

**TOWN OF WEYMOUTH, MASSACHUSETTS  
BOARD OF ZONING APPEALS  
NOTICE OF DECISION ON VARIANCE  
0 OAK CLIFF ROAD**

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

<b>Owner:</b>	Donald T. Rafferty, Jr.	<b>Date:</b>	August 29, 2016
<b>Address:</b>	22 B Sea Street Weymouth, MA 02191		
<b>Applicant:</b>	Donald T. Rafferty, Jr.	<b>Case #:</b>	3291
<b>Address:</b>	22 B Sea Street Weymouth, MA 02191		
<b>Representative:</b>	N/A	<b>Site Address:</b>	0 Oak Cliff Road
		<b>Sheet:</b>	30
		<b>Block:</b>	396
		<b>Lot:</b>	36

RECEIVED  
TOWN OF WEYMOUTH  
TOWN CLERK'S OFFICE  
2016 AUG 29 AM 10:08

**Zoning District: R-1**

Board of Zoning Appeals application filed on May 9, 2016.

After a public hearing on June 22, 2016, continued to July 27, 2016, advertised in the Weymouth News on June 8 and June 15, 2016, the Board of Zoning Appeals at its meeting of July 27, 2016:

VOTED TO GRANT THE VARIANCE FROM FRONTAGE WIDTH under Weymouth Zoning Ordinance Section 120-56, Required Frontage, to grant relief for the petitioner to construct a new single family dwelling on a ~49,228 SF lot that is presently vacant.

**VARIANCE FINDINGS:** *This property was granted the same variance in 2010 to construct a single family home. The property has changed ownership and the variance expired after one year. The Conditions of the previous Decision have been carried forward.*

**CONDITIONS:**

1. Only one lot can be built on this land, applicant cannot come back in the future and try to subdivide the lot.
2. Repair utility trenches in Oak Cliff Road to be patched following DPW standards and specifications.
3. A separate driveway to the left of the lot is to be included. As much as is practical, two-feet of separation shall be maintained between driveways. Exceptions may be made when rock outcroppings would require significant blasting or hammering.
4. The roadway is to be repaired up to DPW standards prior to occupancy permits being released.
5. Hammering cannot take place until 9:00 AM and must end by 4:30 PM. No weekends.
6. Other construction activity to adhere to limits set forth in the Weymouth Town Ordinance.

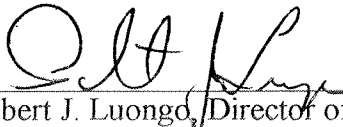
Under MGL Chapter 40A, Section 11, the approval of the Board of Zoning Appeals will NOT take effect until it has been recorded in the Norfolk Registry of Deeds.

**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 August 29, 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, Director of Planning and Community Development

**BOARD OF ZONING APPEALS (BZA)**  
**RECORD OF MINUTES AND PROCEEDINGS**  
**Wednesday, June 22, 2016**

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

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

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:06 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

**Case #3291** – The petitioner, Donald J. Rafferty, Jr., for property located at **36 Oak Cliff Road**, also shown on the Weymouth Town Atlas sheet 30, block 396, lot 36, located in the R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-56 Required frontage

The ~49,228 SF lot is presently vacant. The petitioner seeks to construct a new single family dwelling.

Previous Special Permit has expired.

**Sitting Members:** Richard McLeod  
Kemal Denizkurt  
Chuck Golden  
Jonathan Moriarty  
Brad Vinton

Jonathan Moriarty made a motion to open the public hearing on Case # 3291 and was seconded by Chuck Golden.

**VOTED UNANIMOUSLY**

Jonathan Moriarty made a motion to waive the reading of the publication on Case # 3291 and was seconded by Chuck Golden.

**VOTED UNANIMOUSLY**

Donald Rafferty 22 Sea Street, North Weymouth purchased this parcel about a year and half ago. At that time he was told that there was a BZA decision that made it a buildable lot. The 2010 and 2013 BZA decisions were filed with the Purchase and Sales Agreement per Jim Clarke's recommendations and he purchased the property. This past January he went to Jeff Richards for a building permit and he said that it had expired and needed to go back before the BZA for approval.

The same hardship exists that was there on the first variance and there is an additional hardship because he has already purchased the property and it is being taxed as a buildable lot.

There were no staff comments from the departments.

Public Comments:

Karen & Frank Younie, 16 Oakcliff Road – the past few times they have come before the board they have required to fix the grade in the road, loop the water, build the road and put in sewer all before he started building. Is this still going to be done?

Eric Schneider said we received no comments from DPW, Water and Sewer and Engineering.

The applicant said the previous owner was going to subdivide and build 5 houses.

Karen said even if this is a new application the street will not hold up to this kind of machinery, the road is terrible. She said she spoke to the building department a year ago and they said all stipulations would still be in effect.

Chairman McLeod asked for copies of the previous decisions to see if they were placed on the single family lot or the subdivision.

50 Oakcliff – asked what will happen to the single family home there. The applicant said he did not purchase that house only the lot behind it.

Bob Luongo asked for a condition not to subdivide this lot, it will remain a single family lot.

Jonathan Moriarty made a motion to continue this public hearing to July 27, 2016 and was seconded by Kemal Denizkurt.

VOTED UNANIMOUSLY

**BOARD OF ZONING APPEALS (BZA)**  
**RECORD OF MINUTES AND PROCEEDINGS**  
**Wednesday, July 27, 2016**

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

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

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Previous Special Permit has expired.

**Sitting Members:** Richard McLeod  
Kemal Denizkurt  
Chuck Golden  
Jonathan Moriarty  
Brad Vinton

Appearing before the board was the applicant Mr. Rafferty. There were some concerns about what the prior conditions were when this lot was approved in 2010.

Eric Schneider said he supplied the board with the conditions of 2013, 2014. The original variance had 5 conditions and a subsequent modification deleted the second condition so there are 4 remaining conditions that would follow along with this approval.

Eric said when speaking with DPW they requested that the two driveways be kept 2 feet apart due to the topography and ledge, but it may be a difficult task so Eric suggested the condition should read "as much as is practical".

Public comments:

Frank Younie, 16 Oak Cliff Road said the previous owner also proposed to build a house but the stipulations said it could only be one house, loop the road, fix the road, and put lighting up there and that is why it was never done. These stipulations should be put on this applicant as well.

Eric Schneider said he did some research and the conditions were interpreted that any disruptions to Oak Cliff Road made by the applicant to extend his water line would need to be patched and brought to DPW standards. The town had a plan years ago to loop the water main at Oak Cliff Road but since there was so much ledge the town abandoned the idea. It was never a condition of the property owner to loop the water main.

Frank said there is not enough room to put his equipment. On 6-2-10 there were conditions placed on the previous owner. Mr. McLeod said these conditions will remain in effect.

Mr. Rafferty said he will not be doing any blasting.

Karen Younie, 16 Oak Cliff Road said her house shook when he chipped the rock. She put up with him building two other houses.

Eric Schneider said perhaps they could regulate the hours of rock removal. It was suggested 8:00 am to 5:00 pm. Frank Younie is a disabled vet and can't sleep at night. 8:00 am is too early.

Mr. Rafferty said he only needs 12 feet and is going to do as little as possible. It would probably be only 3 days.

There were no other comments.

Jonathan Moriarty made a motion to close public hearing on Case # 3291 and was seconded by Kemal Denizkurt.

Voted 5-0

Jonathan Moriarty made a motion to approve Case # 3291 for a Variance under Section 120-56 frontage and width of parcel 4 as referenced on the plan filed with the application dated 1/22/2013 and was seconded by Chuck Golden. VOTED 5-0

The lot is currently a vacant lot, comprised of 4 lots and he seeks to build a single family home in an R-1 zone. There are currently two approvals on record with the town dated 2010 and 2014.

Additional Conditions:

1. only one lot can be built on this land and the applicant cannot come back in the future to try to subdivide this lot. (as written in the original condition) only this lot can be built upon with only one dwelling and cannot be further subdivided.
2. Repair utility trenches in Oak Cliff Road to be patched following DPW standards and specifications.
1. A separate driveway to the left of the lot is to be included. Pursuant to DPW's specification and requirements of 2 feet between both driveways be maintained at all points as practical given the existing ledge and rock outcroppings.
2. The roadway is to be repaired up to DPW standards prior to occupancy permits being released.
3. Hammering cannot take place until 9:00am and must end by 4:30pm and no weekends.

**THE COMMONWEALTH OF MASSACHUSETTS**

**WEYMOUTH**

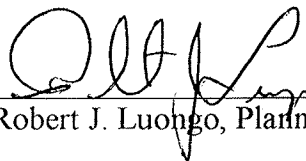
**BOARD OF APPEALS**

August 29, 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 Donald J. Rafferty, Jr., 22 B Sea Street, Weymouth, MA 02191, affecting the rights of the owner with respect to land or buildings at 0 Oak Cliff Road, also shown on the Weymouth Town Atlas Sheet 30, Block 396, Lot 36, 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.

  
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Robert J. Luongo, Planning Director

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Kathleen Deree, Town Clerk

Case # 3291

Date of Hearing: 6/22/2016, 7/27/2016