

**TOWN OF WEYMOUTH, MASSACHUSETTS
BOARD OF ZONING APPEALS
NOTICE OF DECISION ON VARIANCE/SPECIAL PERMIT
28 POND STREET**

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

Owner: Charles Cocce **Date:** June 29, 2016
Address: 83 Setterland Farm Road
Hanover, MA 02339

Applicant: Charles Cocce **Case #:** 3276
Address: 83 Setterland Farm Road
Hanover, MA 02339

Representative: **Site Address:** 28 Pond Street
Address: **Sheet:** 49
Block: 555
Lot: 10

RECEIVED
TOWN OF WEYMOUTH
TOWN CLERK'S OFFICE
2016 JUN 29 PM 2:45

Zoning District: R-2

Variance/Special Permit application filed on January 13, 2016. After a public hearing opened on March 9, 2016, continued to April 20, 2016, May 11, 2016, June 1, 2016, advertised in the Weymouth News on February 3, 2016, and February 10, 2016; and closed on June 1, 2016, the Board of Zoning Appeals at its meeting on June 1, 2016:

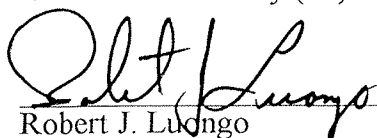
VOTED TO DENY THE VARIANCE/SPECIAL PERMIT request submitted under Zoning Ordinance 120-13.3 A; Alteration or Expansion Exceeding 10% of Existing Gross Floor Area; Table 1; Lot Area Required for 5 Units @5,000 SF per Unit; seeking an additional apartment in an existing ~2250 SF dwelling with 2 – 1 bedroom apartments and 2 studio apartments by constructing a third-floor shed dormer, increasing the third floor living space by ~723 SF.

FINDINGS:

It was the opinion of the Board that the Applicant was unable to demonstrate a hardship owing to circumstance relating to the soil conditions, shape or topography that was unique and limited to his property. Further, it was the Board's decision that any financial hardship imposed on the Applicant was not the result of a situation unique to this applicant or his property and not by the literal enforcement Town bylaws. The application was denied as per Section 120-119 of the Town of Weymouth Zoning Ordinance. The vote was 4-1 to deny the application.

Decision filed with the Town Clerk on June 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.



Robert J. Luongo
Director of Planning and Community Development

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, March 9, 2016

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

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 7:00 p.m. at the McCulloch Building and explained the procedures that would be followed to the people present.

New Business:

Case #3276 – The petitioner, Charles Cocce, for property located at **28 Pond Street**, shown on the Weymouth Town Atlas sheet 49, block 555, lot 10, located in the R-2 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-13.3 A Alteration or Expansion Exceeding 10% of Existing Gross
Floor Area
Variance; Table 1 Lot Area Required for 5 Units @ 5,000 SF per Unit

Presently located on the ~ 8800 SF lot, is a ~2250 SF dwelling with 2-1 bedroom apartments and 2 studio apartments. The petitioner seeks an additional apartment by constructing a third floor shed dormer, increasing the third floor living space by ~723 SF.

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

Ed Foley made a motion to open the public hearing on Case # 3276 and was seconded by Jonathan Moriarty.
VOTED UNANIMOUSLY

Ed Foley made a motion to waive the reading of the public notice on Case # 3276 and was seconded by Chuck Golden.
VOTED UNANIMOUSLY

Jonathan Moriarty disclosed that he owns a 2 family at 107-109 Pond Street which is a multifamily home. He does not feel that would impact his ability to be objective on this case.

Chairman McLeod as if there were any objections from the board and the public to have Mr. Moriarty participate on this case and there were no objections.

Appearing before the board was Charles Cocce born and raised in Weymouth. He owns several properties that he has purchased over the past 8 years. Two were purchased in Weymouth from the Delucas and he has improved them and has quality products. He is proposing to add a unit on the top floor and finishing out the attic to his multifamily house. It is an old wooden structure and will not exceed the current footprint of the building. He would like to dormer the back of the building by about 15 feet and finishing out the attic.

The applicant stated his request for a variance is needed because the lot is nonconforming. He has about 2250 square foot living area and he would like to add about 700 square feet to it. His only option is to go up and not change the footprint.

Kemal Denizkurt confirmed the applicant has 10 spaces which is 2 per unit. What type of stairwell is on the outside of the building. The applicant said he spoke with the building inspector and it will be a pressure treated stairway, not a circular one and will be inspected prior to the permit being issued. The building department feels it is not part of the side yard setback.

The house to the right is a 6 family and across the street and behind is house are multi-family units as well as up and down Pond Street. On the other side of him are condominiums.

Ed Foley said 10% of existing building is 225 square feet and you want 723 square feet which is almost triple the amount allowed. The applicant said he is trying to keep it a one bedroom upstairs. It was asked if he has considered doing a studio and it was stated yes but it's not his first choice. It is only required that he install a sprinkler system in the new unit or any addition going forward. He is hoping if he installs a sprinkler system in the whole house which is very costly, he could do this addition in exchange for it which would make it safer for everyone. The Fire Department is comfortable with his proposed sprinkler system and company he chose.

Right now it is required that he has 8 parking spaces.

Jonathan Moriarty confirmed with the applicant that he agrees to install the entire house with a sprinkler system and the applicant stated yes.

How will the trash pick-up work. It was stated that right now there are 2 trash and 2 recycle barrels and one of the tenants takes it out to the street. Jonathan Moriarty believes each unit is allowed their own trash and recycle unit.

Eric Schneider will find out if increasing the units to 5 will require an onsite dumpster.

Bob Luongo is concerned because it is in the R2 Zone and the R2 Zone says 1 unit 10,000 square feet for each additional unit you need 5,000 square feet. The applicant would need a 25,000 square foot lot and he only has an 8,000 square foot lot. He is concerned about what the hardship and

reasoning would be. He is getting a lot of feedback from the residents in the community about over building and doesn't want to open up this door. Sprinkling the whole building may not be enough.

The applicant stated that installing the sprinkler units throughout is very costly and proposes a hardship. Doing it one room at a time would be almost impossible. He is looking to recoup some of the costs by adding the 5th unit.

Chairman McLeod asked why he needs 700 square feet and not smaller. It was stated to make it more comfortable and it would require a dormer at least for the kitchen area. It would be too small without the dormer.

Public comment:

William Karen – 20 Pond Street, resident of Weymouth. The issue is that 8,800 square feet is not enough space for 5 units and the lot is not rectangular. He is not sure what the frontage on the lot is but doesn't believe there is enough space for backing up a vehicle as there would be only about 10 feet left.

Chairman McLeod said there isn't a certified plot plan to review the existing structure and parking lot and he is concerned due to the abutter's comments about parking. Bob Luongo said there are no measurements on the plan and he is concerned as well.

Chairman requested a certified plot plan with measurements from the applicant.

Jonathan Moriarty requested the square footage of surrounding lots and the number of each units broken down by condominiums and rental units. He would also like to see the 6-8 units on Randolph Street, second lot back. Eric Schneider will get this information to the board. Five units on an 8,000 square foot lot is questionable. He is not completely sold on the hardship yet.

Ed Foley is very concerned about setting a precedent. What else is out there that could come before us. He asked what the applicant could you do with 225 square feet? He stated it would be a very small unit.

Chris Primiano, 84 Rindge Street, feels he is really maximizing the density of the property. He asked if maybe they should use the space to add an additional bedroom the one unit. The applicant stated he looked at that but wants to avoid the two bedrooms.

Ed Foley made a motion to continue this public hearing to April 20, 2016 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, April 20, 2016

Members Present: Richard McLeod, Chairman
Kemal Denizkurt

Chuck Golden
Jonathan Moriarty
Ed Foley

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 7:00 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

Case #3276 – Continued Public Hearing from 3/9/16 - The petitioner, Charles Cocce, for property located at **28 Pond Street**, shown on the Weymouth Town Atlas sheet 49, block 555, lot 10, located in the R-2 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-13.3 A Alteration or Expansion Exceeding 10% of Existing Gross Floor Area

Variance; Table 1 Lot-Area Required for 5 Units @ 5,000 SF per Unit

Presently located on the ~ 8800 SF lot, is a ~2250 SF dwelling with 2-1 bedroom apartments and 2 studio apartments. The petitioner seeks an additional apartment by constructing a third floor shed dormer, increasing the third floor living space by ~723 SF.

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

Eric Schneider stated that the applicant Charles Cocce has requested a continuance on Case #3276.

Ed Foley made a motion to continue Case #3276 28 Pond Street to May 11, 2016 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Chuck Golden stated that he will not be here on May 11, 2016. Eric will let the applicant know in advance that 1 member will not be here.

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.

Old Business:

Case #3276 – Continued Public Hearing from 3/9/16, 4/20/2016 - The petitioner, Charles Cocce, for property located at **28 Pond Street**, shown on the Weymouth Town Atlas sheet 49, block 555, lot 10, located in the R-2 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-13.3 A Alteration or Expansion Exceeding 10% of Existing Gross Floor Area

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Presently located on the ~ 8800 SF lot, is a ~2250 SF dwelling with 2-1 bedroom apartments and 2 studio apartments. The petitioner seeks an additional apartment by constructing a third floor shed dormer, increasing the third floor living space by ~723 SF.

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

Appearing before the board was the applicant Charles Cocce. Mr. Cocce distributed a parking layout to the board. This was a plan of land by Peter Hoyt showing parking layout and was labeled as Exhibit A.

As there are only 3 members present this evening the applicant and board would like to continue this to the June 1, 2016 meeting.

Jonathan Moriarty made a motion to continue the public hearing to June 1, 2016 and the applicant has waived the time period in which the board needs to act on this case. This motion was seconded by Kemal Denizkurt.

VOTED UNANIMOUSLY

**BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, June 1, 2016**

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

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 7:05 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

Old Business:

Case #3276 – Continued Public Hearing from 3/9/16, 4/20/2016, 5/11/2016 - The petitioner, Charles Cocce, for property located at **28 Pond Street**, shown on the Weymouth Town Atlas sheet 49, block 555, lot 10, located in the R-2 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-13.3 A Alteration or Expansion Exceeding 10% of Existing Gross
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Sitting Members: Richard McLeod
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Ed Foley

Appearing before the board was the applicant Charles Cocce. This includes 2 studios and 3 (1) bedroom apartments. His only option is to add up. He will add a full house sprinkler system to make it safer as it was built in the 1800's. The applicant had a plot plan engineered which allows

to pave over existing lawn if the turnaround is needed. He would like to keep as much green area as possible.

Eric said that a neighbor came into the office today and had a question about the paving and wanted to know if there was a trigger point in which increasing impervious would trigger an additional site plan review. Eric reviewed it and said this amount of impervious would not trigger an additional site plan review.

Public Comment:

Richard DeLuca, 85 Washington Street, owns the Liberty Travel Building and 71 Pond Street – He does not feel this proposal would be detrimental to the neighborhood and is in support of it.

Ed Foley said he is concerned about setting a precedence with the floor/area ratio. He really wished the applicant would consider a two bedroom. He also expressed concerns with parking spaces 9 and 10.

Jonathan and Kemal asked what the hardship was. They do not see it here. Jonathan said he heard from the applicant that he needs this addition to make more money otherwise he can't afford it and Jonathan does not believe not making enough money is a hardship.

The applicant said he has heard that his neighbors have done it because years ago it was allowed. He would prefer to keep the top floor as a 1 bedroom or a studio. The building inspector has said he could put a one bedroom unit on the second floor apartment but he prefers a studio instead.

As a matter of right he could put a second bedroom in the top unit to expand another unit but he would prefer not to do that. The applicant likes one bedroom or studio apartments.

Ed Foley said the board looks at each case individually but considers the impacts down the road.

The applicant said it is less expensive for him to do it the other way which he has a right without a variance, but he is willing to sprinkler the entire house to build it this way.

Back in the early to mid 1970's there were a lot of multi-family units approved by the town.

Chairman McLeod said what is unique about this is that we are asking the applicant to sprinkler the entire house to make it safer for the residence and that is expensive.

Kemal said he struggles with the fact that we are trading off a variance for additional public safety.

Chairman McLeod said it is not a very big addition. He could go either way. No matter what he will be adding an additional person to the building.

Chuck said he is creating the hardship himself by putting in the sprinkler system. He has a problem with setting a precedence. He has a compromise available by adding another bedroom.

Jonathan asked how much has the house been updated with modern materials over the years? The applicant stated that each time a unit has become available he has painted the walls, updated

plumbing fixtures, replaced the flooring and in some cases installed new kitchens. He would like to renovate bathrooms going forward.

Chairman McLeod explained the procedure to the applicant that is does not appear he will get the support of the board on this and if the applicant wishes, he could withdraw without prejudice or continue forward with a vote. The applicant stated he would like to continue forward with a vote.

Jonathan asked since 1800 has the insulation been changed to modern insulation, new sheetrock etc. The applicant stated that in some cases he has resheet rocked but not throughout the building. The gentleman that owned the building prior to him had it for 25 years. Electricity has been updated and is more modern as well as having vinyl siding.

Ed Foley made a motion to close the public hearing and was seconded by Kemal Denizkurt.
VOTED UNANIMOUSLY

Ed Foley made a motion to deny this application on Case # 3276 as he does not believe there is sufficient hardship to grant this variance and was seconded by Jonathan Moriarty.
Voted 4-1 (McLeod – opposed) Motion passes.