

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
OCTOBER 3, 2007**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, October 3, 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 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 #2964 124 Pond Street (cont.)**

Application of Alvin Hollis & Co. 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 a special permit and/or variance under Chapter 120-40, 120-41, 120-51 & Table 1 and 120-53 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.

Present:	Richard McLeod, Chairman
	Edward Foley, Vice-Chair
	Mary McElroy, Clerk
	Martin Joyce
	Charles Golden
Staff:	Rod Fuqua, Principal Planner
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 stated that he is looking to subdivide the property which has approximately 115,100 square feet. The property is both R-1 and B-2 zoned. He noted that the house on the property has approximately 12,700 square feet and is surrounded by a 6' chain link fence. He stated that the request for the undersized lot even though there is sufficient R-1 property is driven by the applicant's commercial needs of the operations which is the existing non-conforming use.

The applicant presented photos to the Board. He stated that the photos show the existing building that is proposed to be razed.

He noted that the property has many uses; truck parking, 70,000 gallons of oil storage, 10,000 square foot warehouse (plumbing, heating, air conditioning), and rental property towards intersection with Derby and Hollis. He noted that there are five (5) full time employees who work on site and park their vehicles. He stated that there is also parking for spare trucks and personal vehicle parking for oil truck drivers. He noted that parking is around the perimeter.

The house is about 150 years old and is fenced in. The request is to allow the delineation of the house lot to be based on the fence line. The lot size would be 12,700 square foot. He noted that the profile of the neighborhood shows 21 lots that are less than 12,700 square feet and 20 are greater than 12,700 square feet.

## BZA MINUTES – OCTOBER 3, 2007

The existing home is 1400 square feet and the proposed new home is 1936 square feet and would be a 3 bedroom colonial.

Mr. Fuqua stated that there are three buildings and a parking lot in the R-1 area. He stated that this is a special permit to change the non-conforming by separating that portion that has been used as residential from the commercial portion of the lot. The lot is under 25,000 square feet but historic use exists for this site.

Rod Fuqua 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 Mr. Foley to APPROVE the request for a SPECIAL PERMIT 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 with the following conditions:

- (1) The fencing is maintained between the commercial and residential properties.
- (2) No further subdivision is allowed in the R-1 zone.

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 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.

## BZA MINUTES – OCTOBER 3, 2007

### 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 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 with the following conditions:

- (1) The fencing is maintained between the commercial and residential properties.
- (2) No further subdivision is allowed in the R-1 zone.

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 #2978 Hingham, Victoria, Wainwright Ave. (cont.)

Application of Stephen Gosselin, Inc. for property at Hingham, Victoria, Wainwright Ave., also shown on the Weymouth Town Atlas Sheet 55, Block 611, Lots 47, 56, 58, 59, 61, 62, 63, & 76, located in an R-1 zoning district seeking a special permit and/or variance under 120-59, 120-51, & Table 1 to combine portions of 8 lots and create two (2) new buildable lots each with frontage of 40 feet.

Present:	Richard McLeod, Chairman
	Edward Foley, Vice-Chair
	Mary McElroy, Clerk
	Donald Holzworth
	Charles Golden
Staff:	Rod F uqua, Principal Planner
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.

This is a continued public hearing, however, no prior testimony was taken.

Attorney Gregory Galvin appeared before the Board with the applicant, Mr. Gosselin. This application would combine 7 lots as shown on the assessor's maps to make three (3) house lots, two (2) of which are existing; one accesses off Victoria and the other off Wainwright. The lots would have the following square footage - 40,000 square feet, 26,800 square feet, and 19,100 square feet

## BZA MINUTES – OCTOBER 3, 2007

Mr. Galvin noted that whether a road or driveway is installed, the density will remain the same. He noted that part of Hingham Avenue was abandoned by the Redevelopment Authority. This plan proposes a number of land swaps.

The applicant has an alternative plan for the installation of a road. The concern is in regards to the maintenance of the road. By doing the plan without the road it negates the need for the town to take on another obligation.

Mr. Gosselin stated that the reason behind the land swap was to get rid of the small pieces of lots and to avoid the need for a road which would result in the removal of a number of trees. He noted that installing a roadway would have a much bigger impact on the neighborhood; driveways are narrower.

There is a plan for conventional subdivision. The plans are marked 1 of 3 and 3 of 3. The page 2 of 3, which is not a part of this application, is the plan for the road.

This request is for a variance as there would be two lots with less than 72 feet of frontage, it incorporates more than just a subdivision of one lot, and it changes the non-conformity on the 9,200 square foot lot which is already non-conforming.

Rod Fuqua stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission commented that there do not appear to be wetland resources in the vicinity that would require a filing with the Conservation Commission, however the applicant should have a botanist or wetland scientist confirm this prior to construction..
- Health Department had no objections.
- Police Department had no issues.
- Fire Department fire noted that an additional hydrant be installed at Marie and Victoria.
- DPW (Water, Sewer, Engineering, Highway) memo dated 9/13/07 was submitted. The memo notes location of utilities and comments that a check with land transfers and deeds so that plans at DPW match.
- School Department had no special concerns.
- Tax Department notes that there are taxes owed on some of the smaller parcels. A municipal lien certificate should be submitted.

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

Kevin Brady stated that he has a signed purchase and sale agreement for 23 Victoria Avenue. He stated that he had submitted a letter noting his concerns. He suggested moving the dwelling more towards the center of the property which the applicant agreed to consider. He asked for clarification on the location of the driveway. Finally, Mr. Brady noted that there are currently no wetlands in the area.

It was noted that the hardship would be the impact the road would have on the properties in the area. The installation of a road would result in the removal of all the natural vegetation.

## BZA MINUTES – OCTOBER 3, 2007

Mr. Gosselin stated that he has built many homes in this area and has not experienced any drainage issues.

Michael Dean, 13 Wainwright Avenue spoke in favor of the driveway proposal and not the road.

Mr. Brady agreed that he is also in favor of the driveway proposal rather than having a roadway.

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

Due to the hardship which would occur to the neighborhood with the creation of a road and the loss of all natural vegetation a MOTION was made by Mr. Foley to APPROVE the request for a VARIANCE to combine portions of 8 lots and create two (2) new buildable lots each with frontage of 40 feet with the following conditions:

- (1) Deeds corrected as per DPW – subdivision plan shall be submitted with the Board of Appeals.
- (2) A hydrant shall be installed at Marie and Victoria Avenue.
- (3) A municipal lien certificate shall be submitted.

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 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 VARIANCE to combine portions of 8 lots and create two (2) new buildable lots each with frontage of 40 feet with the following conditions:

## BZA MINUTES – OCTOBER 3, 2007

- (1) Deeds corrected as per DPW – subdivision plan shall be submitted with the Board of Appeals.
- (2) A hydrant shall be installed at Marie and Victoria Avenue.
- (3) A municipal lien certificate shall be submitted.

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 #2977 80, 86, & 90 Forest Street**

Application of Paul Mackintire for property at 80, 86, 90 Forest Street, also shown on the Weymouth Town Atlas Sheet 48, Block 542, Lots 11, 12, & 13, located in an R-1 zoning district seeking a special permit and/or variance under 120-53 to join three (3) abutting parcels to create one building lot that is undersized with frontage on Wampum Street.

Present:	Richard McLeod, Chairman Edward Foley, Vice-Chair Mary McElroy, Clerk Donald Holzworth Charles Golden
Staff:	Rod Fuqua, Principal Planner
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.

This is a continued public hearing, however, no prior testimony was taken.

Attorney Gregory Galvin appeared before the Board. He noted that Mr. Mackintire has purchase and sale agreements with owners of three lots which currently front on Forest Street and have frontage to Wampum Street. The access to Wampum Street is off Samoset Street. This is an application for a special permit to allow the construction of a home on a 20,000 square foot home.

Mr. Holzworth noted that the lot would be in a watershed overlay district which allows a 20,000 square foot lot. It was noted that there is a surveying discrepancy as to whether you use Forest Street or the stone wall as a fixed point. Lot A could lose 1000 square feet depending on what is used as the fixed point.

## BZA MINUTES – OCTOBER 3, 2007

Mr. Fuqua stated that there is a corner that is fixed. He noted that ultimately the issue of the lot area would be covered. He noted that it would take a land court decree in order to fix the bounds.

Mr. Foley asked what the lot areas are for the existing lots. Mr. Galvin noted that they are 28,624, 27,700, and 26,100 square feet.

Mr. Galvin stated that these lots are heavily wooded and the owners essentially don't use the rear parcel of their property. He believes that the lot would collect debris along Wampum Street.

Rod Fuqua stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission noted that the plan appears to be outside of Conservation Commission jurisdiction and therefore would not require a filing. Applicant should confirm.
- Health Department had no objections.
- Police Department had no comments.
- Fire Department had no comments.
- DPW (Water, Sewer, Engineering, Highway) noted that utility connections should be coordinated with the proposed Wampum Street subdivision, that the street line shown does not reflect the 11/8/06 subdivision, and that the Form A subdivision plan should identify accurate dimensions of all proposed lot lines and should be submitted and approved prior to the approval of the Special Permit.
- School Department had no special concerns
- Tax Department noted that there are outstanding taxes owed.

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

Rick Freeman of 90 Forest Street stated he is in favor of this plan.

Chris MacDonald of 86 Forest Street stated he is in favor of this plan.

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 to join three (3) abutting parcels to create one building lot that is undersized with frontage on Wampum 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.
- (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. Foley and was UNANIMOUSLY VOTED.

## BZA MINUTES – OCTOBER 3, 2007

### 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.

### 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 join three (3) abutting parcels to create one building lot that is undersized with frontage on Wampum 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.
- (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 #2981 25 Rockway Ave (cont.)

Application of Rockway Associates, LLC for property at 25 Rockway Avenue, also shown on the Weymouth Town Atlas Sheet 37, Block 465, Lot 24 & 27, located in an R-4 zoning district seeking a special permit and/or variance under Chapter 74.1 & 120-117 for dimensional variance for required parking spaces for use as a medical office building and to extend the time period for a special permit approval of Case # 2856.

Present:	Richard McLeod, Chairman
	Edward Foley, Vice-Chair
	Mary McElroy, Clerk
	Donald Holzworth
	Charles Golden
Staff:	Rod Fuqua, Principal Planner
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.

This is a continued hearing, however, no prior testimony was taken.



## BZA MINUTES – OCTOBER 3, 2007

Attorney David Kelly appeared before the Board with the applicant Mr. Lane. Also present were Robert Carter, site engineer of HW Moore Associates and Douglas C. Prentiss, traffic engineer of Nitsch Engineering.

The special permit previously approved will expire in two weeks. The applicant is first requesting that the special permit be extended by one year. In addition a variance for parking is requested. Mr. Kelly noted that potential tenants have been medical in nature. A medical office building requires double the parking requirement than for a non-medical use. He noted the following:

- No change to drainage, lighting
- Reduced size of building 6672 square feet
- 5 additional spaces
- This is the former National Guard Armory
- Uneven lot line and presence of ledge
- Conservation order of conditions granted and extended
- No setback requirements requested
- Lot is zoned R-4
- Under the building there will be 92 spaces
- The upper lot will have 133 spaces
- Blasting of ledge and construction of two tiered parking

Rod Fuqua stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission has issued an order of conditions and extended it.
- Health Department had no objection.
- Police Department review traffic and parking needs
- Fire Department had no concerns.
- DPW (Water, Sewer, Engineering, Highway)  
Utility connections need to be fine tuned
- School Department had no special concerns.
- Tax Department noted that there are taxes owed on the property.

Mr. Fuqua noted that the town's traffic engineer has reviewed the parking supply analysis. Mr. Fuqua noted that the town's engineer concurred with the findings that there would be adequate parking on the site. He noted that a review of traffic pattern changes at Rockway and Middle needs to be completed. An update of the traffic impact study should be done. There are trip variations between general office and medical office use.

Mr. Prentiss noted that the requirement for medical office building parking is high in Weymouth. The town's requirement is 6/1000 and the industry standard is 4.5/1000.

Mr. Prentiss noted that medical office use is generally during non-peak hours.

Mr. Fuqua noted that having just received the information and he would like to have the traffic engineer review the numbers as there is an increase in volume. He would like to be certain that there is agreement that existing mitigation is still sufficient.

## BZA MINUTES – OCTOBER 3, 2007

Mr. Foley asked about the time frame on the expiration of the previous special permit. Mr. Fuqua stated that the request is under consideration so this is covered.

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

A MOTION was made by Mr. Foley to CONTINUE the public hearing until October 17, 2007 and was seconded by Mrs. McElroy and was UNANIMOUSLY VOTED.

### **BZA CASE #2982 25 Columbian Street**

Application of Old South Union Congregational Church for property at 25 Columbian Street, also shown on the Weymouth Town Atlas Sheet 45, Block 522, Lot 6, located in a Public Open Space (POS) zoning district seeking a special permit and/or variance under 120-64.5A for a variance to construct up to two additional free standing signs. One sign would be located along the front of the property on Columbian Street and the second sign in the rear of the property along Torrey Street. The Columbian Street sign would be approximately 3' by 5' and the Torrey Street sign would be approximately 3' by 3'.

Present:	Richard McLeod, Chairman Edward Foley, Vice-Chair Mary McElroy, Clerk Donald Holzworth Charles Golden
Staff:	Rod Fuqua, Principal Planner
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. Erikson, a member of the Finance Committee at Old South Union Church appeared before the board. He noted that there is an existing sign (3x4) on Columbian Street notice for activities in the sanctuary. However, the church has a number of other uses which include a preschool, AA meetings, and Boy Scout meetings.

The church would like to add a second sign (3x5) on Columbian Street on the far side that would address other uses at the church other than what is happening in the sanctuary. He stated that they considered expanding existing sign but would require removal of a significant concrete block. He stated that the sign would be similar in design to the first sign and set back 25 feet from street.

A third sign (3x3) on Torrey Street is proposed but funds have not been appropriated for this sign.

The church would like to maintain the existing sign and install two additional signs. The total square footage would be 36 square feet.

It was noted that the church is entitled to one free standing sign and/or two wall signs with the surface area not to exceed 40 square feet. The shape and size of lot, location on two streets, the

## BZA MINUTES – OCTOBER 3, 2007

building is one big structure but has the look and feel of two separate buildings, and there is more than one entry to the building.

Mr. Fuqua noted that the church's current need is for the sign on Columbian Street. But that the third sign could be approved. If the sign is not installed within the prescribed time frames, the applicant would need to return for additional approval.

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 shape, size, and configuration of the church property, a MOTION was made by Mr. Foley to APPROVE the request for a VARIANCE to construct up to two additional free standing signs.

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 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 VARIANCE for a variance to construct up to two additional free standing signs.

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.

## BZA MINUTES – OCTOBER 3, 2007

- (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 #2983 75 Blanchard Road**

Application of Jim Sullivan for property at 75 Blanchard Road, also shown on the Weymouth Town Atlas Sheet 46, Block 525, Lot 12, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-55 to allow a 1.5 story detached garage within the setback area.

Present:	Richard McLeod, Chairman Edward Foley, Vice-Chair Mary McElroy, Clerk Donald Holzworth Kemal Denizkurt
Staff:	Rod Fuqua, Principal Planner
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.

Mrs. McElroy disclosed that Mr. Sullivan is a customer of her husband. She pointed out that she does not know Mr. Sullivan personally. Mrs. McElroy stated she could sit on this case and be impartial and objective. There was no objection to her sitting on this case.

Mr. Sullivan stated that he would like to tear down the existing garage which is 20' x 20' and 14' high. He would replace the garage with a 1.5 story detached garage.

He noted that the half story would be used as storage. There would be no plumbing and this would not be living space.

The variance is required because the size of the garage is being increased from the original dwelling. The rear yard setback would be 24 feet. Mr. Sullivan noted that he is a lobsterman and he stores traps and his boat in the garage. In addition, on the side of the property is a well established garden that would be eliminated by moving the garage in conformance.

The height of the structure would be 26 feet from grade to peak of structure.

Mr. Fuqua 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.

## BZA MINUTES – OCTOBER 3, 2007

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

Due to the hardship created by the size of the lot and the storage of lobster traps, a MOTION was made by Mr. Foley to APPROVE the request for a VARIANCE to allow a 1.5 story detached garage within the setback area with the following conditions:

- (1) The height of the garage shall be no higher than 26'.
- (2) There shall be no plumbing in the garage.
- (3) The garage shall not be used as living space.

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 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 to allow a 1.5 story detached garage within the setback area with the following conditions:

- (1) The height of the garage shall be no higher than 26'.
- (2) There shall be no plumbing in the garage.
- (3) The garage shall not be used as living space.

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.

## BZA MINUTES – OCTOBER 3, 2007

- (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 #2931 Off Tirrell Street and Aster Circle Decision)

Present: Richard McLeod, Chairman  
Edward Foley, Vice-Chair  
Martin Joyce  
Charles Golden  
Staff: Rod Fuqua, Principal Planner  
Recording Secretary: Janet Murray

The Chairman called the hearing to order and explained the procedures that would be followed to the people present.

A unanimous vote is required as there are only four members present.

Mr. Fuqua stated that this application has been before the Board over the course of several meetings.

Mr. McLeod stated that the developer has confined the development to 1/3 of the property. Donation of the excess land to the town is a separate matter not before this Board.

Mr. Foley noted that the concerns have been addressed.

Mr. Joyce stated that his primary concern was emergency access. He noted that the development at Avalon Ledge has only one entrance/exit. He also noted that any other access would require significant wetland crossings which would not likely be approved.

Mr. Golden noted that the developer had decreased the number of units.

A MOTION was made by Mr. Foley to APPROVE the request for a SPECIAL PERMIT for Planned Unit Development for 48 housing units for development within the floodplain zones A & C with the following conditions:

- (1) Approval is for a total of 48 residential units, 2 detached single family dwellings and 46 residential units of townhouses.
- (2) Tirrell Street shall be improved to a pavement width of 20', as per plan entitled "Tirrell Woods, A Planned Unit Development, Tirrell Street – Weymouth, MA", drawn by SITEC Environmental, dated March 1, 2007.
- (3) Applicant shall repair and/or replace, as required, all private encroachments, (i.e. fences, walks, drives, utilities), etc. to be relocated as a result of roadway improvements.
- (4) Road side slopes and crown shall be angled so roadway surface water, as much as possible, drains to the northerly side of Sportsmen's Way.

## BZA MINUTES – OCTOBER 3, 2007

- (5) All utilities shall be designed and installed as per DPW recommendations and standards.
- (6) A base course of pavement shall be installed on Tirrell St. before any construction begins on the 46 townhouse units.
- (7) Deeds for all open space within the Planned Unit Development shall be noted as not buildable and reference this special permit planned unit development.

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 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 for Planned Unit Development for 48 housing units for development within the floodplain zones A & C with the following conditions:

- (1) Approval is for a total of 48 residential units, 2 detached single family dwellings and 46 residential units of townhouses.
- (2) Tirrell Street shall be improved to a pavement width of 20', as per plan entitled "Tirrell Woods, A Planned Unit Development, Tirrell Street – Weymouth, MA", drawn by SITEC Environmental, dated March 1, 2007.
- (3) Applicant shall repair and/or replace, as required, all private encroachments, (i.e. fences, walks, drives, utilities), etc. to be relocated as a result of roadway improvements.
- (4) Road side slopes and crown shall be angled so roadway surface water, as much as possible, drains to the northerly side of Sportsmen's Way.

## BZA MINUTES – OCTOBER 3, 2007

- (5) All utilities shall be designed and installed as per DPW recommendations and standards.
- (6) A base course of pavement shall be installed on Tirrell St. before any construction begins on the 46 townhouse units.
- (7) Deeds for all open space within the Planned Unit Development shall be noted as not buildable and reference this special permit planned unit development.

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 #1535 Commercial St. (Discussion and/or Decision)**

Application of Ryder Development for property at 1535 Commercial Street, also shown on the Weymouth Town Atlas Sheet 23, Block 254, Lot 2, located in a B-2 zoning district seeking a special permit and/or variance under 120-27(c) and Article VIII for a multifamily dwelling on a lot in a B-2 zone.

Present:	Richard McLeod, Chairman Mary McElroy, Clerk Donald Holzworth Charles Golden Francis Kenneally
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

The Chairman called the hearing to order and explained the procedures that would be followed to the people present.

Mr. Kenneally noted that at a previous meeting he had expressed concern regarding the condition of the site. The next day the site had been cleaned up.

A MOTION was made by Mrs. McElroy to APPROVE the request for a SPECIAL PERMIT to for a multifamily dwelling on a lot in a B-2 zone with the following conditions:

- Driveway entrance shall be modified to approximate the design of Figure 5, attached to Memo from Georgy Bezkorovainy, to Rod Fuqua, dated Sept. 18, 2007.
- A 6' high fence shall be installed on the northerly property line for a distance starting 10' before the first building corner and extending 10' past the opposite building corner.
- The easterly end of the property between the end of the building and the property line shall be field checked with the Department of Planning and Community Development to assess shrubs and trees to remain and be incorporated into the area landscaping.
- Sediment and erosion controls shall be put in place during construction to prevent any soil and/or sediments from being washed into Commercial St.



## BZA MINUTES – OCTOBER 3, 2007

- Applicant shall contribute, as agreed, an amount of \$2,000.00 to the Town of Weymouth for accent street lighting on Commercial St.

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.

### 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 a multifamily dwelling on a lot in a B-2 zone with the following conditions:

- (1) Driveway entrance shall be modified to approximate the design of Figure 5, attached to Memo from Georgy Bezkorovainy, to Rod Fuqua, dated Sept. 18, 2007.
- (2) A 6' high fence shall be installed on the northerly property line for a distance starting 10' before the first building corner and extending 10' past the opposite building corner.
- (3) The easterly end of the property between the end of the building and the property line shall be field checked with the Department of Planning and Community Development to assess shrubs and trees to remain and be incorporated into the area landscaping.
- (4) Sediment and erosion controls shall be put in place during construction to prevent any soil and/or sediments from being washed into Commercial St.
- (5) Applicant shall contribute, as agreed, an amount of \$2,000.00 to the Town of Weymouth for accent street lighting on Commercial St.

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.

## BZA MINUTES – OCTOBER 3, 2007

- (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 #2968 86 Park Avenue Decision

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 120-53, 120-51 & Table 1 to subdivide a lot into two lots.

Present:	Richard McLeod, Chairman Edward Foley, Vice-Chair Mary McElroy, Clerk Charles Golden Martin Joyce
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

The Chairman called the hearing to order and explained the procedures that would be followed to the people present.

The applicant is looking to subdivide one lot into two lots with similar lot size to surrounding lots.

Mr. Foley expressed concerns regarding the driveway

Mr. Fuqua noted that the driveway and blasting were concerns that were expressed. He noted that blasting falls under the purview of the fire department. Placing a condition on the applicant to limit blasting is not feasible. He also noted

A MOTION was made by Mr. Foley to APPROVE the request for a SPECIAL PERMIT to subdivide one lot into two lots with the following conditions:

- Driveway width for lot 2 is limited to a maximum of 12' within 50' of Park Ave.
- Driveway shall be located in such a manner as to reduce the risk to the mature healthy pine trees located on the easterly property line of lot 2.
- Utility services for lot 2 shall be located in such a manner as to reduce the risk to the mature healthy pine trees located on the easterly property line of lot 2.
- Driveway and utility layout shall be staked by the applicant and reviewed by the Department of Planning and Community Development prior to any construction or installation. The purpose of the review is to assess compliance with conditions 2 and 3 of this decision.
- The northerly and westerly property lines of lot 2 shall use the minimum setback criteria for a rear lot line, as required in the Zoning Ordinance; further no mature, healthy trees within the setback area shall be removed.

## BZA MINUTES – OCTOBER 3, 2007

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 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 to subdivide one lot into two lots with the following conditions:

- (1) Driveway width for lot 2 is limited to a maximum of 12' within 50' of Park Ave.
- (2) Driveway shall be located in such a manner as to reduce the risk to the mature healthy pine trees located on the easterly property line of lot 2.
- (3) Utility services for lot 2 shall be located in such a manner as to reduce the risk to the mature healthy pine trees located on the easterly property line of lot 2.
- (4) Driveway and utility layout shall be staked by the applicant and reviewed by the Department of Planning and Community Development prior to any construction or installation. The purpose of the review is to assess compliance with conditions 2 and 3 of this decision.
- (5) The northerly and westerly property lines of lot 2 shall use the minimum setback criteria for a rear lot line, as required in the Zoning Ordinance; further no mature, healthy trees within the setback area shall be removed.

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.

BZA MINUTES – OCTOBER 3, 2007

- (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 – SEPTEMBER 19, 2007 – Case # 2979 & 2980**

A MOTION was made and seconded to APPROVE the Minutes of September 19, 2007, Case # 2979 & 2980.

**ADJOURNMENT**

A MOTION was made and seconded to ADJOURN the meeting at 10:00 P.M.

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

\_\_\_\_\_  
Date