

TOWN OF WESTFORD  
ZONING BOARD OF APPEALS  
55 Main Street  
Westford, Massachusetts 01886

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WESTFORD

## Record of Proceedings and Notice of Decision a Petition BOA1021-ADA

*The Westford Zoning Board of Appeals must file copies of this Record of Proceedings and Notice of Decision with all attachments within 14 days of a decision in the Office of the Town Clerk.*

I, Robert Herrmann, Chair of the Westford Zoning Board of Appeals (Board), hereby certify that the following is a detailed record of all its proceedings relative to the Petition of:

**Joseph R. Connell, Jr., Deborah G. Connell, Joseph R. Connell and Joan Connell, 3 Connell Drive, Westford, MA 01886**

For an Administrative Appeal under the Zoning Bylaw of the Town of Westford of a Building Permit issued for work at 48 Main Street (First Parish Church United or "FPCU"), Assessor's Map 059, Parcel 00017, Lot 0000, in the Residence A District. The applicant sought to appeal Building Permit #C-100040.

1. On September 24, 2010, an application for an Administrative Appeal was filed with the Town Clerk, the Building Commissioner and the Zoning Board of Appeals pursuant to Mass. Gen. L. ch. 40A, Sec. 15. The Appeal was filed for the premises located at 48 Main Street, Westford, MA by the owners of abutting property at 3 Connell Drive citing the petitioners' inability to obtain a zoning enforcement action from the Building Commissioner.
2. Thereupon, an advertisement was published in the Westford Eagle on Thursday, October 28, 2010 and Thursday, November 4, 2010.
3. Made part of this record is the Notice of Public Hearing. On October 22, 2010, notices were mailed postpaid to the petitioner, abutters, and owners of land within 300 feet of the property line (being the same persons named in the Assessors' Certificate, which was a part of the application).
4. On November 17, 2010, a public hearing of the Board was opened at the Millennium Building, All Purpose Room. At that public hearing, opportunity was given to all those interested to be heard in favor or opposition to said petition. The hearing was continued to a time certain on December 1, 2010 (*hearing continued without testimony*), and December 15, 2010. On December 15, 2010, the Board voted unanimously to close the public hearing and announced that it would reconvene to deliberate and vote on January 19, 2011.
5. The Board convened to deliberate and vote on this matter at a duly posted public meeting on January 19, 2011 at Meeting Room 201, Westford Town Hall.

The Board voted at its meeting on January 19, 2011 as follows:

***Scott MacKay, seconded by Chris Romeo, moved to DENY Petition BOA 1021ADA in regards to the Administrative Appeal of a Building Permit issued for 48 Main Street, Westford MA, based on the following findings:***

1. The Westford Building Department issued a building permit (Permit #C-100040) on September 13, 2010 for the "construction of a new connector building between the Fellowship Hall and Church."
2. Site Plan Review was not required by the Building Department prior to issuance of the building permit owing to language in the Westford Zoning Bylaw Sec. 9.4.2 which reads:

**"9.4.2 Exemptions.** This section shall not be construed to apply to those uses otherwise exempt by the provisions of G.L. c. 40A, s. 3."
3. On September 22, 2010, Paul Alphen, Esquire submitted a written request for zoning enforcement to the Westford Building Commissioner Matt Hakala requesting that the building permit be revoked, and that the Planning Board perform site plan review.
4. On September 27, 2010 the Building Commissioner provided a written response to the request for zoning enforcement declining to revoke the building permit.
5. The Building Commissioner provided verbal testimony within the Board's public hearing stating that he did find prior to issuance of the building permit that the First Parish Church United is an exempt use per the Zoning Bylaw Sec. 9.4.2 and Mass. Gen. L. ch. 40A, Sec. 3.
6. Within the public hearing, prior Site Plans on file with the Westford Permitting Office were placed on the written record including a plan entitled "Proposed Site Plan, First Parish Church United, Westford, Massachusetts" drawn by Dion & Sokul Inc. Architects, Sudbury, MA and dated December 12, 1994 with revisions through January 3, 1995, and stamped in with the Westford Permitting Office on April 3, 1995; and a plan entitled "Proposed Site Plan, First Parish Church United, Westford, Massachusetts" drawn by Dion & Sokul Inc. Architects, Sudbury, MA and dated May 10, 1995 with revisions through May 15, 1995 (*no record of date of receipt at Town Hall*). Both plans included a proposed "connector" between the Meeting House and the Fellowship Hall with a substantially similar building footprint to the work authorized by the issuance of Building Permit #C-100040.
7. The Board finds, notwithstanding evidence of prior exempt uses submitting to Site Plan Review through an informal process not specified in the Bylaw, that the issuance of the building permit was in accordance with the Bylaw.
8. Within the public hearing, FPCU added to the public record an eight-page document including a "Facilities Use Form" (pp. 1-2 of 8); a statement of "Facilities Use Policies" (pp. 3-7 of 8) including the language "Approved by the Prudential Committee 12/02/10"; and "Parking Information" (pg. 8 of 8).
9. Notwithstanding the language in the Bylaw exempting the "connector" from Site Plan Review, the Board acknowledges concerns raised within the public hearing regarding drainage, signage, parking, noise, capacity, duration of functions and type of functions. Changes have been incorporated into the Site Plan on file with the Building Department and referenced herein regarding stormwater management and site grading, fencing around air conditioning condensers, signage, landscaping, pavement striping for vehicular circulation, landscaping within 15' setback, and exterior lighting. Any Certificate of Occupancy relative to this project shall reference the amended plan submitted by FPCU and incorporated herein by reference.
10. In addition to changes to the Site Plan placed on the public record by FPCU and referenced herein, the Board voted to attach additional Conditions drawn in part from the Facilities Use Policies adopted by FPCU and submitted within the public hearing and reviewed with FPCU prior to the date of the Board's vote, as modified by the Board within its deliberations.

**Conditions**

As part of its vote, the Board attached the following Conditions to the Building Permit on file with the Westford Building Department:

**Site Plan Conditions**

The following conditions shall be satisfied prior to issuance of a Certificate of Occupancy except as noted:

1. The Site Plan of record is entitled "Site Plan in Westford, Mass. Owner: First Parish Church United, 48 Main Street, Westford, MA 01886" drawn by R. Wilson & Associates, Inc. dated May 28, 2010 with revisions through January 14, 2011, which site plan is incorporated herein by reference.
2. As shown on the Site Plan, existing pavement located within fifteen linear feet (15') of the northern property line shall be removed and replaced with landscaping to restrict vehicular access within the 15' setback, provided however that this shall not preclude pedestrian access to the exterior stairs and ramp located on the north of the Fellowship Hall. These changes shall be complete no later than ninety (90) days after issuance of a Certificate of Occupancy.
3. Entrance and exit arrows directing vehicular access to and egress from the premises shall be repainted and maintained in good order. As shown on the Site Plan, a double sided "Exit Only" sign shall be installed at the Connell Street egress point, the design of such sign to be consistent with the gray and white historic signs in use and resulting from the Westford Common Restoration Project. If, in the opinion of the Building Commissioner, the signage is ineffective during the six months following the issuance of a Certificate of Occupancy, the Building Commissioner may require the Church to replace the sign with a double sided MassDOT standard "Exit Only" sign. If this is so recommended by the Building Commissioner, this will be reported to the Board at a duly posted public meeting prior to being required.
4. The Certificate of Occupancy for the Fellowship Hall shall impose a capacity limit of 205 persons.
5. FPCU shall file an updated version of the Facilities Use Policies with the Building Department that includes language consistent with Conditions 8, 9, 10, 11 and 12 herein.

**Conditions Related to Operations of Property**

The following conditions shall apply to all use of the property, including rental of the property, upon issuance of a Certificate of Occupancy:

6. The plantings shown on the 1994 Site Plan (Reference Plan PBSPA95019, received by Westford Planning Board 10/18/94) shall be maintained in a healthy condition.
7. In the event that the Westford Board of Health or the Building Commissioner, as appropriate, determines that the sound from the air conditioning condensers exceeds applicable state and local standards, FPCU shall be required to make appropriate corrections.
8. FPCU shall prohibit the use of strobe lights, disco balls, light boxes, etc. in both the Fellowship Hall and the Meeting House unless and until opaque room darkening shades are installed on the windows on the north and west side of the respective building so as to minimize the amount of light emitted from the premises and so as not to disturb or negatively impact the nearby residential uses when such devices are in use. This condition shall be explicitly stated in the Facilities Use Policies.
9. During the rental or use of the Fellowship Hall, DJs, bands, amplified music, speakers and the like, shall be appropriately located within the building to minimize emission of noise outside the structure. The north and west facing windows of the Fellowship Hall shall be closed and locked during events. This condition shall be explicitly stated in the Facilities Use Policies.

10. FPCU and its lessees shall comply with all the alcohol laws and policies of the Town of Westford. No alcohol shall be permitted to be consumed on the property outside of the building. This condition shall be explicitly stated in the Facilities Use Policies.

**Conditions Related to Rental of Property**

The following conditions shall apply to rentals of the property upon issuance of a Certificate of Occupancy provided, however, that the following condition #12 is advisory only for those events that had executed rental contracts prior to January 19, 2011:<sup>1</sup>

11. FPCU shall be required to have an on-site Event Supervisor throughout the duration of all events in which:
- (a) the premises have been rented or leased; and
  - (b) alcohol will be served and/or a band, D.J. or other source of amplified music will be engaged.

The Event Supervisor shall be a staff person of FPCU. The Event Supervisor shall be on premises and will ensure compliance with the policies of FPCU and this decision during the event. The Event Supervisor shall be present during the loading and unloading of goods and equipment, and the clean up after the event. A phone number shall be provided to the Building Department and the Police Department to contact the Event Supervisor during events. If more than one person is designated by FPCU as an Event Supervisor for a particular event, a statement of designated hours of responsibility for the event, including each such person's phone number, shall be provided to the Building Department and the Police Department. This condition shall be explicitly stated in the Facilities Use Policies.

12. Amplified music at any event or function which has leased the premises and not associated with a FPCU event or religious service shall end not later than 10 PM and the events shall end not later than 11 PM. This condition shall be explicitly stated in the Facilities Use Policies.

***Voted to deny 5-0-0, unanimously.***

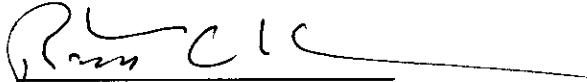
Robert Herrmann, Chair	Deny
Scott MacKay, Vice Chair	Deny
Paul MacMillan	Deny
Chris Romeo	Deny
James Kazeniac	Deny

This Decision does not relieve the Petitioner or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, and/or regulations.

Any appeals of this Decision shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17, and a copy of the appeal shall be filed in the Town Clerk's office within twenty (20) days after the date of filing of the Decision in the office of the Town Clerk.

<sup>1</sup> Prior to the date of the ZBA vote, rental contracts had been executed for events on February 5, 2011 (Westford Academy Boosters); April 15, 2011 (FAME / Westford Academy); June 11, 2011 (wedding reception); and July 16, 2011 (wedding reception). Each of the four events shall end, including the end of amplified music, not later than 11 PM on the date of the event.

**Zoning Board of Appeals of the Town of Westford**



**Robert Herrmann, Chair**

Decision filed with the Town Clerk on: Feb 1, 2011

Appeal period ends: Feb 21, 2011

- cc:
- Town Clerk
  - Building Department
  - Petitioner
  - Abutters
  - Assessors
  - Conservation Commission
  - Board of Health
  - Board of Selectmen
  - Town Manager
  - Police Chief
  - Fire Chief
  - Abutting Municipalities Planning Boards - Acton, Carlisle, Chelmsford, Groton, Littleton, Tyngsborough