

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
AUGUST 26, 2009**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, August 26, 2009 at 7:00PM at McCulloch Building, Whipple Center Conference Room, 182 Green Street, Weymouth, MA for the purpose of passing on the application 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
Chuck Golden
Kemal Denizkurt
Francis Kenneally
Robert Galewski

Staff: Rod Fuqua, Principal Planner

Recording Secretary: Christine Callbeck

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. Mr. Galewski made a MOTION to OPEN THE PUBLIC HEARING and the MOTION was SECONDED by Mr. Denizkurt. It was UNANIMOUSLY VOTED. Mr. Galewski made a MOTION to WAIVE THE READING OF THE LEGAL ADVERTISEMENT and the MOTION was SECONDED by Mr. Denizkurt. It was UNANIMOUSLY VOTED.

BZA CASE #3051 328 North Street - CONTINUED

Application of Colin A. Morneau for property at 328 North Street, also shown on the Weymouth Town Atlas Sheet 10, block 103, Lot 1, located in an R-1 zoning district seeking request continuation to September 16, 2009.

The applicant requests a continuance to September 16, 2009 without discussion due to environment issues and building department issues. Applicant is in the process of working out the issues. Mr. Galewski made a MOTION to CONTINUE THE CASE to September 16, 2009. The MOTION was SECONDED by Mr. Denizkurt. It was UNANIMOUSLY VOTED.

BZA CASE #3052 84 Liberty Street (T-Mobile Northeast LLC)

Application of T-Mobile Northeast LLC for property at 84 Liberty Street, also shown on the Weymouth Town Atlas Sheet 55, Block 607, Lot 10, located in a PIP zoning district seeking special permit for wireless communication freestanding structure in PIP zoning district and variance from height limitations of Table 1, Schedule of District Regulations.

Before applicant spoke, Mr. Galewski stated that he was willing to step down because of prior dealings with T-Mobile when working for the Town of Braintree. He noted that he would be able to be impartial in hearing and deciding on this case. Chairman McLeod asked committee members if they felt that Mr. Galewski should step down. There were no objections and Mr. Galewski agreed to stay.

Mr. Fuqua stated that the case will need to be continued because the zoning line follows the property line with Hanabury and Weathervane. There is a provision in the zoning; any monopole has to be set back a distance of twice the height.

Attorney Parisi stated that he is here tonight seeking a special permit for the monopole. Attorney Parisi stated it is a special variance on the height. The actual address is blank Liberty Street because they do not have an address. They used “84” which is the abutting address. Which was not the best idea and in light of using the wrong address and to fix the address they will re-advertise this hearing and ask for guidance from this board for the best way to go.

Attorney Parisi stated that early on in T-Mobile’s service they only needed to provide coverage on highways. Nowadays most people are replacing their home telephone services with mobile devices. The demand for service has increased to include home coverage, office coverage, on the road and in between. Today’s demands encourages T-Mobile and other carriers to expand service into residential neighborhoods.

Attorney Parisi stated that they propose to build something 120 feet tall. This structure will be sound enough to include room for competitor antennae as well. The facility will be built inside a 40 x 40 compound to shield telecommunication equipment. Land around facility will be gated and paved. There will hardly be a need to visit the site; service visits can use the existing road. The only criteria not met are that the facility does not meet the set back requirement.

Chairman McLeod asked for Mr. Fuqua’s comments. Mr. Fuqua stated that the applicant needs to revise their application and suggested to hold staff comments and get second set of referrals from the departments after the new application is submitted. Attorney Parisi stated that his client does not intend to submit an additional application but asked this board for special variance on the height requirement only.

Robert Devin, Esq.

Lives @ Weathervane

Mr. Devin is an attorney that lives at Weathervane and represents the residents of Weathervane this evening. His clients are opposed to this proposal. The Town of Weymouth allows ample opportunity for T-Mobile to place their tower in many locations. Mr. Devin asked that the board request that T-Mobile provide proof of the need of this tower in this exact location. Mr. Devin stated that T-Mobile is asking for 120 feet because 120 feet is the maximum allowed in the Weymouth zoning code. Mr. Denizkurt asked Mr. Devin if Weathervane has a site issue from the property. Mr. Devin stated yes they will and that Weathervane II will have this tower is their back yard and will look at it day and night.

Rick Pessin

Lives @ Weathervane

Mr. Pessin stated that the trees are tall 40 feet. The tower will change the character of the whole place. The Hanabury lot is a small area that they park truck on. Hundreds of houses will be affected by this tower.

Albert Asiaf

120 Sand Trap Circle

Mr. Asiaf stated that he picked this area because it is so beautiful.

Frank McDeault
Sand Trap Circle

Mr. McDeault stated that he spent over \$500,000 on this home. The golf course, all the open space; what will happen with his assessment?

Scott Bolts
Weymouth Resident

Mr. Bolts stated that he is opposed to the tower. The proposed tower will bring devastating value to the surrounding area. Could be harmful to the health of residents; no one has done any studies on the health risks of cellular tower.

Chairman McLeod asked Attorney Parisi to provide the board with photos of what the proposed tower will look like at the next meeting. Mr. Fuqua stated that he will advertise and continue this case to October 7, 2009.

Rick Pessin
Lives at Weathervane

Who is considered an abutter and how are they notified? Mr. Fuqua stated that anyone that lives within 300 feet of the proposed site.

Robert Devin, Esq.
Lives @ Weathervane

T-Mobile has already utilized all tall sites in Weymouth. Towers are designed for multiple telecommunications. The goal is to improve in building communication, reception and service. Chairman McLeod asked Attorney Parisi how close does T-Mobile need to be? Attorney Parisi stated above the tree line.

Mr. Denizkurt asked Attorney Parisi if the other sites marked on the map are T-Mobile towers or competitor towers. Attorney Parisi stated that they have antennas on all of the towers marked on the map. Mr. Denizkurt asked if the airbase is no longer the airbase and is now Tri-Town has T-Mobile reached out to Tri-Town for some land for a tower. Attorney Parisi stated that while the airbase was still owned by the airbase T-Mobile needed to move on, now the airbase is not in the exact location that T-Mobile is looking at. The latitude is small; they can't go that far away from this exact spot. They were very luck this spot is zoned right. Mr. Denizkurt asked if T-Mobile has analyzed the minimum height they would accept. Attorney Parisi stated they need 120 feet. If a vote came back with a different amount of footage, they would have to re-analyze it to take less.

Joe Sheehan
Lives @ Weathervane

Advancement of technology is wonderful. Put the tower somewhere else where 300 families don't have to look at it.

Robert Devin, Esq.
Lives at Weathervane

Mr. Devin stated he would have given the same answers if T-Mobile were his client. Mr. Devin feels it is not unreasonable to ask T-Mobile to follow up on these questions that the various

residents at Weathervane have asked tonight. Attorney Parisi stated that he agrees with Mr. Devin and anything available within ¼ of a mile of the current location is good with him.

Mr. Galewski asked if the Weymouth Police Department indicated a need for this tower to help serve the 911 calls in the area. Attorney Parisi stated no, this would not have come from the Weymouth Police Department safety concerns.

Mr. Golden asked what happens if the tower is only 80 feet, not 100? Don stated that a lower tower have less bars, weaker calls and/or interference. Mr. Golden asked what a reasonable range/height is. Don stated 100 feet.

Rick Pessin
Lives @ Weathervane

Mr. Pessin suggested that board members and Attorney Parisi drive down Liberty Street and view all the industrial areas. The road gets smaller when it gets to Weathervane. Huge industrial areas, a tower there won't bother anyone. Mr. Pessin does not agree that the tower has to be put in this exact spot and at this exact height. Why can't it be two smaller antennas? Don stated that if T-Mobile did do 2 smaller antennas the calls will not connect.

Jim Colleran
Lives @ Weathervane

Mr. Colleran stated that he wanted to put 120 feet into perspective for everyone. Each floor in a home is 10 feet. So 120 feet is like a 12 floor home or building. Mr. Colleran just wanted to remind everyone that they are discussing a very tall structure.

Ken McPhee
Lives @ Weathervane

Mr. McPhee stated that he was unable to hear well in this room and suggested that the next meeting to discuss this proposal either have a microphone available for the applicant to speak or to be held at a different venue to allow for better hearing.

Mr. Galewski made a MOTION to CONTINUE this case to October 7, 2009. Mr. Denizkurt SECONDED the MOTION. It was UNANIMOUSLY VOTED.

BZA CASE #2818 0 Pond Street

Applicant of Freeman Law Group, LLC on behalf of SSAH, LLC for property at 0 Pond Street, also shown on the Weymouth Town Atlas as Sheet 62, Block 641, Lot 8, located in an R-1 zoning district seeking board to approve minor modification to Comprehensive Permit granted on December 1, 2004.

Attorney Peter Freeman, John Riley and Mike Jacobs were present on behalf of the client to request a minor modification of Comprehensive Permit Notice of Project Change. Attorney Freeman stated that the question for the board is under the guidelines, are the changes substantial or insubstantial? The changes are:

- 1) It is a Comprehensive Permit.
- 2) Change approval from 24 to 20 units.
- 3) Clarify maximum pitch allowable on roof to allow a pitch of 4:12 as the steepest slope.

- 4) 70% preference for Weymouth residents to maximum extent allowable by law

Essentially only changes are smaller building and lower height.

Mr. Denizkurt asked what if the law changes and only 50% Weymouth preference could that be correct. Attorney Freeman stated yes, but it is specific to the town, he has never seen it happen before.

Mr. Golden stated that Weymouth has a 70% preference as of now, if the law changes no one gets kicked out. Attorney Freeman stated that is correct, no one gets kicked out, as residents move out the 70% will gradually change over to comply with the new laws.

Harvey Welch
Abutter

Mr. Welch stated when the project was originally passed it was based on 70% Weymouth residents, now this changes the whole thing. Mr. Welch stated these changes are unbelievable. First the percentage change, now the pitch off the roof changed to a flat roof. These are all major changes. The water won't go into the water retentions system. All the abutters were not notified of this meeting or these changes. Attorney Freeman stated that this is not a public hearing and he was not required to give notice. Attorney Freeman stated that Mr. Welch was in argument with this project from the start and that is why he was notified of this meeting this evening. Attorney Freeman stated that they will maintain 70% unless the law mandates that they change. Chairman McLeod stated that there is no need to complain to the law; everyone must comply with the law.

John Smith
Resident

Mr. Smith cautions the board of dealings with these attorneys. The flat roof is a major change and should be considered a major change. Gable roof was approved because it went with the neighborhood aesthetics. The abutters get floods in their yards and homes. Mr. Galewski asked Mr. Smith if his concern is with the pitch, because the water pitch will be less. Mr. Smith stated that his concerns are with the looks of the neighborhood with the flat roof. Attorney Freeman stated they are subject to the Conservation Commission if there are any water drainage issues.

Dennis Lynch
664 Pond Street

Mr. Lynch asked if it will be a flat rubber roof. Attorney Freeman answered yes. Mr. Lynch stated that one of the things this board never looked at was the aesthetics of this building. They are turning the residential gable look into a commercial look the roof is a huge change. Mr. Lynch is against the roof. Mr. Lynch would like to keep the aesthetics in likeness with the neighborhood. Mr. Jacobs stated that they have lowered the pitch on a heavily treed site and they have lowered the height of the building. Chairman McLeod stated that this board does not have any authority to change to decide an application on looks.

Joseph Cellini
Resident

Mr. Cellini stated that this is a friendly 40B that this board gave to this proponent. Chairman McLeod stated that this board has no authority to talk about looks of a building. Mr. Cellini stated that this board gave it to them and should ask for something back.

Harvey Welch

Resident

Mr. Welch stated these are major changes. After a hard rain or a lot of melting snow a flat roof is very different with only four drop spouts. Attorney Freeman stated that the flat roof concerns are minor; the building commissioner will raise those issues.

John Smith

Resident

Mr. Smith stated that the flat roof snow will melt slow then flood; gable roof snow will melt slower and drain little at a time.

Dennis Lynch

664 Pond Street

Mr. Lynch a flat roof is a big change.

Harvey Welch

Resident

Mr. Welch would like the board to really consider what he said and then make its decision.

Mr. Fuqua stated that the Request for Minor Modification allows this board 20 days to send them a response if their request is significant or not. Mr. Galewski stated if the state changes to 60% Weymouth preference then it was the state that changed it not this board.

The Board found that all the changes would be minimal and result in less impact by reducing the number of units and reducing the overall height of the building.

Mr. Galewski made a MOTION to APPROVE the Request for Minor Modifications to BZA Case #2818. Mr. Kenneally SECONDED the MOTION. It was UNANIMOSLY VOTED.

OTHER BUSINESS

BZA Case #2986 527 Columbian Street, Quincy Credit Union

Mr. Fuqua stated that the case is ready to go. Four items for certification:

- Concrete standards on light poles
- Curb on front (mass highway turned down)
- One space eliminated
- Moved landscaping around

Chairman McLeod made a MOTION to APPROVE BZA Case #2986. Mr. Denizkurt SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Fuqua stated that he has spoken with Solicitor Lane who suggested that board members put a note that says applies with credits for the minutes “conforms to zoning”. This board has been doing it in discussion but it helps when the case is appealed and the judge looks at the case.

MINUTES

Mr. Galewski made a MOTION to APPROVE the minutes of June 3, 2009. Mr. Golden SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Galewski made a MOTION to APPROVE the minutes July 29, 2009. Mr. Golden SECONDED the MOTION. It 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. Galewski and SECONDED by Mr. Golden, UNANIMOUSLY VOTED to adjourn at 9:22PM.

Approved:

Richard McLeod, Chairman

Date