

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
JULY 25, 2007**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, July 25, 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 person 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.

Present:

Richard McLeod, Chairman
Edward Foley, Vice Chairman
Mary McElroy, Clerk
Chuck Golden
Martin Joyce

Staff:

Rod Fuqua, Principal Planner
James Clarke, Director of Planning & Development

Recording Secretary:

Christine Callbeck

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 #2931 Off Tirrell Street and Aster Circle – Public Hearing Cont.

Application of Ryder Development for property at Off Tirrell Street and Aster Circle, also shown on Weymouth Town Atlas Sheet 28, Block 361, Lots 1 & 2, Sheet 32, Block 410, Lot 9, Sheet 32, Block 423, Lots 40, 44, 47, 49, 50, 51, 53, and 54, Sheet 32, Block 424, Lot 15, located in an R-1 zoning district seeking a P.U.D. for a 48 condominium housing unit development within floodplain zones A & C.

Attorney Gregory Galvin introduced himself and stated that he represents Kenneth Ryder. Attorney Galvin stated that tonight he would be discussing questions asked at the last meeting regarding Tirrell Street width, water and potential second means of egress for emergency. Attorney Galvin stated that in researching a possible location of a second access to the site it was evident that over 5,000 square feet of wetland would need to be filled to construct the road. This would require a wetlands variance which would be very difficult to receive.

Jim Clarke stated the Planning Board looks at a preliminary plan to determine density. After the Board's actions, an error in the plan was discovered and the number of units was adjusted to 48. Jim Clarke stated that due to the extensive wetlands on site the Planning Board wants to revisit the western portion of the development. Regarding the vernal pools, based on examination it was determined that it was a vernal pool and density still remains as is, 48 units. Jim Clarke stated that the lot size and area were calculated and stamped by a certified engineer. Chairman

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McLeod and Jim Clarke confirmed that the applicant cannot build any additional units unless he acquires more land.

Jen Ahearn

29 Tirrell Street

She just purchased her family's home. The house has been in the family for more than 40 years. Jen states that as soon as construction began water started to pool at the front and side of the house. Jen stated she can't see how units can be built without adding an emergency road.

Attorney Galvin stated that the regarded Tirrell Street will have stormwater flow away from her property.

Natalie Proctor

15 Tirrell Street

Natalie stated that the Sportsmen Club had a road and used it for several years. There was a culvert and it has been blocked for a number of years.

Mr. Ryder stated that if the abutters want, he would make it a condition of the application that the applicant repair or replace culvert in that corner.

Brian Ahearn

29 Tirrell Street

Brian stated that at the widest point in the street it is 15 feet. Brian asked where the developer will get the land to widen the street to the 40 foot plan. The engineer explained the road layout and the location of the road pavement within the road.

Jane Ossino

46 Aster Circle

Jane asked if the culverts were listed on plans or town documents somewhere.

Councilor Lacey

Councilor Lacey recently meet with the applicant and discussed the issue of the egress. The request was to go back and find the two culverts and assess the costs of the work that would be required to build an access road. Councilor Lacey stated that he is disappointed and hoped to have seen what is causing the build up of water. Councilor Lacey stated that the abutters here tonight are stating the condition of the neighborhood before the sportsmen club and he asked the town to assess what type of road will be allowed. Councilor Lacey requests that the board consider that there is enough road width, curbing and sidewalks provided for the folks that live on that street.

Mr. Ryder suggested putting sidewalks on one side of the street.

Councilor Lacey

Councilor Lacey stated that this road today is in tough shape. The applicant has come to this board with changes that are to rebuild Tirrell Street to the best possible roadway due to adding 48 homes. Councilor Lacey asked for a nice new road with sidewalks.

Lisa Witland

Aster Circle

Lisa asked will the road handle the traffic with 48 new units being added. Have the issues been addressed regarding the top of the road with the ice in the winter. Jim Clarke stated that the line of site issue will still be there. Lisa asked if anyone was concerned with more cars and same issue of line of site. Jim Clarke stated that it is an existing issue and the town is concerned about it.

Councilor Kay

Councilor Kay stated that she backs up the statements made by Councilor Lacey. Councilor Kay stated that this has been a long process and it does not seem like an unreasonable request. Councilor Kay supports her colleague and her neighbors.

Natalie Proctor

Natalie has lived for 54 years in her home, her main concern is fire. Adding 46 more families to the neighborhood adds to the attraction of the woods.

Mr. Ryder stated that the emergency road needs to be paved and maintained. The whole idea has been involving. Mr. Ryder has condensed the development down to 9 acres. Mr. Ryder feels that this is the best way to go on this parcel. There is no second way out of the development. Mr. Ryder stated that the board has to look at the application and decide what the best deal is.

Councilor Lacey

Councilor Lacey stated that he agrees with Mr. Ryder and it is important that this is the best plan for this parcel.

Jim Clarke stated that it is the role of the staff to get opinions; it is all part of the evaluation. Just because one issue is not solved doesn't mean that the issue can't be addressed and solved.

Chairman McLeod asks the board to give this a thorough review.

A MOTION to close the public hearing was made by Mr. Foley and seconded by Mr. Joyce, and was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to take this matter under advisement and was seconded by Mr. Golden, and was UNANIMOUSLY VOTED.

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 #2962 1581 Commercial Street

Application of 1581 CSW LLC Nominee Trust for property at 1581 Commercial Street, also shown on the Weymouth Town Atlas Sheet 19, Block 255, Lot 6, located in a B-2 & R-1 zoning district seeking special permit for 8 residential units in B-2.

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Applicant requests a continuance, applicant wants to continue to meet with abutters.

A MOTION to close the public hearing was made by Mr. Foley and seconded by Mr. Joyce, and was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to continue this matter until August 22nd and the motion was seconded by Mr. Golden, and was UNANIMOUSLY VOTED.

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 #2963 Joseph F. Casna

Application of Joseph F. Casna for property at 22 Aspinwall Avenue also shown on the Weymouth Town Atlas Sheet 6, Block 77, Lot 19, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 for a swimming pool located within the side yard.

Don Quinn and Susan Law represent applicant Joseph Casna and they ask to put pool in side yard. Mr. Foley asks if the deck is staying up or coming down. Mr. Quinn replies the deck is coming down. Size of pool 15 x 18.

Mr. Fuqua gave a review of the project:

Conservation	need to file with conservation commission
Fire	not involved
Health	not involved
Police	not involved
DPW	location of water line can be handled

Ms. McElroy made a MOTION to close the public hearing and seconded by Mr. Foley, UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to take action to APPROVE the VARIANCE, faced with hardship as to where to put the pool

- (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 serviced.

Ms. McElroy SECONDED the MOTION, and was UNANIMOUSLY VOTED.

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 #2967 34 Hinston Road

Application of Daniel Dellamano, property at 34 Hinston Road, also shown on the Weymouth Town Atlas Sheet 14, Block 161, Lots 5 & 6, and located in an R-1 zoning district seeking special permit and/or variance under Chapter 120-40 for a swimming pool located within the front yard setback.

Mr. Dellamano stated the reason for his request for special permit and/or variance is to allow for a pool to be put in the side yard due to the fact they don't have a back yard.

Mr. Fuqua stated that the recommendation from the building department is for a 6 ft stockade fence on street sides of Emiline and Hinston along the edge of the pool. Mr. Fuqua stated that there is interest owed through the tax department municipal lean, monies owed to the town. Mr. Dellamano stated that the taxes were paid today.

Mike Vernon

Hinston Road

Mike stated that he is the direct neighbor of Mr. Dellamano and he has no issues with the pool.

Ms. McElroy made a MOTION to close the public hearing and seconded by Mr. Foley,
UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to APPROVE the application for variance due to lot being a corner lot, no other place to put pool, with condition of 6 ft stockade fence on Emiline and Hinston with the exact placement to be discussed with the building department. In addition, Mr. Dellamano needs to provide evidence to building department that the taxes were paid.

- (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 serviced.

The MOTION was seconded by Ms. McElroy and UNANIMOUSLY VOTED.

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 #2964 124 Pond Street

Applicant of Leonard Bicknell, owner of Alvin Hollis and Company, Inc. for property at 124 Pond Street, also shown on the Weymouth Town Atlas Sheets 49 & 53, Block 553, Lot 1, located in an R-1 & B-2 zoning district seeking special permit and/or variance under Chapter 120-40 to subdivide an existing dwelling from a commercial property to create a separate lot for the dwelling and further to replace the building with a new dwelling.

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Mr. Bicknell stated that this is a commercial property on Pond Street. It is one parcel containing a number of commercial buildings and one home that they rent. Mr. Bicknell plans to tear down the home and build a home in its place. The garage will be removed and a new garage to be built attached to the home. Chairman McLeod asked, what is the reason for the lot size of 12,700. Mr. Bicknell stated the existing fence line; it is a security fence for the commercial buildings.

Mr. Fuqua gave a review of the project:

Conservation	wants to verify distance to wetlands
Fire	not involved
Police	not involved
Health	not involved
DPW	handle with building department

Mr. Fuqua stated that an established pattern and character is well established for what the lot has been used for in the neighborhood.

Mr. Foley stated 12,700 sq. ft. is the current lot size, what is involved in bringing up to zoning laws of 25,000 sq. ft. Mr. Bicknell stated that trucks are parked there now. The balance of the land is paved and used as commercial space. Mr. Bicknell stated that he would lose pavement which is parking spaces. Mr. Clarke asked, how long has this been a residence. Mr. Bicknell stated since 1959 and the home is 150 years old. Mr. Bicknell stated that the home is unsafe now. It needs to be rebuilt, it houses the security personnel for the commercial business. Discussion ensued regarding square foot for home.

Chairman McLeod made a recommendation that Mr. Bicknell carve out a lot that complies with the appropriate amount of land that by-laws require. Chairman McLeod stated Mr. Bicknell must carve out 25,000 sq. ft. lot since Mr. Bicknell wants to be able to sell the property later.

Mr. Bicknell stated that he understands the position and wanted to state that the home has been an existing home for 50 years.

Mr. Clarke suggested continuing this application due to the fact that the applicant was told that he would have to subdivide. Mr. Clarke would like to have this clarified.

Councilor Smart

Councilor Smart stated that he would like to welcome back Mary McElroy and is glad to see her well. Councilor Smart agrees with Chairman McLeod if applicant is unwilling to comply with 25,000 sq. ft. unless the applicant never sells the lot and always keeps it as the watchman's house.

Mr. Foley made a MOTION to continue this application until the September 19, 2007 meeting. The MOTION was seconded by Ms. McElroy, and was UNANIMOUSLY VOTED.

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 #2965 429-431 Middle Street

Application of Jim Miller Company for property at 429-431 Middle Street, also shown on the Weymouth Town Atlas Sheet 24, Block 334, Lot 10, located in a B-2 zoning district seeking a special permit and/or variance under Chapter 120-40 to construct a 4 dwelling unit building that meets setbacks and FAR.

Attorney Gregory Galvin stated that his client, James Miller plans to take property at Middle Street, Essex Street, and Greenwood Street and tear down building and construct a 4 unit dwelling pushed back from Middle Street. Building meets all setback, parking and sits on the lot with adequate green space and complies with floor area ratio requirement. Attorney Galvin stated that this plan is a significant improvement to the current building.

Jim Miller stated that he is looking to purchase the property; it is under a Purchase and Sale Agreement.

Mr. Fuqua stated that the condition of the house is such that the Board of Health wants the building cleaned up quickly. Board could look at timeframes and put conditions on for the Board of Health.

Mr. Fuqua gave a review of the project:

Conservation	not involved
Fire	alarms
Police	no parking on Middle Street, Essex Street or Greenwood Street
Health	discussed above
DPW	building permit phase

George Lyons
14 Essex Street

Mr. Lyons just built a new house next door. The person who owned the building previously let the building run down. Mr. Lyons can't see how 4 units can be built where there were only two before, within 20 feet from his house. What happens to the trees that now separate the building from his property? Attorney Galvin stated that the trees come down.

Lauren Clark
18 Essex Street

Ms. Clark stated that she can't see how a two family dwelling can turn into a 4 family dwelling.

Peter Clark
18 Essex Street

Mr. Clark stated that it is a nice lot on the corner. He doesn't feel that a 4 unit building should be put there.

A MOTION to close the public hearing was made by Mr. Foley and seconded by Mr. Joyce, and was UNANIMOUSLY VOTED.

Ms. McElroy made a MOTION to take matters under advisement and was seconded by Mr. Foley. UNANIMOUSLY VOTED.

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 #2966 8 Paris Street

Application of Peter Patel for property at 8 Paris Street, also shown on the Weymouth Town Atlas Sheet 30, Block 382, Lot 18, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 to provide parking for the retail business located on the abutting lot on Map Sheet 30, Block 382, Lot 18.

Attorney Gregory Galvin stated that his client's reason for the special permit was to provide additional parking for retail business. This application requires a special permit and stating that he will use the lot as parking and will have it paved and striped. Plan is to have parking that has a scheme to it and allows for traffic to enter and exit in a more orderly fashion. There is a petition out to the neighbors to see if they agree if this is an appropriate use of land.

Mr. Foley stated that the conservation commission is concerned about water run off. The conservation commission has a drainage plan submitted. Mr. Fuqua stated that the infiltration system is the best way to treat the water. It has always been a concern, but this is the best system.

Mr. Fuqua gave a review of the project:

Conservation	review landscaping with conservation
DPW	20 inch water line, they want to know when line is Identified; cape cod berm on Paris Street needs to be Beefed up
Bldg. Dept.	requests that all signage come into compliance
Health	not involved
Police	make sure dumpster is enclosed, no exit to Paris Street

Staff review of Conditions

- (1) identify water transmission line
- (2) landscape species reviewed by Conservation Administrator and Town Arborist
- (3) no vehicle access to Paris St.
- (4) dumpster enclosed
- (5) all signage in compliance with Zoning Ordinance

Mr. Foley stated that should board approve, applicant must submit a plan for maintenance for drainage.

A MOTION to close the public hearing was made by Mr. Foley and seconded by Mr. Joyce, and was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to APPROVE the application for special permit with the following conditions:

- (1) identify water transmission line
- (2) landscape species reviewed by Conservation Administrator and Town Arborist
- (3) no vehicle access to Paris St.
- (4) dumpster enclosed
- (5) all signage in compliance with Zoning Ordinance and
- (6) applicant shall submit a maintenance plan for drainage.

The MOTION was seconded by Ms. McElroy, and was UNANIMOUSLY VOTED.

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 #2968 86 Park Avenue

Application of Dora H. Glidden for property at 86 Park Avenue, also shown on the Weymouth Town Atlas Sheet 41, Block 492, Lot 8, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 to subdivide a lot into two lots.

Attorney Michael Purse stated lot 1 has existed for 200 years and house meets all requirements. The other lot is a large lot, well over 30,000 sq. ft. Old garage was an old slaughter house. Attorney Purse stated that the applicant prefers that the foundation for new home be dug by chipping not blasting. Blasting was recently done at Park Ave Market and applicant had concerns with blasting.

Mr. Fuqua stated this special permit under Chapter 120-53, has to show that lot is same size as others in area. DPW will require the standard utilities. Mr. Fuqua asked the schematics of utilities, because of the long run, as per DPW specs.

Paul DeSota
Park Avenue

Mr. DeSota stated that he has known the applicant a very long time and she is like a second mother to him. The house is 200 years old. Knowing the area, Mr. DeSota stated he feels that blasting will be necessary to lay the foundation for another house. Adding another house to this land will ruin the historical value of the area.

Margaret McDonough
25 Lockwoods Drive

Ms. McDonough stated her concern is with the blasting that she feels will have to be done to lay a foundation for another house. The blasting that was done previously at Park Ave Market caused many problems in her house.

Debbie Oliver

76 Park Avenue

Ms. Oliver stated her concerns are also with the blasting that will have to be done. She is concerned with the blasting and traffic on Park Avenue. Ms. Oliver stated she is afraid that the well in her yard will be destroyed with the blasting. 100 year old trees will have to come down for this new house.

Tom McDonough

25 Lockwoods Drive

Mr. McDonough stated that with the blasting recently done at Park Ave Market his property suffered imperfections in patio, lawn sank, sinkholes in lawn, and cracks in ceiling. Mr. McDonough asked the board to please listen to the public's concerns, to come out and see what the damage was from the blasting at Park Ave Market.

Anne Zeolie

Has lived in her house for 40 years, just now the water table has gone through. Cracks in house due to blasting at Park Ave Market.

Peter Benidict

35 Lockwood Drive

Mr. Benidict is concerned about major impact instead of one family home encroached on property.

Attorney Purse stated that he understands the blasting had a wide spread impact on abutters. Attorney Purse suggested he could agree on a condition of chipping or ramming as opposed to blasting. Condition on driveway, limited driveway no need for 20 ft. wide

A MOTION to close the public hearing was made by Mr. Foley and seconded by Mr. Joyce, and was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to take matters under advisement, was seconded by Mr. Joyce, and was UNANIMOUSLY VOTED.

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 #2969 245 Pond Street

Application of RSJ Group, LLC for property at 245 Pond Street, also shown on the Weymouth Town Atlas Sheet 53, Block 582, Lot 4, located in a POS zoning district seeking variance to provide 1.36 spaces per dwelling unit vs. the required 1.5 spaces per dwelling units for a total of 63 units and special permit for multi-family housing.

Rich Hayden, Managing Director of RSJ Group stated that the reason for variance the proposal to rehabilitate the Fulton School into 63 unit age restricted 55+ and older with affordable component. Interior will be rehabilitated and historic components will be maintained.

Michael Barrent Gardenier, Architectural Designer, ICON stated that the plan is to keep class walls, new windows, keep look of window panes, and restore the building façade.

Kelly Killeen, PE, Group Manager/Civil Engineer, Coler & Colantonio, plan is to narrow travel ways to 24 ft., add parking to rear of building, (34 spaces), for resident parking. Mr. Killeen stated that he has met with the Planning Department and DPW, and received comments. Based on comments, he is proposing an overflow pipe from the infiltration unit to the town's storm drain line on Pond Street.

Chairman McLeod asked about the parking for the current ball field. Mr. Killeen stated that there are 22 spaces available. Mr. Hayden stated the RFP proposed to separate the property. Chairman McLeod asked will there be signs for parking for ball field. Mr. Killeen stated that they have been asked to provide signs.

Mr. Hayden stated that the town issued an RFP, obligated to make rental property affordable in perpetuity. Rentals will be as low as \$350 per month and as high as \$900 per month. One resident must be 55+ in each unit. DHCD will have heavy involvement with this property.

Mr. Fuqua gave a review of the project:

Conservation	not involved
Fire	may need to check with fire department regarding fire alarms, but that would be something that applicant does when he goes for permit
Health	not involved
Police	stop sign at Pond Street

Councilor Smart

Councilor Smart stated that he sees a 22 parking space difference from a plan that was presented to Town Council. Parking is a major concern at Town Council. When there are one or more games it can get very crowded at Fulton. Great Pond Road is not a through-way. Councilor Smart stated that he would like to see that that road cannot be open other than for pedestrian access. Councilor Smart stated that the drawings do not indicate catch basins. Councilor Smart stated he would like to see more spaces added.

Mr. Hayden stated that there are 86 spaces on his property, 22 town owned spaces. Mr. Hayden suggested moving the property line, give the town more parking, and give Mr. Hayden less parking.

Jim Julian

Weymouth Baseball League

Mr. Julian stated that he represents the teams that use those fields. Teams play April 1st through mid August, Monday – Friday 4:30 – 7:30 and Sunday afternoons. Sixty kids per night, with 65 cars per night. Mr. Julian sees the parking issue as a nightmare. His concern is the number of parking spaces. The road that goes to the water treatment plant is currently a basketball court.

Barbara Sampson

229 Pond Street

Ms. Sampson stated her concerns are with parking and lighting. Only one person age 55+, she was under the assumption it was senior housing. Mr. Hayden stated that majority of units are studios, they don't have bedrooms. Property will be heavily managed. There is a restriction on income per unit. Mr. Hayden stated that he would be glad to put up a fence to block out the lighting.

Shawn Hardy

209 Pond Street

Mr. Hardy stated he is a professional engineer and an abutter. The proposed parking lot shows no fencing or screening. Mr. Hardy would like to see the addition of fencing and trees to block the lighting. More parking in the area would be better; there are a lot of cars during baseball games. Mr. Hardy stated that his concern is with the test pits. He has spoken with the engineer. Mr. Hardy has a sump pump that runs from February through May, there is a high water table at Pond Street.

Chairman McLeod stated that he concurs with Mr. Hardy and he would like to see something in writing regarding drainage. Mr. Killeen stated that they have looked at the drainage but have not done the test pit. They are proposing a new system, matching pre and post regulations, doing accepted practice. The capacity of the system they are proposing has 3,000 sq. ft. more than needed.

Discussions ensued regarding baseball field parking.

Jim Clarke stated that he will advise Mr. Hayden what is needed: drainage, parking, fencing, lighting, and conditions. Mr. Clarke stated that the town engineer is here and was asked to be available to hear the presentation and respond to any questions.

Ms. McElroy made a MOTION to CONTINUE this matter until the August 15, 2007 meeting. The motion was seconded by Mr. Foley, and was UNANIMOUSLY VOTED.

ADJOURNMENT

There being no further business to come before the Board of Zoning Appeals, a MOTION to adjourn was made by Mr. Foley and seconded by Mr. Golden, UNANIMOUSLY VOTED to adjourn at 11:59PM.

Approved: _____
Mary McElroy, Clerk

Dated: _____