

BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
April 4, 2007

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, April 4, 2007, 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 #2944 1284 Washington Street (cont.)

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

Application of Sophia Giannaros-Darras for property at 1284 Washington Street, also shown on the Weymouth Town Atlas Sheet 35, Block 407, Lot 60, located in an HT zoning district seeking a special permit and/or variance under 120-64.3B(3) for a freestanding sign within 25' of the road to have a lower edge of the sign less than 8' above grade.

Mr. Giordano appeared before the Board. He stated that the first pole will be removed and the second pole, further in on the lot, will be used for the sign. He showed a rendering for the Board. The actual structure is 8 foot x 4 foot. There would be approximately 7 feet from grade to the bottom of the sign. The requirement is for an 8' height to the bottom edge of the sign.

Mr. Fuqua stated that at the last meeting there was a concern raised about visibility from the abutting condominium development. He stated that the visibility issue is caused by the shrubbery. Mr. Clarke also visited the site and noted the same condition. It was pointed out that the shrubs mostly exist on the abutter's property. The shrubs on the applicant's would need to be removed.

The existing height of the sign is slightly less than the proposed sign.

Mr. Giordano noted that he would like to lower the sign because the location is on a rise and the sign is easier to see if it is lower.

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

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

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Due to the hardship created by the hillside and the location of the sign a MOTION was made by Mr. Golden to APPROVE the request for a VARIANCE for a freestanding sign within 25' of the road to have a lower edge of the sign less than 8' above grade with the following conditions:

- (1) The second post is removed.
- (2) The shrubs located on the applicant's property are removed.
- (3) The bottom of the sign is seven feet off the ground.
- (4) No temporary signs are hung on the property.
- (5) The sign is no more than 40 square feet.
- (6) A new plot plan is filed showing the new sign design details.

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 UNANIMOUSLY VOTED.

FINDINGS:

Due to the hardship created by the hillside and the location of the sign, 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 and the hardship created by the hillside and the location of the sign, it was UNANIMOUSLY VOTED to APPROVE the request for a VARIANCE with the following conditions:

- (1) The second post is removed.
- (2) The shrubs located on the applicant's property are removed.
- (3) The bottom of the sign is seven feet off the ground.
- (4) No temporary signs are hung on the property.
- (5) The sign is no more than 40 square feet.
- (6) A new plot plan is filed showing the new sign design details.

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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.

BZA CASE #2946 92 Clinton Road

Present:	Richard McLeod, Chairman Edward Foley, Vice-Chair Mary McElroy, Clerk Donald Holzworth Charles Golden
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.

Application of Laura Hickey for property at 92 Clinton Road, also shown on the Weymouth Town Atlas Sheet 15, Block 195, Lot 17, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-54, 120-55 and 120-38.3 for an addition within the setback area and work in the floodplain.

Brian Tartaglione and his wife, Laura Hickey appeared before the Board. Mr. Tartablione submitted an updated plot plan. He stated that they have been before the Conservation Commission several times. He noted that they had to back scale the project.

Mr. Tartaglione stated that the reasoning for the changes was that the addition will only have a crawl space. To put in a floodplain foundation was not feasible; to build in the flood plain requires a special permit

The proposed covered porch in the front requires a variance as the house currently conforms to required setbacks.

The shape of the lot makes it impossible to put the covered porch anywhere else. Also the restrictions placed by the Conservation Commission made it impossible to place a deck off the back of the house. A patio will be placed instead.

Mr. Foley asked if the applicant had heard back from the Conservation Commission. Mr. Tartaglione stated that he has been told verbally that the plan was acceptable.

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

- Conservation Commission submitted a memo dated March 29, 2007 to Rod Fuqua, Principal Planner from Mary Ellen Schloss, Conservation Administrator. Mr. Fuqua stated that he has spoken with Ms. Schloss. Mr. Fuqua asked if any work was being done to the existing foundation. Mr. Tartaglione stated that no work would be done on the existing foundation. The existing house is grandfathered in under the flood plain regulations. The block wall is 18' high, at the bend in the wall it is 13'. He noted that once a wall is higher than 4 feet, it must be fenced.
- Health Department had no objections.
- Police Department had no concerns.
- Fire Department had no issues.
- DPW (Water, Sewer, Engineering, Highway) recommends that the waterline be upgraded from 1" steel to 1" copper.
- School Department had no special concerns.
- Tax Department noted that the taxes are up to date.

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

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

Relocation of existing shed should meet all setbacks and the Conservation Commission revised plan of 3/5/07 should be referenced.

Due to the hardship created by the topography and shape of the lot and the particular circumstances of this site, a MOTION was made by Mr. Foley to APPROVE the request for a VARIANCE and was seconded by Mrs. McElroy and UNANIMOUSLY VOTED.

A MOTION was made by Mr. Foley to APPROVE the request for a SPECIAL PERMIT for addition within the setback area and work in the floodplain with the following condition:

- (1) Based on plan entitled: "Plan Showing Proposed Addition in Weymouth, MA" dated August 23, 2006, revised March 5, 2007, drawn by Hoyt Land Surveying.

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.

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FINDINGS:

The Board found that the SPECIAL PERMIT and 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 with the following condition:

- (1) Based on plan entitled: "Plan Showing Proposed Addition in Weymouth, MA" dated August 23, 2006, revised March 5, 2007, drawn by Hoyt Land Surveying.

And due to the hardship created by the topography and shape of the lot and the particular circumstances of this site a VARIANCE for addition within the setback area and work in the floodplain.

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.

BZA CASE #2947 63 Lake Street

Present:	Richard McLeod, Chairman Edward Foley, Vice-Chair Mary McElroy, Clerk Donald Holzworth Charles Golden
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.

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Application of Joseph Zona for property at 63 Lake Street, also shown on the Weymouth Town Atlas Sheet 23, Block 301, Lot 20, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-51 and Table 1 for a farmer's porch on front of a two family dwelling part of which lies within the front setback.

Joseph Zona appeared before the Board. The applicant built a farmer's porch on the front of the house, part of which lies in the front setback. He stated that the porch had previously existed but he had removed the roof while renovating his home.

The topography of the lot makes it so that this is the only place on the lot where the porch could be built.

Mr. Fuqua stated that there was an existing porch that was removed. There was a delay and the non-conformity disappeared and thus requires relief from the Board.

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

- Conservation Commission noted that the site is outside its jurisdiction.
- Health Department had no objections.
- Police Department had no concerns.
- Fire Department had no issues.
- DPW (Water, Sewer, Engineering, Highway)
- School Department had no special concerns.
- Tax Department noted that the taxes are up to date.

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

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

Due to hardship created by the shape and topography of the lot a MOTION was made by Mr. Foley to APPROVE the request for a VARIANCE for a farmer's porch on front of a two family dwelling part of which lies within the front setback and was seconded by Mary 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.

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- (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 and due to hardship created by the shape and topography of the lot, it was **UNANIMOUSLY VOTED** to **APPROVE** the request for a **VARIANCE** for a farmer's porch on front of a two family dwelling part of which lies within the front setback. 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.

BZA CASE #2949 11 Arlington Street

Present:	Richard McLeod, Chairman
	Edward Foley, Vice-Chair
	Mary McElroy, Clerk
	Donald Holzworth
	Charles Golden
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**.

Application of Thomas Famolare for property at 11 Arlington Street, also shown on the Weymouth Town Atlas Sheet 12, Block 140, Lot 1, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-38.3 to remove and rebuild a single family dwelling, part of which lies within the 100 year floodplain.

Todd Burchard, North River Modular Construction, LLC and Tom Famolare, appeared before the Board. Mr. Burchard noted that the change to foundation that does not change the footprint.

Prior plans showed a walk out basement. This would have required a significant portion of the addition to be in the FEMA flood zone. Mr. Burchard noted that he has received verbal approval from the Conservation Commission. The home meets all of the requirements for setbacks. The new structure will occupy 400 square feet of the flood zone and will have the required vents.

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The new structure foundation (full basement) will house the oil tank and the furnace. These mechanicals will be raised up as a further precaution from flooding. The elevation will be 28 feet rather than 32 feet.

Mr. Foley asked if the link for the vent is fusable. Mr. Burchard stated that they are not fusable.

Mr. Holzworth asked why the applicant did not move the dwelling closer to the property line. Mr. Burchard noted that the house has been moved closer to Arlington Street.

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

- Conservation Commission submitted a memo to Rod Fuqua, Principal Planner from Mary Ellen Schloss, Conservation Administrator dated March 29, 2007. Mr. Fuqua stated that he had spoken with the applicant regarding grading the property so as not to have any water runoff from the property towards the street.
- Health Department had no objections.
- Police Department had no issues.
- Fire Department had no concerns.
- DPW (Water, Sewer, Engineering, Highway) recommends that the 1”c/l pipe be replaced with 1” type k copper during the construction.
- School Department had no special concerns.
- Tax Department noted that the taxes are up to date.

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

The living space is one foot above the flood plain. The basement will be located outside of the flood plain. The crawl space is designed to meet building code requirements for structures within the flood plain.

The approval should be based on revised plan dated 4/2/07 and revised site plan dated 3/26/07

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

A MOTION was made by Mr. Foley to APPROV the request for a SPECIAL PERMIT to remove and rebuild a single family dwelling, part of which lies within the 100 year floodplain. 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 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.

- (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 to remove and rebuild a single family dwelling, part of which lies within the 100 year floodplain. 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.

BZA CASE #2950 494 East Street

Present:	Richard McLeod, Chairman Edward Foley, Vice-Chair Mary McElroy, Clerk Donald Holzworth Charles Golden
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.

Application of Brian V. Rice for property at 494 East Street, also shown on the Weymouth Town Atlas Sheet 15, Block 171, Lot 34, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-51 & Table 1 for a front porch and side deck within the setback area.

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Mr. Rice stated that he had a building permit to put on an addition. He stated that he had a falling out with the contractor. In completing the work himself, he was unaware that the contractor had not applied for the needed variances.

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

- Conservation Commission noted that the site is outside its jurisdiction.
- Health Department had no objections.
- Police Department had no issues.
- Fire Department had no concerns.
- DPW (Water, Sewer, Engineering, Highway) had no comments.
- School Department had no special concerns.
- Tax Department noted that the taxes are up to date.

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

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

Due to the hardship created by the shape and topography of the lot a MOTION was made by Mr. Foley to APPROVE the request for a VARIANCE for a front porch and side deck within the setback area and was seconded by Mrs. McElroy and UNANIMOUSLY VOTED.

FINDINGS:

Due to the hardship created by the shape and topography of the lot, 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 and the hardship created by the shape and topography of the lot, it was UNANIMOUSLY VOTED to APPROVE the request for a VARIANCE. 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.

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- (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.

BZA CASE # 2951 1348-1350 Washington Street

Present: Richard McLeod, Chairman
Edward Foley, Vice-Chair
Mary McElroy, Clerk
Donald Holzworth
Charles Golden
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.

Application of Joseph Previte for property at 1348-1350 Washington Street, also shown on the Weymouth Town Atlas Sheet 35, Block 408, Lot 10, located in an HT zoning district seeking a special permit and/or variance under Chapter 120-40 to allow the alteration of an existing nonconforming building and to allow the use of said building to be changed from retail furniture sales to retail food sales with a wholesale preparation and distribution component.

Mr. Christopher Harrington, Esq. appeared before the Board on behalf of the applicant and stated that Mr. Previte would like to move his business from Quincy to this location which currently houses Rich's Furniture. The proposed reuse of the building would consist of a retail section in the front of the building. The rear portion of the building would be used for delivery and the preparation of food items to be sold both retail in the front and for off-site delivery of wholesale food products. He noted that the applicant is requesting a parking lot variance as they have changed the layout of the lot.

Parking non-conformance has decreased by 50% by the change in the layout.

Mr. Previte has spoken to the Eagle's owners to allow his employees to park in their lot. He noted that he only has four employees and his hours of operation are 9am to 5pm, Monday through Saturday. The location will have two registers which will help to move customers through the establishment. The type of business provided is such that turnover is high.

Mr. McLeod asked if there would be any tables at this location. Mr. Previte stated that the business is a meat market, deli, and bakery.

The dumpster is located to the side next to the loading dock and will be enclosed.

It was noted that there is a pre-existing single family, three-bedroom apartment on the second floor of this building.

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Mr. Foley noted that the sign is 46 square feet. The zoning allows for 56 square feet.

There will be one curb cut. The current condition is that there is no curbing to control the access and egress from the property.

Mr. Previted stated that he does not own Fratell's. That business' intention is to have a satellite location at this site.

Mr. McLeod stated that he is concerned about the required amount of parking available on site. He stated that he is also concerned that if the applicant is not able to work out an agreement with the Eagles, the employees would have to park on site. Mr. Harrington stated that they have a verbal agreement with the Eagles but have not yet put anything in writing.

Mr. Golden expressed concerns regarding the parking. He noted that in Quincy there is half the space and eight parking spaces, while the proposed site in Weymouth will only increase the number of spaces to thirteen. He noted that the four tables could seat sixteen customers. He commented that he sees parking as a major concern.

Mr. Fuqua noted that the revised plan eliminates the second curb cut. The concern is for safe maneuvering to enter and exit the site. In figure 2 two of the parking spaces are stacked; this should be eliminated.

Mr. Fuqua noted that the current tenant use is non-conforming. He noted that modifications being made to the building are what triggered the need for a variance.

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

- Conservation Commission noted that a portion of the lot is within the 100 foot wetland buffer zone, however if no land disturbance or alterations of drainage patterns is occurring in the buffer zone, then filing with Conservation is not required.
- Health Department had no objections with caveat that automatic grease recovery will be required.
- Police Department had several concerns on this; everything from parking to loading dock to curb cuts.
- Fire Department had no comment.
- DPW (Water, Sewer, Engineering, Highway) recommended an upgrade from 1" copper to 2" K copper.
- School Department had no special concerns.
- Tax Department noted that the taxes are up to date.
- Traffic Engineer submitted a memo to Rod Fuqua, Principal Planner from Georgy Bezkorovainy, Traffic Engineer, dated March 28, 2007.

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

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Rick Lenihan stated that he is a member of the Eagles Lodge and stated that he is in favor of this plan. He noted that the Eagles fully support the plan. He noted that there is not yet a signed agreement for the employee parking.

Silvia Grachen, abutter to the property, stated that the loading dock goes right up against her driveway. She noted that when Rich's furniture would have deliveries, trucks would remain in the driveway for long periods of time, blocking her access. She stated that there is a right of way between the Eagles Lodge and Rich's Furniture to which she has the right to access.

Dom Rizzitano stated that he is the current owner of the property. He stated that there is a 20 foot right of way, which Ms. Grachen has a right to access. It is his contention that trucks do not block the driveway. He noted that a seven foot retaining wall will be built and that the way the loading dock is configured the trucks will be able to access the dock without blocking the right of way.

Claire Cunningham stated that she is delighted to have Mr. Previte and Fratell's at this location.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

Due to the unique situation of the site and the fact that there will now be only one curb cut and the traffic engineer has stated that figure 1 is a workable parking and circulation plan, Mr. Holzworth made a MOTION to APPROVE the request for a VARIANCE to allow the alteration of an existing nonconforming building and to allow the use of said building to be changed from retail furniture sales to retail food sales.

A MOTION was made by Mr. Foley to APPROVE the request for a SPECIAL PERMIT and due to the unique situation of the site and the fact that there will now only be one curb cut and the traffic engineer has stated that figure 1 is the preferred parking and circulation plan, a VARIANCE to allow the alteration of an existing nonconforming building and to allow the use of said building to be changed from retail furniture sales to retail food sales with a wholesale preparation and distribution component with the following conditions:

- (1) The approval is based on plans dated 3/29/07.
- (2) Access to 1340 Washington Street will not be blocked at any time.
- (3) No structures are to be built within the ten foot easement.
- (4) Employees must park off site (not on the number spots on the plans).
- (5) Approval pending final Mass Highway Department (MHD) permit for curb cut change, if permit is not received then the applicant must return to get approval for modified plans.
- (6) Granite curbing at the edge of pavement shall be installed across the frontage of the property, pending approval by Mass. Highway Department.

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.

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- (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 SPECIAL PERMIT and 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 unique situation of the site and the fact that there will now only be one curb cut and the traffic engineer has stated that figure 1 is the preferred parking and circulation plan, a VARIANCE to allow the alteration of an existing nonconforming building and to allow the use of said building to be changed from retail furniture sales to retail food sales with a wholesale preparation and distribution component with the following conditions:

- (1) The approval is based on plans dated 3/29/07.
- (2) Access to 1340 Washington Street will not be blocked at any time.
- (3) No structures are to built within the ten foot easement.
- (4) Employees must park off site (not on the number spots on the plans).
- (5) Approval pending final Mass Highway Department (MHD) permit for curb cut change, if permit is not received then the applicant must return to get approval for modified plans.
- (6) Granite curbing at the edge of pavement shall be installed across the frontage of the property, pending approval by Mass. Highway Department.

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.

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- (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.

BZA CASE #2936 527 Columbian Street (decision)

Present: Richard McLeod, Chairman
Edward Foley, Vice-Chair
Mary McElroy, Clerk
Donald Holzworth
Francis Kenneally
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.

Application of Frank Giglio/Weymouth Office Park for property at 527 Columbian Street, also shown on the Weymouth Town Atlas Sheet 40, Block 480, Lot 10, located in a B-1 zoning district seeking a special permit and/or variance under Chapter 120-25A (3), 120-25B, 120-74L, 120-76/77/78 and 120-62 to demolish 1,285 square foot wood frame commercial building and portion of the existing main structure, and construct a 3,478 square foot addition to the main Barn Door Furniture building, expand the paved parking lot to the rear of the building where a gravel lot exists, provide new utility connections for the expanded building; and provide new signage for the site.

Mr. Fuqua noted that there were several sessions of this hearing. He stated that DPW has fine tuned the utilities specifications. The revised plans of 2/7/07 were submitted and should be referenced. Land to be transferred to this site from adjoining property should be formalized in a Form A submittal. The applicant has agreed to remove the proposed additional retail space so a parking variance is not required.

The applicant, as part of their presentation, requested to withdraw their application for a parking variance as the plan has been changed and the variance is no longer necessary.

A MOTION was made by Mr. Foley to ALLOW the applicant to WITHDRAW without prejudice the request for a parking VARIANCE and was seconded by Mrs. McElroy and was UNANIMOUSLY VOTED.

A MOTION was made by Mr. Foley to APPROVE the request for a SPECIAL PERMIT to demolish 1,285 sq. ft. wood frame commercial building & portion of the existing main structure, & construct a 3,478 sq. ft. addition to the main Barn Door Furniture building, expand the paved parking lot to the rear of the building where a gravel lot exists, provide new utility connections for the expanded building; & provide new signage for the site with the following conditions:

- (1) Utilities are done per DPW specifications.

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- (2) Approval is based on revised plans entitled: "Site Development Plans for 519-527 Columbian Street, South Weymouth, Massachusetts" dated December 22, 2006, revised February 7, 2007, drawn by Cubellis.
- (3) Form A is submitted to formalize land transfer.
- (4) Granite curbing at the edge of pavement shall be installed across the frontage of the property, pending approval by Mass. Highway Department.

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 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.

- (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 to demolish 1,285 sq. ft. wood frame commercial building & portion of the existing main structure, & construct a 3,478 sq. ft. addition to the main Barn Door Furniture building, expand the paved parking lot to the rear of the building where a gravel lot exists, provide new utility connections for the expanded building; & provide new signage for the site with the following conditions:

- (1) Utilities are done per DPW specifications.
- (2) Approval is based on revised plans entitled: "Site Development Plans for 519-527 Columbian Street, South Weymouth, Massachusetts" dated December 22, 2006, revised February 7, 2007, drawn by Cubellis.
- (3) Form A is submitted to formalize land transfer.
- (4) Granite curbing at the edge of pavement shall be installed across the frontage of the property, pending approval by Mass. Highway Department.

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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.

MINUTES – March 21, 2007, Case # 2941, 2942, 2943, 2945

A MOTION was made and seconded to APPROVE the Minutes of March 21, 2007, Case # 2941, 2942, 2943, 2945 and was UNANIMOUSLY VOTED.

ADJOURNMENT

A MOTION was made and seconded to adjourn the meeting at 9:00 P.M. and was UNANIMOUSLY VOTED.

Richard McLeod, Chairman

Date