

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, December 3, 2014**

Members Present: Richard McLeod Chairman
Chuck Golden
Kemal Denizkurt
Jonathan Moriarty
Brad Vinton

Absent: Ed Foley, Vice Chairman

Also Present: Jim Clarke, Director of Planning
Lee Hultin, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:25 p.m. at the McCulloch Building and explained the procedures that would be followed to the people present.

NEW BUSINESS

Case # 3246 – 330 Libbey Industrial Parkway – Public Hearing

The petitioner, Andre Almeida for property located at 330 Libbey Industrial Parkway, also shown on the Weymouth Town Atlas Sheet 38, Block 445, Lot 28, building 330, located in a POP (Planned Office Park), Groundwater and Watershed Protection overlay zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Place of recreation or assembly (Article XA, Section 120-35.2.2 H).

Presently located on the premises are two buildings occupied for office and light industrial warehouse uses. The petitioner is proposing a ~3,000 SF martial arts studio in unit 500 in the rear building.

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

Kemal Denizkurt made a motion to open the public hearing on Case # 3246 – 330 Libbey Industrial Parkway and was seconded by Jonathan Moriarty. Voted unanimously.

Kemal Denizkurt made a motion to waive the reading of the published legal notice on Case# 3246 – 330 Libbey Industrial Parkway and was seconded by Jonathan Moriarty. Voted unanimously.

Appearing before the board was Jim Faux and Aundrea Meda. They stated that their school is a ground sport and the majority of the classes are in the evening. Peak classes may have 10-12 people and there are 2 instructors. They stated that they believed there is ample parking on site. The business is currently in Rockland and they have about 100 students with different skill levels. They are leaving Rockland due to their location in that town. This location in Weymouth is very close to the highway and is a larger space.

They also have a small factory in Farmington, Maine where they make uniforms. There will be no manufacturing out of Weymouth or storage of any products here.

Brad Vinton asked if there would be specific designated parking for the employees or for patrons. Mr. Vinton said that he was concerned with the parking. He visited the site and the surrounding businesses and learned that there is the Stars Cheerleading School in building 1 that has evening classes until 9:00 PM and the Dialysis Center has a deeded parking spaces and ambulances drop-off. Additionally, the one way around the building was not identified with adequate signage – only one small one way sign not visible until you have already driven down the one way.

The property manager, Steven Syman, was present and said they have five (5) parking spaces directly in front of the building and then some shared spaces. The spaces from #400 down are all deeded spaces. There are 31 common spaces on site.

Kemal Denizkurt asked for a layout of who the tenants / businesses in the building and who owns what parking spaces. This map should be labeled to show any and all deeded spaces or designated spaces and show each use to correspond with the businesses and all be color coded.

The Board agreed that signage in the parking lot is not adequate and needs to be addressed especially with a lot of people coming and going. The property manager was present and said that he will address this. The biggest concern is the one-way traffic flow.

Chuck Golden asked if the uniforms will be sold and thus make the proposed use retail? The applicant responded that they will not be selling the uniforms at this location because they are sold at their Maine location.

Ms. McCabe reviewed her staff memo dated November 26, 2014. The Health Department submitted comments regarding the Town's Nuisance Ordinance and that the air quality ventilation for indoor air contaminants should be considered by the applicant. The applicant responded that they received the comments and that they would take into consideration the space's ventilation and the other tenants in the building. She added that she noticed that the one way signage was not clearly identified when visiting the site.

Chairman McLeod opened the hearing up for public comment. The public was given the opportunity to speak and there were no comments.

Jonathan Moriarty made a motion to continue the public hearing to January 7, 2015 for the applicant to submit the requested information on the parking and tenant / use layout. The motion was seconded by Brad Vinton. Voted unanimously.

Case # 3247 – 135 Central Street – Public Hearing

The petitioner, N.T. Development for property located at 135 Central Street, also shown on the Weymouth Town Atlas Sheet 50, Block 563, Lot 13, located in a R-1 (Single-Family / Low Density Residential) and the Watershed Protection Overlay zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Extension or change of a non-conforming structure. The lot is under the 5,000 SF minimum required lot size (Article XIII Section 120-40, Article XV Section 120-52, and Section 120-58).

Variance: Relief of 2.25 ft. from the minimum side yard setback (10 ft. required, 7.75 ft. proposed) (Article XV, Section 120-51 Dimensional Regulations, Table 1).

Presently located on the premises is a single-family residence. The petitioner is proposing to raze and rebuild the single-family dwelling on a different footprint within the side yard setback.

Jonathan Moriarty made a motion to open the public hearing on Case # 3247 – 135 Central Street and was seconded by Kemal Denizkurt. Voted unanimously.

Jonathan Moriarty made a motion to waive the reading of the published legal notice on Case# 3247 – 135 Central Street and was seconded by Kemal Denizkurt. Voted unanimously.

Appearing before the Board was Attorney Greg Galvin and the applicant Norman Preston. Attorney Galvin summarized the application before the Board. They are proposing to tear down the existing single-family dwelling to construct a new single-family on two floors but within a smaller footprint than the existing house. Attorney Galvin reviewed the items outlined in Ms. McCabe's memorandum. In response to staff's comment asking if the property will have the two required parking spaces, he stated that they will need to widen the existing driveway off of Elinor Road, they were okay with the Water Division's recommendation to replace the existing water services with a new 1 inch Type K copper service but had issues with the Sewer Division's comments requesting the existing 5 inch service to be replaced with 6 inch PVC service to the main in Central Street. If this needs to be done then Central Street will need to be excavated. This footprint will be smaller than what is existing. They will pitch the gutters so one goes to the front and one goes to the back of the building. The tree will remain but will probably need trimming during the construction.

The current house is about 1,000 square feet and the new one is just under 1,600 square feet. It is going from a 2 bedroom to a 3 bedroom. Mr. Preston stated that it is his intent to sell the property once completed. The applicant stated that he has spoken to all the abutters and everyone welcomes the idea.

The Chairman opened the hearing up to public comment.

Public Comment:

Bob Montgomery Thomas, Washington Street resident, asked if they could replace the sewer line from the house out to the property line and then excavate the street when it is opened to continue it all the way and have the applicant clean up the sidewalk in front of the house to make it look good.

The applicant responded that the driveway will be paved and widened by 3 feet and it is 18 feet long.

Jonathan Moriarty made a motion to close the public hearing on Case # 3247 and was seconded by Kemal Denizkurt. Voted unanimously.

Kemal Denizkurt made a motion to approve the requested Special Permit under Sections 120-40, 120-52, & 120-58 for the undersized nonconforming lot and the motion was seconded by Jonathan Moriarty.

The Board had the following findings of fact:

1. The specific site is an appropriate location for such a use:
The property is in the R-1 zoning district. There are 14 properties on the block and only two properties are over 5,000 SF (9,952 and 10,000 SF).
2. The use involved will not be detrimental to the established or future character of the neighborhood or town.
The petitioner's proposal to construct a two-story dwelling has a smaller building footprint than the existing one story structure.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
The applicant has agreed to provide the required two parking spaces on the property and built to the 19 x 18 foot standard by widening the existing driveway.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
The Board is going to condition that the sewer line is as required and acceptable by the Department of Public Works. The residence has existed on the parcel for approximately 80 years.
5. The public convenience and welfare will be substantially served.
The applicant is tearing down a single family and building a single family.

The motioned for the Special Permit was unanimously voted.

Kemal Denizkurt made a motion to approve the Variance for the relief of 2.25 ft. from the minimum side yard setback on Case # 3247 and was seconded by Jonathan Moriarty. The motioned was unanimously voted on the following findings of the Board.

1. Owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinances would involve substantial hardship, financial or otherwise.

Eight of the fourteen properties (57%) on the Central Street block between Elinor and Georgia Road appear to be noncompliant with side and/or rear setbacks. Hone in the area were generally constructed prior to the adoption of the subdivision control laws and they are proposing less variance with the proposed use than the current use.

2. 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.

The applicant is moving the building footprint 1.5 foot further from the side lot line and thus becoming more conforming to meet the 10 ft. minimum requirement than the existing dwelling.

The Board placed the following Conditions of approval on the application:

- The remainder of the lot, exclusive of the building footprint and the driveway, remain as greenspace
- There be roof drains to the front and rear of the property
- Minimum of two (9x18) off-street parking spaces be provided
- That the water line be replaced with a new 1 inch Type K copper service to the main in Central Street.

Review Amendments to the Board's Rules and Regulations

Abby McCabe sent out a revised set of Rules and Regulations for the Board's review. The following amendment were made:

- Formatting and spacing
- Replaced "section" with the §
- Minor grammatical changes
- Increasing the timeframe for revised material to be submitted from 5 days to 10-15 business days prior to a continued public hearing
- Section 6.9 "Storm Drainage Design" was previously an exhibit to the Rules and has now been integrated into the document.
- Section 6.4 "Floor Plans" and 6.5 "Elevation Drawings" were amended.

Kemal Denizkurt asked if Ms. McCabe could use her professional judgement as to what is required before the applicant appears before the Board.

Jonathan Moriarty made a motion to approve the revised Board of Zoning Appeals Rules and Regulations amended 12/3/2014 and was seconded by Kemal Denizkurt. Voted unanimously.

Bob Thomas asked if his suggested amendment and definitions sections were added. Ms. McCabe stated that she did not include them because the use definitions were incorporated into the new applications adopted by the Board last month and all amendments have been added at this time but could be added to the end of the document in the future.

Approval of Minutes –November 19, 2014 - Review of the meeting minutes was continued to the January 7 meeting.

Other Business –

Ms. McCabe informed the Board that there the Council's Economic Development Committee meeting a meeting tomorrow evening at Abigail Adams Middle School on the Delegas property in the landing. The Chairman reminded any members to not comment if they attend because the project will becoming before them.

Upcoming Meetings –January 7, 2015, January 28, 2015, February 11, 2015

ADJOURNMENT

Jonathan Moriarty made a motion to adjourn at 8:30 pm and was seconded by Kemal Denizkurt. Voted unanimously

Respectfully submitted by,

Lee Hultin

Recording Secretary

Approved by:

 1/7/15

Kemal Denizkurt, Clerk

Date