

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
December 8, 2021, 2021 7:00 p.m.
McCulloch Building - Mary McElroy Room
182 Green Street, Weymouth, MA 02191



2022 MAR 17 AM 11:06

Members Present: Richard McLeod, Chairman
Kemal Denizkurt, Vice-Chairman
Brandon Diem
Carsten Snow-Eikelberg
Not Present: Jonathan Moriarty, Clerk
Also Present: Robert Luongo, Planning Director
Eric Schneider, Principal Planner
Monica Kennedy, Assistant Planner
Janet P. Murray, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:00 p.m. 182 Green Street, Weymouth, MA 02191 and explained the procedures that would be followed to the people present.

Old Business:

1. **Case #3463** - The petitioners, **Richard & Mary Burns and Ed & Jane Meehan**, for properties located at **28 & 38 Reservoir Run** also shown on Weymouth Town Atlas sheet 48, block 508, lots 103 & 105, located in the R-1 & Watershed Protection Districts. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Variance	120-48	change in shape
Variance	120-59.1	measurement across lots
Variance		minimum lot area
Variance		minimum lot width

The subject property consists of a 15,001 SF parcel with a single family home. Petitioner seeks to exchange a portion of 28 Reservoir Run with 38 Reservoir Run. The proposed reconfiguration would reduce the lot width at the building line.

Mr. Denizkurt made a motion to open the public hearing on **Case #3463** and was seconded by Ms. Snow-Eikelberg. **UNANIMOUSLY VOTED.**

Mr. Denizkurt made a motion to waive the reading of the public notice and was seconded by Ms. Snow-Eikelberg. **UNANIMOUSLY VOTED.**

Attorney Kevin Mackin appeared before the Board on behalf of the owners of 38 Reservoir Run, Ed and Jane Meehan. Attorney Austin McGovern appeared before the Board on behalf of the owners of 28 Reservoir Run, Richard and Mary Burns. Attorney Mackin stated the application was submitted as a variance. He noted that the Meehan's and Burn's have been neighbors for 35 years and they have managed a

unique situation in terms of the natural topographical separation (wooded area) between the two properties. Mr. Mackin showed a picture of the two properties.

The owners would like to make a mutual exchange of identically sized triangular pieces. This request will not change size of either of the lots. It will allow each owner to use the properties that are isolated from the rest of their lots. As neighbors, they have managed this unique situation over the years through a mutual understanding. Both owners are concerned that this unique situation could present a problem in the future when they decide to sell.

Mr. McGovern agreed with Mr. Mackin. He pointed out that when neighbors get along something like this is not a problem but that is not always the case.

Mr. Diem asked about the lot width. Mr. Mackin stated the proposed new lot width is 106.17 feet. It is currently 117.64 feet.

Mr. Schneider reported that this is being presented as a variance. This is extending a non-conforming, not creating a new non-conforming.

There was discussion regarding whether this should be a request for a variance or special permit.

Mr. Luongo stated that this would be better handled under a special permit. This application was advertised as special permit and/or variance.

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

Mr. Denizkurt made a motion to close the public hearing and was seconded by Ms. Snow-Eikelberg. UNANIMOUSLY VOTED.

Mr. Denizkurt made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3463.

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 motion was seconded by Ms. Snow-Eikelberg. UNANIMOUSLY VOTED.

2. **Case #3378 (MINOR MODIFICATION)** - The petitioner, Hoang Nguyen as Trustee, for property located at **1055 Main Street** also shown on the Weymouth Town Atlas sheet 49, block 555, lots 27A and 27B, located in the B-1 and Commercial Corridor Overlay Zoning District. The petitioner is seeking to add balconies to the south and east facades.

Mr. Schneider stated that the applicant has withdrawn the request for a minor modification.

3. **Case #3464** - The petitioner, **New Ground Development, LLC**, for property located at **59 Lake View Rd.** also shown on Weymouth Town Atlas sheet 30, block 386, lot 1, located in the R-1 & Floodplain Districts. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit	120-38	Floodplain
Special Permit	120-40	extension or change by special permit
	120-41	exception to limitation on restoration by special permit

The subject properties consist of a 7,379 SF parcel with an outdated single family home. Petitioner seeks to remove existing house and construct a new single family home in the same general area and rebuild the shed.

Mr. Denizkurt made a motion to open the public hearing on **Case #3464** and was seconded by Ms. Snow-Eikelberg. **UNANIMOUSLY VOTED.**

Mr. Denizkurt made a motion to waive the reading of the public notice and was seconded by Ms. Snow-Eikelberg. **UNANIMOUSLY VOTED.**

Attorney Gregory Galvin appeared before the Board on behalf of the applicant. Mr. Galvin stated that there is an existing dwelling which the applicant proposes to remove and replace with a new dwelling within the existing footprint.

Mr. Galvin stated that the applicant has already filed an application with the Conservation Commission.

Mr. McLeod asked what materials will be used. Mr. Nang stated that the house will be on concrete pier footings. The materials will be wood on the base, metal panels, a metal roof, wood cladding where the windows are, and the second floor will use a wall-panel system.

Ms. Snow-Eikelberg asked what will extend outside of the existing footprint. Mr. Nang replied that it will be in the front in order to square off the north side. It will be approximately 200 square feet. He stated that it is the covered porch area.

Mr. Schneider stated that his only concern is that the case has not been heard before the Conservation. There could be some changes made that could change the placement of the house. He suggested that the application be continued.

Mr. Galvin asked if the Board could condition the application that if there are any substantial changes, the applicant must come back to the Board.

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

Ms. Snow-Eikelberg made a motion to close the public hearing and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Mr. Denizkurt made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3464.

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 application approval is subject to Conservation Commission requirements that may change the relief that is sought.
- The finished floor elevation will be the base flood elevation plus one.

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

3. Case #3465 - The petitioner, **Kevin and Kathy Kelly**, of 445 Green St., has filed an application to Appeal a decision by the Inspector of Buildings for property located at **450 Green Street** also shown on Weymouth Town Atlas sheet 13, block 121, lot 16, located in the R-1 District. The petitioner is seeking to:

Appeal: Appeal of a decision of the Inspector of Buildings
(Article XXIV, Section 120.119A(1))

The petitioner seeks to have the Board of Zoning Appeals annul the decision of the zoning enforcement officer, make a determination that the premises may only be used for those uses permitted as of right in the R-1 zoning district because any prior non-conforming status has been lost by abandonment and direct the Building Inspector to enforce the provisions of the R1 district through injunction and the levying of daily penalties.

Mr. Diem requested to recuse himself from this hearing as he does not believe that he can decide this case fairly and impartially.

This case was continued to January 5, 2022

4. Case #3466 - The petitioner, **Jeff Reale**, for property located at **875 Washington Street** also shown on Weymouth Town Atlas sheet 30, block 380, lot 11, located in the Highway Transition District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit 120-22.8 A (2) service use in a pre-existing building

The subject properties consist of a 39,041 sf parcel. Petitioner seeks to reuse existing building to house a computer service business.

Mr. Denizkurt made a motion to open the public hearing on **Case #3466** and was seconded by Ms. Snow-Eikelberg. **UNANIMOUSLY VOTED.**

Mr. Denizkurt made a motion to waive the reading of the public notice and was seconded by Ms. Snow-Eikelberg. **UNANIMOUSLY VOTED.**

Mr. Reale appeared before the Board. He stated that he is looking to move his business from Rockland to Weymouth. He indicated that as a technology company, they provide post-warranty support/third-party support.

Mr. Diem asked if the company will be the only tenant. Mr. Reale stated that his company will be the only tenant with about 25 employees and half of them work remotely. He added that the basement will likely be used for storage and the first floor will be used for servicing customers' service contract.

Ms. Snow-Eikelberg asked about working hours. Mr. Reale stated that it would 6:00 a.m. to 6:00 p.m. He stated that FEDEX and UPS typically come once per day for deliveries. Shipments are received usually in small Ryder lift-gate box trucks 3-4 times per month and unloaded for storage. He added that there is nothing combustible.

Mr. Luongo stated that if this application is approved tonight, the applicant will be required to submit detailed plans about what will be done to the building. The detailed plans should include the landscaping plan, removal of the chain-link fencing along Washington Street, the placement of a stockade fence on the back side of the property where it abuts the residential side of the property, description of hours of operation with no nighttime deliveries, removal of free-standing sign, replacement of glass windows in the front, painting of exterior and choice of color, removal or repair of chain-link fence along side property line, and a lighting plan with lights that shine down not out into residential area.

Mr. Luongo reported that Councilor Mathews was unable to attend tonight due to a death in the family. Mr. Luongo reported that Councilor Mathews supports the plan but also wants to see the detailed plans.

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

Mr. Denizkurt made a motion to close the public hearing and was seconded by Ms. Snow-Eikelberg. UNANIMOUSLY VOTED.

Mr. Denizkurt made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3466.

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 free-standing pole sign will be removed.
- Ground sign proposed will be presented to planning for approval.
- Replace glass windows in the front of the building with new glass windows.
- Entire building exterior will be painted.
- Replace rear property fence line with stockade fencing or similar.
- Remove section of chain-link fence along Washington Street frontage. It is their choice whether to replace or not.
- All lighting on the exterior of the building be directed downward. No wall packs are allowed.

The motion was seconded by Ms. Snow-Eikelberg. UNANIMOUSLY VOTED.

5. Case #3467 - The petitioner, **Todd Stone**, for property located at **522 Bridge Street** also shown on WeymouthTown Atlas sheet 7, block 25, lot 10, located in the NCD District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Variance	Height
Variance	FAR

The subject properties consist of a 7,728 sf parcel with a abandoned service station. Petitioner seeks to demo existing building and erect a new 3 story multi use structure.

Mr. Denizkurt made a motion to open the public hearing on **Case #3467** and was seconded by Mr. Diem. UNANIMOUSLY VOTED.

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

Attorney Gregory Galvin appeared before the Board along with the applicant, Todd Stone. Mr. Galvin gave an overview of the application. He stated that Mr. Stone would like to demolish the existing building and build a three-story building with commercial use on first floor which would be his office and storage for use in his electrical business. The two-stories above would have four rental apartments total.

Mr. Galvin stated that this is a difficult parcel in that it is awkwardly shaped. There is a significant passageway to access three residential parcels to the rear as well as a sewer easement which runs on an angle over which the applicant cannot extend. Thus, he is requesting a height variance as well as a variance to build within the front yard setback.

Mr. Galvin stated that there will be a total of 10 parking spaces; eight along the side and two to the rear of the proposed building.

Mr. Galvin stated that the restriction of the use of the land because of the easement is the hardship for this property. This lot is 7730 SF, therefore what can be constructed is squeezed into a small area.

Mr. Galvin stated that the height requirement in this district is 2 ½-stories/35 feet; the application calls for 3-stories/34 feet.

Mr. Denizkurt asked for clarification as that there is no plot plan. Mr. Galvin provided a plan for members to review.

Mr. Stone stated that there will be landscape screening in the front. There is only one commercial unit on the first floor. There will be no parking in the front of the building.

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

Jennifer Parcel, 515 Bridge Street/property A on the map. She asked about the moving of the easement. She noted that the current easement is 16 feet, 10 inches. She expressed concern about there being enough room for oil deliveries and other such vehicles accessing the rear properties. She also inquired about the types of materials to be stored in the commercial property.

Mr. Stone stated that he would contract for snow removal on the easement as well as for the rear sites. He added that he would work with the neighbors to come up with a solution for trash removal.

Mr. Stone stated that the entire building will be equipped with sprinklers as it is new construction. There will be nothing combustible on site.

The applicant is proposing to move the easement closer to the building. The easement would be 20 feet wide.

Mr. Stone stated that the current water pipes are old and he will be digging them up and replacing them. He is willing to work with the neighbors on this.

Mr. Stone stated that the overhang on the existing building will be removed when the new building is constructed.

Lucas Yu, 518 Bridge Street, stated that he is concerned about the location of the entrance of the apartment units.

Mr. Stone stated that he is willing to move the entranceway to the rear of the building. He also stated that he is willing to install a mirror.

Ms. Snow-Eikelberg asked if the laundry noted on the first floor is for the resident only. Mr. Stone stated that it was and will be accessed from the interior.

Mr. Diem asked if there was tenant storage. Mr. Stone stated that there is not but he is willing to work this space into the plan.

Councilor Pascale Burga, representing District 1, stated that she is pleased with the plans with the suggested changes and has no concerns as long as the residents' concerns are addressed.

Walter Parcel, 516 Bridge Street, asked if the parking will be cramped. Mr. Stone stated they are larger than ADA requirements.

Kelsey Friend, 520 Bridge Street, stated that her concern is that the access to the rear properties will be narrow. She noted that they have difficulties with delivery trucks. She added that she is concerned about the movement of cars on the site; specifically the cars in the parking spaces coming in and out of the spots as she is attempting to enter/exit her property. She also expressed concern about possible turnover of the rental units.

Mr. Galvin stated that the deeded passageway is only 12 feet wide and they are proposing a passageway of 20 feet wide all the way from Bridge Street.

Mr. Luongo stated that the Planning Department wants to see the landscaping and lighting plans as well as any plan for proposed signage plan.

Mr. Schneider stated that some things discussed previously were:

- No vinyl siding
- Applicant to work with residents concerning water pressure/water line replacement.
- No combustible storage
- Snow removal plan
- No balconies

Ms. Snow-Eikelberg made a motion to close the public hearing and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

VARIANCE

Mr. Denizkurt made a motion to APPROVE this application for a variance on **Case #3467** because the applicant has demonstrated hardship based on an easement that runs the entire length of the property, currently running somewhat angled and limiting where building can be sited on the property. 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 following conditions will apply:

- the proposed easement will be increased from 12 feet to 20 feet.
- The building will be constructed of cement board siding. There will be no vinyl siding.
- Will work with Water Department to investigate abutter concerns about water pressure and the replacement of the water line
- No direct parking allowed in the front of the building
- Will work with Traffic Engineer to look at minor improvements for sighting to allow vehicles and pedestrians to use the access easement.
- Create storage units for the residential units
- Submit landscape plan, lighting plan, and signage plan to Planning Department for final approval.
- No combustibles will be stored on site
- Will remove snow from property
- Any dumpster will be screen as per code

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

New Business:

1. **Case #3468-** The petitioner, **ANGJ LLC**, for property located at **1441 Commercial St.** also shown on Weymouth Town Atlas sheet 23, block 311, lots 2-4 & 19, located in the B-2 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit	Chapter 120 article VIII Business district B-2
Special Permit	120-27 A & C multiple dwellings in B-2 district
Variance	Floor Area Ratio
Variance	Parking

The subject properties consist of a 32,595 SF parcel with a 2,600 SF gas and automobile service station. Petitioner seeks to redevelop the property to erect a four story residential building containing 24 residential units and an accessory 1,600 SF restaurant.

Mr. Denizkurt made a motion to open the public hearing on **Case #3468** and was seconded by Mr. Diem. **UNANIMOUSLY VOTED.**

Mr. Denizkurt made a motion to waive the reading of the public notice and was seconded by Mr. Diem. **UNANIMOUSLY VOTED.**

Attorney Ray Jennings appeared before the Board with the applicant as well as Shawn Hardy, site engineer, and Mike Schilling, design lead.

Mr. Jennings stated that this property is zoned B-2 for general business with a large number of possible uses by special permit such as this project. A 6-story building up to 80 feet is allowed. The applicant is looking to demolish the existing gas station and construct a new four-story building with a 75-seat restaurant and 24 residential units with nine studio apartments and 15 one-bedroom apartments. Required parking is two spaces per residential unit and one space for every three seats in the restaurant. The total requirement is 73 spots but the plan calls for 47 on-site spots.

Mr. Jennings gave an overview of the property's hardships.

Mr. Hardy described the lot layout. He noted that there is no water treatment system currently on-site. This plan will add a system.

Mr. Schilling described materials to be used.

Mr. McLeod asked if the restaurant is two stories. Mr. Hardy stated that it is designed to have an open-air roof deck. The applicant is considering opening a Middle-eastern themed restaurant. Mr. Jennings stated that there would be designated parking on-site for the restaurant but there is municipal parking in the immediate area.

Mr. Denizkurt asked the applicant to provide a schematic of the parking locations.

Mr. Schilling stated that the landscape plan will show that they are adding green space where there is none right now.

Mr. Denizkurt noted that the property entrance is on a bend in the road where there is an existing crosswalk. He stated that he is concerned about sight issues. He suggested a pedestrian activated crosswalk.

Mr. Schneider reported that the Town's traffic engineer had made similar comments and also noted that there is enough width on Commercial Street is wide enough for on street parking. The street is currently striped with a bike lane.

Mr. Diem noted that there is an MBTA bus stop near the proposed project.

Will Baker, 23 School Street, stated that his backyard directly abuts this property. He stated that there is a small grove of trees between his property and the subject property. It acts as a buffer. He stated that from the drawings, it looks like these trees will be removed and the parking will be right up against his fence.

Mr. Hardy stated that the parking will not be up against the fence; there will be a buffer. In addition, there will be a low retaining wall and the slope will be cut into. There will be vegetation.

Mr. Luongo asked that more information be provided about this area for the next meeting such as what types of plantings will be used in this area.

Mr. Baker pointed that there is a left, right, and front elevation noted but not the rear. He questioned if there will be balconies, and what will the lighting and signage look like.

Mr. Schilling responded that they can add the rear elevation to the plan. He stated that the plans do not call for balconies.

Mr. Baker asked about the parking; he noted that people are unlikely to park in a lot 600 feet away. He stated that more likely they will park on school street which is narrow; they currently have problems with tractor trailers.

Mr. Baker asked about the restaurants hours of operations and live music in the outdoor setting. He also asked about there being take-out services as this will add to the traffic.

Mr. Schilling stated that the outdoor dining only extends about 1/3 of the building, the rest of the length is allocated for the mechanicals.

Mr. Baker pointed out that during morning and evening rush hours, traffic backs up from the lights at Water and Pleasant Streets to the intersection at lower Jackson Square.

Mr. Baker stated that he does not think that there is enough parking for both the residential and restaurant use.

Councilor Ken DiFazio, District 3 counselor, stated that there has not been a resident meeting so he appreciates that this hearing will be continued. He encouraged anyone with concerns to reach out to him. He added that he is excited to begin development in Jackson Square but wants to ensure that abutter needs are met.

Councilor DiFazio asked about the Town's ordinance, 120-57, which has a 2 ½ story limit in an area that abuts and R-1 district. Mr. Luongo stated that is one of the variances being request. There would only be parking on one side of Water/Commercial Streets.

Mr. McLeod suggested that Councilor DiFazio help to arrange a meeting between the applicant and residents.

Mr. Luongo stated that there is an MBTA agreement for use at night and weekends for soccer and could be extend to other commercial uses in the square.

Mr. Luongo stated that the applicant has agreed to "adopt" the Herring Pool Park and maintain it.

Mr. Jennings addressed concerns regarding the abutting driveway.

Patrick Donahue, 10 Water Street, stated that the driveway access that abuts the subject property is important because the turn-around for emergency vehicles on the driveway located on the other side of abutting property is not easy. He also stated that traffic is a big concern.

Mr. Luongo pointed out that the applicant has agreed to pave the driveway to right of the property but access on the one to the left will remain.

Mr. Jennings stated that the applicant will service and maintain the park as a condition of the approval.

Ms. Snow-Eikelberg asked how the parking will be designated. Mr. Jennings stated that the apartments are studio and one-bedroom. In Mr. Metri's experience in his other properties in Weymouth, residents typically only have one car. He added that there will be signage indicating parking.

Jen Wade, 23 School Street, stated that she is concerned about the vision of the applicant and how it fits with the abutter's needs. She asked to have a meeting. Ms. Wade suggested that the applicant walk the properties

Theodoros Retzios, 27 School Street, expressed concern about how this proposal will affect there daily life. There will be additional traffic and safety concerns. He stated that there is no exit from school street. He added that the pedestrian traffic light timing makes crossing at the intersection difficult.

Vasilios (Bill) Kalpakoglou, 15 school street, agreed with Mr. Baker and added that he is concerned about noise, crime, building height, dumpster location, traffic, and trees.

Mr. Denizkurt made a motion to CONTINUE the public hearing on **Case #3468** until January 26, 2022 and was seconded by Ms. Snow-Eikelberg. UNANIMOUSLY VOTED.

2. **Case #3469-** The petitioners, **James Andrew**, for properties located at **180 Pilgrim Rd** also shown on Weymouth Town Atlas sheet 4, block 30, lot 5, located in the R-1 District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit 120-40 extension or change by special permit

The subject property consists of a 2,680 SF parcel with a single family home. Petitioner seeks to enclose existing front porch, excavate the front hillside to create a carport and raise the roof to accommodate an additional story.

Mr. Denizkurt made a motion to CONTINUE the public hearing on **Case #3469** until January 5, 2022 and was seconded by Ms. Snow-Eikelberg. UNANIMOUSLY VOTED.

Other Business

1. **Minutes:** None
2. **Upcoming Meetings:** January 26, 2022

3. **ADJOURNMENT**

Mr. Denizkurt made a motion to adjourn at 10:00 p.m. and was seconded by Mr. Diem. VOTED UNANIMOUSLY.

Approved by: 
Mr. Moriarty, Clerk

 3/16/2022
Date