

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
February 6, 2008**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, February 6, 2008, at 7:00pm at McCulloch Building, Whipple Center Conference Room, 182 Green 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.

BZA CASE #2987 474 Columbian Street (cont.)

Application of Tedeschi's Food Shops for property at 474 Columbian Street, also shown on the Weymouth Town Atlas Sheet 44, Block 504, Lot 16 located in a B-1 zoning district seeking a special permit and/or variance under Chapter 120-27.1B, 120-51, and Table 1 to construct a drive-through in an existing building to serve coffee, donuts, sandwich and the like through the window to customers.

Present:	Richard McLeod, Chairman
	Mary McElroy, Clerk
	Donald Holzworth
	Charles Golden
	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

Attorney Rocco DiFazio appeared before the Board with the applicant's real estate manager Peter Andrew. Also present were Jack O'Leary, Engineer from Merrill and Associates, and Sharon Holcraft proposed manager of the Dunkin Donuts.

Mr. DiFazio stated that there was a neighborhood meeting on January 27, 2008. He noted that the Sergeant from the Police traffic division stated that based on the information given, the drive-thru is ok.

Mr. O'Leary gave a brief overview of the plan. He noted that the only real change to the plan since the last meeting is that the parking has been angled. As to the drainage issue, there is still a question as to what is causing the puddles. He noted that there is a low area between the catch basins in the right of way. He also noted that DPW and the town's engineer are not certain what is causing the problem. Mr. O'Leary pointed out that the amount of impervious area is being decreased.

Ms. Holcraft stated that she is a manager at the Dunkin Donuts at Main Street and Park Avenue. She noted that she has been in discussions with Tedeschi regarding development of this proposed site. The proposed site within Tedeschi's will be approximately 500 square feet.

Mr. McLeod asked if the Dunkin Donuts on the site is a use by right. Mr. DiFazio stated that it is, the applicant is requesting a special permit for the drive thru window.

Mr. Andrews stated that the applicant is willing to accept a condition that the drive thru not be in operation until after peak hours, if this would make a difference to the Board.

Ms. Holcroft noted that the drive thru is a huge chunk of their business, but they are willing to make this concession.

Mr. McLeod commented that there would still be traffic impacts.

Mr. Golden commented that he didn't read the town's traffic report as positive as Mr. Abend. He also asked why Mr. Abend did not use the Institute of Traffic Engineers (ITE) trip generation. Mr. Abend pointed out that there are several different ways to predict traffic impacts.

Mr. Golden noted that there are a number of office complexes in the immediate area of this site. He commented that this would generate a significant number of additional trips.

Mr. Abend stated that these trips are not pass-bys but this is already factored into the numbers.

Mr. Golden asked about the truck deliveries. It was noted that there would be no baking of items on site. The product will be delivered to the site twice a day by truck.

The applicant noted that they will not be adding on to the building nor asking for additional signage.

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

- Conservation Commission submitted a memo to Rod Fuqua dated November 16, 2007.
- Health Department had no objection.
- Police Department had no comment.
- Fire Department noted that the street name is ok, the hydrant is at 528 and corner of Forest Street. No interference to Fire Department communications.
- DPW (Water, Sewer, Engineering, Highway) submitted a memo to James Clarke dated November 16, 2007.
- School Department had no special concerns.
- Tax Department noted that the taxes are up to date.
- Traffic Engineer submitted a memo to Rod Fuqua dated November 8, 2007.

Mr. Fuqua stated that letters were submitted by South Shore Tri-Town Development and Al Ferreira, Forest Street Neighborhood Association.

Mr. Fuqua noted that the town traffic engineer has submitted his review. The traffic engineer noted points of both agreement and disagreement. Mr. Fuqua noted that one of the items pulled

out by the applicant is that there is somewhat of an improvement at Forest Street. In actuality it is just a transfer of traffic to another egress point on the site.

Mr. Fuqua stated that the drainage issue has still not been addressed. He noted that the town's engineer has pointed out that there is sheet flow off the site.

Mr. Fuqua stated there is a landscape business that operates on the site and it is not clear where this business will be relocated.

Mr. Andrew noted that this landscape business is seasonal. It sells Christmas trees which could be relocated onto another piece of the property.

Mr. Andrew stated that he thought that the noise, litter, and fencing were addressed. He pointed out that the speakers will be directed towards the street to minimize the noise towards the residential abutters.

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

Councilor Harrington read into the record a memo that he submitted to the Board.

Al Ferreria, 80 Tommy Marks Way, stated that he did not believe that everything was addressed at the neighborhood meeting.

Mr. Andrews stated that the applicant does not intend to be insulting. He stated that this proposal is not causing the problems that exist today. He noted that the site is B-1 zoned for this type of business.

Mr. McLeod asked if Dunkin Donuts will go into the site whether or not the drive through is approved. Mr. Andrews stated that he did not believe that Dunkin Donuts was prepared to make that commitment at this time. He stated that some type of name brand coffee would be part of the Tedeschi's shop.

Pauline Copeland, 306 Forest Street, stated that she did not view the Tedeschi's Shop as a coffee shop.

A MOTION to close the public hearing was made by Mrs. McElroy and seconded by Mr. Golden, and was UNANIMOUSLY VOTED.

A MOTION was made by Mrs. McElroy to TAKE UNDER ADVISEMENT this matter and seconded by Mr. Holzworth and UNANIMOUSLY VOTED.

The chairman informed the public that when a matter is taken under advisement, it will be discussed at a future meeting and the decision made then. He pointed out that as the public hearing has been closed, no further public comment is allowed. He stated that the Board will meet on February 27, 2008 to discuss and render a decision on this application.

BZA CASE #2994 8 Webster Street

Application of John Holland for property at 8 Webster Street, also shown on the Weymouth Town Atlas Sheet 53, Block 594, Lot 12, located in a Highway Transition (HT) zoning district seeking a special permit and/or variance under Chapter 120-22.8C and 120-70.C to build a new structure (office building) in HT District and parking within 15feet of street.

Present: Richard McLeod, Chairman
Mary McElroy, Clerk
Donald Holzworth
Charles Golden
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.

John and Michael Holland appeared before the Board. Mr. John Holland stated that the proposal is designed to accommodate additional management staff.

Mr. Holland stated that 18/19 spaces are needed but there are only 16 spaces. He pointed out that there are landscape blocks that could be added. These are pre-cast concrete blocks that would allow grass to grow up through and create the needed two spots.

The existing signage would be modified. The proposed signage would be moved to a site 15 feet from the Webster Street corner. The building would be two stories. The old building will be used for construction operations.

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

- Conservation Commission has no involvement.
- Health Department had no objections.
- Police Department noted that should be no parking on Webster Street.
- Fire Department had no comment.
- DPW (Water, Sewer, Engineering, Highway) noted a bound on Webster Street that needs to be protected. Any change to this bound needs to be noted.
- School Department had no special concerns.
- Tax Department noted that taxes are owed. Proof of payment should be submitted at the time of application for the building permit or registration of land.

Mr. Fuqua pointed out that the building is within the Highway Transition zone and the building is within 15 feet of right of way. The monument type sign needs a special permit. Also the applicant is asking to drop two spaces to increase landscaping. The intention is to increase landscaping along Main Street and Webster Street, which is a residential neighborhood with trees and shrubs.

The parking requirement is a fraction over 18 which is why the requirement is 19. The trucks currently on Webster Street are for emptying the existing building. There will be no parking on Webster Street. The plan does not call for no display area, just office space. Mr. Holland pointed out that most client meetings are held at the client's site.

Mr. Fuqua stated that updated landscaping plans need to be submitted.

Mr. Holzworth expressed concerns regarding elevation and the size of the parking spaces. Spaces 17 & 16, 9 & 18 are right up against the building. He stated that there should be more of a buffer for safety purposes. He recommended that the parking lot be shifted towards rear property line. He also suggested that the existing curb cut that is no longer needed or used be closed pending approval by Mass. Highway.

The foundation plan submitted shows an overall width of 57 feet not 51 feet. The access down below extends an additional 6 feet. Mr. Fuqua stated this would be considered outside.

The Chairman asked if the public had any comments, to which there was no reply.

A MOTION to close the public hearing was made by Mrs. McElroy and seconded by Mr. Holzworth, and was UNANIMOUSLY VOTED.

A MOTION was made by Mr. Holzworth to APPROVE the request for a SPECIAL PERMIT and a due to the shape of the land a VARIANCE to build a new structure (office building) in HT District and for parking within 15 feet of street with the following conditions:

- (1) There will be 18 parking spaces instead of 19 and the two spaces closest to Webster Street (#1 and #10) will use landscape pavers.
- (2) Site plans include landscape plans revised to February 8, 2008.
- (3) Five foot set back to rear reduced to 3 feet, additional 2 feet to be used as a buffer between parking and building.
- (4) There will be no parking on Webster Street.
- (5) There will be no sales displays in the office.
- (6) The curb cut on Main Street is to be closed, pending MassHighway approval.

The Board finds that, in its judgment; all of the following conditions are met:

- (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 and welfare will be substantially served.

The MOTION was seconded by Mrs. McElroy and was UNANIMOUSLY VOTED.

FINDINGS:

The Board found that the VARIANCE 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.

- (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 and welfare will be substantially served.

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 and due to the shape of the land a VARIANCE to build a new structure (office building) in HT District and parking within 15 feet of street with the following conditions:

- (1) There will be 18 parking spaces instead of 19 and the two spaces closest to Webster Street (#1 and #10) will use landscape pavers.
- (2) Site plans include landscape plans revised to February 8, 2008.
- (3) Five foot set back to rear reduced to 3 feet, additional 2 feet to be used as a buffer between parking and building.
- (4) There will be no parking on Webster Street.
- (5) There will be no sales displays in the office.
- (6) The curb cut on Main Street is to be closed, pending MassHighway approval.

The Board finds that, in its judgment; all of the following conditions are met:

- (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 and welfare will be substantially served.

Mary McElroy, Clerk

Date