

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
June 21, 2006**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, June 21, 2006, at 7 pm 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:                Richard McLeod, Chairman  
                         Edward Foley, Vice-Chair  
                         Mary McElroy, Clerk  
                         Chuck Golden  
                         Kemal Denizkurt

Absent:                Donald Holzworth

Staff:                 Roderick M. Fuqua, Principal Planner

Recording Secretary   Mary Briggs

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 #2905 – 55 Commercial Street**

Application of Gale Associates, Inc. for property at 55 Commercial Street, also shown on the Weymouth Town Atlas Sheet 20, Block 264, Lot 2 located in POS and R-1 zoning districts, seeking a special permit to rebuild Sacred Heart Church.

Before beginning, Chairman Richard McLeod reported that as a parishioner of Sacred Heart Church, whose wife is serving on the Building Committee, he stayed away from the process prior to this meeting, so he would not have any conflict of interest. He stated that if anyone felt there was a conflict, he would recuse himself from these proceedings. Edward Foley noted he also is a parishioner. No objection was raised for either Mr. McLeod or Mr. Foley.

Reverend Dan Riley, Pastor of Sacred Heart Church noted the rebuilding committee has been in the process of planning the new building since the original church burned down in June of last year. He thanked the Board for its consideration and noted that several departments in town have been involved in the process of determining the design. Plans are close to completion at this point, with the hope of breaking ground by September.

Gerry Sullivan, of SLAM Collaborative, the designer selection firm chosen by the building committee came to the table next. He reviewed plans for the building. The new building scheme is close to the original design, with a similar scheme and in the materials being used; however,

liturgical changes over the last twenty years determined some changes in the design. He showed architectural renderings of the proposed building, and went over some of the changes. Overall, the footprint is slightly larger than the original building. The orientation of the building will still be facing Washington Street, but the narthex, which includes the gathering area of the building is wider than the original. The entrance on that side will be lower, with a ramp to the door, to accommodate both ADA and liturgical requirements, but will be further back than the original setback. The transepts have been widened to accommodate seating around the full front of the altar, and to also accommodate the choir in the congregation, as dictated by liturgical changes. The lower level will include a parish hall.

Tom Henaghan of Gale Associates, Inc. reviewed, and noted that this is a small site, with the original footprint of the building although closely followed, is still a design that is slightly wider and longer than the original, due to the liturgical changes dictated by Vatican and the Archdiocese. He reviewed the orientation, setback allowances, and proximity to the school, rectory, and adjacent properties. He noted that although the building is larger, it is no closer to the abutters.

He then reviewed the parking lot. The former lot accommodated 49 spots. The proposed layout will include 57 spots, with the additional spots which are adjacent to the school demarcated by striping in a different color to differentiate use during services, and during school hours. The traffic flow will be 2 ways on the Washington Street side, and one way, exit only to Commercial Street.

Mr. Henaghan also reviewed utility provisions; most of the site is impervious surface, so it will include new drainage collection on-site, with the catch basin on the site connected on Commercial Street. The collected storm water will be treated on site before being allowed to tie into the town system. The sewer has an existing line on site, and will connect to the town on Commercial Street. The building will have a full sprinkler system, and there will be water, gas and sewer hooked up.

There was a brief discussion with the board following the presentations to go over the size changes, height of the proposed building (architect did not have the height offhand, but noted it was exempt), traffic flow and signage and paving, sidewalk area and crosswalk marking in the lot. No angled nor stacked parking is proposed on the site.

Rod Fuqua went over the staff comments following the discussion. He stated that the application was routed to various Town Departments, with the following issues or concerns:

Fire	Submit fire alarm and sprinkler plans if approved. Hydrants and street number okay.
Health	No objections
Police	No police issues
Public Works	Water & Sewer Division: Water Comments - 1. No comments received.

Sewer Comments -

1. Sewer Connection from building shall be PVC.
2. Sewer Connection shall be at least 6" in diameter.

Highway/C&M Division/DPW Director:

1. No comments received.

Engineering Division:

1. The address for the church building will be assigned by DPW Engineering upon the submission of a building permit plot plan. If the location is unchanged from what is shown on these plans, the address will be 70 Washington Street.
2. There is a granite post with an iron rod located at the corner of Prospect Street and Washington Street at the corner of the church property. This granite post is a survey monument for the layout of Prospect Street and must be protected during all site work.
3. The General Notes on sheet C-7 don't seem to apply to this project. They actually look like they may have been copied from plans for a Town of Weymouth water main cleaning and lining project.
4. All pipe sizes and material must be called out on the plans.

Schools

No special concerns.

Tax

Church is exempt from taxes.

Rebuilding is covered as a special permit under Section 120-40 of the Zoning Ordinance. The church was more than  $\frac{3}{4}$  damaged by fire one year ago. Plans for the use of the building will be the same. Religious use is exempt under the state Zoning Act and the issue before the Board is to make sure the site follows reasonable design guidelines for reconstruction of a building for exempted use.

Section 120-40 is applicable for change of alteration of the building nonconformity for the increased area. A larger building is needed for the accessibility, maneuvering and clearances, all of which do not increase the overall church functions and uses of the building.

Members of the public in attendance were invited to bring comments or questions to the table. Councilor Lacey was recognized. He noted his attendance was as a parishioner, and would reserve any comments at this time.

George Berg, of 72 Summer Street, identified himself as a parishioner, landing business owner, and a serving member of the School Advisory Board on the Finance Council. He reported that as part of the rebuilding committee, they looked at orientation and design of the new building both from aesthetic and financial standpoints. The funds to rebuild are from insurance and are therefore restricted. Any other orientation may have required reconstruction or relocation of the other properties on the site. He was joined by Michelle Lacey, wife of a council member, who

noted that restoring the historical approach of the landing within a timeline was also a consideration.

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

#### FINDINGS

The Board found that the SPECIAL PERMIT/VARIANCE would not 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.

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

1. The Sacred Heart Church was destroyed by fire.
2. The proposed use is the same as before the fire.
3. Use of the property as a church is statutory exempt use from zoning.
4. The Board may apply reasonable dimensional and other regulations to the site.
5. The building is not substantially greater in height nor nearer to adjoining lots than before.
6. There is an extension of the building area that does extend and/or change a nonconforming building.
7. There is no change in the seating capacity of the new building compared to the former building.
8. Based on all of the above the rebuilding will not be detrimental to the neighborhood

#### DECISION OF THE BOARD

Due to the above findings, a MOTION was made by Kemal Denizkurt to APPROVE the request for a SPECIAL PERMIT with the following condition.

1. The bound at the corner of Prospect Street and Washington Street is to be protected during construction.

The MOTION was seconded by Mary McElroy and UNANIMOUSLY VOTED.

#### **BZA CASE #2906 1449 Main Street**

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 P. Cleary, Trustee for 1449 Main Street Realty Trust, for property located at 1449 Main Street, also shown on the Weymouth Town Atlas Sheet 57, Block 624, Lot 12, located in HT & R-1 Zoning districts, seeking to remove a non-conforming structure and build a new structure for a day care and to maintain the contractor office, workshop and storage.

Thomas Cleary came before the Board to review his plan. He noted the two buildings now on the site are old- one is a converted house. The electrical contractor shop has been in business for thirty-five years. The structure to be built will use 2/3 of the space to house the day care facility

presently operating on the site, and which has been in existence for nine years, and the remaining space will house the garage, office and shop.

There are 30-35 children in the day care now; it will be equipped to handle sixty. He introduced Tracy Nardone, the day care owner to the Board. She was involved with the design of the day care facility. Her day care center is the smallest in Weymouth, with a 1.5 year waiting list. Rooms are separated by developmental age of the children. She notes the new facility will be in compliance with the day care regulations which govern the child/caregiver ratios, and square footages based on child grouping arrangements. The site itself is almost an acre, and there is a closed in area for a playground. In inclement weather, the children do not always go outside. It is hoped that the bulk of the construction can be done during the cold weather.

There will twenty parking spaces in the plan. Most parking will be used for drop offs and pickups; there are eight employees. The electrical contracting business has four employees, and three trucks, which will be parked in the rear of the property and in the garage (2-bay) at night.

There was a brief discussion with the Board. There is an access road to the back of the property, but is not wide enough, so it is not the intent to bring in a dumpster.

Rod Fuqua went over the staff comments following the discussion. He stated that the application was routed to various Town Departments, with the following issues or concerns:

Conservation	This site appears to be outside Conservation Commission jurisdiction; however, note that the area downstream experiences flooding problems. Site redevelopment should strive to ensure that any additional runoff remains on site to the extent possible (infiltration, etc.).
Fire	Require Type 1 Fire Protection System. Sprinkler if required. Street name and hydrants okay.
Health	No objections.
Police	No Police Issues
Public Works	Water & Sewer Division: Water Comments - 1. No comments. Sewer Comments - 1. Water and Sewer mitigation fees. 2. New sewer service shall connect to existing sewer service at property line, as long as pipe from the sewer main to the property line is 6" pipe. Highway/C&M Division/DPW Director: 1. No comments. Engineering Division

1. Since the plans identify the sewer service to be 4", it appears that the Sewer comment above will require replacement of the sewer to the main. The proposed 2" water service is also shown as being new to the main. This work within the state highway (Rte. 18) layout will require the owner or owner's contractor to apply for a state opening permit. The state permit application for water and sewer work must be submitted to the DPW Engineering Division office for review and approval, then once approved by Engineering, it will be submitted to Mass Highway (MHD) by the DPW Water and Sewer Division.
2. The Main St. property line shown on this plan does not reflect the taking by MHD in 1996. The plan needs to be revised to reflect this modified front lot line/street line, which is no longer straight.
3. The parcel area conflicts with DPW Engineering Division records. The Engineering database identifies an area of 38,408 square feet (SF), which was obtained from the current deed less the MHD taking described above. However, the submitted plan shows an area of 39,888 SF, which is a difference of 1,480 SF. A plan of land showing property line data and total area, that is based on an instrument survey and is certified by a professional land surveyor (PLS) in accordance with Norfolk County Registry of Deeds criteria and is recorded at said registry of deeds, needs to be submitted.
4. It is assumed that the note on sheet 2 that identifies a perc rate of 1" in 10 minutes is a typo as sheet 3 identifies a perc rate of less than 1" in 10 seconds. Since this is a private drain system not detailed review of the drainage design has been performed.

Schools	No special concerns.
Tax	Taxes up to date

There was a brief discussion with the Board concerning requesting a landscaping plan which will include foundation planting, and existing trees, and updated plan to include security lighting (provided on a cut sheet to the Board), fencing, size of structure, and basement storage. Although the day care facility is exempt under state law, the contractors building is a non-conforming use, and the application is before the Board because nonresidential use a new structure requires a special permit.

The Board invited members of the audience to bring comments/concerns to the table, and Kevin Spellman, of 450 Pond Street, an abutter to the property addressed the Board. He stated he has not seen plans, but was concerned how far back on the property the proposed building would be, and the height of the proposed building. He asked about fencing plans, and he is also concerned that mature trees on the property not be destroyed. He asked that the site, which has been used for unlawful dumping by other than the landowner be cleaned up during construction.

After discussion, a MOTION was made and seconded to **TAKE THIS MATTER UNDER ADVISEMENT**, pending receipt of an updated plan as recommended by the Engineering Division reflecting the land taking by MHD, as well as a landscaping plan, and was unanimously voted.

## **OTHER BUSINESS**

### **Modification of Case # 2893, 116 Hill Street**

A letter came before the Board of Appeals seeking modification of the plans previously approved. Rod Fuqua reported that instead of having to cut the joists, which come 18" rather than the 16" in the plan, the owner seeks to modify the plans- increasing the size of the structure on the Hill Street side for the farmer's porch. There is no objection by abutters. It is a corner lot. No objection was made to the change in the project, since it is in keeping with the spirit and intent of the previous decision. A MOTION was made and seconded to recommend the changes as requested, and was unanimously voted.

### **MINUTES – 5/17/06**

A MOTION was made by to Edward Foley to approve the minutes from the May 17, 2006 meeting as read, and was seconded by Mary McElroy and VOTED UNANIMOUSLY.

### **ADJOURNMENT**

A MOTION was made by Mary McElroy to adjourn the meeting at 8:35 pm, and was seconded by Edward Foley and VOTED UNANIMOUSLY.

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Mary McElroy, Clerk

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Date