

**TOWN OF WEYMOUTH, MASSACHUSETTS
BOARD OF ZONING APPEALS
NOTICE OF DECISION ON SPECIAL PERMIT
EDISON STREET SUB-DIVISION**

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

Owner:	Kevin B. Rains, Trustee	Date:	June 22, 2015
Address:	Gregg B. & Rita R. Rains 35 Hyde Street Weymouth, MA 02188		
Applicant:	Kenneth C. Ryder	Case #:	3252
Address:	847 Washington Street Weymouth, MA 02189		
Representative:	Gregory F. Galvin, Esq.	Site Address:	Edison, Bellgrade, Edge, Hyde, Trefton
Address:	775 Pleasant Street, #16 Weymouth, MA 02189	Sheet:	13
		Block:	155, 156
		Lots:	26, 28; 28, 59

Zoning District: R-1 (Single Family/Low Density)

Zoning Board of Appeals application filed on March 3, 2015.

After a Public Hearing on April 15, 2015 and continued to May 6, 2015, and May 27, 2015, advertised in the Weymouth News on April 1, 2015 and April 8, 2015, the Board of Zoning Appeals at its meeting of May 27, 2015:

VOTED TO GRANT THE SPECIAL PERMIT under Weymouth Zoning Ordinance Article XV, Section 120-53; Exceptions by Board of Zoning Appeals.

The petitioner seeks to subdivide five undeveloped parcels to create 14 buildable lots for single-family homes, six of the 14 lots are under 25,000 sq ft but over the 17,500 sq ft minimum allowed; as shown on the approved plan titled "Zoning Board of Appeals Plan of Edison Street Extension in Weymouth, Massachusetts" prepared for Ryder Development Corporation by Sitec Environmental, dated February 4, 2015.

SPECIAL PERMIT FINDINGS:

The Board found that:

All criteria were met for the Special Permit and the standards of Section 120.53 were met due to the following reasons:

1. The lot layout was better by eliminating the pigtail lots.
2. The more compact lot made it less complicated for liability, insurance, and survey work.
3. These lots meet or exceed the standard lot size of the neighborhood.
4. The reduction in lot size for six lots does not increase the potential density of the neighborhood.

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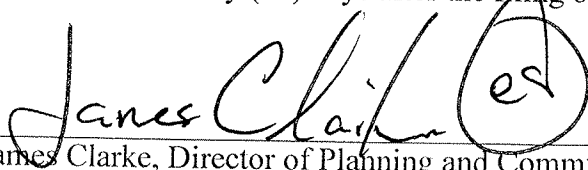
Under MGL Chapter 40A, Section 11, the approval of the Board of Zoning Appeals will NOT take effect until it has been recorded in the Norfolk Registry of Deeds.

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, and (2) the certificate of granting of variance and/or special permit. 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 June 22, 2015

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.



James Clarke, Director of Planning and Community Development

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, April 15, 2015**

Members Present: Richard McLeod, Chairman
Ed Foley, Vice Chairman
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Rob Stevens

Absent: Brad Vinton

Also Present: Jeff Richards, Director of Building & Municipal Inspections
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.

Case # 3252 – 0 Bellgrade St., 0 Edison St., 0 Edge St., 0 Hyde St., and 0 Trefton Ave. – Public Hearing

The petitioner, Kenneth C. Ryder, for five properties located at **0 Bellgrade St., 0 Edison St., 0 Edge St., 0 Hyde St., and 0 Trefton Ave.**, also shown on the Weymouth Town Atlas Sheet 13, Block 155, Lots 23, 26 and 28 and Sheet 13, Block 156, Lots 28 and 59, located in a R-1 (Single-Family / Low Density) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Exceptions by Board of Zoning Appeals (Article XV, Section 120-53).

The five parcels are presently undeveloped. The petitioner is proposing to subdivide the land to create 14 buildable lots for single-family homes. Six of the 14 lots are under 25,000 square feet but over the 17,500 square foot minimum allowed by Special Permit under Zoning Ordinance Section 120-53.

Members sitting: Richard McLeod
Edward Foley
Chuck Golden
Kemal Denizkurt
Jonathan Moriarty

Ed Foley made a motion to open the public hearing on Case # 3252 and was seconded by Chuck Golden. Voted unanimously

Ed Foley made a motion to waive the reading of the public hearing and was seconded by Chuck Golden. Voted unanimously

Appearing before the Board was Attorney Greg Galvin, 775 Pleasant Street and the applicant Ken Ryder and Al Trakimas.

The applicant has been able to layout 14 lots at 25,000 square feet each. The applicant is proposing to reduce 6 lots to be less than 25,000 square feet but more than 17,500 and the

remaining 8 lots would be greater than 25,000 square feet. The average lot size in the area is less than 17,500 square feet. The owner of the property is keeping 2 acres of land. Kemal Denizkurt would like to see proof that the lots are all one big lot prior to 12/31/2013. He would like to see the lot frontage for each lot.

Ed Foley asked for a definition between intermittent stream and perennial stream and the applicant stated that there isn't enough water for it to be perennial stream. Mr. Foley would like clarity on this subject.

Mr. Richards reviewed the staff comments with the Board.

Public Comments:

Thomas J. Lacey, District 4 Town Councilor – stated that he is disappointed that the only discussion this evening is the lot sizes and not the access into this particular subdivision. The paper street he is using for his lot size would entertain a discussion for access. He believes the Hyde Street option should be considered.

He asked the board to explain the process of what happens after this evening. The area has gone through several large projects over the past few years. How the property is being accessed is an issue.

Mr. Galvin stated that there will be a public hearing at the Planning Board to discuss access and roadway issues. Currently the access is through Narragansett and Edison as it has been laid out that way since the 1940's. Hyde Street does not have a 40 foot right of way, it is intermittent and there is a ledge there with a significant drop. They understand the neighbors do not want to see any more vehicles on their roadway. It is not possible to service a subdivision off Hyde Street.

Councilor Thomas Lacey asked why they decided to use Edison and he believes it was not built to prepare for a subdivision. Are the paper streets able to be utilized.

Tom Eldridge, 16 Narragansett - asked if the board's decision tonight sets the plan for the layout of the subdivision and it was stated no. This board does not address roadway layouts only lot sizes.

Matt Tallon, President of the Idlewell Association handed out a memo to the board and it was labeled Exhibit #1. They have met with Mr. Ryder and discussed this project. There have been 5 projects that have impacted this neighborhood and the neighbors are concerned about another one. They do not believe that Edison would be the right access point to a subdivision. Hyde Street has many issues and it seems more feasible to extend Hyde Street into a cul-de-sac within the subdivision, repair it and it helps keep Narragansett clear of more vehicles. They would like lot #1 to be eliminated and they are concerned about blasting in that area. They need more answers from Mr. Ryder.

Mr. Galvin stated that blasting comes under the Fire Department. Hyde Street width does not meet the town requirements for a roadway width, it is intermittent and is not 40 feet wide in all the areas, and finally it is quite steep.

Mr. McCusker asked if you could widen Hyde Street by eminent domain and it was stated no it would have to be a town project, not a private project.

Joe Scolara – Trefton Avenue there is a lot ledge in the area. Everyone in the area will need to be protected.

Dennis Gezian, Meeting House Lane - asked where the sewerage line is coming from. During rain storms raw sewerage floods the area. The marsh is filled with water on a regular basis. FEMA has forced him to purchase flood insurance.

Mike Cohane, 46 Narragansett Street – asked if Trefton was 27 feet wide then you need to come up with an additional 13 feet.

Mr. Ryder stated a typical paved roadway is 22 feet wide.

Tom Eldridge, 16 Narraganset asked if the roadway needs to be widened to 40 feet and it was stated no. Regulations says 22 feet of pavement, grass strip and then a sidewalk.

Diane O'Neil, 42 Narraganset asked when the bylaw went into affect and it was stated in December of 2013.

Kemal Denizkurt wants to know if the land was subdivided before or after the purchase and for the square footage of the frontage of each lot.

Ed Foley made a motion to continue this case to May 6, 2015 and was seconded by Kemal Denizkurt. Voted unanimously

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, May 6, 2015**

Case # 3252 – 0 Bellgrade St., 0 Edison St., 0 Edge St., 0 Hyde St., and 0 Trefton Ave. – Continued Public Hearing (con't from 4/15/15) sitting members McLeod, Foley, Denizkurt, Golden, Moriarty

The petitioner, Kenneth C. Ryder, for five properties located at **0 Bellgrade St., 0 Edison St., 0 Edge St., 0 Hyde St., and 0 Trefton Ave.**, also shown on the Weymouth Town Atlas Sheet 13, Block 155, Lots 23, 26 and 28 and Sheet 13, Block 156, Lots 28 and 59, located in a R-1 (Single-Family / Low Density) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

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The five parcels are presently undeveloped. The petitioner is proposing to subdivide the land to create 14 buildable lots for single-family homes. Six of the 14 lots are under 25,000 square feet but over the 17,500 square foot minimum allowed by Special Permit under Zoning Ordinance Section 120-53.

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

Appearing before the Board was Attorney Gregory Galvin, 775 Pleasant Street, Weymouth.

Responses have been submitted to the board on their questions.

1. When were the lots joined and are they all in one name - the answer is yes, the Belgrade Nominee Trust since October of 2004.
2. Is there 120 feet from the building line and a document submitted show that the lots all meet the zoning requirements.
3. Conservation questions on the stream being intermittent. This falls under the Conservation Commission and the lot line is well over 200 feet from the stream,

Public Comment:

Joe Scalero, Trefton Ave - this is not flat land as stated and he would like to see the lots stay the way they are (all chopped up).

Matt Tallon, 105 Trefton, President of the Idlewell Association – they reviewed both plan A & B and would like see Plan A remain with all lots 25,000 sq ft or better. They don't believe it is within the spirit of the new bylaw. He doesn't believe it sets a good precedent. They are also very concerned about the blasting.

Chairman McLeod said it is not up to the board to say which plan he must use. There is only one plan before the board for approval.

Mr. Galvin stated this plan fits the new bylaw better than any other parcel in Weymouth because they are not increasing the density use. There are going to be 14 lots regardless. The pigtail lots are allowed. The Planning Board has no jurisdiction over the configuration of the lots.

Town Councilor Thomas Lacey said the applicant is leveraging this new bylaw in advance of the Planning Boards meeting. By right he could have the 14 lots. If this is not approved he does not believe the applicant would submit the pigtail lots to the Planning Board but would rather reduce the number of lots to 13. This is because they are not marketable. The spirit of the bylaw was not to have pigtail lots to get an extra lot squeezed in. He asks the board to reject this application.

Attorney Galvin stated that the Planning Board has approved pigtail lots before and he believes the applicant will go forward this plan to the Planning board to get 14 lots.

Chairman McLeod asked if the applicant would consider working with the Councilors and the residents and consider reducing the project to 13 lots. Attorney Galvin cannot answer for the applicant.

TJ Lacey believes this step is before where they should be. If this is approved it allows the number of lots to be finalized. Ken Ryder met with the neighbors but there was not a Plan A & Plan B provided.

Councilor Ken DiFazio asked if they should be setting a precedent with this. The applicant doesn't even need a special permit to do what he wants to do on this land, so why is the board reviewing it.

Ed Foley said he has the right to come before us and we have a right to say no. He believes the board doesn't have to give this special permit just let the applicant go before the Planning Board. He agrees with both councilors. Ryder is going to build it anyway. We have an opportunity to set a precedent and we should do that.

Chuck Golden believes this meets the spirit of the bylaw. We are absolutely setting a precedent on this application no matter how we vote on this.

McLeod said they never thought they would have someone come before them that already has the requirements of 25,000 sq feet. If they have the 25,000 square feet that we would like to see in Weymouth then we should say use it!

Kemal Denizkurt asked how wide the pigtails were and it was stated about 5 feet each.

Jonathan Moriarty believes they should go to Planning Board with the 25,000 square feet as well.

Bob Thomas, Washington Street – stated that he believes Mr. Ryder is just trying to make the neighborhood a little nicer.

Thomas Eldridge, 60 Naragansett Avenue – if it were 12 lots with no pork chops then this would not be an issue, but he wants 14 lots and that is his choice to have the lots shaped like this. He does not need a special permit but the applicant wants 14 lots and this is his way of doing it. Mr. Ryder never presented plan A & B to the neighbors. Tom doesn't

believe the applicant satisfies the 5 criteria of a special permit. He wants the permit denied and feels he should use his by right option of the 14 lots with pigtales.

Regina Cohane, 46 Naragansett Avenue – If the applicant doesn't need to be here then why is he here if he doesn't have to do this. The majority of their issues are with Planning.

Ed Foley made a motion to close the public hearing at 9:15 pm and was seconded by Jonathan Moriarty. Voted unanimously

Ed Foley made a motion to take this matter under consideration and was seconded by Jonathan Moriarty. Voted unanimously

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, May 27, 2015**

Case # 3252 – 0 Bellgrade St., 0 Edison St., 0 Edge St., 0 Hyde St., and 0 Trefton Ave. – Continued Public Hearing (con't from 4/15/15) sitting members McLeod, Foley, Denizkurt, Golden, Moriarty

The petitioner, Kenneth C. Ryder, for five properties located at **0 Bellgrade St., 0 Edison St., 0 Edge St., 0 Hyde St., and 0 Trefton Ave.**, also shown on the Weymouth Town Atlas Sheet 13, Block 155, Lots 23, 26 and 28 and Sheet 13, Block 156, Lots 28 and 59, located in a R-1 (Single-Family / Low Density) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

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

Mr. Clarke stated that he does not have any additional information since the past meeting.

Discussion:

Chairman McLeod stated that it was interesting to see all the abutters coming out that have concerns about this project. They have put up with a lot of disruption in that area. At the same time, we have an applicant who has a reputation of working well with the residents. Now a decision needs to be made.

The intent of the bylaw was for an applicant who did not meet the requirements. After review of previous notes when creating the bylaw, Chairman McLeod believes the petitioner falls within the 4 corners of this bylaw. If the board would like to make an amendment to the by-law going forward then we can do that but this evening the board needs to stick to the current bylaw that is in place.

Ed Foley stated that the minimum lot size is 25,000 square feet and if they meet that requirement he does not believe they should come before the board to have the lots reduced to 17,500 square feet. The applicant can still get his 14 lots of 25,000 sq feet. Mr. Foley does not believe he meets all the requirements of Section 120-122D. Chairman McLeod agrees with Mr. Foley in some areas. Typically the applicant meets with the abutters and addresses their concerns and this did not happen with this project.

Kemal Denizkurt stated that he does not like pigtail lots but the applicant chose to carve up the lots that way to create 14 lots at 25,000 square feet. That was his choice in the layout. He could have reduced the amount of lots to 11 in order to have uniform lots. Kemal Denizkurt stated that the spirit of the ordinance was not for someone who can already meet the requirements but for someone who could not.

Chuck Golden stated that in the past the board was tired of lots before us of 5-10,000 sq ft. That is why we created the new bylaw for lots needing to be 17,500 sq ft. Some of the other issues that came up are not under our jurisdiction. How do we say no when we said under the new ordinance that 17,500 was ok. The fact that the 25,000 sq ft is available was never part of our discussion. Perhaps we should consider that if we want to change the bylaw. Chuck Golden believes it meets the intent of the new by-law and either way the vote goes we are setting a precedent.

Ed Foley stated every individual case should be looked at individually. He believes the applicant has not met criteria #5.

Jonathan Moriarty stated that he could go either way, he does not like the pigtails as nobody does. We chose a minimum of 17,500 and he has complied with it, however he cannot forget the fact that he does not need to be here. The applicant could reduce it to 12 lots at 25,000.

Ed Foley made a motion to deny the application for a special permit. This is a request to subdivide 5 parcels into 14 lots, 6 lots are under 25,000, 8 are not. Table 1 calls for a 25,000 square foot minimum. The applicant has said that if denied at BZA he would go before the planning board.

Under Section 120-122D Criteria for a Special Permit, Mr. Foley believes the applicant has not met #5. There was no second to this motion.

Chairman Macleod made a motion to approve the application for a Special Permit on Case # 3252 and was seconded by Jonathan Moriarty. It falls within the four corners of the bylaws. All the criteria of Section 120-122D are met and other issues can go before Planning Board. The lots are cleaner than the pigtails. Jonathan added that it makes sense, liability, insurability and survey.

Voted 4-1 (Ed Foley-No)

Ken Ryder stated that he was only trying to do the right thing. He did meet with the neighborhood twice and will continue to meet with them throughout this project.

THE COMMONWEALTH OF MASSACHUSETTS

WEYMOUTH

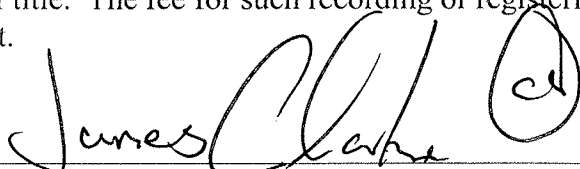
BOARD OF APPEALS

June 22, 2015

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 Kenneth C. Ryder, 847 Washington Street, Weymouth, MA 02189, affecting the rights of the owner with respect to land or buildings at 0 Bellgrade S., 0 Edison St., 0 Edge St., 0 Hyde St., and 0 Trefton St., also shown on the Weymouth Town Atlas Sheet 13, Block 155, Lots 23, 26, 28, and Sheet 13, Block 156, Lots 28, 59 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.


James F. Clarke, Jr., Planning Director

Kathleen Deree, Town Clerk

Case # 3252

Date of Hearing: 4/15/2015, 5/6/2015 and 5/27/2015