

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
SEPTEMBER 23, 2009**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, September 23, 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  
Edward Foley, Vice-Chairman  
Chuck Golden  
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. Foley made a MOTION to OPEN THE PUBLIC HEARING and the MOTION was SECONDED by Mr. Galewski. It was UNANIMOUSLY VOTED. Mr. Foley made a MOTION to WAIVE THE READING OF THE LEGAL ADVERTISEMENT and the MOTION was SECONDED by Mr. Galewski. It was UNANIMOUSLY VOTED.

**BZA CASE #3051 328 North Street**

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 for special permit.

The applicant appeared before this board in July to add on to their living spaces into the second floor attic area and extending the kitchen and additionally a future room to be added to the house. At that time it was brought to the applicant's attention that there was a conservation issue. The applicant has since worked with Mr. Fuqua and will now provide evidence that they have worked through the environmental and conservation issues.

In order to add an extra room to the home they needed to prove that they are not on a septic system; that issue is now cleared.

The other larger issue, the environmental issues is that this parcel used to be an old commercial farm building. They then rented to a tree company and the tree company illegally dumped 5,000 sq. ft. of wood chips into wetlands before they sold the property to the current homeowners. Currently there are 14 dead trees (dead because of the acidity of the wood chips) and the offending wood chips that the environmentalists' feels that are not going to decay at any time

soon. The applicant paid the environmentalist's invoice in the amount of \$200. The environmentalist prepared a letter to be read before this board:

*Ivas Environmental  
Environmental Sciences Wetlands and Planning Services  
315 Winter Street  
Norwell, MA*

*RE: Proposed resolution of enforcement order of July 14, 2006 @ 328 North Street, Weymouth, Ma*

*This letter provides a proposed resolution to an enforcement order issued 14, July 2006 by the town of Weymouth Conservation Commission in response to the dumping of landscaping debris within the bumper zone of a bordering vegetative wetland and within the board of the DEW itself.*

*There is a 5 step proposal; the situations have changed as wetlands do, so part of the proposal is to:*

- 1) Re-delineated the wetland site.*
- 2) Participate in a survey of wetland which includes the topography, including the fill and the 14 dead standing trees.*
- 3) Placement of erosion controls and the total of the slope of fill materials.*
- 4) Removal of the fill material.*
- 5) Designation of new wetland line under former fill.*

Mr. Morneau stated that he has been in agreement with J.E. McGrath, a surveyor in Weymouth to do this work on behalf of his clients the Freeman Family.

Mr. Fuqua reported that Mr. Morneau has been in frequent communication with Mr. Fuqua and all issues have been complied with. In fact, Mr. Morneau has done everything and more than we have asked for. Mr. Fuqua stated the wetland issue is not due to the property owners' activities, but from a company renting space. The tree company renting space is now out of business and it becomes the property owner's fault as much as that fact that the tree company is not in business any more. That fact is making the home owner's own the problem to clean up the mess that was left behind.

Mr. Fuqua stated that this is a large clean up job for a homeowner to take care of. This issue will need to go before the Conservation Commission again. Mr. Fuqua stated that that is no reason to hold back the applicant from building to wait for Conservation Commission make a ruling on the wetlands.

Mr. Golden asked what the status at Conservation Commission is. Mr. Morneau stated that this process is an out of pocket process for the homeowner and the paperwork alone costs \$4,700 the land work estimate would be enormously expensive. There is not an easy fix.

Mr. Foley made a MOTION to CLOSE THE PUBLIC HEARING. The MOTION was SECONDED by Mr. Golden. It was UNANIMOUSLY VOTED to close the public hearing.

**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 of such a use due to the established house.
- (2) The use involved will not be detrimental to the established of future character of the neighborhood or town because there is no change to the neighborhood and because there is no access changes.
- (3) The applicant is making an effort to remove the wood chips.
- (4) There will be no nuisance of serious hazard to vehicles or pedestrians.
- (5) Adequate and appropriate facilities will be provided of the proper operation of the proposed use, the property is tied into sewer.

**DECISION**

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. Mr. Foley made a MOTION to APPROVE THE SPECIAL PERMIT under 120-40. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT to extend an existing uncovered porch, part of which lies within the setback area.

The MOTION was SECONDED by Mr. Golden. It was UNANIMOUSLY VOTED.

**MINUTES**

Mr. Foley made a MOTION to APPROVE the minutes of August 26, 2009. Mr. Golden SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to APPROVE the minutes September 2, 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. Foley and SECONDED by Mr. Golden, UNANIMOUSLY VOTED to adjourn at 8:00PM.

Approved:

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Richard McLeod, Chairman

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Date