

**TOWN OF WEYMOUTH, MASSACHUSETTS  
BOARD OF ZONING APPEALS  
NOTICE OF DECISION ON SPECIAL PERMIT/VARIANCE  
30 ASPINWALL AVENUE**

(To be mailed forthwith to the owner and applicant, if not the owner.)

**Owner:** Elliot Savitz  
**Address:** 30 Aspinwall Avenue  
Weymouth, MA 02191

**Date:** 2/24/2016

**Applicant:** Elliot Savitz  
**Address:** 30 Aspinwall Avenue  
Weymouth, MA 02191

**Case #:** 3266

**Representative:** Gregory F. Galvin  
775 Pleasant Street  
Weymouth, MA 02189

**Site Address:** 30 Aspinwall Avenue  
**Sheet:** 9  
**Block:** 77  
**Lot:** 15

**Zoning District:** R-1

Board of Zoning Appeals application filed on September 29, 2015

After a public hearing on November 4, 2015, continued to December 2, 2015, advertised in the Weymouth News on October 21, and October 28, 2015, the Board of Zoning Appeals at its meeting of December 2, 2015

**VOTED TO GRANT THE SPECIAL PERMIT AND VARIANCE** under Weymouth Zoning Ordinance 120-40; and 120-51 Front and Rear Depth to allow the petitioner to construct an extension of an existing rear deck, to include stairs and covered landing to the front of the dwelling.

**FINDINGS:**

The applicant has proposed putting on a small 5x10 inch deck on the front of the house with a roof structure and a 7 foot open deck to the side (the pergola) which provides him better coverage from the elements. The proposed structure will reduce the set back from 18 to 14.3 feet.

Moving the front door would be a hardship and therefore the variance would be granted. At this point there is no opposition to the addition and several neighbors were in support of it.

RECEIVED  
TOWN OF WEYMOUTH  
TOWN CLERK'S OFFICE  
2016 FEB 24 PM 12:45

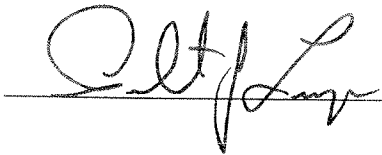
Under MGL Chapter 40A, Section 11, the approval of the Board of Zoning Appeals will NOT take effect until it has been recorded in the Norfolk Registry of Deeds.

**After the twenty (20) day appeal period has passed, the Town Clerk will send to the petitioner: (1) the certificate that no appeal was filed, (2) the certificate of granting of variance and/or special permit. (3) record of proceedings. The petitioner shall record these documents with the Norfolk Registry of Deeds, Dedham, MA, with the appropriate filing fee.**

When a receipt from the Registry of Deeds is presented to the Building Inspector (to show that the decision has been recorded), the proper permit will be issued.

Decision filed with the Town Clerk on February 24, 2016

IMPORTANT: Notice is further given that any person aggrieved by this decision may appeal, according to MGL Chapter 40A, Section 17, and said appeal, if any, must be filed with the Town Clerk within twenty (20) days after the filing of the decision with the Town Clerk.



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Robert J. Luongo, Planning Director

**BOARD OF ZONING APPEALS (BZA)**  
**RECORD OF MINUTES AND PROCEEDINGS**  
**Wednesday, November 4, 2015**

**Members Present:** Richard McLeod, Chairman  
Kemal Denizkurt  
Chuck Golden  
Jonathan Moriarty  
Ed Foley

**Also Present:** Eric Schneider, Principal Planner  
Lee Hultin, Recording Secretary  
James Clarke, Planning Director

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:07 p.m. at the McCulloch Building and explained the procedures that would be followed to the people present.

**New Business:**

**3. Case #3266** – The petitioner, Elliot Savitz, for property located at 30 Aspinwall Avenue, also shown on the Weymouth Town Atlas Sheet 9, Block 77, Lot 15, located in an R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; Variance: 120-40; 120-51 Front and Rear Depth

Presently located on the premises is a single-family residential dwelling on a 7,012 SF lot. The petitioner is proposing to extend a rear deck to the front of the dwelling including stairs and covered landing.

**Sitting Members:** Richard McLeod  
Chuck Golden  
Jonathan Moriarty  
Ed Foley  
Kemal Denizkurt

Ed Foley made a motion to open the public hearing on Case #3266, 30 Aspinwall Avenue and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Ed Foley made a motion to waive the reading of the legal notice on Case # 3266, 30 Aspinwall Avenue and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Appearing before the board was Attorney Greg Galvin, 775 Pleasant Street, Weymouth and the applicant Elliot Savitz. He is seeking to extend the deck around to the side of the

house and enter in through a bedroom area. This property drops down about 10 feet from the street level.

This is an extension of a nonconforming use. A mortgage survey plan was passed out to the board and labeled Exhibit #1 and the 3 letters from the neighbors supporting this application were labeled Exhibit #2. This plan shows the original deck and they are looking to extend it around the side of the house to the front doorway and they want to put a cover over it.

Ed Foley asked why he started the work without the permits and the applicant stated that he was fixing up the damage from the storms last winter and one thing lead to another. He does have a permit now that was issued July 7, 2015.

He has hired a surveyor that will do the work. It was asked what other work was done without pulling a permit and it was stated some work inside.

Hardship - Due to the topography of the lot there is no other place to park or to move the front entranceway to get into the house.

Jonathan Moriarty does not like the argument for the hardship as the applicant purchased the home knowing that the parking was where it is.

Ed Foley agrees with Jonathan on the hardship. He still does not like the idea that work has begun without a permit.

Ed Foley would like to see plans for the covering on the porch. The front steps are going to be composite. The roofline will be extended to cover the walkway to the front door.

**Public Comment:**

Kevin O'Leary, 37 Wachusett Road – He is opposed to the application. The walk from where the applicant parks to the front door is very minimal. He has lived there his entire life. The hardship reason is fictitious. Other owners navigated the stairs during the blizzard of 1978. The front door used to be in the middle of the house and has been moved over to the right. His view to the water is where his side deck will go and it will be blocked.

Ed Foley stated that the rear yard setback of 65 is a typo. 16 feet is required and now they are going right to the property line.

Ed Foley asked if the original rear deck was permitted and Attorney Galvin said it was there when he purchased the house therefore it is an existing nonconforming deck.

Ed Foley would like the plans of the new deck and roof.

Jonathan Moriarty asked if the applicant could add a garage on his lot and it was stated that due to the topography of the lot and the large drop it would be impossible to build a garage.

Ed Foley made a motion to continue the public hearing to December 2, 2015 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

**BOARD OF ZONING APPEALS (BZA)  
RECORD OF MINUTES AND PROCEEDINGS  
Wednesday, December 2, 2015**

**Members Present:** Richard McLeod, Chairman  
Kemal Denizkurt  
Chuck Golden  
Jonathan Moriarty

**Absent:** Ed Foley

**Also Present:** Eric Schneider, Principal Planner  
Lee Hultin, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:05 p.m. at the McCulloch Building and explained the procedures that would be followed to the people present.

**3. Case #3266 – Continued Public Hearing from 11-4-2015**, The petitioner, Elliot Savitz, for property located at 30 Aspinwall Avenue, also shown on the Weymouth Town Atlas Sheet 9, Block 77, Lot 15, located in an R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; Variance: 120-40; 120-51 Front and Rear Depth

Presently located on the premises is a single-family residential dwelling on a 7,012 SF lot. The petitioner is proposing to extend a rear deck to the front of the dwelling including stairs and covered landing.

**Sitting Members:** Richard McLeod  
Chuck Golden  
Jonathan Moriarty  
Ed Foley – **Absent**  
Kemal Denizkurt

Appearing before the board was Attorney Gregory Galvin, 775 Pleasant Street and the applicant Elliot Savitz. At the last meeting a more detailed architectural rendering was requested. This was reviewed with the board members.

Jim asked what the width of the deck was and it was stated the rear deck is 8 feet along the side, and the front deck is 5'10".

Public Comment:

Kevin O'Leary, 37 Wachusett - The positioning of the deck was clarified with him and he was happy with the results. He is not opposed to this project.

Jonathan Moriarty made a motion to close the public hearing on Case # 3266 and was seconded by Kemal Denizkurt.

VOTED UNANIMOUSLY

Kemal made a motion to approve the application for a special permit variance on Case # 3266, 30 Aspinwall Avenue

**Special Permit Criteria for Approval.** The Board of Zoning Appeals may approve any Special Permit applications only if it finds that, in its judgment, all of the following conditions are met in accordance with Zoning Ordinance Section 120-122D.

1. The specific site is an appropriate location for such a use.
2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

**The applicant has proposed putting on a small 5x10 inch deck on the front of the house with a roof structure and a 7 foot open deck to the side (the pergola) which provides him better coverage from the elements. The proposed structure will reduce the set back from 18 to 14.3 feet.**

**Variance Criteria for Approval.** Weymouth Zoning Ordinance Section 120-119A(3). The Three Required Findings For Granting A Variance:

***Finding #1: Soil, Shape, Topography***

Owing to circumstances relating to soil conditions, shape or topography of the land or structure and especially affecting such land or structure but not generally affecting the zoning district in which it is located.

- The board must also find that the peculiarity is unique to the zoning district where the parcel is located.
- The peculiarity must not be found in the district as a whole.

***Finding # 2: Hardship***

A literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise.

***Finding # 3: Public Good***

Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance or bylaw.

**Moving the front door would be a hardship and therefore the variance would be granted. At this point there is no opposition to the addition and several neighbors were in support of it.**

Jonathan Moriarty seconded.

VOTED UNANIMOUSLY

THE COMMONWEALTH OF MASSACHUSETTS

WEYMOUTH

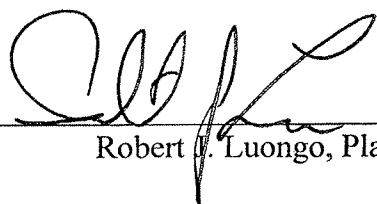
BOARD OF APPEALS

February 24, 2016

Certificate of Granting of Variance or Special Permit  
(General Laws Chapter 40A, Section 11)

The Board of Appeals of the town of Weymouth hereby certifies that a Variance or Special Permit has been granted to Elliot Savitz, 30 Aspinwall Avenue, Weymouth, MA 02191, affecting the rights of the owner with respect to land or buildings at 30 Aspinwall Avenue, also shown on the Weymouth Town Atlas Sheet 9, Block 77, Lot 15, and the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said variance – special permit, and that copies of said decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.

  
Robert J. Luongo, Planning Director

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Kathleen Deree, Town Clerk

Case # 3266

Date of Hearing: 11/4/2015, 12/2/2015