

**TOWN OF WEYMOUTH, MASSACHUSETTS
BOARD OF ZONING APPEALS
NOTICE OF DECISION
11 WATER STREET**

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

Owner:	MD Auto Repair LLC	Date:	2/21/2017
Address:	11 Water Street Weymouth, MA 02189		
Applicant:	Marian Dorosz	Case #:	3314
Address:	11 Water Street Weymouth, MA 02189		
Representative:	N/A	Site Address:	11 Water Street
		Sheet:	23
		Block:	306
		Lot:	9

Zoning District: B-2

Board of Zoning Appeals application filed on November 22, 2016.

After a public hearing on January 4, 2017, advertised in the Weymouth News on December 21, and December 28, 2016, the Board of Zoning Appeals at its meeting of January 4, 2017

VOTED TO GRANT THE SPECIAL PERMIT under Weymouth Zoning Ordinance Section 120-40, Extension or change of Nonconforming Use to grant relief for the petitioner to construct a ~16' X 32' addition to an existing garage used for auto repair and provide stormwater improvements per "Plot Plan, 11 Water Street, Weymouth, MA," prepared by James McGrath, PLS, dated September 27, 2016, and "Proposed Addition, 11 Water Street, Weymouth, MA" prepared by Joyce Consulting Group, dated October 4, 2016, revised November 16, 2016.

FINDINGS:

1. The specific site is an appropriate location for such a use.
Applicant currently uses site as an auto repair shop. Applicant is looking to upgrade the site with the addition which will close in the vehicles being worked on and lessening the noise.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
The change will include the treatment of water run-off, and increase the quality of water being sent into the Herring Run.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
Buses driving onto property are going over the culvert and part of the condition is that a professional engineer will look at this and give a structural assessment.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
Storm water run-off plan has been submitted.
5. That the public convenience and welfare will be substantially served with the proposal.
Storm water will be treatment which will increase the water quality.

CONDITIONS:

1. All required environmental permitting must be obtained prior to issuance of a building permit.
2. The applicant will hire a professional engineer to prepare a structural assessment of the culvert to determine whether the culvert can safely sustain existing and proposed loads, provide structural repair/maintenance recommendations as needed, and provide a maintenance plan for the future. No building permits will be issued until the Inspector of Buildings is satisfied with these findings. All repairs to be made as per recommendations of the structural study.
3. Monitoring equipment will be installed as recommended in the structural assessment.
4. A structural assessment shall be conducted every 24 months with copies sent to the Conservation Commission and Inspector of Buildings.

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) 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 21, 2017**

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, January 4, 2017

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

Also Present: Eric Schneider, Principal Planner
Janet Murray, 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.

Chairman McLeod explained to those present that there are three cases that were scheduled for this evening for which one of the board members is not present. He stated that each applicant has the option to go forward with the hearing with only four out of five members present or to continue to another date. He further noted that if an applicant chooses to have their case heard this evening, they must receive a unanimous vote of the four sitting members.

Case #3314 - The petitioner, Marian Dorosz, for property located at **11 Water Street** also shown on the Weymouth Town Atlas sheet 23, block 306, lot 9, located in a B-2 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: 120-40 Extension or Change of Nonconforming Use

Presently located on the ~ 25,000 SF lot is an existing garage with two service bays for an auto repair business. The petitioner seeks to construct a ~ 16' X 32' addition to the existing garage and to provide storm water improvements. The repair shop is an allowable use with a Special Permit. The application seeks to extend that use.

Mr. Foley made a motion to re-open the public hearing on Case #3314 and was seconded by Mr. Moriarty. **VOTED UNANIMOUSLY.**

Mr. Foley made a motion to waive the reading of the publication on Case #3314 and was seconded by Mr. Moriarty. **VOTED UNANIMOUSLY.**

Mr. Adam Brodsky, land-use lawyer in Hingham, appeared before the Board and noted that he was standing in for his colleague Mr. Kevin Burke. The applicant, Mr. Dorosz, also appeared before the Board.

Mr. Brodsky noted that there are existing bays for auto repair on the property which is allowed by special permit.

Mr. Brodsky stated that the applicant would like to add a 16' X 32" addition to the existing garage. The business repairs, among other things, buses. At present, a bus is unable to be worked on completely inside the building. The purpose of the addition is to allow for this to happen.

Mr. Brodsky noted that there is currently no storm water management on the site. Mr. Brodsky added that Herring Brook runs under the property. A Notice of Intent has been submitted to the town's Conservation Commission.

The Commission has raised concerns about the structural integrity of the culvert. There is a meeting scheduled for later this week to discuss this matter.

Mr. MacLeod asked if the proposed addition is an entrance into the main garage and the bus or large truck would pull straight in? Mr. Brodsky stated that any vehicle would only be able to pull straight in.

Mr. Foley stated that he visited the site today and was looking at the culvert. He noted that the fascia piece was rotted. He asked if the culvert had been in place for 50 years.

Mr. Brodsky stated that he was not certain as to how long the culvert had been in place and there has been discussion as to the ownership of the culvert. Although the culvert is clearly located on the applicant's property, ownership is unclear.

Mr. Foley asked how they currently work on buses. Mr. Dorosz stated that they are currently unable to close the bay doors, so the vehicle being worked on is only half in the bay.

Mr. Foley asked how close to the culvert the addition is. Mr. Dorosz stated that it is 21' from the culvert.

Mr. Brodsky stated that a storm water management system would meet the Department of Environmental Protection (DEP) standards. It would entail a rain garden.

Mr. Denizkurt asked what the building material will be and what is the building height. Mr. Dorosz stated that the material will be cinder block and the height is approximately 14 feet.

Mr. Schneider stated that the application has staff support although there are still open issues regarding the culvert.

Mr. Brodsky expressed concern that conditions could result in the need to return to the board since there are further meetings scheduled.

Mr. MacLeod stated that minor changes can be done administratively.

The public was given the opportunity to speak and there were no public comments.

Mr. Foley made a motion to close the public hearing on Case #3314 that was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Mr. Foley made a motion to APPROVE a Special Permit for Case #3314 with the following conditions are met before the special permit is granted and was seconded by Mr. Moriarty:

5. All required environmental permitting must be obtained prior to issuance of a building permit.
6. The applicant will hire a professional engineer to prepare a structural assessment of the culvert to determine whether the culvert can safely sustain existing and proposed loads, provide structural repair/maintenance recommendations as needed, and provide a maintenance plan for the future. No building permits will be issued until the inspector of Buildings is satisfied with these findings. All repairs to be made as per recommendations of the structural study.
7. Monitoring equipment will be installed as recommended in the structural assessment.
8. A structural assessment shall be conducted every 24 months with copies sent to the Conservation Commission and Inspector of Buildings.

VOTED UNANIMOUSLY.

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 120-40.

6. The specific site is an appropriate location for such a use.
Applicant currently uses site as an auto repair shop. Applicant is looking to upgrade the site with the addition which will close in the vehicles being worked on and lessening the noise.
7. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
The change will include the treatment of water run-off, and increase the quality of water being sent into the Herring Run.
8. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.

Buses driving onto property are going over the culvert and part of the condition is that a professional engineer will look at this and give a structural assessment.

9. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.

Storm water run-off plan has been submitted.

10. That the public convenience and welfare will be substantially served with the proposal.

Storm water will be treatment which will increase the water quality.

THE COMMONWEALTH OF MASSACHUSETTS

WEYMOUTH

BOARD OF APPEALS

February 21, 2017

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 Marian Dorosz, 11 Water Street, Weymouth, MA 02189, affecting the rights of the owner with respect to land or buildings at 11 Water Street, Weymouth, MA, also shown on the Weymouth Town Atlas Sheet 23, Block 306, Lot 9, 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 # 3314

Date of Hearing: 1/4/2017