calls for limiting access to Highland Place with a gate after hours.

Rod Fuqua stated that there is a well on the site. A prior owner had attempted to use the water, but was not successful. The well needs to be reviewed by Health Department. If the well is not to be used there are specific procedures to close/abandon a well.

Donald Holzworth suggested consideration of closing at 9pm due to the proximity of the residential neighborhood. It was decided not to impose this restriction. Mary McElroy noted that there will be a sign for customers to turn down their car radios.

Rod Fuqua stated that the applicant had also requested a sign variance. However upon further research into this Mr. Fuqua stated that the frontage on Main Street is 165 feet and the frontage on Highland Place is 105 feet. He also stated that the Building Department, as a rule, allows both to count towards the square footage calculations for signage. With just the Main Street frontage, a 33 square foot sign would be allowed. The applicant is asking for a 36 square foot sign. When the Highland Place frontage is counted, an additional 21 square feet would be allowed. As the total of 54 square feet of signage is allowed if the frontage on both streets is used, a sign variance is not required.

Mary McElroy asked who would be responsible to call to arrange the police detail that could be a condition. Mr. Fuqua stated that the owner would be responsible for this.

Rod Fuqua stated that if this application is approved with a police detail condition, the applicant could apply for a future amendment to the decision, to change this condition. This would require a public hearing.

Richard McLeod questioned what process the neighbors could use if they have concerns. Mr. Fuqua stated that, if the Board approves this application, a condition could be added to require a review after one year of operations.

A MOTION was made by Mary McElroy to APPROVE the request for a SPECIAL PERMIT with the following conditions:

1. Approval is based on Traffic Circulation Plan with Proposed Taking, Green Environmental, 3/23/05 with modifications as noted in this decision

BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

2. All municipal utilities shall follow DPW specifications for design and construction.
3. Floor drains shall be tied into a gas trap before the sewer connection.
4. An "End of line" marking shall be placed on the pavement 20' from the property line.
5. When the queue reaches the "End of line" mark "Temporarily closed" signs shall be placed over both sides of sign "A" as shown on plans. "Temporarily closed" signs may be removed when the end of the queue is 60' from the property line.
6. At times when the "temporarily closed" sign is out, noted in condition 5, the vacuums shall also be noted as "temporarily closed".
7. All drying of vehicles shall take place within the building only.
8. The gate at Highland Place curb cut shall be secured at all times the car wash is closed for business.
9. A police detail shall be used from January 1 through April 15 on Saturdays and Sundays between the hours of 8:00 am to 4:00 pm when the preceding Friday's weather forecast predicts fair weather. A review of this condition will take place after one year of operations.
10. The police detail shall be responsible to insure that no vehicles are queuing or standing on Highland Place.
11. The hours of operation shall be limited to between the hours of 8:00 am and 10:00 pm.
12. Existing water well on site to be reviewed by Health Department prior to issuance of a building permit.

and was seconded by Donald Holzworth and was UNANIMOUSLY VOTED.

FINDINGS:

Based on the discussions during the deliberations, the Board found that the SPECIAL PERMIT would not derogate from the intent and purpose of the Zoning Ordinance, and the requested relief could be granted without substantial detriment to the public good nullifying or substantially derogating from the intent and purpose of the Ordinance.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT with the following conditions:

1. Approval is based on Traffic Circulation Plan with Proposed Taking, Green Environmental, 3/23/05 with modifications as noted in this decision
2. All municipal utilities shall follow DPW specifications for design and construction.
3. Floor drains shall be tied into a gas trap before the sewer connection.

BZA CASE #2837 562 Main Street

January 12, 2005, February 2, 2005, March 2, 2005, April 6, 2005 and April 20, 2005

4. An "End of line" marking shall be placed on the pavement 20' from the property line.
5. When the queue reaches the "End of line" mark "Temporarily closed" signs shall be placed over both sides of sign "A" as shown on plans. "Temporarily closed" signs may be removed when the end of the queue is 60' from the property line.
6. At times when the "temporarily closed" sign is out, noted in condition 5, the vacuums shall also be noted as "temporarily closed".
7. All drying of vehicles shall take place within the building only.
8. The gate at Highland Place curb cut shall be secured at all times the car wash is closed for business.
9. A police detail shall be used from January 1 through April 15 on Saturdays and Sundays between the hours of 8:00 am to 4:00 pm when the preceding Friday's weather forecast predicts fair weather. A review of this condition will take place after one year of operations.
10. The police detail shall be responsible to insure that no vehicles are queuing or standing on Highland Place.
11. The hours of operation shall be limited to between the hours of 8:00 am and 10:00 pm.
12. Existing water well on site to be reviewed by Health Department prior to issuance of a building permit.

---

Mary McElroy, Clerk

---

Date