

BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
July 8, 2009

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, July 8, 2009, 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 #3039 1282 Commercial Street (cont.)

Application of J. M. Fantasia LLC for property at 1282 Commercial Street, also shown on the Weymouth Town Atlas Sheet 23, Block 253, Lot 7, located in a B-2 zoning district seeking a special permit and/or variance under Section 120-106.1 for Wind Energy Conversion Systems with variance under Section 120-59 for placement of a retaining wall and garage within the setback area with application for associated earth filling.

Present:	Mary McElroy, Acting Chairperson Francis Kenneally Charles Golden Robert Galewski
Not Present:	Richard McLeod
Staff:	James Clarke, Director of Planning & Community Development
Recording Secretary:	Janet Murray

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

Mr. Fantasia submitted an updated layout of the property.

Mr. Clarke gave an update regarding the progress of this case.

Mr. Clarke stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission has no jurisdiction; no filing required.
- Health Department noted a history of non-compliance and non-communication but noted that the site is suitable for wind harvesting.
- Police Department had no issues
- Fire Department had no comment.
- DPW (Water, Sewer, Highway) had no comments. Engineering noted that an older plan from 2003 was edited by hand; revisions submitted this evening.
- School Department expressed concern that the proposed wind turbine is in close proximity to the Pingree School and that the child play area is within the fall zone should the turbine fail.
- Tax Department noted that there are taxes due on the property from 2008 and 2009 as well as a water lien for 2009 and the water bill for 2009 is due.
- Building Department submitted a memo from Mr. Richard dated 5/19/09 which was read by Mr. Clarke.

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Mr. Fantasia asked if the Engineering Department had received the plan information. Mr. Clarke stated that he believes that they have received it.

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

David Young, 1286 Commercial Street, stated that he is a direct abutter. He stated that the information submitted by the applicant is from the first few pages of the installation guide. He pointed out that these pages describe the conditions a site should have; these pages do not recommend the erection of the turbine on a site less than one acre. He noted that Mr. Fantasia's property is far smaller than one acre. He also noted that there are a number of obstructions surrounding the site. In his opinion, Mr. Young stated that the site does not fit the specifications set by the manufacturers. He noted that the document he is referencing is from the wind turbine manufacturer's website

Garage

Pat Petrie, 1288 Commercial Street, asked for clarification on the 12 parking spaces, oversized garage and dumpster.

Mrs. McElroy stated that the garage elevation and wall detail have been submitted by the applicant. Mrs. Petrie asked if there is enough room. Mr. Fantasia stated that his engineer, Hoyt Surveyors had come out and surveyed the land and everything fits.

Ms. Petri asked if the garage use is for personal equipment of the house or storage unit for the applicant's business.

Betsy Ivil, 1274 Commercial Street, stated that she is a direct abutter. She asked if the garage will be used for resident parking. Mr. Fantasia stated that if he is able to fit 12 parking spaces he will use it for the units.

Ms. Ivil asked if the garage would be used for Mr. Fantasia's business. She noted that at the previous hearing it was stated that he cannot use the property for business storage.

Mr. Golden stated that he recollected that at the previous hearing it was stated that the garage would be used for Mr. Fantasia's business and Mr. Fantasia was told that he could not have both residential and business usage. He noted that Mr. Fuqua was present at that meeting not Mr. Clarke.

Mr. Clarke stated that he would discuss this situation with Mr. Fuqua as this property is zoned B-2 and therefore mixed use is allowed.

Meg Razer, 1298 Commercial Street, asked about the 12 open spaces and why Mr. Fantasia is also putting up the garage for business use.

Mr. Clarke stated that the garage was originally needed for two of the spaces but the plan now shows 12 spaces of surface parking.

Kathleen Walsh, 1274 Commercial Street, stated that at the previous hearing she had asked about the usage of the garage to which the answer was for business use. Mr. Fantasia stated that on the

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first plan the parking included the spaces in the garage but now the new plan shows all parking outside of the garage.

Ms. Petrie asked if the garage is infringing upon the easement relating to abutters' property. Mr. Fantasia stated that he is within the 20 foot buffer zone of the school property. He noted that he is not disturbing the contours of the school's property.

Mr. Clarke clarified that Ms. Petrie is referring to setbacks, not easements. He noted that Mr. Fantasia is requesting a variance from the 20 foot setback on the rear of the property.

Mr. Galewski made a MOTION to CLOSE the garage portion of the hearing and was seconded by Mr. Golden and UNANIMOUSLY VOTED.

Mr. Galewski made a MOTION to TAKE UNDER ADVISEMENT until 7/29/09 the variance request for the garage and was seconded by Mr. Golden and UNANIMOUSLY VOTED.

Retaining Wall

A MOTION was made by Mr. Galewski to CLOSE the public hearing and was seconded by Mr. Golden and UNANIMOUSLY VOTED.

A MOTION was made by Mr. Galewski to TAKE UNDER ADVISEMENT until 7/29/09 and was seconded by Mr. Golden and UNANIMOUSLY VOTED.

Wind Turbine

Mr. Fantasia noted that at the previous hearing there was concern expressed regarding the height of the turbine. He noted that Mr. MacLeod had asked him to reduce the turbine to 40 feet. Mr. Fantasia noted that the playground is 108 feet from the fence and the "topple" zone is 50 feet.

Mrs. Petrie stated that she is concerned that all of the information is coming from the manufacturer.

Mrs. McElroy noted that they will need to read the information before having further discussion as they just received it this evening.

Mr. Golden stated that staff has made some comments and concerns regarding the specifications of the turbine and the actual height of the turbine; the height has been presented as 75 feet, then to 60 feet, then to 40 feet. Mr. Golden asked about the total height not just the height of the structure. He asked what is the height to the tips of the wings. Mr. Fantasia stated that the height to the tips of the wings is 75 feet total. He noted that the structure itself is 60 feet.

Mr. Fantasia asked about height requirements and how it is measured. Mr. Clarke stated that height is measured to the ridge of the roofline

Mr. Kenneally noted a paucity of material which would support a turbine in this location. He noted that the sound emanating from the turbine is consistent with the sounds of an urban environment. Mr. Kenneally noted that Weymouth is not an urban area.

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Mr. Kenneally noted that a document submitted regarding the effect of wind turbines on TV is from 1980.

Mr. Kenneally stated that a document from 7/01 is in regards to an installation in a vineyard in California .

Mr. Kenneally stated that he believes that the information submitted is not germane as it is outdated.

Mr. Young asked for clarification on what the total height of the turbine is proposed; is it 72 ½ feet or 52 ½ feet. Mr. Fantasia stated that he would request 52 ½ foot structure.

Mrs. Walsh expressed concern about the flicker from the turbine as well as the potential noise that may be generated.

Mrs. McElroy asked if noise level readings could be taken. Mr. Clarke stated that he would check with the Health Department to see if they have any additional information on that.

Mr. Young asked if additional information could be submitted. Mrs. McElroy stated that information can be submitted to the Planning Department.

Mr. Clarke stated that as more information has been requested, he would recommend that the hearing remain open until 7/29/09.

A MOTION was made by Mr. Galewski to CONTINUE the public hearing until 7/29/09 and was seconded by Mr. Golden and UNANIMOUSLY VOTED.

BZA CASE #3043 102 Weyham Road (cont.)

Application of Joseph & Kathleen Geary for property at 102 Weyham Road, also shown on the Weymouth Town Atlas Sheet 8, Block 111, Lot 29, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 for an addition in the rear of a single family dwelling, part of which lies within the side yard setback.

Present:	Edward Foley, Acting Chairman Francis Kenneally Mary McElroy, Clerk Charles Golden
Not Present:	Richard McLeod
Staff:	James Clarke, Director of Planning & Community Development
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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Mr. Geary submitted additional information to the Board. He noted that approximately 18-20 years ago the deck was changed to an 8 foot by 10 foot dining area. He stated that he did not know the details of this change and if it were done with proper permits.

Mr. Geary submitted pictures showing the existing conditions. He pointed out on each picture the existing conditions of the property.

Mr. Geary stated that he invited his neighbors over to discuss the addition. He pointed out that he told them that he would remove the windows. He stated that they told him that the addition is still too close.

Leo Salvucchi presented architectural drawings to the Board. He noted that this plan eliminates the windows on the left side of the structure (as you are looking at the house). He noted that the slider has been reduced from eight foot slider to a six foot slider. He pointed out that the addition is 5 ½ feet from the property line while the existing dwelling is 4 ½ feet from property line. He stated that he believes that this will allow for more privacy.

Mr. Foley asked if landscaping could be added to increase privacy. Mr. Salvucchi stated that arborvitaes could be added. He stated that although this landscaping could be added, it will not completely cover the addition.

Mr. Clarke stated the application was routed to various Town Departments and received favorable or no adverse comments.

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

Fran Drew, 100 Weyham Road, stated that the addition is still too close. She questioned the size of the addition; is it 25 feet x 12 feet? She stated that she believes that this addition is not a necessity but a luxury. She stated that it is an inconvenience and an invasion of their privacy. She is strongly opposed to the plan. She pointed out that arborvitaes have been planted in the past but have died.

Mr. Drew stated that Mr. Geary had invited them over; however he just informed them of what his plan was for the addition.

Mr. Golden noted that it was suggested that the addition be reduced from 41 feet to 36 feet. He pointed out that he did not suggest that the addition be reduced to 25 feet.

Mr. Golden stated that the applicant seemed to imply that the plan would “give” the abutters another foot and a half. He pointed out that the addition will still invade upon the 10 foot setback.

Mr. Salvucchi stated that the point of the addition is for one floor living. The laundry room would be moved up from the basement, a master bathroom would be added. Of the two existing first floor bedrooms – one will be converted to a walk in closet and laundry room.

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Mr. Geary stated that reducing the size of the addition from 41 feet to 36 feet would chop up the addition and make the kitchen smaller and awkward.

Mr. Salvucchi pointed out that up to date insulation will be installed to reduce noise to the neighbors.

Mrs. Drew noted that there are three rooms on the first floor; the design should be done differently.

Mr. Golden stated that he had hoped that the neighbors would be able to work out their differences and come up with a design that was mutually agreeable.

Mrs. McElroy acknowledged the need for one floor living.

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

A MOTION was made by Mr. Golden to take this matter UNDER ADVISEMENT and was seconded by Mrs. McElroy and UNANIMOUSLY VOTED.

BZA CASE #3044 55 Fogg Road

Application of South Shore Hospital, Robert Rodak for property at 55 Fogg Road and properties on Columbian Street and Main Street, also shown on the Weymouth Town Atlas Sheet 45, Block 518, Lots 11, 14, and 37; Sheet 45, Block 519, Lots 1, 3, and 5; Sheet 45, Block 520, Lots 1, 3, 4, 8, 9, 10, 11, 12, and 14 located in an MSD zoning district seeking a special permit and/or variance. The special permit is to construct the following elements at Columbian Street: A) Portal "B" entrance at Main Street and Columbian Street; B) Columbian Street Employee Entrance modifications; and C) Columbian Street Service Area Modifications at 62 Columbian Street; and the variance is requested from the free standing sign section of the ordinance for both existing and proposed site directory signage. The intent is to establish a campus wide site signage "standard" going forward that will encompass both existing site signage in addition to future sign elements.

Present:	Edward Foley, Acting Chair
	Francis Kenneally
	Mary McElroy, Clerk
	Charles Golden

Not Present:	Richard McLeod
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Staff:	James Clarke, Director of Planning & Community Development
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Recording Secretary:	Janet Murray
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The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

The applicant was informed that there were only 4 members present. The applicant was given the choice to proceed with only 4 members or to continue until the next meeting with the

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understanding that they would need a unanimous vote to be approved. The applicants chose to proceed with only 4 members.

Mr. Clarke noted that additional information that was requested of the applicant has been received; engineered plans of the signage at the entranceway at Columbian and Main Street, the proposed changes to the pavement and the widths of the driveway entrances, and the extension of the sidewalk and landscaping along Columbian. Landscaping plans have been submitted. The signage plans have been revised to show what is being asked for and when.

David Kelly, attorney for the applicant appeared before the Board along with Bob Rodak, of South Shore Hospital, Jay Emperor, Pressley Associates who will review the site engineering plans, and Boyd Morrison from Gamble Design who will review the signage.

Mr. Kelly stated that this is a request for a special permit for site engineering along Columbian Street as well as a sign variance for the portal Columbian & Main Street sign which is 34 ½ feet over allowed and also for a 2nd sign in addition to the Cancer Center sign.

Mr. Emperor gave an overview of the proposed changes as discussed at the previous hearings. Mr. Clarke asked if there will still be deliveries at the Columbian Street loading dock. Mr. Emperor stated that there is still a need for certain deliveries at this location, although the loading docks have been moved to the receiving area. Mr. Emperor stated that calculations have been done to ensure that the turning radius is maintained. He stated that the MRI trailer and PET trailer are at this location.

Mr. Golden asked what is new from the previous hearings. Mr. Emperor noted that at the previous hearing the dimension and engineering drawings were renderings. The actual plans have been submitted.

Mr. Clarke noted that this will approve the proposed signs and also give the cachet to the existing directional signs that are up to make it clear that they have been reviewed by the town and there is a set document that identifies everything that exists on campus.

A MOTION was made by Mrs. McElroy to CLOSE the public hearing and was seconded by Mr. Golden and UNANIMOUSLY VOTED.

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

SPECIAL PERMIT

A MOTION was made by Mr. Foley to APPROVE the request for a SPECIAL PERMIT to construct the following elements at Columbian Street: A) Portal "B" entrance at Main Street and Columbian Street; B) Columbian Street Employee Entrance modifications; and C) Columbian Street Service Area Modifications at 62 Columbian Street; 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.

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- (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 PASSED UNANIMOUSLY on a 4-0 vote with Mr. McLeod not present.

VARIANCE

A MOTION was made by Mr. Foley to APPROVE the request for a VARIANCE from the free standing sign section of the ordinance for both existing and proposed site directory signage. The intent is to establish a campus wide site signage “standard” going forward that will encompass both existing site signage in addition to future sign elements. The hardship shown is that there is a unique need for signage for directional purposes because of the new construction of the Cancer Center and garage that the Town’s Ordinance does not adequately address. The Variance is based on site design plan by Pressley dated 6/5/09 and sign layout plan by Gamble Design dated 6/17/09 SG.4 revision of 7/8/09 and was seconded by Mrs. McElroy and PASSED UNANIMOUSLY on a 4-0 vote with Mr. McLeod not present.

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 and VARIANCE is to construct the following elements at Columbian Street: A) Portal “B” entrance at Main Street and Columbian Street; B) Columbian Street Employee Entrance modifications; and C) Columbian Street Service Area Modifications at 62 Columbian Street; and the variance is requested from the free standing sign section of the ordinance for both existing and proposed site directory signage. The intent is to establish a campus wide site signage “standard” going forward that will encompass both existing site signage in addition to future sign elements. The hardship shown is that there is a unique need for signage for directional purposes because of the new construction of the Cancer Center and garage that the Town’s Ordinance does not adequately address. The Variance is based on site design plan by Pressley dated 6/5/09 and sign layout plan by Gamble Design dated 6/17/09 SG.4 revision of 7/8/09. 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.

BZA CASE #3045 56 Revere Road

Application of William Brothers for property at 56 Revere Road, also shown on the Weymouth Town Atlas Sheet 26, Block 345, Lot 1, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-51 and Table 1 for an addition of a ½ story to the 1 ½ story dwelling and two additions one on each side of the dwelling.

Present:	Edward Foley, Acting Chairman Mary McElroy, Clerk Kemal Denizkurt Charles Golden Francis Kenneally
Staff:	James Clarke, Director of Planning & Community Services
Recording Secretary:	Janet Murray

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

The applicant appeared before the Board. He stated that he would like to bring the building up to 2 ½ stories. He noted that the house has a lot of jogs; he would like to square it.

Mr. Foley asked if a certified plot plan had been submitted. Mr. Brothers stated that he believed he had done so. Mr. Clarke noted that the architect plan has been submitted but it has not been certified by a landscape designer or engineer.

Mr. Foley asked if the work will increase the footprint of the property. Mr. Brothers stated that it would not. Mr. Golden stated that the footprint will not be the same; however it does not go beyond the current building. The amount of area will be increased but there will be no further encroachment.

Mr. Clarke stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission noted that a filing is required for work within 100 feet of wetlands.
- Health Department had no issues.
- Police Department had no issues.
- Fire Department had no concerns.
- DPW (Water, Sewer, Engineering, Highway) submitted a memo dated 6/10/09. The Engineering Department noted the plan does not have a professional, certified plot plan. They also noted that the architect plans submitted should have the architects stamp.

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- School Department had no special concerns.
- Tax Department noted that the 4th quarter taxes have not been paid and the last water bill is overdue.

Mr. Clarke noted that the names on the application do not match the names of the current owners of record. Mr. Brothers submitted a Purchase and Sale Agreement. He noted that mortgage approval has been received and the closing is scheduled on 7/27/09. The property is empty at this time.

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

Mr. Kenneally asked for clarification on the height of the structure. The dimensions are shown on page A-5. From the lowest point, the height is 37.5 feet but the property has two different elevations; the second elevation is 30 feet. When taking the elevation, the average is used.

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 an addition of a ½ story to the 1 ½ story dwelling and two additions one on each side of the dwelling with the following conditions:

- (1) A certified plot plan and an architect plan with stamps shall be submitted.
- (2) The building Department confirms that the average height is 35 feet or less.

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.

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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 addition of a ½ story to the 1 ½ story dwelling and two additions one on each side of the dwelling with the following conditions.

- (1) A certified plot plan and an architect plan with stamps shall be submitted.
- (2) The building Department confirms that the average height is 35 feet or less.

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 #3046 54 Whitman Street

Application of Spring Spectrum LP and its affiliate Clear Wireless, LLC for property at 54 Whitman Street, also shown on the Weymouth Town Atlas Sheet 22, Block 300, Lot 12, located in an R-1 zoning district seeking a special permit and/or variance under 120-53 ext./change by spec. permit of a non-conforming use, dimensional variance and/or amendment to a Special Permit (Decision # 2435) permitting construction of the existing telecommunications tower. The applicant seeks to remove 3 of its existing antennas and replace them with 3 WiMax antennas mounted on the existing antenna mounts on the Tower. Additionally to add 3 wireless backhaul dish antennas to be mounted on the existing antenna mounts on the Tower, directly above the proposed replacement WiMax antennas. Also proposed is to add 1 GPS antenna, to be mounted on the existing ice bridge at the property, with 1 supporting equipment cabinet to be located within the existing lease area at the base of the Tower.

Present:	Edward Foley, Vice-Chair Francis Kenneally Mary McElroy, Clerk Charles Golden
Staff:	James Clarke, Planning Director
Recording Secretary:	Janet Murray

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

The applicant requested that the hearing be postponed to July 29, 2009. No testimony was taken.

A MOTION was made by Mrs. McElroy to POSTPONE the hearing until July 29, 2009, with no testimony taken, and was seconded by Mr. Golden and UNANIMOUSLY VOTED.

BZA CASE #3038 1502 Main Street (cont.)

Application of High Rock 1502 Main Street (LLC) for property at 1502 Main Street, also shown on the Weymouth Town Atlas Sheet 61, Block 627, Lots 1, 24, & 25, located in a B-1 zoning district seeking a special permit and/or variance under Chapter 120 Sections 25.A., 25.B., 25.C., 70.C., 64.3.A. & 64.3.B all sections addressed in Case #3000. The application is for modification to Special Permit #3000 to increase the second structure from 5,500 square feet to 10,000 square feet, to relocate the dumpster pad at the rear of the second structure with increased landscape plan, and to modify the prior plan by providing concrete cement island flush with parking lot pavement. The applicant requests variance that additional signage be allowed with new signage for the second structure tenants.

Present:	Edward Foley, Acting Chairman Mary McElroy, Clerk Kemal Denizkurt Martin Joyce Francis Kenneally
Staff:	James Clarke, Director of Planning & Community Development
Recording Secretary:	Janet Murray

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED

Mr. Clarke commented on the following:

- travel aisle increased to 20 foot
- Traffic issues – no specific issues with 10,000 foot building. New plans will need to be submitted. Consider requiring a mitigation fee for a mobile speed sign
- Sign proposal to consolidate the signs seems to work well. He stated that the addition of “Poole’s Corner” on the existing CVS sign adds an historical aspect.

Mr. Denizkurt noted that the original plan called for a 15 foot travel aisle. He asked what impact the increase to 20 feet would have on the location of the building.

The applicant noted that the building has been adjusted by 5 feet.

Mr. Joyce asked why 10,000 square feet was not requested initially. The applicant did not have a clear vision of what type of use would be in the building. Mr. Joyce expressed his opinion that with the current state of the economy, why the applicant would be coming forward at this time. Mr. Foley reminded the board that the public hearing has been closed.

Mr. Denizkurt stated that he does not see any adverse impact to the abutting area even though the request is to double the original size.

Mr. Foley asked what would be requested for mitigation. Mr. Clarke stated that a possible condition would be for the applicant to provide \$12,000 for a mobile speed sign to flash rates of speed. It was noted that a mobile sign is preferred as it can be used in various places. Also, the

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Police have stated that prefer mobile for maintenance reasons as well as to avoid potential vandalism

SPECIAL PERMIT

A MOTION was made by Mr. Kenneally to APPROVE the request for a SPECIAL PERMIT. The application is for modification to Special Permit #3000 to increase the second structure from 5,500 square feet to 10,000 square feet, to relocate the dumpster pad at the rear of the second structure with increased landscape plan, and to modify the prior plan by providing concrete cement island flush with parking lot pavement. The applicant requests variance that additional signage be allowed with new signage for the second structure tenants with the condition that \$12,000 is provided by the applicant for the purchase of a mobile speed sign. 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 PASSED on a 4-1 vote with Mr. Foley opposed.

VARIANCE

Due to the hardship created by the existing building a MOTION was made by Mr. Kenneally to APPROVE the request for a VARIANCE. The application is for modification to Special Permit #3000 to increase the second structure from 5,500 square feet to 10,000 square feet, to relocate the dumpster pad at the rear of the second structure with increased landscape plan, and to modify the prior plan by providing concrete cement island flush with parking lot pavement. The applicant requests variance that additional signage be allowed with new signage for the second structure tenants with the condition that \$12,000 is provided by the applicant for the purchase of a mobile speed sign. 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 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.

BZA MINUTES

July 8, 2009

- (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 VARIANCE. The application is for modification to Special Permit #3000 to increase the second structure from 5,500 square feet to 10,000 square feet, to relocate the dumpster pad at the rear of the second structure with increased landscape plan, and to modify the prior plan by providing concrete cement island flush with parking lot pavement. The applicant requests variance that additional signage be allowed with new signage for the second structure tenants with the condition that \$12,000 is provided by the applicant for the purchase of a mobile speed sign. 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 – 5/20/09 and 6/3/09

A MOTION was made and seconded to APPROVE the Minutes of May 20, 2009 and June 3, 2009 and was UNANIMOUSLY VOTED.

ADJOURNMENT

A MOTION was made and seconded to ADJOURN the meeting at 9:15 P.M. and was UNANIMOUSLY VOTED.

Richard McLeod, Chairman

Date