

**TOWN OF WEYMOUTH, MASSACHUSETTS
BOARD OF ZONING APPEALS
NOTICE OF DECISION ON SPECIAL PERMIT/VARIANCE
110-140 MAIN STREET**

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

Owner: RK Weymouth LLC
Address: 456 Providence Highway
PO Box 111
Dedham, MA 02026

Date: June 8, 2016

Applicant: RK Weymouth LLC
Address: 456 Providence Highway
PO Box 111
Dedham, MA 02026

Case #: 3285

Precinct 10 / Kevin Hynes
PO Box 365
Kingston, MA 02364

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

Site Address: 110-140 Main Street
Sheet: 29
Block: 329
Lot: 10, 12, 15, 21

Zoning District: B-1 (Limited Business)

Board of Zoning Appeals application filed on April 5, 2016.

After a public hearing on May 11, 2016, advertised in the Weymouth News on April 27 and May 4, 2016, the Board of Zoning Appeals at its meeting of May 11, 2016

VOTED TO GRANT A **SPECIAL PERMIT** under Weymouth Zoning Ordinance Article XIII, Section 120-25(A) Use-Shopping Center; and a **VARIANCE** from 120-74(Q&R) Minimum required parking spaces. Relief permits the petitioner to open a new 250-seat restaurant in ~11,416 SF of vacant space within an existing retail plaza.

FINDINGS:

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.

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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.

The Parking Supply and Demand Study, done by Ron Muller and Associates, and confirmed by the Town's Traffic Engineer have given the board the justification they need to grant this variance. Furthermore, the applicant will be submitting further drawings to staff showing proposed handicap parking spaces before they can issue their building permit. The hours on the liquor license are 11:30-1:00 am.

This variance reduces the total number of required parking spaces by 110 and is based on the Parking Supply and Demand Study which emphasizes the opportunity for sharing off hour parking with other tenants of the shopping center.

CONDITIONS:

- Dumpster to be screened in and removal will be Mon-Fri 9-5
- Hours of operation to be 11:30 A. M. to 1:00 A. M.
- Handicapped parking spaces are to be striped as per ADA regulations and a plan shall be submitted to Planning Department staff for review.

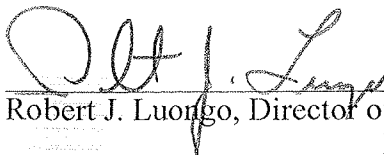
Under MGL Chapter 40A, Section 11, the approval of the Board of Zoning Appeals will NOT take effect until it has been recorded in the Norfolk Registry of Deeds.

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, and (3) the 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 June 8, 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.



Robert J. Luongo, Director of Planning and Community Development

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, May 11, 2016

Members Present: Richard McLeod, Chairman - **Absent**
Kemal Denizkurt
Chuck Golden - **Absent**
Jonathan Moriarty
Ed Foley
Brandon Diem, Alternate

Also Present: Bob Luongo, Planning Director
Eric Schneider, Principal Planner
Lee Hultin, Recording Secretary

Vice Chairman Ed Foley called the Board of Zoning Appeals meeting to order at 7:10 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

Case #3285 – The petitioner, RK Weymouth LLC and Precinct 10, for property located at **110-140 Main Street and 559 Washington Street** shown on the Weymouth Town Atlas sheet 29, block 329, lots 10, 12, 15, 21, located in the B-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-25(A) Use – Shopping Center
 120-74(Q & R) Minimum required parking spaces

The petitioner seeks to open a new 250-seat restaurant in ~11,416 SF of vacant space within an existing retail plaza.

Sitting Members: Kemal Denizkurt
 Jonathan Moriarty
 Ed Foley
 Brandon Diem

Jonathan Moriarty made a motion to open the public hearing on Case # 3285 and was seconded by Kemal Denizkurt.
VOTED UNANIMOUSLY

Jonathan Moriarty made a motion to waive the reading of the publication on Case # 3285 and was seconded by Kemal Denizkurt.
VOTED UNANIMOUSLY

Vice Chairman Foley explained to the applicant that there are only four members present this evening and he would need a unanimous vote for approval this evening as 1 member is absent. The applicant stated that he understood and wants to continue with the hearing.

Appearing before the board was the applicant Mr. Kevin Hines and his Attorney Greg Galvin, 775 Pleasant Street. Attorney Galvin stated that applicants are both RK Associates and Mr. Kevin Hines, owner of proposed restaurant. The location will be in the space where the Hilltop Market was at the RK strip mall. The strip mall consists of retail businesses. Currently under the town's bylaws there are not enough parking spaces. It requires 825 spaces for the retail use and they have 585 spaces. A traffic study was done on Friday and Saturday 4/1/16 and 4/2/16 to show there is more than enough adequate spaces. This were done during peak hours.

On Friday evening 5-8 pm there are 464 empty spaces.
Saturday lunch 11-2 pm there were 403 empty spaces.
Saturday at dinner 5-8 pm there were 470 empty spaces.

Mr. Hines has operated restaurants for many years. Precinct 10 will be the name of this new restaurant because it is in Precinct 10. This will be a political themed restaurant. He was a police officer in Weymouth for 10 years and this will be his 10th restaurant. He would like it to be a seafood restaurant with soups, salads, deli sandwiches, etc. It will not be a sports bar. There will be some soft seating areas with couches and chairs and a wall covered with televisions, bar area, dining area. There will be a 45-50 seat dining bar. There will be a wine wall separating the bar from the dining room. There is nothing like this around the area.

The vacant area 2500 square feet will remain vacant for now and possibly be a function room in the future that will seat about 125. This will be bigger than Stockholder's. He has obtained a liquor license but cannot get it until the location is secure.

RK has two additional parcels that are vacant and have not been able to be developed. Mr. Luongo stated that about 10 years ago the board approved two pads but those permits have expired now. Anything else in the future would need new proposals therefore RK is not over extending themselves.

There signage will go where the Hilltops sign was. They do not plan on coming before the board for any relief on that at this point.

Jonathan Moriarty asked if National Grids easement will affect this. Attorney Galvin said the easement runs along the front of the parking lot near the road and not through it.

There will be no temporary parking spots, limited parking time, or expected mother's parking spaces. Handicap spaces will be provided in the front of the restaurant. They will be set by code. Hours of operation will be from 11:30 AM - 12:30 AM.

The dumpsters will be in the back of the building as it is all commercial.

The applicant is looking for an additional 166 parking spaces.

Staff Comments:

Parking study was reviewed by the traffic engineer and there were no comments.

Bob Luongo stated that the Planning Department supports this project. RK has been a good owner. He supports this restaurant and feels it fits in to this location. Sometimes it is difficult for a restaurant in a strip mall but the applicant feels it can work.

Public Comment:

Councilor Arthur Mathews stated he represents this district. RK went above and beyond many years ago by putting in the traffic signal to help attract more clientele. RK did a good job with the old Honey Ham location that they own. Mr. Hines has had successful restaurants and we should be trying to attract more business like this. He is in support of this project.

Councilor Brian McDonald, supports this project as well. The location is suitable and the parking lot is huge. He runs a first class operation and has long term employees. This will be an anchor tenant and will be able to get more upper scale businesses.

Councilor Jane Hackett supports this variance as well. She has been advocating for adjustments to these parking requirements for a long time. She is pleased to see the strip mall moving forward and upward. Mr. Hines has a proven track record and she urges the board to support this variance.

Andrew Fish, leasing of RK Centers has shopping centers all over New England and is very excited about this partnership. There is ample parking in this center. He has had significant turnover in this location over the past few years. This will be a great anchor and help all the other existing tenants.

Ed Foley said Weymouth needs some new restaurants and he is glad to see it happening. The applicant stated the lease will be for 30 years.

Jonathan Moriarty made a motion to close the public hearing on Case #3285 and was seconded by Kemal Denizkurt.
VOTED UNANIMOUSLY

Ed Foley made a motion to approve the Variance for parking on Case # 3285 RK Weymouth LLC and Precinct 10 and was seconded by Kemal Denizkurt.

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.

The traffic report that was done by Ron Miller and Associate and confirmed by the Town's Traffic Engineer has given the board the proof they need to grant this variance. Furthermore, the applicant will be submitting the further drawings to staff before they can issue their building permit. The Hours on the liquor license are 11:30-1:00 am.

Trash is already set by RK.

This variance is for 110 parking spaces for the whole parking lot, ADA compliance and any additional proposed use RK would like, they would have to come back before the board.

VOTED UNANIMOUSLY

THE COMMONWEALTH OF MASSACHUSETTS

WEYMOUTH

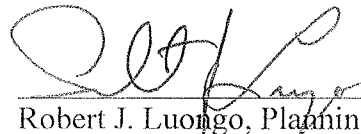
BOARD OF APPEALS

June 8, 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 RK Weymouth LLC, 456 Providence Highway, PO Box 111, Dedham, MA 02026 and Precinct 10/Kevin Hynes, PO Box 365, Kingston, MA 02364 affecting the rights of the owner with respect to land or buildings at 110-140 Main Street, also shown on the Weymouth Town Atlas Sheet 29, Block 329, Lot 10, 12, 15, 21, 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

Kathleen Deree, Town Clerk

Case # 3285

Date of Hearing: 5/11/2016