

Minutes of Zoning Board Meeting  
Town of Whately, MA  
May 6, 2021  
Remote Meeting via Zoom

Members Present: Roger Lipton, Debra Carney, Kristin Vevon, Fred Orloski  
Members Absent: Bob Smith

Attending:

Lucy Conley, Berkshire Design Group  
David Limero  
Neal Abraham  
Mary Stuart  
Megan West & David Bergman  
Atty Alan Verson, for Sovereign Builders  
Christopher Karney  
Todd Cellura

**PUBLIC HEARING**

David Limero has applied for a variance to allow construction of an above ground pool in his backyard, between the side property line and away from the septic tank/field, on premises he owns at 31 Swamp Road.

At 6:40 Roger Lipton opened the hearing. The secretary read the legal notice and the applicant agreed that it was accurate. David Limero shared his screen to show a photo of the property and explained that the setback narrows at the best place in his yard for a swimming pool. Pointing out features marked on the photo, he showed the septic field and said he plans to have 10 ft of space between that and a 24 ft pool. He then asked the board to grant a variance for a setback of only 10 ft between the pool and the fence, instead of the required 20 ft.

Roger explained that Massachusetts law determines the granting of variances, and that Whately's bylaws accommodate the law. He read from Section 171-33 of the Whately Zoning Bylaws, describing the requirements. Roger noted that a similar variance application was recently denied, and asked whether any other location would work. Mr. Limero described pool placement farther away as a hardship and added that it would also interfere with his future plans for the yard, which include moving the fire pit and expanding the deck. He noted that his plans wouldn't detract from the property and said his next door neighbor agrees. Fred pointed out a way to move the location away from the house that would yield a total of 16 ft.

Roger moved to close the public comment portion of the hearing and Debra seconded. Roger noted that the shared screen showed several options, and noted again that the board had just denied a similar case.

Debra mentioned that granting a variance in this case would create a precedent, and added that she was more open to variances in general until she attended a variance workshop. She said she agreed with Mr. Limero that his chosen location is best for convenience and aesthetics, but that she must vote to deny the application.

Fred noted that he agreed with all of the above points. Roger moved to deny the variance and Debra seconded. Roger voted yes, Debra voted yes, Fred voted yes, and the variance was denied.

### **PUBLIC HEARING**

The Town of Whately has applied for a special permit to construct a driveway and a 12' x 24' building for a booster pump station to provide domestic and fire water services to the Town of Whately, on premises located at North Street, Map 19-0-02, Parcel 39-02-38 in the A-R/2 zone, and owned by Quonquont Farm, LLC.

Lucy Conley, of Berkshire Design Group, said that a 14 ft x 20 ft building is now shown on the plan, and explained that the town water department will take over the water district. She said that more pressure is needed to reach the current district customers, and noted that the town is in the process of getting an easement from Quonquont Farm to build on Quonquont land. Mary Stuart commented that Quonquont has expressed that they are agreeable to moving forward with this. Via shared screen, Ms. Conley showed the plans with the existing easement for the water main, the 10 ft driveway easement (the apron is asphalt), and other points.

Roger asked for the reason why this project requires a special permit. Lucy Conley replied that she saw in a document that this type of project is allowed only with such a permit, adding that the water department is a public utility and the pump station is a service station, so Public Utility Service Stations is the proper category.

Neal Abraham, of the Cemetery Commission, noted that a letter written by that commission has to do with making sure things are done in a way that protects the cemetery. Roger commented that the items described in the letter are more the concern of the Planning Board. The secretary read letters from both the Cemetery Commission and the Historical Commission. It was noted that once the town water department and the water district merge there will be 40 homes of the district, with a population of 800. Mary Stuart mentioned that there will be 43 hookups and 40 paying customers (the library and one other customer do not pay). It was noted that with 340 or 360 customers served by the water department, plus 40 more from the current water district, the total will be 380 to 400.

Roger and the board agreed to schedule a site visit for Saturday, May 8, at 11:00 am. Mary Stuart will contact Quonquont about arranging the visit. The board was told that the calendar notice about the site visit could describe the access this way: Park on the grassy sward west of Chestnut Plain Rd., outside the cemetery, and enter at the northernmost edge, immediately across from the Center School. The hearing was continued to June 3 at 6:40 pm.

**PUBLIC HEARING** *Continued from April 22, 2021*

Todd Cellura, of Sovereign Builders, Inc., has applied for two special permits. The first is to build a self-storage facility encompassing three buildings on property owned by Sharyn Holich and located in the Commercial Zone at State Road (Map 5, Parcel29). The second is to allow a sign not to exceed nine (9) square feet in area or ten (10) feet in height, to be located outside the property line and within the right-of-way.

Christopher Karney, of land planning services company R. Levesque Associates, Inc., noted that the board had visited the site on Saturday, May 1, and shared his screen to show plan revisions dated April 29, 2021 including a grading change, the extension of the fence to conceal more of the project, and a landscaping change showing arborvitaes replaced by 10 white pines behind the stockade fence and 20 Irish yews along the southern edge.

Mr. Karney said that the driveway placement was chosen in order to reduce its impact on the wetlands, noting that it is 8 ft from the property line, that any more would affect the wetlands, and that they must comply with the requirements of several boards or commissions. He said they are trying hard to keep work outside the 50 ft wetland buffer, adding that there is also a 100 ft wetlands buffer as well as a 200 ft riparian zone. He said they have kept the driveway width to the Whately minimum of 24 ft., and that a drill on a truck will allow placement of pipe under wetlands without digging the surface.

He said the sign will comply with Whately's bylaws and will not exceed 9 sq ft in area or 10 ft in height; plans call for it to be tucked inside the tree line, with no sight distance issues for abutters. He added that they need to comply with state Department of Transportation regulations on placement.

He told the board that storage units would number about 560 (later clarified by Todd Cellura as 405 units), sized from 2 ft x 5 ft through 15 ft x 20 ft.

Asked to verify a previous claim that the facility would receive 2-3 visitors per day, he shared a letter from NAI Norwood stating that an average of 5 visitors daily is normal. He stated that the number of parking spaces meets or exceeds Whately's requirements. Mr. Karney will email a copy of the letter to [zba@whately.org](mailto:zba@whately.org).

Applicant Todd Cellura explained that the buildings are likely to be phased in, starting with two non-climate-controlled buildings (the foundation for the 3-story building will be put in at the same time). The units take 2-3 years to reach 70% occupancy, he said.

Roger called for abutter comments. Abutter Megan West said she appreciated the screening, and asked what kind of equipment will be right on their property line. Christopher Karney answered that construction would be done only on the project owners' property. He described several types of work and said that although some of it would be done close to the property line, a silt fence will keep soil off her property.

Regarding parking and traffic patterns, Mr. Karney said that the planned gate location has been moved to avoid having cars stacked up on the street, noted that 38 ft of driveway length will allow two cars to be stacked comfortably in the driveway. He explained that the gate will open automatically, only during

hours of operation. He said someone will be onsite from 8:00 am – 5:00 pm for customers wishing to rent units, and that they want the gate to open automatically until 10:00 pm. After 10:00 pm, he said, nobody would be able to enter because the electronic gate system would turn off.

Mr. Karney said that both the Massachusetts Department of Environmental Protection (Mass DEP) and Massachusetts Department of Transportation (Mass DOT) both review the project and will make sure that no more water will leave the site than does now.

He said that no combustible materials are to be stored onsite, including vehicles. He said the 3-story building will have heat, smoke, and humidity detectors as well as a sprinkler system.

Attorney Alan Verson cited Whately Zoning Bylaws section 171-13 D Access control, which applies to land lying along Route 5 and 10 only. He said the wording does not apply to this project, but only to “new entrance and exit points”, and noted that in this case there are none. Also, he said, No 1. allows one curb cut for all lots of record existing by 4-27-1987; he noted that the lot in question has been there since 1951, nothing has changed, and they are only asking for the one curb cut. No. 2 only deals with subdivisions, and they are not subdividing, he said, adding that No. 3. restricts parking areas with six or more spaces to no more than 2 driveway openings, and that does not not affect their project.

Abutter David Bergman stated that he opposed the project, and abutter Megan West state that her feelings were neutral.

Roger moved to close the public comment portion of the hearing, Debra seconded, and that portion was closed.

The subsequent board discussion included these points:

Roger was convinced by Attorney Verson’s argument that the driveway is not subject to section 171-13 D of the Whately Zoning Bylaws. He noted that special permit requirements allow the project as long as it won’t derogate the (commercial) neighborhood.

Debra said that she sympathizes with the discomfort of the two abutters, but that they bought a house in the commercial zone and there are may boards, commissions, and state agencies for oversight. She stated that it is allowed by the bylaws.

Kristin agreed, noting that the project owners have made adjustments to their original plans. She thought it would be a low-traffic lot and observed that as a storage unit renter herself, she is often the only person visiting her storage facility. She also referred to the Table of Use: Light Industrial Uses, Warehouses, etc. to further support her view.

Roger moved to approve the special permit for the storage unit facility and the motion was seconded. Roger, Debra, and Kristin each voted Yes, and the permit was approved.

Roger moved to approve the special permit for the sign and the motion was seconded. Roger, Debra, and Kristin each voted Yes, and the permit was approved.

It was agreed that Debra would write the Limero Decision and Roger would write the Sovereign Builders Decision.

At 9:00 pm Roger adjourned the meeting

*Documents Reviewed (kept in the ZBA files)*

1. a photo of the Limero property at 41 Swamp Rd, with features marked. Photo was only shared onscreen; no physical copy available.
2. A letter from the Whately Cemetery Commission re: concerns about the Whately water pump booster station project
3. A letter from the Whately Historical Society re: concerns about the Whately Water Pump Booster Station project

Mary McCarthy  
Secretary  
Zoning Board of Appeals  
Town of Whately, MA