

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS

April 10, 2018, 7:00pm
McCulloch Building, Mary McElroy Room
182 Green Street, Weymouth, MA 02191

RECEIVED
TOWN OF WEYMOUTH
TOWN CLERK'S OFFICE
2018 APR 15 AM 8:42

Members Present: Richard McLeod, Chairman
Ed Foley
Jonathan Moriarty
Rob Christian

Not Present: Kemal Denizkurt
Brandon Diem

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.

New Business:

CE/S/H

1. **Case #3381** - The petitioners Lisa Nollet and Paula Ayers, for property located at **125 Fort Point Road**, also shown on Weymouth Town Atlas sheet 2, block 6, lot 12, located in the R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: 120-38.3 (D) Construction within a floodplain

The subject property is 3,165 SF with an existing single-family home. Petitioner seeks to raise the existing home on pilings to bring the Base Flood Elevation (BFE) above existing flood elevation under the Federal Emergency Management Agency (FEMA) Home Elevation Grant.

The applicant was not present. The public hearing was not opened.

Mr. Foley made a motion to continue Case #3381 until the next meeting on May 8, 2019 and was seconded by Mr. Moriarty. **UNANIMOUSLY VOTED.**

2. **Case #3382**- The petitioner Eileen King Collins, for property located at **7 Birch Road**, also shown on the Weymouth Town Atlas sheet 2, block 7, lot 6, located in the R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: 120-38.3 (D) Construction within a floodplain

The subject property is 3,165 SF with an existing single-family home. Petitioner seeks to raise the existing home on pilings to bring the Base Flood Elevation (BFE) above existing flood elevation.

Mr. Foley made a motion to open the public hearing on Case #3382 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

The applicants appeared before the board. They are requesting to raise the structure on the same footprint.

Mr. Moriarty asked how high the building will be raised. Ms. Collins stated that it would be raised 15 feet which is 3 feet above the BFE.

Mr. Moriarty asked if there will be screening. Ms. Collins stated that they are willing to do this.

Mr. McLeod noted that there would be a condition that screening be installed within one year of the completion of the project.

Mr. McLeod asked if there was anyone present who would like to speak. There was no response.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3382.

SPECIAL PERMIT

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

The special permit is issued with the condition that breakaway screening, approved by the Building Department, be installed within one year of receipt of the Occupancy Permit and the Conservation Commission Order of Conditions be adhered to.

The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

3. **Case #3379** - The petitioner Ronal J. Cavallo, for property located at **137 Wessagussett Road** also shown on Weymouth Town Atlas sheet 4, block 36, lot 3, located in the R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: 120-38.3 (D) Construction within a floodplain Variance
120-52 (constructing on a lot of less than 5,000 sf)
Variance: Dimension Requirements (height and side setback)

The subject property is 4,900 SF with an existing single-family home. Petitioner seeks to demolish the existing home and construct a new home above the Base Flood Elevation (BFE).

Mr. Foley made a motion to open the public hearing on Case #3379 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Cases #3379 and #3380 are from the same applicant for adjacent lots and will be discussed together.

Ron Cavallo, the developer, appeared before the board. He introduced Johnathan Long, his assistant and Mr. Beretto, the architect. Mr. Cavallo stated that both applications are looking to demolish existing structures and build new dwellings. He is requesting two special permits and variances for height and side setbacks.

Mr. McLeod asked if the plans will exceed the current setbacks.

Mr. Beretto stated that the structures are larger than the current dwellings' footprint and will further encroach on the side setbacks which are existing nonconforming; the front setback will be decreased.

Mr. Foley read an email submitted by Gerard Boudreault. Mr. Boudreault expressed his opposition to the project but was unable to attend this meeting.

Mr. Boudreault asserted that 137 Wessagussett is a utility shed not a single-family home.

Mr. Schneider stated that both he and the Building Inspector have looked into this property at length and have determined that it is a single-family dwelling with a kitchen, a bathroom, and a separate address.

Mr. Beretto stated that the dwelling is a small beach cottage with sewer, water, and electrical connections.

Mr. Foley asked if the new dwelling will be a one bedroom.

Mr. Cavallo stated that the proposed dwelling will be a three bedroom, 2 ½ bath home with 2800 square feet.

Mr. Moriarty asked about the abutter's request to make no decision on these applications as he is unable to attend. Mr. McLeod stated that the Building Inspector disagrees with Mr. Boudreault's assertion that one of the dwellings is a utility shed. Mr. Schneider added that Mr. Boudreault stated that he would not be back in the state until June 10, 2019. Mr. Foley continued that Mr. Boudreault could have hired a representative to appear on his behalf.

Mr. Cavallo spoke to the state and condition of the abutting pumping station which has barbed wire, and no landscaping. He stated that he is willing to participate, economically, to improve the building.

Mr. McLeod asked if these buildings exceed the 35-foot height restriction. Mr. Schneider stated that both proposed dwellings exceed the limit. He noted that none of the other, similar applications for this type of relief have required height variances.

Mr. Cavallo stated that the kitchen, living area, and open space will be on the second level. The need for the 1-foot height variance is to accommodate a storage lot. The extra foot will improve the lofted space and rooflines. He continued that he did not believe that the additional foot would be visible from the street or have an impact.

Mr. McLeod noted that the stairs and loft space are not shown on the plans.

Mr. Foley asked where the mechanicals will be located. Mr. Cavallo stated that there is a pantry/office. Mr. Beretto stated that next to the washer/dryer there is space for mechanicals.

Mr. Foley asked if there will be an attic. Mr. Cavallo stated that there will not be an attic.

Mr. Moriarty stated that he does not see the need for the height variance.

Mr. Beretto stated that he was looking to keep the aesthetics of the pitch of the roof but that it could be decreased.

Mr. McLeod stated that granting height variances can set precedence and the Board is hesitant to do this as the hardship seems to be self-imposed.

Mr. Cavallo withdrew the request for the height variance. He reiterated his concern regarding the poor condition of the area surround the town's pumping station.

Mr. Foley asked if there has been any conversations with the Department of Public Works (DPW) about the condition of the pumping station. Mr. Schneider stated that there had not been any at this point.

Mr. Schneider noted that the applicant still needs to go before the Conservation Commission.

Mr. Moriarty asked if there will be breakaway screening. Mr. Cavallo stated that it had not been planned.

Mr. McLeod asked if there was anyone present who would like to speak. There was no response.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3379.

SPECIAL PERMIT

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

The special permit is issued with the condition that breakaway screening, approved by the Building Department, be installed within one year of receipt of the Occupancy Permit or prior to the sale of the property and the Conservation Commission Order of Conditions be adhered to.

The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

VARIANCE

Mr. Foley made a motion to approve this application for a variance for the side yard setback because the applicant has shown a hardship due to the shape, size, and topography of the lot. The Board is able to grant the variance without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

4. Case #3380 - The petitioner Ronal J. Cavallo, for property located at **141 Wessagussett Road** also shown on Weymouth Town Atlas sheet 4, block 36, 4, located

in the R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: 120-38.3 (D) Construction within a floodplain Variance
120-52 (constructing on a lot of less than 5,000 sf)
Variance: Dimension Requirements (height and side setback)

The subject property is 3,600 sf with an existing single-family home. Petitioner seeks to demolish the existing home and construct a new home above the Base Flood Elevation (BFE).

Mr. Foley made a motion to open the public hearing on Case #3380 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Testimony is given under Case #3379.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3380.

SPECIAL PERMIT

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

The special permit is issued with the condition that breakaway screening, approved by the Building Department, be installed within one year of receipt of the Occupancy Permit or prior to the sale of the property, and the Conservation Commission Order of Conditions be adhered to.

The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

VARIANCE

Mr. Foley made a motion to approve this application for a variance for the side setback because the applicant showed a hardship due to the shape, size, and topography of the lot. The Board is able to grant the variance without substantial

detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

5. Case #3384 - The petitioner Paul Pompeo, for property located at **126 Wessagussett Road** also shown on Weymouth Town Atlas sheet 4, block 49, lot 2, located in the R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: 120-38.3 (D) Construction within a floodplain Variance
120-52 (constructing on a lot of less than 5,000 sf)
Variance: Dimensional Requirements (height, setbacks and lot coverage)

The subject property is 2,173 SF with an existing single-family home. Petitioner seeks to demolish the existing home and construct a new home above the Base Flood Elevation.

Mr. Foley made a motion to open the public hearing on Case #3384 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Ron Cavallo appeared before the Board on behalf of the applicant.

Mr. Beretto stated that this lot is 2173 SF. The original house was a beach cottage that has been added to over the years. The dwelling has been damaged beyond repair by the storms last year. The proposal calls for it to be demolished. The front, side and rear setbacks are nonconforming. The new dwelling will be pulled back, away from the seawall. The new structure will be 2100 SF.

Mr. Cavallo spoke to the deplorable condition of the existing property. He added that most of the lot will be impervious and parking will be under the dwelling.

Mr. McLeod stated that it appears that the applicant is creating the hardship by putting such a large dwelling on the property.

Mr. Schneider asked if the applicant has spoken to the Building Inspector about the slope of the lot and the average height.

Mr. Moriarty asked about lot coverage.

Mr. Foley pointed out that the By-law requirement is 30%.

Mr. Cavallo stated that the existing lot coverage is presently 71% and would be decreased to 50%.

Mr. Schneider stated that these issues will also be taken up at the Conservation Commission regarding the house, the pool, and the deck in the back.

The applicant asked to withdraw the application without prejudice.

Mr. Foley made a motion to allow the applicant to withdraw without prejudice for case #3384 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

6. Case #3383 - The petitioner Weymain, LLC for property located at **204 Main Street** also shown on the Weymouth Town Atlas sheet 29, block 375, lot 5 located in the B-1 Zoning District. The petitioner is seeking the following relief from the Weymouth Zoning Ordinance:

Special Permit: 120-40 Extension or change to nonconformity

The subject property is currently the site of a +/- 6,000 SF drive thru car wash that has sustained storm damage. Petitioner seeks to demolish the existing structure and to rebuild with the addition of a modern storm water management system.

Mr. Foley made a motion to open the public hearing on Case #3383 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Brandon Lee from Kelly Architect Group appeared before the Board on behalf of the applicant. Also present were Michael Gardner, and Gerry Sealund.

Mr. Lee presented the applicant's request to demolish the existing structure and rebuild. The building was damaged beyond repair from a storm.

Mr. Sealund gave an overview of the design of the project.

Mr. McLeod asked if this new car wash will require people to remain in their vehicles.

Mr. Sealund noted that it is possible for the driver to leave the car, but he does not expect that this would be the norm.

Mr. Foley asked about the vacuums.

Mr. Sealund stated that the vacuum bays are angular. The number of bays has been reduced from 10 to 6 in part to accommodate the touchless bay which makes the building bigger in width.

The touchless bay is automatic. The car owner will pay at an ATM-type device and will then proceed into the bay where the machine will clean the vehicle. The driver will remain in the vehicle.

Mr. Moriarty asked if the door to the car wash will remain open.

Mr. Sealund noted that in the winter the doors would likely be closed and open in the summer. He added that they will be high-speed fabric doors and partially transparent.

The applicant has been before the Conservation Commission.

Mr. McLeod asked if there was anyone present who would like to speak. There was the following response.

Mr. Chad Deluca appeared before the board on behalf of his father Paul Deluca, the owner of 208 Main Street. Mr. Deluca expressed thanks to the applicant for previous pipe work done to deal with water issues. He noted that his father's property had flooded in the past. He added that there have been no water issues or flooding now.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3383.

SPECIAL PERMIT

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

The special permit is granted with the condition that the test pits are not placed next to the building at 208 Main Street as per the Conservation Commission Order of Conditions and the Engineering Department comments be adhered to.

The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Minutes: 3/6/19 and 3/20/19 if received

Upcoming Meetings: May 8, 2019

ADJOURNMENT

Mr. Foley made a motion to adjourn at 8:45pm and was seconded by Mr. Moriarty.
VOTED UNANIMOUSLY.

Approved by:

Mr. Denizkurt, Clerk

A handwritten signature in dark ink, appearing to read "Kemal Deniz Kurt", written over a horizontal line.

5-8-19
Date