

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
June 4, 2008**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, June 4, 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 #3011 1197 Washington Street

Application of Weymouth Lodge of Elks for property at 1197 Washington Street, also shown on the Weymouth Town Atlas Sheet 35, Block 447, Lot 3, located in a Highway Transition (HT) zoning district seeking a special permit and/or variance under Chapter 120-40 for construction of a 40' x 80' free standing pavilion.

Present:	Edward Foley, Vice-Chair 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.

Stephen Ondrick, Jr. 197 White Street, South Weymouth, and Ben Parker, 102 Manzanetta Avenue appeared before the Board on behalf of the Weymouth Lodge of Elks.

Mr. Ondrick stated that the Elks Lodge would like to install a pavilion on back side of the building for the purpose of hosting functions. The pavilion would be next to BBQ pit.

Mr. Joyce disclosed that he is a member of the Weymouth Lodge of Elks. He stated that he is able to make a fair and impartial decision. There was no objection.

Mary McElroy stated that her husband is a member of the Quincy Lodge of Elks. She stated that she is able to make a fair and impartial decision. There was no objection.

Mr. Foley asked what type of roof is being installed. Mr. Ondrick stated that it will be an asphalt shingle

Mr. Fuqua stated that this is a request for a special permit as it is an extension or change of a non-conforming condition.

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

- Conservation Commission stated that no filing is required.

- Health Department had no objections.
- Police Department had no issues.
- Fire Department had no concerns.
- DPW (Water, Sewer, Engineering, Highway) noted that the plan submitted is from 1974 and should be updated.
- School Department had no comment.
- Tax Department noted that water and sewer fees of \$353.83 are due.

Mr. Fuqua asked what activities in that general area have occurred before and what has taken place and whether the pavilion will improve or replace this area.

Mr. Ondrick stated that family events are usually held outside. The proposed site is level ground, and the proposed pavilion would provide cover to protect from weather. There have been issues in the past when weather conditions were questionable and members wait until the last minute to decide to come. Also if an event is happening and it starts to rain it is difficult to find space inside the function hall. The members' club serves alcohol and children are not allowed in that area.

There will be no loss of parking. In the past they have put up temporary tents but the stakes used had to be put on the pavement. This has caused freeze/thaw problems with the pavement. The area is roughly parallel to Pleasant Street. It is approximately 35-40 feet from Pleasant street property line. There are also 75 or more feet back to the wetland.

Mr. Foley asked that the applicant provide dimensions.

Mr. Foley asked why this request needed a special permit. Mr. Fuqua stated that the facility is a function hall. It does not fall under housing, retail sale, or office space.

Mr. Fuqua stated that the applicant is not adding new use to site; they are formalizing the previously mentioned uses in a specific area.

Mr. Golden asked if this space could be used for rentals. Mr. Ondrick stated that it would be available for rental for such events as weddings. He stated that he was not sure how much use it would get.

Mr. Golden asked if there would be music. Mr. Ondrick stated that this could be possible. He stated that the plan is to take care of own functions. There is potential for rental revenue creator. The capacity is approximately several hundred people (250).

Mrs. McElroy asked if close to abutting homes. Mr. Ondrick stated that it is not.

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

Councilor Mathews, District 4 Town Council, stated that this site is in his district. He noted that he did not receive any calls regarding this proposal. He pointed out that another pavilion in town was vandalized. He suggested that there be security to insure safety at the site.

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

A MOTION was made by Mrs. McElroy to APPROVE the request for a SPECIAL PERMIT for construction of a 40' x 80' free standing pavilion with the following conditions:

- (1) Proof of payment of outstanding water and sewer bill shall be provided.
- (2) Updated plans with dimensions shall be submitted.

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 Mr. Golden 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 for construction of a 40' x 80' free standing pavilion with the following conditions:

- (1) Proof of payment of outstanding water and sewer bill shall be provided.
- (2) Updated plans with dimensions shall be submitted.

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 #3010 110 Main Street & 559 Washington Street

Application of RK Weymouth LLC for property at 110 Main Street & 559 Washington Street, also shown on the Weymouth Town Atlas Sheet 29, Block 329, Lots 10, 12, 15, & 21, located in a B-1 zoning district seeking a special permit and/or variance under Chapter 120-25(A), 120-25(B) and 120-25(C) for an addition to a Shopping Center - a 10,000 +/- sq. ft. retail building on Block 329, Lot 21 and a restaurant with a drive-through on Lots 12 & 15. The applicant will be adding 100 parking spaces to the shopping center thereby making the parking less nonconforming.

Present:	Edward Foley, Vice-Chair
	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 Gregory Galvin appeared before the Board on behalf of the applicant. He noted that David Baker, RK Associates, who is the new owner of Weymouth Shopping Plaza and Bruce Babcock, Tibbetts Engineering, Taunton were also present.

The applicant is seeking a special permit to construct two new buildings: a 10,000 square foot building and a 1900 square foot building with a drive through window. The size of the building will be the size of a donut/coffee type facility. He noted that at present no tenants are lined up.

Mr. Galvin noted that as you come into the site from Washington Street, the area to left is wetlands and the area to the right is the upland.

Mr. Foley asked if the applicant is looking for a parking variance.

Mr. Galvin stated that entire site requires 930 parking spaces, but there is currently 633. He pointed out that there are 300 fewer spaces but lot is usually empty. He stated that the site is already non-conforming; however they would be adding more than what the two buildings require for new construction, but this is still less than what the site would require overall. The two buildings require 89 spaces but they are proposing 100 spaces.

Mr. Fuqua stated that the existing shopping center is grandfathered as a pre existing non-conforming. For the part they are adding, they would not impact the non-conforming. He stated that this is a request for a special permit as the parking is within the vicinity of the new buildings and not changing the main parking lot.

Mr. Baker stated that he handles property management, construction, and development for RK Associates.

Mr. Babcock stated that the storm water management meets the new State standards. The site is self contained as no water leaves the site. He stated that the water usage will be nominal. There are fire hydrants on site and the site is looped.

Mr. Babcock stated that the site near Washington Street would have a drive-through window. He noted that once a tenant is found, there is additional process for determining the exact configuration of the drive through window and parking.

Mr. Babcock stated that he received the traffic report today. A supplementary traffic report is needed to answer questions. He stated that there has been communication between Tibbetts and the town's traffic engineer.

Mr. Fuqua stated that the traffic engineer has reviewed the applicant's traffic report. He asked that the Board table any discussion on traffic as the town's engineer has requested additional material and will need time to complete his review.

The applicant will file a notice of intent with the conservation commission.

The drive-through site will be reviewed as if it were a Dunkin Donuts as this specific use has highest traffic generation.

Mr. Fuqua noted that the proposed plan calls for using the Washington Street access point for two-way traffic.

Mr. Foley asked if the change in the access to Washington Street is to make it an ingress/egress access point. Mass Highway records need to be researched in regards to the one way access. The previous owner made the change on its own without any review by the Town. He was not aware of any State review of the access change.

Mr. Foley asked if the applicant would consider using the South Shore Building Trades. Mr. Baker stated that he never refuses a bid.

Mr. Holzworth asked if the back roads would be rebuilt. The applicant stated that these roads will be rebuilt.

Mr. Holzworth asked if a notice of intent was required to do the clearing that has already been done. The applicant stated that they did not need a notice of intent. He stated that the clearing was done in conjunction with the town's conservation agent and building inspector.

Mr. Babcock stated that a complete geotechnical evaluation of the site for foundation design and for storm water.

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

- Conservation Commission has no comments as of yet but it is anticipated that a filing will be required.
- Health Department had no objections.
- Police Department has been involved in discussions regarding traffic.
- Fire Department will review plans when they come in
- DPW (Water, Sewer, Engineering, Highway) no comments as of yet. Will be looking at the storm drain system to ensure compliance with the town's new
- School Department stated that that this application presents no special concerns.
- Tax Department noted that two units have outstanding property taxes due.

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

Councilor Mathews, District 4, stated that his concern is with the traffic in regards to Washington Street. He thinks that the applicant has only looked at traffic on their site rather than in the surrounding area. He questioned the traffic numbers turning onto Washington Street.

Councilor Mathews stated that regardless of the size of a Dunkin Donuts type usage will have significant traffic impacts.

Councilor Mathews noted that there are residential areas immediately surrounding the site although these areas are not direct abutters, they will be directly impacted by the project

Art Milborn, Westminster Road, asked if traffic lights will be installed. Mr. Foley stated that additional traffic information is required so this question will be review at a later date.

A MOTION was made by Mrs. McElroy to CONTINUE the public hearing to July 23, 2008 and was seconded by Mr. Holzworth and UNANIMOUSLY VOTED.

HEARING CONTINUED TO JULY 23, 2008

ADJOURNMENT

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

Mary McElroy, Clerk

Date