

**Zoning Board of Appeals  
Minutes  
July 17, 2023**

*These minutes are not verbatim – they are the secretary’s interpretation of what took place at the meeting – Open Meeting Law, G.L. c. 30A§22.*

Members present: Michael Main, Edward Conroy, Michael Leary, Kevin O’Reilly

Alternate Member absent: Peter Conner

Alternates present: Philip Ricardi

Recording Secretary: Denise DeCoste

Inspectional Services present: Colleen Tavekelian

Mr. Main opened the Public Hearing at 7:00 P.M.

**Case #4096 Industrial Towers & Wireless  
17 River Run Way, Map 111, Lot 1C-12, **Continued from June 12, 2023****

Special permit required per section 205.2 use table to construct a communication tower and per dimensional table to waive maximum height of a structure.

The petitioner has requested a continuance as the five-member seated Board were not all present. Mr. O’Reilly motioned to continue to August 7, 2023, at 7:05 PM, Mr. Leary 2<sup>nd</sup> the motion, unanimously **Approved**. (5-0)

**Case #4091 David Souther – Flaherty & Stefani, Inc.  
16 Cliff St, Map 38, Lot 12, **Continued from May 15, 2023****

Special permit required to waive rear setback per section 205.4-dimensional table to construct a detached garage and carport.

Mr. Flaherty on behalf of Mr. Souther requested a withdrawal without prejudice. Mr. Leary motioned to allow the withdrawal without prejudice, Mr. Ricardi 2<sup>nd</sup> the motion, unanimously **Approved**. (5-0)

**Case #4100 Amazon.com Services, LLC  
50 Prestige Way, Map 102, Lot 2-3**

Modification of special case #4030 required per section 203.3(G) to waive number of freestanding signs and to waive number of architectural signs.

The petitioner has requested to withdraw without prejudice. Mr. Leary motioned to approve the withdrawal without prejudice, Mr. Ricardi 2<sup>nd</sup> the motion, unanimously **Approved**. (5-0)

**Case #4099 Damon & Ginny Sgarzi**

**70 Hedge Rd. Map 6, Lot A-158**

Special permit required per Section 203.9 to expand pre-existing, non-conforming structures.

The Board received the following documentation for this review:

- Zoning Board of Appeals Petition Application dated June 2, 2023.
- Zoning Denial issued by Inspectional Services dated 01/10/2023.
- Plans entitled “Proposed Addition Plan, 70 Hedge Road, Plymouth, Massachusetts 02360, applicant: Damon W. Sgarzi, prepared by: Merrill Engineers and Land Surveyors and dated October 30, 2020, and revised through 2/13/2023.
- Architectural Plans entitled “Sgarzi Residence, 70 Hedge Road, Plymouth, MA - Updated Permit Set 02-28-23”, prepared by: Jeffrey M. Metcalfe, R.A.
- Town Fire Department comment letter dated 6/26/2023.
- Town Engineering Department comment letter dated July 3, 2023.
- Town Public Health Department memo dated July 5, 2023.
- Staff Report prepared by Robin Carver, dated July 13, 2023.
- Quitclaim Deed
- Property Record Card
- Public Hearing Notice
- Letter of Support from Abutter, dated June 17, 2023

Mr Conroy read the public hearing notice into record and opened the public hearing.

Seated: Mr. Main, Mr. Leary, Mr. O’Reilly, Mr. Conroy, Mr. Ricardi

Atty. Timothy Angley and Chris Sanderson, Merrill Engineering, presented the request for a special permit to add a 16’x42’ deck, 26’x42’ breezeway and 50’x62’ garage with an office and storage on the second story for personal use to a pre-existing non-conforming single-family dwelling. The lot has another structure that is being used as another dwelling unit. In this zone, a single family would be allowed by a special permit. The property is in a Waterfront Zone and the request for a special permit is to expand a non-conforming structure, not for use. The utilities for the site include Town water and sewer. The proposal does not add any bedrooms. There is no request to allow more than one dwelling on the property. The project has received an Order of Conditions from the Conservation Commission. Engineering and Fire Department comments have been satisfied. The Building Commissioner does not have evidence of a permitted, legal second dwelling on the lot. This special permit is required because the existing main single-family dwelling does not meet the setback requirements. Atty. Angley acknowledged that they would need a separate special permit to allow the use of the second structure as a residential dwelling. The proposed project will be used by the owner as a garage to repair his personal antique/older heavy equipment as a hobby. There will be no additional bathrooms or bedrooms. The project will fit in with the neighborhood and the improvements will benefit the property. Mr. Leary and Mr. Sanderson discussed project drainage and catch basins, as well as parking on site.

Public Comment: None, Public Comment Closed.

The Board deliberated, a Deed Restriction regarding the second dwelling was discussed with Colleen Tavekelian. Ms. Tavekelian suggested leaving condition 2 as is.

Mr. Leary motioned to approve with the stated conditions, Mr. O'Reilly seconded the motion. Unanimously **Approved** (5-0)

Conditions as follows:

1. Prior to issuance of a Zoning Permit a Municipal Lien Certificate shall be provided to the Building Commissioner as evidence of payment of any back taxes, fees or penalties owed to the Town, if any.
2. A deed restriction that prohibits the use of 66 Hedge Road (the smaller structure) as a dwelling unit is required except if the dwelling unit is approved by the Building Commissioner as a legal preexisting use or through the granting of a special permit by the Zoning Board of Appeals.
3. Prior to construction, the wastewater flow calculations associated with this project must be reviewed by the Sewer Division. All connections to Town sewer are subject to wastewater flow availability and payment of all applicable sewer connection fees. The DPW Sewer Division will not sign off on building permits until all sewer connection fees have been paid and construction plans have been submitted and approved. Construction plans must show adequate detail on the size and material of the proposed and existing sewers, including service laterals, cleanouts and manhole locations. All sewer laterals, existing and proposed, shall include a two-way cleanout, located at the property line.

**Case #4098- David and Andrea Willett  
20 Bancroft's Landing, Map 46, Lot1-158**

Special Permit required per Section 203-1.E.2 to waive residential access standards for a buildable lot.

The Board received the following documentation for this review:

- Petition to Zoning Board of Appeals, prepared for David & Andrea Willett, prepared by Merrill Engineers and Land Surveyors, dated 5/25/2023.
- Department of Inspectional Services zoning denial dated 5/23/2023 requiring a special permit.
- Memorandum from D'Ambruoso Law dated May 25, 2023.
- 3 Plans entitled "PLAN OF ACCESS OPTIONS, FIRE ACCESS PLAN and CONCEPT PLAN (LOT DEVELOPMENT), 20 Bancroft's Landing, Plymouth, Massachusetts, Owner/Applicant: David Willett, prepared by Merrill Engineers and Land Surveyors and dated 5/23/2023.
- Town Fire Department comment letter dated 7/5/2023.
- Town Engineering Department comment letter dated 7/3/2023.
- Town Public Health Department memo date 7/5/2023.
- Town Conservation Commission memo dated 7/10/2023.
- Staff Report prepared by Robin Carver, dated 7/13/2023.
- Email correspondence from Robb D'Ambruoso
- Chart of Neighbors visited prepared by David & Andrea Willett
- Quitclaim Deed
- Property Record Card
- Public Hearing Notice

Atty. Robb D'Ambruoso, D'Ambruoso Law, presented a request for a special permit to create a buildable lot by waiving residential access standards. The 1.3 acre parcel could potentially accommodate three residential units, but the petitioner would agree to restrict the development to one single dwelling if the special permit is granted. There are three traveled ways that intersect with Bancroft's Landing (Osprey Lane, Arnold Ave, and Manomet Point Road) and approximately 32 residences use these ways for access. The road widths are adequate for access and the grade will not exceed 10%. There is adequate emergency vehicle access. All drainage will be contained on site. The Engineering Department comments have been addressed; however, a response has not been received regarding the revisions. The DPW comments are outlined in Planning Board Conditions. Atty D'Ambruoso is comfortable that the conditions will be satisfied and is willing to accept a single unit dwelling. The Fire Department comments were discussed and have been added to the to the Conditions.

#### Public Comment:

Randy Parker is representing Cheryl and Bob Montagna, spoke about the neighborhood, the position of the driveway on the plan is in their sight line, requesting the driveway be moved. This is a VOSD, 40% should be kept open space. They would like to limit to access to the intersection in front of their lot. Phillip Barkley, resident of Montrose Ave, is pleased that the Willet's have taken some of the Planning Board comments and implemented them. His concern is the busy intersection as well as this lot being located 30ft above his lot. He has done major renovations to his lot in an attempt to stop the drainage onto his lot. He would like neighboring dwellings to be taken into consideration in your decision. Ms. Senter, neighbor on Victoria Ave, we are in support of this property being deemed a buildable lot. Atty D'Ambruoso had a rebuttal to concerns, reiterated points discussed previously.

#### Public Comment Closed.

The Board deliberated, consensus is for the Petitioner to come back before the Board for an informal hearing to address Fire Department and DPW comments.

Mr. Leary motioned to approve with the conditions as changed and amended, Mr. Ricardi seconded the motion, **Approved** (4-1), with Mr. Conroy in opposition.

#### Conditions as follows:

1. The Petitioner has agreed to limit usage to one single family residential unit, regardless of any local, state or federal criteria to the contrary, pursuant to the provisions of Massachusetts General Laws, Chapters 40A and 41, through a Deed Restriction or Restrictive Covenant on the parcel and shall be noted on the plan.
2. Prior to issuance of a Zoning Permit:
  - a) A Municipal Lien Certificate shall be provided to the Building Commissioner as evidence of payment of any back taxes, fees or penalties owed to the Town, if any.
  - b) Petitioner to come back to the Board informally with letter from Engineering and Fire Departments with satisfied comments.
3. The Petitioner shall satisfy the Fire Departments requirement with regard to access as follows: Overgrowth and vegetation on the portions of the roadways (Osprey Lane and Bancroft's Landing) near the property will be trimmed back as needed in order to maintain the current

useable roadway widths, for the stretch running approximately from the fire hydrant on Bancroft's Landing to the southernmost section of Osprey Lane.

4. The applicant must show the abutting edge of Skooks Pond and associated buffer zones.
5. The applicant must show erosion controls on the plans.
6. The applicant's site is subject to Massachusetts Stormwater Regulations for a detached single-family dwelling that has stormwater discharges that may potentially affect a critical area (abutting wetland areas). The applicant must provide drainage systems and calculations showing compliance with Massachusetts Stormwater Regulations.
7. The applicant cannot discharge untreated stormwater to the abutting wetland area. The applicant must eliminate or modify the proposed swale system which is shown to channel runoff to the abutting wetland to be in compliance with stormwater regulations.
8. The applicant must show the existing tree line and proposed edge of clearing/limit of disturbance on the proposed site plans.
9. The applicant must show the proposed water service with diameter and material indicated on the plans. Water services shall be polyethylene (PE) 1", 1-1/2" or 2" copper tubing size (CTS), rated for 200 psi with. Additionally, please show the water curb stop on the plans. Curb stops shall be located on the property line.
10. The DPW Water Division encourages the applicant to employ water saving devices and fixtures throughout the building. Irrigation systems connected to the Town's water distribution network are discouraged.
11. The applicant shall coordinate with the Plymouth Water Division to schedule an inspector to oversee the construction of water services.
12. Upon completion of water main construction, the applicant shall submit copies of service connection tie cards to the DPW Engineering Division (1 copy) and DPW Water Division (1 copy). **The DPW Water Division will not sign off on occupancy until as-built plans have been submitted.**
13. All drainage shall remain on site.
14. Petitioner to come back to the Board informally with letters from the Engineering and Fire Departments that are satisfactory to the Board.

#### **Case #4097 Vertex Tower, LLC**

#### **4 Cedarhill Park Dr., Map 55, Lot 37A-2, Continued from June 12, 2023**

Special permit required per Section 205.2 use table to construct a communication tower and per dimensional table to waive maximum height of a structure.

Mr. Main explained to the Petitioner that the seated Board is not fully present, therefore, a super majority vote is required (4-0), a continuance was strongly recommended. Atty. Fran Parisi, Parisi Law, argued the point, however, ultimately agreed to a continuance to August 7, 2023.

Mr. Leary motioned to continue the hearing to August 7, 2023, at 7:20 PM, Mr. Ricardi seconded the motion, unanimously **Approved**. (5-0)

Adjourn 8:30 P.M.

Respectfully submitted,

Approved:

Denise DeCoste  
Administrative Assistant