

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
DECEMBER 17, 2008**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, December 17, 2008, at 7:00pm at McCulloch Building, 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 #3022 541-555 Columbian Street (cont.)**

Application of Fox Rock Properties for property at 541-555 Columbian Street, also shown on the Weymouth Town Atlas Sheet 40, Block 480, Lot 9, located in an B-1 zoning district seeking a special permit and/or variance under 120-25A(1)(B), 120-119A(3), 120-741 and 120-40 to alter the existing building numbered 549 Columbian Street to add approximately 6,000 square feet of gross floor area to the existing building of approximately 22,560 square feet by enclosing the structure to form a rectangular structure request.

Present:	Mary McElroy, Acting Chairperson/Clerk Francis Kenneally Charles Golden
Not Present:	Richard McLeod, Chairman Edward Foley, Vice-Chair
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. Fuqua stated that Mr. McLeod and Mr. Foley were not available for this evening's meeting. The applicant chose to continue to January 7, 2009. There was no discussion.

A MOTION was made by Mrs. McElroy to CONTINUE the Public Hearing and was seconded by Mr. Golden and was UNANIMOUSLY VOTED.

**BZA CASE #3028 875 Washington Street**

Application of Harvey Gordon for property at 875 Washington Street, also shown on the Weymouth Town Atlas Sheet 30, Block 380, Lot 11, located in an HT zoning district seeking a special permit and/or variance under Chapter 120-40 to extend the existing nonconforming use and operate a storage of and delivery of machinery, motorcycles, watercraft, ATV's, construction equipment, etc., for ultimate delivery by truck to customers sites. There will be parking of flatbed trailers outside over night.

Present:	Mary McElroy, Acting Chairperson/Clerk Martin Joyce Kemal Denizkurt 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. Fuqua stated that the applicant, residents, and the District Councilor are meeting in another room in the building. The applicant has asked for a continuance until January 7, 2008.

A MOTION was made by Mr. Golden to CONTINUE the public hearing (without any discussion) until January 7, 2009 and was seconded by Mr. Denizkurt and was UNANIMOUSLY VOTED.

**BZA CASE #3027 Rear Lot between 86 & 96 Park Ave. & 96 Park Ave.**

Application of Sudhakar Balagurusamy for property at 86 and 96 Park Avenue and 96 Park Avenue also shown on the Weymouth Town Atlas Sheet 41, Block 492, Lots 2 & 17, located in an R-1 zoning district seeking a special permit and/or variance under to amend Board of Zoning Appeals Case # 2968 by transferring a parcel (A) from Rear Lot at 86 Park Avenue with frontage on Park Avenue to the westerly side of 96 Park Avenue and further by transferring a parcel (B) on the northerly side of 96 Park Avenue with frontage on Hilton Drive to the Rear Lot at 86 Park Avenue. Rear Lot at 86 Park Avenue will have frontage changed from Park Avenue to Hilton Drive.

Present:	Mary McElroy, Acting Chairperson/Clerk
	Martin Joyce
	Kemal Denizkurt
	Francis Kenneally
	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.

Sudhakar Balagurusamy appeared before the Board to request a land swap between him and his neighbor. Currently the lot has frontage on Park Avenue. The land swap would change the frontage to Hilton Drive. The reasoning is to protect a grove of pine trees. Laying of utilities to Park Avenue would require permission from Mass Highway Department and would be more expensive.

Mr. Denizkurt asked if there was a curb cut onto Park Avenue. Mr. Balagurusamy stated that a curb cut does not exist.

Mr. Balagurusamy stated that there would be 40 feet of frontage on Hilton Drive.

Mr. Denizkurt pointed out that there appears to be an existing road in the back. It was noted that this has been used as a driveway to 96 Park Avenue. The current size of lot will not change with the land swap.

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

- Conservation Commission stated that the land swap does not have wetland impacts therefore no filing is required.
- Health Department had no comment.
- Police Department had no issues.
- Fire Department had no objections.
- DPW (Water, Sewer, Engineering, Highway)
  - Noted that where the water line is more than 150 feet in length, a 2 inch water service will be required. Also a 10 foot horizontal separation between water and sewer lines coming in is required. The services should not be placed under the driveway. These issues will be handled at the plot plan stage and do not need to be incorporated in the order of conditions.
- School Department had no response.
- Tax Department had no response.

Mr. Fuqua stated that 86 Park Avenue was subdivided. It was a rectangular shaped lot off Park Avenue. The new lot is noted as lot 2A and parcel A.

Mr. Fuqua noted that in the previous case there was notation of the grove of pine trees that need to be protected.

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

Kathleen and William Gile, 24 Hilton Drive, asked why wasn't this issue taken care of when the special permit allowed the sub-division. Mr. Fuqua stated that when the prior case came in the property was one lot. The attorney for the previous owner did not have the option/right to come into Hilton Drive. She stated that she had been told that the property was town owned.

Mrs. Gile stated that she would like to have protections. She noted that the driveway will be 180 feet long. She stated that she has concerns regarding lighting that it be low lying and to restrict the height of the electric lighting. She also asked that arborvitaes be planted along the picket fence. Also along the side of house to the rear corner of property line there be evergreen plantings.

Mrs. Gile noted that she owns 50 feet behind the fence that is located on her property. She asked how much of the trees will be kept beyond that point. She stated that she would like to preserve as much privacy as possible.

Mr. Fuqua stated that the placement of the house or the clearing of the land is not something that the Board can dictate. He stated that evergreen plantings put in on that side of the driveway as well as lighting could be conditions of the application. He also stated that the driveway could be centered.

Mr. Gile asked if the electric, telephone, and cable will be underground. It was noted that the utilities on Hilton Drive are underground. Mr. Balagurusamy stated that he had not decided

about the utilities. Mr. Fuqua stated that given that the utilities on Hilton Drive are underground, it would be reasonable to expect that the new utilities would be underground, too. Mr. Fuqua stated whether the utilities are brought in underground or by pole, the cost will be high.

Mr. Denizkurt asked if the applicant intended to live at this location. Mr. Balagurusamy stated that he intended to live there. He was also asked if he was in agreement with neighbors. Mr. Balagurusamy stated that he was in agreement in regards to the lighting, plantings, and centering of the driveway.

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

A MOTION was made by Mr. Golden to APPROVE the request for a SPECIAL PERMIT seeking a special permit and/or variance under to amend Board of Zoning Appeals Case # 2968 by transferring a parcel (A) from Rear Lot at 86 Park Avenue with frontage on Park Avenue to the westerly side of 96 Park Avenue and further by transferring a parcel (B) on the northerly side of 96 Park Avenue with frontage on Hilton Drive to the Rear Lot at 86 Park Avenue. Rear Lot at 86 Park Avenue will have frontage changed from Park Avenue to Hilton Drive with the following conditions:

- (1) The driveway will be centered as much as possible on the 40 foot right of way.
- (2) Evergreen screening will be placed long the property line with 24 Hilton Drive with the reference point at the rear of the house (north 88 degrees, 33 minutes and 24 seconds east for a length of 74.25 feet).
- (3) Lighting along the driveway is no higher than 6' at the lowest point with the reference point at the rear of the house (north 88 degrees, 33 minutes and 24 seconds east for a length of 74.25 feet).
- (4) Utilities from Hilton Drive are placed underground.

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. Kenneally 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 a special permit and/or variance under to amend Board of Zoning Appeals Case # 2968 by transferring a parcel (A) from Rear Lot at 86 Park Avenue with frontage on Park Avenue to the westerly side of 96 Park Avenue and further by transferring a parcel (B) on the northerly side of 96 Park Avenue with frontage on Hilton Drive to the Rear Lot at 86 Park Avenue. Rear Lot at 86 Park Avenue will have frontage changed from Park Avenue to Hilton Drive with the following conditions:

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- (4) Utilities from Hilton Drive are placed underground.

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.

ADJOURNMENT

A MOTION was made and seconded to ADJOURN the meeting at 8:00 p.m. and was UNANIMOUSLY VOTED.

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Mary McElroy, Clerk

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Date