

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDING
OCTOBER 28, 2009**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, October 28, 2009, at 7 PM 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 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
 Robert Galewski
 Chuck Golden
 Francis Kenneally
 Kemal Denizkurt

Staff: James Clarke, Director of Planning and Development

Recording Secretary: Mary Briggs

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

BZA CASE #3052 – LIBERTY STREET (cont.)

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

Members sitting: Richard McLeod, Chairman
 Robert Galewski
 Chuck Golden
 Francis Kenneally
 Kemal Denizkurt

A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

Frank Parisi of T-Mobile briefly reviewed the original application. The purpose is to erect a cell phone tower in order to increase coverage area in the residential area along Liberty and Pleasant Streets. He then reviewed the alternatives to the original application, which were recommended as a result of comments from the board and abutters during the initial hearing at the board's last meeting. Use of the church steeple in Columbian Square is not an option; it duplicates an existing coverage area. Land on the former NAS has too many issues to overcome: ownership has not been transferred by the federal government, it would necessitate running utility service

lines, significant wetlands which are unsuitable for building, environmental mitigation is needed before development can occur. The landlord of the industrial land in Hingham, ½ mile further east was also approached; however that site was deemed too far out of the way to obtain the objective of reasonable quality coverage, to breach the gaps in service for Weymouth, Hingham and Rockland. The engineers have gone back and looked at design changes including reducing the height of the structure to 100' to be less visually obtrusive, and while that height is not ideal and there will still be spotty coverage, it is something that could be further considered.

There was a brief discussion of setback variance and distance allowed from an abutter, the approximate coverage area of a tower, and any other sites in the area that could be considered.

Mr. Parisi then reviewed a “unipole” design and provided photographs of them installed in other cities and towns. The structure is designed of steel and Fiberglas, tapered from 3' at its base to about 24" at its height and can support a flag. Flag maintenance would need to be contractually addressed with the landowner. The pole has a flex point at which the structure can collapse on itself under extreme conditions. The flex point is somewhere at 50-60% of the height. The shortest height of a unipole design is about 80-90 feet. Any design would need to be 10-30 feet above any natural impediment and the treeline to get a signal. He noted that the unusual setback requirement of twice the height of the structure from an abutter limits areas along Liberty Street that can meet the need. The design has limited space inside allow other carriers use.

Members of the public in attendance were invited to bring comments or questions to the table.

Jim Colleran of 55 Sandtrap Circle noted that he is on the board of the homeowners association, Weathervane, which represents 110 homes, and everyone he has spoken with in the development do not have issues with current cell phone service.

Dave Toomey of 9 Putter's Run reported that he spoke with both the fire, police and South Shore Hospital dispatchers, all of whom report no problems with dropped 911 calls.

Rick Pessin of 161 Sandtrap Circle presented the board with a petition signed by neighbors and residents of the area who do not want a cell phone tower erected. He reviewed the purpose of and recommended there be no exceptions to the zoning ordinances enacted. He does not agree that the request meets the criteria of hardship. He noted allowing it to be built will adversely affect the property values in the area.

Town Council President Michael Smart, representing District 6, urged the board to reject the application. He noted that although not addressed by the application, the World Health Organization has indicated the need for governing boards to research health concerns. He also noted that studies he read indicates a 2-20% decrease of property values with the addition of cell towers in a neighborhood.

Jim George of the site acquisition team for T-Mobile reviewed the reasons against utilizing space on grounds of the former air station. He noted that of the 1500-acre parcel, Tri-town owns only 590 acres, and there are 900 acres that are still controlled by the federal government. Many areas

are contaminated. T-Mobile, or any other communications company would not be willing to lease and erect a tower on a dirty parcel. Transferring title will take an act of Congress, and completion date for the site will be 2020. The site, which lacks funding, is considered non-leasable and non-buildable.

Councilor Smart noted he has been attending base clean up meetings at the air station for the last eight years and respectfully disagreed with Mr. George, and noting that the free transfer of the land is set to occur within months.

Mr. Clarke echoed Mr. Smart's comments; noting many of Mr. George's statements are incorrect or partially true.

Town Council at-large representative Bob Conlon concurred with Mr. Smart's comments.

Frank McDevitt of 181 Sandtrap Circle noted that the residents of the community have no problems with their current cell phone service.

Mr. Parisi noted there is no concern that cell phone towers adversely impact property values and can provide statistics. There is a need for improved cell phone coverage now and in the future as technology changes. He can also provide further information regarding dropped 911 calls, and can submit sufficient data supporting the need. Zoning of the site was industrial before the residential community was built. Cell phone towers as neighbors are passively compatible; they are silent, do not produce odors, bring no people, traffic, commercial nor retail activity. In accordance with the town by-laws, T-Mobile was unable to find land that meets most of the requirements.

Chairman McLeod recommended more information be submitted to support the data; the burden of demonstrating hardship is on T-Mobile. He recommended continuing the Public Hearing to November 18, 2009 and requested Mr. Parisi submit information timely so that Councilors Smart and Conlon can disseminate it to their constituents.

Mr. Denizkurt requested T-Mobile include map evidence with locations for cell coverage on exiting sites, and photographs as were included with the original application.

A motion to continue the Public Hearing to November 18, 2009 was made by Mr. Galewski and seconded by Mr. Golden and unanimously voted.

BZA CASE #3055 188 IDLEWELL BLVD.

Application of Cannon Construction Corp., for approximately 188 Idlewell Blvd., adjacent to 182 Idlewell Blvd., also shown on the Weymouth Town Atlas Sheet 9, Block 136, Lot 18 in R-1 zoning district, seeking a special permit and/or variance to construct a single family home on a lot within the Floodplain District Zone A4 with a variance of the side yard setback.

Members sitting: Richard McLeod, Chairman
 Edward Foley, Vice-Chairman

Mary McElroy, Clerk
Chuck Golden
Francis Kenneally
Kemal Denizkurt, Alt.

A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

Attorney Gregory F. Galvin reported that there was a prior application for development of the parcel which was approved and appealed by a neighbor. In Superior Court the neighbor entered into an agreement to purchase the parcel. The court action was dismissed. The other abutter to the property is a town-owned park.

Level 1 floor to comply with the flood plain elevation. Construction plans comply with building code, breakaway code and floor height regulations. Variance for the side yard setback and 22' wide foundation results in a tighter living space. The proposal mirrors one made six years ago.

Mr. Clarke reviewed the town department comments:

Conservation	See memo to Rod Fuqua, Principal Planner from Mary Ellen Schloss.	
Health	No objections	
Police	No police issues	
Public Works	Water & Sewer Division:	
	Water Comments -	
	1	Water services shall be 1 ½" copper on town side; can reduce down to 1"
	Sewer Comments -	
	1	Water & sewer mitigation
	2	Clear 10 feet of brush and trees on both sides of the proposed sewer service
	Highway/C&M Division/DPW Director:	
	1	Flowable fill backfill required for any trench excavation in Idlewell Blvd. Pavement
	Engineering Division:	
	1	During constructions care must be taken to prevent damage to the pavement swale on the edge of the road adjacent to the proposed driveway
	2	The proposed driveway should be separated from the existing walkway to the park, or some physical barriers (bollards) placed to prevent any vehicles from unintentionally entering walkway.

Tax	Tax Title FY 2005. FY10 R.E. delinquent (qtr. 1)
-----	--

Members of the public in attendance were invited to bring comments or questions to the table.

Deborah Tier of 196 Idlewell provided the board with photographs of the site, noting it floods often. Neighbors who purchased were not made aware the lot was buildable. She noted there is additional engineering changes made since the submittal. She provided an elevation sketch and requested the board further study the site.

Christopher Tier of 196 Idlewell Blvd. asked how construction equipment will access the site.

Saul Schrader, the abutter at 192 Idlewell Blvd. who recently purchased the property, and was not notified of the public hearing, asked if a storm water management plan has been proposed. He also asked what parking accommodations will be available. Mr. Clarke responded that notice was properly advertised, and that notice was provided to those abutters on the certified abutter list, which under state law are the abutters listed as of January 1st of the current year. Storm water management will come under the purview of the Conservation Commission, which will hear the proposal.

Mr. Clarke requested Mr. Galvin provide the board with elevation plans for further consideration.

A motion was made by Mr. Foley to continue the Public Hearing to November 4, 2009, seconded by Mr. Galewski and unanimously voted.

BZA CASE #3056 – 167 IDLEWELL BLVD.

Application of James Daugherty, Trustee for the Daugherty Trust, 167 Idlewell Blvd, also shown on the Weymouth Town Atlas Sheet 9, Block 139, Lot 13 in R-1 zoning district, seeking a special permit and/or variance to demolish an existing single family home and replace it with a single family modular home and also to demolish the existing garage and construct a new garage 16.0 x 22.0 ft.

Members sitting: Richard McLeod, Chairman
 Edward Foley, Vice-Chairman
 Mary McElroy, Clerk
 Chuck Golden
 Francis Kenneally

A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

Attorney Frank Baldassini reviewed the application. In March a petition was filed to tear down the existing dwelling in disrepair and rebuild a larger sized house than existing on the lot. It was suggested then that the application be withdrawn and a new plan be submitted. The existing dwelling (19x36.5') to be replaced with a 20x36.5' footprint, and the existing garage (16x22'),

which was razed by order of the Board of Health to be replaced (18x15'). Proposed elevation (58.64") is 1foot higher than the existing dwelling (57.64').

Mr. Foley asked about the circumstances of the deterioration of the property. Mr. Baldassini reported that it was a result of the former owner's disability and financial difficulties. Once the property was sold, the former owner was allowed to continue living in the home. It was last occupied in December of 2008. Because the cost to repair the dwelling and garage is more than 75% of the value of the buildings, the special permit applies. It is an appropriate location, it will not be a detriment to the neighborhood, and no opposition is expected.

Mr. Clarke reviewed the town department comments:

Conservation	
Health	No objections
Police	No police issues
Public Works	
Water & Sewer Division:	Water Comments –
	<ol style="list-style-type: none">1. Water services should be upgraded to 1" k copper2. Old ¾" service needs to be cut and capped prior to demolition of building
	Sewer Comments -
	<ol style="list-style-type: none">1. Water & sewer mitigation fees2. Remove existing 5" AC sewer lateral and replace with 6" PVC3. Water and sewer house connections must maintain horizontal separation of 10 feet
Highway/C&M Division/DPW Director:	Flowable fill backfill required for any trench excavations in Idlewell Blvd. pavement
Engineering Division:	During constructions care must be taken to prevent damage to the survey markers (pipes)located on the northeast and southeast corners of the parcel
Schools	Present no special concerns
Tax	Small balance on utility

Mr. Daugherty noted a discrepancy with the utility balance and Mr. Clarke noted it will be taken care of.

A motion was made and seconded to close the public hearing and was unanimously voted.

It was recommended that the Special Permit be approved. The application's location was suitable for the use, the use involved will not be detrimental to the established or future character of the neighborhood; there will be no nuisance or serious hazard to vehicles or pedestrians; adequate and appropriate facilities will be provided for the proper operation of the proposed use and that the public convenience and welfare will be substantially served. A motion was made by Mr. Foley to approve the application with the engineering recommendations, and was seconded by Ms. McElroy and unanimously voted.

BZA CASE #3057 – 55 FOGG ROAD

Application of South Shore Hospital for 55 Fogg Road, also shown on the Weymouth Town Atlas Sheet 45, Block 515, Lot 2; Sheet 45, Block 518, Lots 11, 14, 15 and 37; Sheet 45, Block 519, Lots 1, 3 and 5; Sheet 45, Block 520, Lots 1, 3, 4, 6, 8, 9, 10, 11, 12 and 14; Sheet 45, Block 521, Lots 1 and 5, in an MSD zoning district, seeking 2 story addition to the existing 4 story Emerson Building and a 6 story addition adjacent to the existing Emerson Building. The new addition would be 69 feet in height.

Members sitting: Richard McLeod, Chairman
 Edward Foley, Vice-Chairman
 Mary McElroy, Clerk
 Chuck Golden
 Francis Kenneally

A MOTION was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and UNANIMOUSLY VOTED.

Chairman McLeod noted that although he shares office space with Attorney David Kelly he is impartial and will sit unless there are objections. There were no objections.

Attorney Kelly reviewed the application with Alan MacDonald, Director of Public Safety, South Shore Hospital. Sixty patient rooms will be added with the addition. Discharge rates for the hospital have increased by 38% since 2005. Implication of increased patient service includes longer wait times for patients to be seen, in-patient care in nonconforming settings, and added stress to families and staff. The addition of 60 private rooms will serve medical/surgical, orthopedic, and oncology services. It is a \$54million investment, which will create approximately 100 construction jobs, 60 positions within the hospital and will address a community need.

David Blouin of Cannon Construction presented the design. A 2-story addition to the existing 4-story Emerson Building and a 6-story addition adjacent to the existing Emerson Building. The building will be re clad and the glass frontage expanded. Energy improvements will be made. The addition includes a 2nd floor community use conference room, 6 oncology/palliative care rooms and 5 orthopedic rooms with gym and rehab components. Chairman McLeod asked if chemotherapy is to be conducted on the oncology floor. Mr. Bouin responded that all aspects of oncology care are to be included.

Option 2 an all-glass scheme previously considered was taken off the table by consensus of hospital users and neighbors. A terra cotta design more in keeping with the Boston Dana Farber building and which is subject less to spalling is the scheme proposed.

Chris Lovett, Vanasse Hangen Brustlin, Inc., presented the civil design and site improvements. The building will be extended by 40' and access will be clarified. Access to the building will still be on Fogg Road. Discussion has taken place with the Fire Department regarding truck accessibility. Landscaping will be added along the entrance to provide a buffer to Main Street. Drains will be maintained, catch basins shifted and there will be no increase in flow to meet the DEP flow regulations. There will be minor changes in utility connections. There will be fencing for construction segregation and all deliveries will be via Columbian Street. Parking for construction crew will be off-site at 790 Main Street. Specifications also include signage.

Howard Muise, Vanasse Hangen Brustlin, Inc., reviewed the traffic and parking plans. With parking spaces for patients and visitors only (staff and construction parking are off-site), the addition will result in an average of 29 more patients daily. Occupancy rate in the hospital after construction will be reduced from 95% to 85%. Current parking spaces of 1125 will be reduced by 32 spaces with construction. Current zoning dictates 1 space per 800 square feet; results in a surplus of 242 spaces. It meets the current zoning but the actual demand is higher. Spaces in the cancer center garage and valet service to 65 Columbian Street will be able to manage any excess capacity needed during peak times. Ms. DiPietra also noted that certain specialties are being moved to an offsite, leased facility, which will positively impact parking space needs. Mr. Clarke noted that parking space peak loss during construction is to be met by the use of spaces at Southfield and Bailey's lot. Excess parking available in the garage exceeds the worst case scenario.

Mr. Clarke reviewed the town department comments:

Conservation	No conservation filing required
Health	No issues or objections
Public Works	
Water & Sewer Division:	Water Comments –
	1. No comments
	Sewer Comments -
	1. Water and sewer mitigation fees
Highway/C&M Division/DPW Director:	No Comments

Engineering Division:	Approximately 64,000 SF (1.4Ac.) of proposed land disturbance is shown on the drawings. This means that the project is required to demonstrate compliance with the town's Stormwater Management Ordinance (Ordinance 8-701) as a major project under that ordinance.
Traffic Engineer	See attached memo to Rod Fuqua, Principal Planner, from George Bezkorovainy, Traffic Engineer, dated October 13, 2009.

Rose DiPietra and Paul Taylor of South Shore Hospital reviewed occupancy rate objectives. Eighty – eighty-five % is the objective; to have beds available to keep wait times minimal. Higher rates mean longer waits, less effective infection control and less privacy for procedures. Hospitals have mixed use areas and can't be likened to hotels.

Councilor Conlon requested clarification on the design of the building addition; the number of floors and footage of the building.

Councilor Harrington requested information on the leased space from Old South Union for parking- there is space leased through 2020. He noted there is no opposition from neighbors or neighboring businesses. He requested the hospital look to increase employment to 30% of its workforce from residents of the host community. He requested for public safety that the permitting of the project be conditional; that the expansion plan for the hospital include the installation of an opticom system on the traffic signal at the intersection of Pine and Ralph Talbot Streets to prevent an accident occurring when out of town emergency vehicles are accessing the hospital. It was recommended that this be addressed with South Shore Hospital outside of this; that the recommendation is not within the purview of this proceeding. Chairman McLeod noted this is not within the Zoning Board of Appeals criteria and that making it a requirement will create a condition that will be subject to appeal.

Council President Michael Smart supported the expansion and recommended favorable action to the Board and requested that the hospital expansion add as a condition the continued outreach with the neighborhood. He suggested that the proposed conference room could be a venue for live feeds for WETC to broadcast Health Advisory Board meetings. He also recommended signage be installed while construction is ongoing to limit crossing of Route 18 by workers to the crosswalk areas.

Walter Flynn of 9 Regina Road noted that as a recent patient who spent an uncomfortable night in South Shore Hospital in an area not designed or conducive to postoperative conditions, he fully endorses the planned expansion.

A motion was made and seconded to close the Public Hearing and was voted unanimously.

A motion was made by Mr. Foley and seconded by Ms. McElroy to take the matter under advisement for 90 days and was voted unanimously.

BZA CASE #3049 – 391 North Street, Request for Minor Modification

A motion was made by Ms. McElroy to approve the request for minor modification and was seconded by Mr. Foley and voted unanimously.

MINUTES

A MOTION was made by to Edward Foley to approve the minutes from September 2, 2009, Case #3015, 328 North Street as read, and was seconded by Mary McElroy and voted unanimously.

ADJOURNMENT

A MOTION was made by Mary McElroy to adjourn the meeting at 10:30 PM, and was seconded by Edward Foley and voted unanimously.

Mary McElroy, Clerk

Date