

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
June 18, 2008**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, June 18, 2008, at 7 p.m. 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 public hearing had been given by mail to the parties in interest of the subject locus and by publication in the Weymouth News.

Present	Mary McElroy, Clerk and Acting Chair
	Chuck Golden
	Kemal Denizkurt
	Francis Kenneally
Not Present	Donald Holzworth
	Martin Joyce
Staff:	Roderick M. Fuqua, Principal Planner
Recording Secretary	Leia DiLorenzo Secor

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 #3014 – 108, 112-114 Iron Hill Street

Application of James Ingraham for property at 112-114 Iron Hill Street, also shown on the Weymouth Town Atlas Sheet 27, Block 308, Lots 36 & 20 located in a R-1 zoning district seeking a special permit and/or variance under Chapter 120-53 for a land swap with Nancy and Alfred Moore of 108 Iron Hill Street which will reduce an existing non conforming lot width.

A MOTION was made by Kemal Denizkurt to open the public hearing, and was seconded by Chuck Golden and UNANIMOUSLY VOTED.

Present were James Ingraham for property at 112-114 Iron Hill Street and Nancy and Alfred Moore of 108 Iron Hill Street requesting a special permit to allow a land swap with a neighbor which will reduce an existing non conforming lot width. The lots are of the exact size and do not create any new buildable lot. The exchange would allow Mr. Ingraham to widen his driveway.

Mr. Fuqua stated there were no staff comments.

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

A MOTION was made by Kemal Denizkurt to close the public hearing, and was seconded by Chuck Golden and UNANIMOUSLY VOTED.

A MOTION was made by Chuck Golden to approve the special permit based on the following findings:

- (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 Kemal Denizkurt and 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 a land swap part of which will reduce an existing nonconforming lot width.

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 #3015 – 106 Finnell Drive

Application of Metro PCL Massachusetts LLC/ Mark Cook for property at 106 Finnell Drive, also shown on the Weymouth Town Atlas Sheet 36, Block 452, Lot 2 located in a I-1 and R-1 seeking a special permit and/or variance under Chapter 120-106.1 (A) & 120-106.2 (B) to install and operate a Wireless Communication Facility on an existing monopole located within the parcel at 106 Finnell Drive.

Present were Mark Cook Project Manager and Kamal Johari Senior RF Engineer requesting the permit. Metro PCS, a new wireless carrier, would like to start a network in the Northeast. They are requesting to install 6 panel 84 Ft. antennas on the existing 120 foot monopole, also a 7 x 14 foot concrete pad on the ground for equipment. All will be contained behind the fencing, the antenna will not extend greater than the current pole height, and the site will be visited monthly for routine maintenance.

Mr. Fuqua had no staff comments, but did say the law was adopted to encourage the wireless carriers to co-locate on buildings and monopoles.

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

A MOTION was made by Kemal Denizkurt to close the public hearing, and was seconded by Chuck Golden and UNANIMOUSLY VOTED.

A MOTION was made by Chuck Golden to approve the special permit based on the following findings:

- (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 Kemal Denizkurt and 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 install and operate a Wireless Communication Facility on an existing monopole located within the parcel at 106 Finnell Drive.

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 #3013 – 605 Middle Street

Application of Avalon Bay Communities for property at 605 Middle Street, also shown on the Weymouth Town Atlas Sheet 30, Block 337, Lot 2 located in a R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 for an extension or change of a nonconforming property by adding an accessory maintenance garage with office to a multi-family complex.

A MOTION was made by Kemal Denizkurt to open the public hearing and waive the reading, and was seconded by Chuck Golden and UNANIMOUSLY VOTED.

Present was John Pitner representing Avalon Bay Communities. He gave a brief overview. The property was purchased in October of 2007, the east buildings have 260 apartments and the west buildings have 51. They currently work out of an apartment and boiler room on the first floor of the main building. They would like to add a maintenance garage with an office to a multi family complex. There will be a garage bay, office, restroom, kitchen, and storage. There will be no difference in parking spaces, and it will be open during business hours.

Mr. Golden asked if there will be a vehicle parked in the garage, Mr. Pitner stated the storage would be for extra washers, dryers and refrigerators for when appliances are broken residents do not have to wait for repairs.

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

- Conservation Commission comments, if the structure is built on existing pavement, will not increase runoff.
- DPW Water Department comments, 1” copper type k is required up to 75ft.: if over, applicant will be required to use 1 1/2 “ copper.
- DPW Sewer Department comments, Water and sewer mitigation fees, detail for sewer cleanout, sewer lateral must be 6” PVC SDR 35, Sewer lateral may require another cleanout.
- DPW Engineering Department Comments: The scope of this review is limited due to the fact that only sheet 5 of 7 of the drawings were submitted, and the address for this new building will be assigned when the building permit plot plan is submitted.

The Chairman asked if the public had any comments, Mr. David Deveau of 28 Cranch Street asked if the current dumpster location could be changed and the fence was in bad condition. Ms. Joanne Pelland of 38 Cranch Street showed pictures of the existing fence and stated the former owner used to maintain it.

Mr. Fuqua suggested moving the dumpster to the cemetery side of the property and stated it would have to conform to the Dumpster Ordinance.

Mr. Pitner confirmed the replacement of the fence and change in dumpster location.

A MOTION was made by Kemal Denizkurt to close the public hearing, and was seconded by Chuck Golden and UNANIMOUSLY VOTED.

A MOTION was made by Chuck Golden to approve the special permit based on the following findings:

- (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.

And with the following conditions:

- (1) All utilities shall be installed as per DPW specifications.
- (2) Dumpster shall be relocated to the southwest corner of the property.
- (3) Replace and/or repair stockade fence on property line prior to occupancy of maintenance garage.

The motion was seconded by Kemal Denizkurt and 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 an extension or change of a nonconforming property by adding an accessory maintenance garage with office to a multi-family complex with the following conditions:

- (1) All utilities shall be installed as per DPW specifications.
- (2) Dumpster shall be relocated to the southwest corner of the property.
- (3) Replace and/or repair stockade fence on property line prior to occupancy of maintenance garage.

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 #3012 – 595 Columbian Street

Application of VCA Animal Hospital for property at 595 Columbian Street, also shown on the Weymouth Town Atlas Sheet 40, Block 480, Lots 5 & 6 located in a B-1 zoning district seeking a special permit and/or variance under Chapter 120-24 Article XXV, XVII for an expansion and updating an existing use.

A MOTION was made by Kemal Denizkurt to open the public hearing and waive the reading, and was seconded by Chuck Golden and UNANIMOUSLY VOTED.

Present was James Burke of the Decelle Group representing VCA Animal Hospital. He gave a brief overview. The existing building will be torn down and a new 25,000 sq/ft. building will be erected. The lot has a front corner in Braintree, but the entire building will be in Weymouth. The current hospital will remain open during construction plans have been made to control drainage at the old and new buildings during the transition. The construction is anticipated to take 8 months to complete. Parking will remain in use until the utilities are tied in. There will be fencing and jersey barriers enclosing the construction site.

Mr. Denizkurt asked about the parking situation, snow removal and if there are plans for a new entrance. Mr. Burke responded that the parking, entrances and exits will be to Mass Highway code. Snow removal would be on site unless the accumulation warranted its removal.

Mr. Kenneally asked about the signage and Mr. Burke stated there is no proposed new signage at this point.

Mr. Golden asked about the amount of parking, the building has doubled in size but the number of parking spots has not. Mr. Burke stated the client wanted more parking but the additional

space in the building is for offices, conference rooms, and other rooms that would not increase the need for a substantial increase in parking spaces.

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

- Conservation Commission comments, this project involves construction within 100 feet of a wetland and will require filing a Notice of Intent with the Weymouth Conservation Commission for compliance with the Wetlands Protection Act Regulations (including the revised DEP Storm water Management Standards) and the Weymouth Wetlands Protection Ordinance. The wetlands abutting the property are considered Outstanding Resource Waters since they are tributary to the Mill River and Whitman's Pond. The Weymouth Wetlands Protection Regulations require a 50 foot setback from the wetlands, however existing conditions are currently closer than this.
- Fire Department comments, submit fire alarm and sprinkler plans to Fire Department if approved. Review adequacy of hydrants for new construction. Street name is ok.

Mr. Fuqua stated they will be required to adhere to the Construction Protocol which consists of meetings and an action plan for construction. The current storm drain system in place is not to code and they will be cleaning up the 25 ft. abutting property and this would benefit the wetlands. If any changes are made by the Conservation Committee it will require the item to come back and be approved again.

A MOTION was made by Kemal Denizkurt to close the public hearing, and was seconded by Chuck Golden and UNANIMOUSLY VOTED.

A MOTION was made by Chuck Golden to approve the special permit with the following conditions:

- (1) All utilities to be installed as per DPW specifications.
- (2) Provide a copy of the Mass. Highway Department permit to the Office of Planning and Community Development.
- (3) Applicant shall enter into a construction protocol with the Office of Planning and Community Development.

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 Kemal Denizkurt and 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 an expansion and updating an existing use with the following conditions:

- (1) All utilities to be installed as per DPW specifications.
- (2) Provide a copy of the Mass. Highway Department permit to the Office of Planning and Community Development.
- (3) Applicant shall enter into a construction protocol with the Office of Planning and Community Development.

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.

Adjournment -

At 8:28 pm, there being no further business, a MOTION was made by Chuck Golden to adjourn. This was seconded by Francis Kenneally and UNANIMOUSLY VOTED.

Mary McElroy, Clerk

Date