

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
FEBRUARY 27, 2008**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, February 27, 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 #2990 Meredith Way (cont.)

Application of Bristol Brothers for property at Meredith Way, also shown on the Weymouth Town Atlas Sheet 21, Block 285, Lots 3, 122, 123, 124, 127, 128, 129, Sheet 25, Block 285, Lots 126, 127 and Sheet 25, Block 284, Lot 4, located in an R-1 zoning district seeking a special permit and/or variance under 120-63 Planned Unit Development for 21 new single family housing units in a clustered layout.

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.

The applicant has been before the Board previously on 11/28/07, 1/9/08, and 2/6/08. Mr. Fuqua noted that the applicant has been before the Conservation Commission regarding drainage issues which may impact the layout of the development. The Conservation Commission has a wetland specialist doing a peer review. There have been site visits. A concept plan to revise the layout has been made, however it is not yet detailed. There will be fine tuning on slopes, side dressings on roadway, and review of drainage calculations.

Conservation Commission is looking to complete its review of this application by the end of March. This hearing tonight will need to be continued. More detailed plans will need to be submitted prior to the next hearing with time allowed for the plan to be routed out to the various departments.

Mr. Jim Bristol, Bristol Brothers, appeared before the Board with his father, Mr. Jim Bristol Sr., Mr. Carl Erickson, and Mr. Tom Hennigan, Gale Associates

Mr. Bristol stated that a swale will be built along the northern side of the proposed Meredith Way extension. There is ledge in this location.

Mr. Bristol stated that the road will be 24 feet wide with sidewalks all the way to Essex Street.

The existing easement to Essex Heights Drive will be made a green area with deed restrictions that will not allow plantings or structures. This green space could allow for emergency access to Meredith Way if needed.

The lighting will be changed to ornamental style lantern. The applicant will have an entry design for the next meeting. He stated that moving the utilities underground on the existing portion of Meredith Way is under review but he is waiting on numbers from National Grid. This option may be prohibitively expensive.

The retaining wall at 204 Essex Street is within the street layout. He stated that he will work with property owner to improve sight lines.

Mr. Joyce asked why the grassy area wouldn't be gated. Mr. Bristol stated that he did not plan to put a gate because neighbors had expressed concern about this. He pointed out that it was actually a neighbor's idea to make it a grassy area.

Mr. Golden asked if there is curbing. Mr. Bristol stated that there is a full curb proposed on Meredith Way. There is a curb cut on the Essex Heights Drive which could be replaced with full curbing.

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

Russ Turner, 8 Meredith Way, expressed concern with why the egress to Essex Heights Drive cannot be opened. He would like to see the connection made to avoid a dead end situation.

Mr. Bristol pointed out that it was discussed at the previous hearing. He stated that the developer needed to make a decision and this is the plan being proposed.

Mr. McLeod asked if Meredith Way will be repaved. Mr. Bristol stated that it will be repaved and new sidewalks will be installed.

Mr. Turner asked if the Police or Fire Department has commented regarding the one way in and out. Mr. Fuqua stated that a new set of plans will be submitted and will be sent out for comments from town departments.

Councilor DiFazio asked if Mr. Fuqua would specify to the Police and Fire exactly what the concerns are that need to be addressed. Mr. Fuqua stated that he would do this.

Derek Welch, 107 Springvale Avenue, asked about the groundwater levels. He noted that the water can be shin deep where the circle is proposed.

Mr. Hennigan stated that the area in which the basin is being constructed is upland. He pointed out that the changes being proposed will direct the water to the basin. There is a natural swale that will be lowered a little and the back side will have a berm.

Mr. Welch asked about aesthetics. Mr. Hennigan stated that it would be a vegetated basin and sloped down towards the wetlands. There will be a concrete structure at the outlet.

Mr. Bristol noted that he had spoken with Mr. Welch's mother regarding clearing and trees to be cut down. He stated that he told her that he was willing to meet with her and walk the site prior to work being done.

Mr. Welch asked if the plans could include distances from the property lines.

A resident of Essex Heights Drive stated that there is only one way in and out of Essex Heights Drive and there are 40 homes located in that neighborhood.

A MOTION was made by Mrs. McElroy to CONTINUE the public hearing until April 16, 2008 and seconded by Mr. Holzworth, and was UNANIMOUSLY VOTED.

HEARING CONTINUED UNTIL APRIL 16, 2008.

BZA CASE #2987 474 Columbian Street (Discussion/Decision)

Application of Tedeschi 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-2 zoning district seeking a special permit and/or variance under Chapter 120-27.1.B, 120-51 & Table 1 to construct a drive-through in 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.

Mr. McLeod stated that public hearing has been closed. Public Hearings were held on 11/28/07, 1/9/08, and 2/6/08.

Mr. Holzworth commented that the Board does not have all the pieces of the puzzle. He stated that the intersection work proposed at Forest Street and Columbian Street is unscheduled. He stated that he has visited the site a number of times and there was generally a queue of at least six (6) cars. He stated that the site is not appropriate.

Mr. McLeod agreed with Mr. Holzworth and pointed out the curb cuts into the site are awkward and present traffic concerns. He stated that there is also puddling on the site and the cause has

not been determined. This occurs at the Forest Street curb cut by the intersection of Columbian Street.

Mr. McLeod stated that the applicant can serve Dunkin Donut products by right even without the drive thru as of right.

A MOTION was made by Mrs. McElroy to DENY the request for a SPECIAL PERMIT to construct a drive-through in existing building based on the Board's findings as follows:

- (1) The specific site is not an appropriate location for such a use due to the increased left turn movements into an area already experiencing failing level of service ratings in traffic capacity.
- (2) Evidence was not presented that the use involved will not be detrimental to the established or future character of the neighborhood or town due to the lack of information on relocation of a seasonal use and due to the changes that will result from future improvements at the intersection of Forest Street and Columbian Street and further due to the fact that the drive-through service aisle does not allow for any future growth.
- (3) The proposed use will be a nuisance or serious hazard to vehicles or pedestrians due to the increased number of left turn movements into and out of the site.
- (4) Adequate and appropriate facilities are not provided by not addressing the storm water drainage from the site onto the intersection of Forest Street and Columbian Street, while creating a situation with increased movement into an area already plagued by storm drain problems.
- (5) The public convenience and welfare will not be substantially served.

The MOTION was seconded by Mr. Joyce and was UNANIMOUSLY VOTED.

FINDINGS:

The Board found that the SPECIAL PERMIT would derogate from the intent and purpose of the Zoning Ordinance, and the requested relief could not 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 not an appropriate location for such a use due to the increased left turn movements into an area already experiencing failing level of service ratings in traffic capacity.
- (2) Evidence was not presented that the use involved will not be detrimental to the established or future character of the neighborhood or town due to the lack of information on relocation of a seasonal use and due to the changes that will result from future improvements at the intersection of Forest Street and Columbian Street and further due to the fact that the drive-through service aisle does not allow for any future growth.
- (3) The proposed use will be a nuisance or serious hazard to vehicles or pedestrians due to the increased number of left turn movements into and out of the site.
- (4) Adequate and appropriate facilities are not provided by not addressing the storm water drainage from the site onto the intersection of Forest Street and Columbian Street, while creating a situation with increased movement into an area already plagued by storm drain problems.

- (5) The public convenience and welfare will not 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 DENY the request for a SPECIAL PERMIT to construct a drive-through in existing building based on the Board's findings as follows:

- (1) The specific site is not an appropriate location for such a use due to the increased left turn movements into an area already experiencing failing level of service ratings in traffic capacity.
- (2) Evidence was not presented that the use involved will not be detrimental to the established or future character of the neighborhood or town due to the lack of information on relocation of a seasonal use and due to the changes that will result from future improvements at the intersection of Forest Street and Columbian Street and further due to the fact that the drive-through service aisle does not allow for any future growth.
- (3) The proposed use will be a nuisance or serious hazard to vehicles or pedestrians due to the increased number of left turn movements into and out of the site.
- (4) Adequate and appropriate facilities are not provided by not addressing the storm water drainage from the site onto the intersection of Forest Street and Columbian Street, while creating a situation with increased movement into an area already plagued by storm drain problems.
- (5) The public convenience and welfare will not be substantially served.

Mary McElroy, Clerk

Date