

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

December 11, 2019, 7:00 p.m.
McCulloch Building, Mary McElroy Room
182 Green Street, Weymouth, MA 02191

RECEIVED
TOWN OF WEYMOUTH
TOWN CLERK'S OFFICE
2019 DEC 10 PM 9:31

Members Present: Richard McLeod, Chairman
Jonathan Moriarty
Ed Foley
Brandon Diem

Not Present: Kemal Denizkurt

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:

1. **Case #3400** - The petitioner, Town of Weymouth, for property located at **1051 Commercial Street** also shown on Weymouth Town Atlas sheet 18, block 245, lot 1, located in the POS Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

| | | |
|----------|--------|--|
| Variance | 120-51 | Building height requirements for the POS district |
| Variance | 120-57 | Building height requirements for districts abutting the R-1 district |

The subject property is 206,000 sf with an existing campus consisting of a middle school building and sheds. Petitioner seeks to demolish the exiting school, parking areas, and landscape areas to construct a new school building, including all associated utilities, stormwater system, ADA compliant parking & drives, and landscaping. The building height for a two story school building is taller than a standard two story building of a different type.

Mr. Foley made a motion to open the public hearing on Case #3400 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.

Matt Larue and James Liebman, HMFH, Steve Martell, Civil Engineer, and Simon Tempest, Hill International, Owner's Project Manager (OPM) appeared before the Board on behalf of the applicant.

Mr. Liebman gave an overview of the New Chapman Middle School Project. He stated that the hardship causing a need for a variance is that the building has a very large footprint and is designed to step with the topography of the site which is fairly steep; this results in a taller building when compared to mean grade especially at the high end of the site. He added that to attempt to level the site would be very expensive as there is a lot of ledge and the need for fill would be large.

Additionally, Mr. Liebman stated that the floor-to-floor height for school buildings is higher than most buildings at 14 feet, 4 inches.

Mr. Larue pointed out that all of the volumes are a maximum of two stories but the heights vary depending on the grade.

Mr. Schneider stated that the Engineering Department has begun its initial review and has given an initial set of comments to the team.

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

Dan Daley, 28 Fisk Avenue, asked for clarification of the mean grade calculation.

Mr. Martell stated that it was calculated from ground surface at various points of the site. He added that the slope change across the site is 22 feet.

Mr. Daley expressed concern that the exact mean height relative to today's building is not stated.

Mr. Martell stated that to survey the roof of the existing building is cost determinant. He added that it is not a standard to find out the existing building height for a building that is being demolished.

Mr. Daley stated that this is troubling to him. The applicant is asking for a variance. He added that he is in favor of the project. He is concerned because the new wing will look right into his backyard.

Mr. McLeod stated that for them to determine the existing height of a building about to be demolished is not something that the Board would want to know. The Board is looking at why there is a need for the variance. Usually the Board looks at the topography and shape of the lot itself. In this particular case, the shape of the lot does not allow them to expand the building for more space and they have to go higher for more space.

Mr. Daley stated that the proposed building will come 40-45 feet closer to Fisk Avenue and he does not follow the logic.

Mr. McLeod stated that in order to obtain a variance, they must demonstrate hardship caused by the shape of the lot, the topography of the lot, and soil conditions.

Mr. Daley stated that he believes that a wall and six-foot fence will lead up to Fisk Avenue.

Mr. Liebman stated that they are at the tail end of developing the perimeter conditions. He continued that on December 17, 2019, there will be a public forum where abutters can sign up for individual assessments of their property. He confirmed that it is a retaining wall and a fence.

Mr. Daley asked why the roof will be 40 feet.

Mr. Larue stated that the roof above the cafeteria is where all of the different levels come together. He stated that 40 feet is from the mean grade but the actual height of the roof from its floor level is 37 feet.

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 VARIANCE for Case #3400 because the applicant has shown a hardship in the geography, topography, and shape of the lot as well as financial hardship. 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. He stated that a condition of this approval is for the applicant to continue to work with staff and do everything you can within the bounds scope of the finances of the project to alleviate some of Mr. Daley’s concerns and the other neighbors’ concerns on the details of the project. He requested that the applicant do everything they can to make sure that this building has the proper mechanical system: ventilation and air conditioning as the existing building had mold and mildew issues.

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

2. **Case #3399** - The petitioner, Shannon Randlett, for property located at 15 Canacum Road also shown on Weymouth Town Atlas sheet 3, block 2, lot 21, located in the R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

- | | | |
|----------|--------|--|
| Variance | 120-54 | Confinement of accessory uses to rear yard |
| Variance | 120-55 | One-story accessory use buildings |

The subject property is 4750 sf with an existing single family home. Petitioner seeks a variance to put a shed in the side yard closer than five feet from the side lot line.

Mr. Foley made a motion to open the public hearing on Case #3399 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.

Shannon Randlett stated that she is looking for approval for a setback variance for a shed. It is three feet from the property line instead of the required five feet. She stated that her lot is relatively small and the backyard soil conditions have been degraded by the previous builder. It is not particularly stable and it is slanted. She also noted that there is a utility pole in the backyard which requires an easement for the utility company to access so the placement of the shed can not block that access.

Mr. McLeod asked if the shed has already been placed on the site. Ms. Randlett stated that it has.

Mr. McLeod asked if she had directed the contractor to place in that location. Ms. Randlett stated that when she spoke with the shed company, they told her that she didn't need a building permit. She asked them to put it on the side and they did.

Mr. Foley asked about the neighbor's opinion on the location of the shed. Ms. Randlett stated they are supportive.

Mr. Foley asked if the shed is 12x8 feet. Ms. Randlett stated that it is and it is three feet to the line.

Mr. Diem asked how tall it is. Ms. Randlett stated that it is about 8 feet five inches.

Mr. Moriarty asked for what the shed will be used. Ms. Randlett stated that her basement floods so she stores outdoor equipment as well as seasonal items.

Mr. Schneider stated that Mr. Richards, the town's building inspector, submitted a memo recommending that a fireproof paint on the side of the shed be used.

Mr. Moriarty asked what the shed sits on. Mr. Randlett stated that they sit on cinder blocks.

Mr. Foley asked if the shed could be moved back towards the water. Ms. Randlett stated that in discussions with the Planning Department, the building inspector, and the site surveyor, they had all recommended that the shed be left where it is because moving it back moves it closer to the utility pole, the grade of the property slopes down, and flooding.

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

Paul Milone, 10 Canacum Road, stated that he sees no problem with the shed.

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

Mr. McLeod informed the applicant that there are only four members present this evening. Typically there are five members, and at least a 4/5 vote is need for approval. With only four members present, the applicant needs a unanimous vote for approval. He stated that the applicant may request another date for the vote or proceed with four members. Ms. Randlett chose to proceed.

Mr. Foley made a motion to APPROVE the request for a VARIANCE for Case #3399 because the applicant has shown a hardship based on the soil conditions and topography of the lot as well as the placement of the utility pole. 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. Mr. Foley stated that a condition of the approval is that fireproof paint is applied to the side of the shed facing the abutting property.

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

3. **Case #3401** - The petitioner, Hancock Real Estate Inv, LLC, for property located at **125 Forest Street** also shown on Weymouth Town Atlas sheet 48, block 506, lot 19, located in the R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit 120-40 Extension to a non-conforming lot

The subject property is 91,476 sf with two legal single family homes. Petitioner seeks to demolish one house which is in a state of disrepair, and rebuild the house positioning it further from the remaining single family home and allowing for the lot to be split. The resulting lots will be nonconforming as to the width at the building line.

Mr. Foley made a motion to open the public hearing on Case #3401 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.

Chuck Ricciuti, Hancock Real Estate, appeared before the board. He stated that he has a two-acre parcel on Forest Street that has two residences on it and would like to subdivide the property into two lots. He is renovating one of the structures. He plans to demolish the other which is in a state of disrepair and build a 1768 square foot house.

Mr. Schneider stated that this is under 120-40. The lot is non-conforming; it has two legally recognized homes on a single lot. When preparing Form A, Approval Not Required (ANR), to split the lot, there was a problem. A different non-conformity would have been created in the width of the building line. He has the lot size and frontage on the street but is lacking 20 feet of width in the building line.

Mr. Schneider noted that these two homes are some of the last ones that are still connected to septic systems. The Health Department has requested that a condition be added to have both homes connected to town Sewer.

Mr. Schneider stated there are wetlands on the property but they are far enough back that Conservation Commission approval is not required.

Mr. Luongo stated that the lot with the new construction will be non-conforming because of frontage at the property line but will be conforming in all other setbacks.

Mr. Ricciuti stated that he has submitted a copy of the house plan which is 34' x 26'.

Mr. Foley asked if there will be any filling. Mr. Ricciuti stated that to the rear there is a portion that may need to be filled. Mr. Schneider stated that the applicant would need to check with the conservation commission.

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 #3401.

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 following condition is required: both properties are connected to town sewer. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

4. **Case #3402** - The petitioner, Brant Mcgettrick, for property located at **46 Union Street** also shown on Weymouth Town Atlas sheet 46, block 525, lot 21, located

in the B-2 and R-1 Watershed Zoning Districts. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit 120-40 Extension to a non-conforming lot

The subject property is 37,927 sf with permitted retirement home. Petitioner seeks to rebuild existing house with a small addition in the rear to be occupied as 12 one, two and three bedroom condo units.

Mr. Foley made a motion to open the public hearing on Case #3402 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.

Brant Mcgettrick and David White, Build One Properties, owners of 46 Union Street, appeared before the Board. The applicants gave an overview of the proposed project.

Mr. Mcgettrick stated that they would like to restore and add onto to the property and take it from one non-conforming use to another. It was a retirement home but with rehabilitation of the existing building and an addition, 12 condominiums would be created.

Mr. Mcgettrick stated that there was a community meeting; 12 people attended. There was no substantial opposition. He did note that a change was made to block headlights to an abutting property. Also, a neighbor asked that the dumpster be moved closer to the house.

Mr. Schneider stated that Councilor Smart was unable to attend this evening but he would like to see neighborhood concerns addressed.

Mr. Luongo reviewed the history of the building which was built approximately 1850. The developer has agreed to make the building condos rather than apartments.

Mr. Schneider noted that the front of the property is zoned B-2 which could result in commercial uses. He added that he thinks this is a good proposal.

Mr. Foley asked about the three-bedroom units. Mr. Mcgettrick stated there will be two one-bedroom, eight or nine two-bedrooms, and one or two three-bedrooms.

Mr. Foley asked if there will be any affordable units. Mr. Mcgettrick stated there are no plans for an affordable unit. He pointed out that the first floor unit will be accessible.

Mr. Mcgettrick explained that a pipe burst in the building last year and flooded the entire building.

Mr. Moriarty asked if the building is structurally sound. Mr. Mcgettrick stated that the interior will be demolished. A structural engineer will then analyze the building.

Mr. Mcgettrick stated that he has worked as a general contractor specializing in historic preservation.

Mr. Foley asked if the plan is to save the exterior façade. Mr. Mcgettrick stated that they plan to save it.

Mr. Foley asked what architectural material will be used. Mr. Mcgettrick stated that the original exterior is plank which is basically like a ship lap, not clapboard. He will try to conserve all of the original exterior moldings. He noted that they are not matching the detailing on the new building as it is not cost effective. He added that they will restore and put back the weight and detail of the original fabric on the front of the building.

Mr. Mcgettrick stated that solid material will be used on the back of the building, not vinyl or aluminum siding.

Mr. Foley asked if there was a list of the proposed conditions. Mr. Schneider stated that there is a list.

Mr. Diem asked if the emergency egress is inside the building. Mr. Mcgettrick stated that it will be inside.

Mr. Diem asked about the existing fire escapes on the exterior of the building. Mr. Mcgettrick stated that all of the steel fire escapes will be removed.

Mr. Diem asked about rooftop mechanicals. Mr. Mcgettrick stated that it will be on the rear portion of the original building between two decks. It will be enclosed with a rooftop fence and will be an Azek material which is a composite but will have an historical look to it.

Mr. Diem asked about the historical detail on the proposed new section. Mr. Mcgettrick stated that it will have some historical detail. The weight and mass of the original house in the front is considerable. The house was considered “grand” for that period of time.

Mr. Diem asked if the structure would have a flat roof. Mr. Mcgettrick stated that it will have a hipped roof.

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

Jay Southwood, 17/19 Blanchard Road, stated that he is the abutter to the rear of the property; overall he is in support of the project. He expressed concerns about privacy, screening, and safety. He stated that he is also speaking on behalf of Tom DeAndre.

Mr. Southwood requested that mature trees be planted for privacy and screening. He also asked for lattice on the building's decks. He pointed out that the building is will be eight feet closer to his property.

Mr. Southwood stated that he was concerned about short-term rentals but since the units will be condominiums, this is no longer a concern.

Mr. Southwood stated that he has concerns about grading and drainage. He is aware that a drainage plan will be submitted as part of this application.

Mr. Southwood submitted a letter to the board which was marked Exhibit #1. Exhibit #2 is titled "46 Union Street, Historic Name - Josia Reed House."

Mr. McLeod expressed concern about the parking. Mr. Mcgettrick stated that there will be a revised parking plan. The lighting will face down.

Mr. Moriarty asked if the parking will be deeded or assigned. Mr. Mcgettrick stated that the plan is for parking to be assigned.

Mr. Southwood stated that he has requested a fence on the property line. This would prevent headlights from intruding upon his property. He also requested something else, such as a retaining wall or raised curbing.

Mr. Mcgettrick stated that currently a five-foot fence is proposed but would consider a six-foot fence. He pointed out that a six-foot fence can feel overwhelming.

Mr. Southwood stated that he is more than willing to work with the Board and staff on the specific details.

Mr. McLeod asked what the work hours for the project will be. There was discussion regarding specific times. The applicant agreed to 7:30am to 6:00pm.

Mr. Luongo stated that the town ordinance allows for work hours to be 7:00am to 7:00pm, Monday through Saturday.

Mr. Mcgettrick stated that he would be willing to limit construction noise prior to 7:30am.

Actual construction will likely begin in the Spring but the interior demolition will happen sooner so that the structural engineer can begin the review.

Mr. Mcgettrick agreed to consider having one affordable unit; however, he noted that with only 12 units and the cost of the restoration, it may not be cost effective.

Mr. Luongo stated that the affordable covenant is a deed restriction, in perpetuity.

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 #3402.

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 following conditions will apply: the conditions from the letter from staff, marked Exhibit #2 (with the correction of the typo on bullet point #4, "the new addition shall be a *hip roof*"), the applicant will consider including an affordable unit. Work hours will be 7:30am to 6:00pm with access allowed at 7:00am with no construction noise.

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

5. **Case #3329** Request for Modification - The petitioner, Joe Gratta, for property located at **143-145 Washington Street** also shown on Weymouth Town Atlas sheet 20, block 276, lots 39 & 40, located in the B-2. The petitioner is seeking a modification of the exterior building materials that were agreed upon during the initial public hearings.

Mr. Luongo stated that the applicant has the material on site. Board members are asked to visit the site to view the material.

Mr. Foley made a motion to CONTINUE this matter to 1/8/2020 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

6. **Case #3372** - The petitioner, Warren Sponsler, for property located at **45 Regatta Road** requests to extend variance for an additional 6 months.

The applicant is not able to start until spring.

Mr. Foley made a motion to APPROVE the request for a six-month extension and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Minutes: 8/14/19 & 10/16/19

Mr. Foley made a motion to approve the minutes from 8/14/19 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Mr. Foley made a motion to approve the minutes from 10/16/19 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Upcoming Meetings: January 8, 2020

ADJOURNMENT

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

Approved by:

Mr. Denizkurt, Clerk



1-8-2020

Date