

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
SEPTEMBER 7, 2005**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, September 7, 2005, 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.

Present:	Richard McLeod, Chairman Edward Foley, Vice-Chair Mary McElroy, Clerk Sandra Carle Charles Golden
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.

**BZA CASE #2856 25 Rockway Avenue (cont.)**

Application of 25 Rockway Associates, LLC, 25 Rockway Avenue also shown on the Weymouth Town Atlas as Sheet 37, Block 465, Lots 24 & 27 in a R-4 Zoning District Watershed Protection, Groundwater Protection Districts, seeking special permit and/or variance under Chapter 120-21.B. for an office building in an R-4 district having a lot area in excess of 40,000 square feet and structure with a gross floor area in excess of 20,000 square feet.

Attorney David Kelly represented the applicant before the Board. He noted that this is a request for a special permit. He also noted that the reason for the continuance was to gather more information regarding traffic concerns. Mr. Kelly introduced Nicholas M. Fomenko to the Board. He noted that Mr. Fomenko is a traffic designer with Judith Nitsch Engineering Company.

Mr. Fomenko stated that an impact analysis was completed. Two intersections were reviewed in this study; Middle Street at Rockway Avenue, and Rockway Avenue at Donald Street. He noted that safety issues at Middle and Rockway were noted to be within an acceptable range for stopping and sight distances for vehicles traveling at 25 mph. In contrast, he noted that safety issues at Rockway and Donald were of concern. He informed the Board that this intersection has an above average crash rate. He stated that the installation of stop signs and stop lines should improve the safety at this location.

Mr. Fomenko also stated that the proposed 19 units of housing proposed in close proximity to this project were included in the build conditions of this study.

Mr. Clarke stated that in a memo dated 9/6/05, the Town's traffic engineer noted that the analysis was an accurate report of the traffic situation. Mr. Clarke noted that this project would result in a

significant increase in traffic in the area. He also noted that he did not agree with the traffic engineer's suggestion of signalizing the intersection since a signal is currently proposed at the intersection of Middle Street and the Libbey Parkway. Mr. Clarke also recommended that the sidewalk in front of the property, which does not go anywhere, be extended to Middle Street. Chuck Golden asked about the potential for two lanes at the intersection of Middle and Rockway, with one of the lanes to be used as a turning lane. Mr. Clarke noted that this is not a good idea if the intersection is not signalized.

The Chairman asked if the public had any comments, to which there was the following response. Town Councilor Joseph Connolly stated that the applicant has worked diligently with the Town in order to best utilize this property and be a good neighbor. He believes that this project is good for the Town as it will bring in additional tax revenue.

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

A MOTION was made by Edward Foley to APPROVE the request for a SPECIAL PERMIT for an office building in an R-4 district having a lot area in excess of 40,000 square feet and structure with a gross floor area in excess of 20,000 square feet with the following conditions:

1. Stop sign and stop lines will be installed at the intersection of Rockway Avenue and Donald Street.
2. The stop sign at the intersection of Middle Street and Rockway Avenue will be removed from the left side of the street and a sign will be installed on the right side of the street.
3. The sidewalk from in front of the applicants property will be extended to Middle Street. This is to be coordinated with the town and any abutters in regards to the right of way and any potential landscape changes.
4. Any deliveries and/or pick ups to the site will be limited to between the hours of 7am and 5pm.
5. A 3M opticom emitter will be supplied to the Fire Department.
6. All DPW recommendations will be completed per the list provided.

The MOTION was seconded by Mary McElroy 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.

**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 office building in an R-4 district having a lot area in excess of 40,000 square feet and structure with a gross floor area in excess of 20,000 square feet with the following conditions:

1. Stop sign and stop lines will be installed at the intersection of Rockway Avenue and Donald Street.

2. The stop sign at the intersection of Middle Street and Rockway Avenue will be removed from the left side of the street and a sign will be installed on the right side of the street.
3. The sidewalk from in front of the applicant's property will be extended to Middle Street. This is to be coordinated with the town and any abutters in regards to the right of way and any potential landscape changes.
4. Any deliveries and/or pick ups to the site will be limited to between the hours of 7am and 5pm.
5. A 3M opticom emitter will be supplied to the Fire Department.
6. All DPW recommendations will be completed per the list provided.

**BZA CASE #2860 46 Park Avenue (cont.)**

Present: Richard McLeod, Chairman  
Edward Foley, Vice-Chair  
Mary McElroy, Clerk  
Donald Holzworth  
Charles Golden

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.

Application of Theodore R. Hawkes for property at 46 Park Avenue, also shown on the Weymouth Town Atlas Sheets 41 & 45, Block 491, Lots 24 & 21, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 and 120-51 to expand an existing nonconforming business.

Attorney Gregory Galvin represented the applicant before the Board. Mr. Galvin noted that the reason for the continuance was to address concerns regarding grading. The engineer for the applicant has submitted an updated plan which shows the re-grading.

It was pointed out that the grading should be towards the catch basin. The applicant was asked to have this noted on the plan.

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

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

A MOTION was made by Edward Foley to APPROVE the request for a SPECIAL PERMIT to expand an existing nonconforming business with the conditions that 1) the plan dated 8/29/05 will be used, and 2) the plan will note that the grading will be towards the catch basin to the northwest on the plan, and was seconded by Mary McElroy 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.

**DECISION OF THE BOARD:**

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT to expand an existing nonconforming business with the conditions that 1) the plan dated 8/29/05 will be used, and 2) the plan will note that the grading will be towards the catchbasin to the northwest on the plan.

**BZA CASE #2861 20 Pond Street (cont.)**

Present: Richard McLeod, Chairman  
Edward Foley, Vice-Chair  
Mary McElroy, Clerk  
Donald Holzworth  
Charles Golden

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.

Application of Good Earth LLC for property at 20 Pond Street, also shown on the Weymouth Town Atlas Sheet 49, Block 555, Lot 11, located in an R-2 zoning district seeking a special permit and/or variance under Chapter 120-40 and 120-51 to raze an 8 unit building and construct a 6 unit building.

Attorney Rocco DiFazio stated that the reason for the continuance was to attempt to accommodate the Board's request to reduce the number of units from six (6) to five (5). Also, the Board had asked that the 3<sup>rd</sup> floor ceiling be reduced to prevent this space from being used as living space.

Richard McLeod stated that he has a concern regarding this application. According to 120-42, after two (2) years a property is considered abandoned and the nonconforming use is no longer permitted. Any use must now conform to current zoning. The lot in question is only 14,000 square feet and would only be allowed to build a single family home under current zoning regulations.

James Clarke noted that the intent of use has consistently existed over the past 30 years. The Town has been in contact with the owner. The owner has planned to fix/renovate the existing structure. In fact, he pulled a building permit within the past five (5) years to install new windows. However, this permit was allowed to lapse with no changes made.

Donald Holzworth stated that the parking on the revised plan for five (5) units is tight, but doable. He questioned the need for a hydrant when there was one within 132'. It was noted that this hydrant is a blow off hydrant to remove air from the line. The location of the trash receptacles was also discussed. It was suggested that they be moved away from the patio area. The traffic flow will be one way in and one way out.

Edward Foley questioned the number of single family homes in the area. It was noted that the homes in the immediate area of this site are multi-families.

James Clarke noted that a three foot fence will be placed at the front of the property line to screen the parking.

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

Councilor Michael Smart questioned the proposed drainage on the property. It was noted that there is a catch basin that will drain to a leaching field. The on-site silt screen will be inspected weekly and cleared yearly.

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

A MOTION was made by Edward Foley to APPROVE the request for a SPECIAL PERMIT to raze an eight (8) unit building and construct a five (5) unit building with the following conditions:

1. A fence will be constructed in front of the property to screen the parking lot.
2. The drainage silt screen will be inspected weekly and cleaned yearly or more frequently if needed.
3. The plan dated 8/29/05 for five (5) units of housing will be used.
4. The 3<sup>rd</sup> floor ceiling height will be reduced to 7 feet.
5. The 3<sup>rd</sup> floor is not to be used as a bedroom.

The MOTION was seconded by Mary McElroy.

Upon further discussion, Mr. McLeod restated his concern that the property has been abandoned for almost 30 years. 120-42 prohibits nonconforming use after two (2) years of vacancy. The proposed project would need to conform to the R-2 zoning requirements which it does not meet.

The MOTION was APPROVED on a 4-1 vote with Chuck Golden, Mary McElroy, Edward Foley, and Donald Holzworth voting in favor of the motion, and Richard McLeod voting against the motion.

#### 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.

#### 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 APPROVED on a 4-1 vote with Chuck Golden, Mary McElroy, Edward Foley, and Donald Holzworth voting in favor of the motion, and Richard McLeod voting against the motion to APPROVE the request for a SPECIAL PERMIT to raze an (8) unit building and construct a five (5) unit building.

**BZA CASE #2863 1074 Front Street**

Present: Richard McLeod, Chairman  
Edward Foley, Vice-Chair  
Mary McElroy, Clerk  
Sandra Carle  
Charles Golden

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.

Application of Dan Shannon for property at 1047 Front Street, also shown on the Weymouth Town Atlas Sheet 41, Block 457, Lot 35, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 for extension or change of a nonconforming use on a nonconforming lot from place of assembly to a single family detached dwelling.

The applicant was not present. James Clarke stated that since the town is co-applicant, he will present the request.

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

Mr. Clarke stated that this building is the former Fore River Grange. It was sold in August at auction to Dan and Carolyn Shannon. The lot size is less than 5,000 feet. This is a request for a change to a nonconforming use. The applicant plans to renovate the exterior and replace the windows and the front door. A small driveway will be installed.

The applicant has agreed to maintain the Queen Anne style of the existing building.

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

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

A MOTION was made by Mary McElroy to APPROVE the request for a SPECIAL PERMIT for extension or change of a nonconforming use on a nonconforming lot from place of assembly to a single family detached dwelling with the following conditions; 1) the building will only be a single family dwelling and 2) the exterior of the building will be maintained in the Queen Anne style and was seconded by Edward Foley 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.

**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 extension or change of a nonconforming use on a nonconforming lot from place of assembly to a single family detached dwelling with the following conditions 1) the building will only be a single family dwelling and 2) the exterior of the building will be maintained in the Queen Anne style.

**BZA CASE #2864 766 Broad Street**

Present: Richard McLeod, Chairman  
Edward Foley, Vice-Chair  
Mary McElroy, Clerk  
Sandra Carle  
Charles Golden

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.

Application of Anastasios & Elli Idaris for property at 766 Broad Street, also shown on the Weymouth Town Atlas Sheet 23, Block 303, Lot 2, located in a B-2 zoning district seeking a special permit and/or variance under Chapter 120-27.C. to convert a commercial/residential building to residential with 2 units, one already established.

The applicants noted that a number of businesses have been located at this site and have not done well.

Chuck Golden questioned the existence of a building in the rear. The applicants stated that this building is a garage and is rented out as storage.

This lot is in a B-2 zone which allows a single residence with business usage. A special permit is needed to convert the building to two (2) residences. Parking is shown as providing seven (7) spaces.

James 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 no reply.

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

A MOTION was made by Mary McElroy to APPROVE the request for a SPECIAL PERMIT to convert a commercial/residential building to residential with two (2) units, one already established and was seconded by Edward Foley 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.

**DECISION OF THE BOARD:**

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT to convert a commercial/residential building to residential with two (2) units, one already established.

**BZA CASE #2865 71 Moore Road**

Present: Richard McLeod, Chairman  
Edward Foley, Vice-Chair  
Mary McElroy, Clerk  
Sandra Carle  
Charles Golden

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.

Application of Daryl Cugini for property at 71 Moore Road, also shown on the Weymouth Town Atlas Sheet 35, Block 448, Lot 16, located in an I-1 zoning district seeking a special permit and/or variance under Chapter 120-40 and 120-51 to construct architectural canopy within the side yard setback with building enhancements.

The applicant stated that the site is the location of Bob's Collision Center. He stated that he is not changing the footprint of the existing building. He would like to extend the roof line to create an overhang out 20' in front of the building's bay door. He stated that this would allow for pictures to be taken of vehicles even in inclement weather. The lighting will be located underneath the roof.

James 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 no reply.

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

Due to the hardship created by the size, shape, and topography of the lot and layout of the building a MOTION was made by Edward Foley to APPROVE the request for a VARIANCE Request to construct architectural canopy within the side yard setback with building enhancements and was seconded by Mary McElroy and was UNANIMOUSLY VOTED.



**FINDINGS:**

Due to the hardship created by the size, shape, and topography of the lot and layout of the building the Board found that the 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.

**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 VARIANCE to construct architectural canopy within the side yard setback with building enhancements.

Approved:

\_\_\_\_\_  
Mary McElroy, Clerk

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Date