

BOARD OF ZONING APPEALS (BZA)  
RECORD OF MINUTES AND PROCEEDINGS  
January 26, 2022, 7:00 p.m.  
Via WEBEX

RECEIVED  
TOWN OF WEYMOUTH  
PLANNING & ZONING OFFICE  
2022 APR 14 AM 11:56

**Members Present:** Richard McLeod, Chairman  
Kemal Denizkurt, Vice-Chairman  
Jonathan Moriarty, Clerk  
Brandon Diem  
Carsten Snow-Eikelberg

**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. Via WEBEX and explained the procedures that would be followed to the people present.

**Old Business:**

**1. 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 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. Moriarty made a motion to open the public hearing on **Case #3465** and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

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

Mr. McLeod informed Attorney Mackin that there were only three members present to sit on this case this evening. Mr. Diem has recused himself from this hearing.

Attorney Mackin stated that he would specifically address the abandonment issue. He reviewed a case of use abandonment in Provincetown and how the SJC ruled that the

use was abandoned. Mr. Mackin stated that the non-conforming contractor's work was allowed in 1963. When the property was purchased in 2002 by Mr. Mannix, then-building inspector, Mr. Coates allowed the limosine use. Mr. Mackin contends that Mr. Coates did not have the authority render that decision as it is the Zoning Board that determines use.

Mr. Mackin stated that when Mr. Mannix changed the use, the contractor work use was abandoned.

Mr. McLeod listed the submissions from the applicant:

- Exhibit 1 - letter dated 9/14/2021 from Attorney Mackin to Mr. Jeff Richards.
- Exhibit 2 - letter dated 9/29/2021 from the Town of Weymouth to Attorney Mackin.
- Exhibit 3 - letter dated 8/8/2002 from Jeff Coates, Department of Municipal Licenses to Mr. David Kelley.
- Exhibit 4 - brief dated 12/6/2022 in support of the application submitted.

Attorney Mackin stated that on 12/6/2021 he submitted a brief in support of appeal of decision which included the prior decision made in 1963.

For clarification, Mr. McLeod asked Attorney Mackin if he is asking this Board for is a determination to overturn the building inspector's decision on the issue of abandonment only. Attorney Mackin stated that because of the board's prior decision on the special permits, that is correct.

Mr. McLeod stated that he has not seen the brief submitted on 12/6/2021.

Mr. Moriarty asked if the brief from 12/6/2021 had any additional facts. Attorney Mackin stated that he provided information about the issue of abandonment and the laws supporting the request. He also pointed to the service enterprise use and that a specific use of the property was determined in 1963.

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

Mr. Moriarty made a motion to CLOSE the public hearing and was seconded by Ms. Snow-Eikelberg. Unanimously Voted.

Mr. Moriarty made a motion to DENY the petitioner's request to appeal the building inspector's determination and was seconded by Ms. Snow-Eikelberg. The Motion passed on a 3-0 roll call vote as follows:

Mr. Denizkurt - yes

Mr. Moriarty - yes

Ms. Snow-Eikelberg - yes

**2. Case #3468-** The petitioner, **ANGJ LLC**, for property located at **1441 Commercial Street** 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	
Variance	120-57	Height limits on structures abutting R-1 Districts or schools.

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. McLeod noted that this is a continuation of a public hearing that was not closed.

Attorney Jennings appeared before the board on behalf of the applicant. He stated that they will be presenting a revised plan based on information received after the initial presentation in December.

Mr. Jennings stated that he will give a brief overview of the updated plan and will then turn it over to Mr. Schilling who will discuss the design aspects of the project. He noted that the traffic engineer was also present.

Mr. Jennings pointed out that the parking plan now has 61 spaces (out of 73 required) as opposed to 47 on the previous plan. He added that there is a proposed condition that the restaurant utilize valet parking at least during peak business hours.

Mr. Jennings stated that they have added a new request for a height variance.

Mr. Schilling reviewed the site plan.

Ms. Snow-Eikelberg asked about the main entrance for the residents. Mr. Schilling stated that there would be two entrances. One is the entrance from the rear for residents from the main parking lot; this is where the elevator is located. There will be a main entrance that will turn into a grand lobby that would allow access for both the residents and patrons of the restaurant.

Ms. Snow-Eikelberg asked about deliveries. Mr. Schilling stated that the goal is to direct all deliveries towards the back of the building. Only the U.S. Postal Service delivers to the front.

Ms. Snow-Eikelberg noted that on the front elevation by the interior parking, there is what appears to be metal grating. Mr. Schilling stated that this is a water feature.

Mr. Schilling stated that there will be two distinct parking areas to the rear of the building and there will be directions for residents, patrons, and delivery services as to where to go.

Mr. Schilling stated that based on feedback, they decided to reconfigure the project so that public and/or on-street parking was not used in the calculations. The sense was that it was important in the redevelopment of Jackson Square that this not be done.

Mr. Diem asked if there is any precedence for allowing valet parking. Mr. Schneider stated that this is probably the first time. Mr. Schneider stated that the Director of Buildings, Jeff Richards, has expressed concern about staffing for the valet component. Mr. Schneider stated that there will be further review of the parking and seating plans from the Licensing Board.

Mr. Diem asked if this is a free or paid service to the client. Mr. Metri stated that it would be free. Mr. Diem asked if the condition could be added that this service will be provided for free, in perpetuity. Mr. Luongo stated that the applicant would have to agree to the condition.

Mr. Moriarty asked about the differences between the December plan and the one being presented today. He asked if the number of seats has changed. Mr. Schilling stated that the number of seats has remained the same.

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

Lauren Carberry, 10 Shawmut Avenue, asked about the acceptability of the valet parking. Mr. Schilling reported that they are providing the required amount of spaces and being able to maximize the amount of parking allowed on-site so as not to put additional pressure on the surrounding area. Mr. Schilling reported that Mr. Richards the town's Building Director indicated that if correct dimensions are provided, valet parking is acceptable. He added that all of the valet parking will be within the parking lot.

Ms. Carberry asked about the restaurant's peak hours. Mr. Metri stated that it would be from 6:00 p.m. to 9:00 p.m. Ms. Carberry expressed concern that this would coincide with residents coming home at the end of the day.

Mr. Schilling stated that the deliveries for the restaurant will be in the back of the building separate from the restaurant.

Vasillios "Bill" Kalpakoglou, 15 School Street, asked who would be enforcing the valet parking rules. He pointed out that it has been said that the 7/11 parking issues are unrelated to this project. He continued that this project will exacerbate the existing parking problems.

Mr. Kalpakoglou expressed concern about night noise from the roof deck and if it is not done by 10:00 p.m. who would enforce.

Mr. Jennings stated that the restaurant will need further approval from the town's Licensing Board which consists of the Weymouth Fire Chief, Police Chief, Health Inspector, Town Clerk, and Building Inspector. He pointed out that accountability would be through this board.

Mr. Jennings stated that similar height relief has been granted in other neighborhoods and is in keeping with the town's vision for city centers.

Will Baker, 23 School Street, stated that the plans call for funneling traffic to the back of the building which is where the residential properties are located. The height of the building, at four stories, is intrusive to the neighborhood as it will tower over the area casting shadows, limiting sunlight, and leaving abutting neighbors with a view of the back of a brick building. He asked the Board to limit the project's height to three stories.

Mr. Baker asked that the parking requirement of 70 spaces be adhered to. He pointed out that with additional redevelopment expected in Jackson Square, allowing this parking variance will set a precedent for future variance requests.

Councilor Ken DiFazio expressed concern about the increased height of buildings abutting R-1 districts. He questioned if the Water Department analyzes the water usage of projects and does comparisons.

Councilor DiFazio stated that if this project is approved that there be a comprehensive agreement for potential hours of operation of restaurant, maintenance for the Herring Run Park, the driveway right-of-way for the tenant to the right of the property, the valet parking to be in perpetuity, and there are no parking sharing agreements in place.

Jen Baker, 23 School Street, expressed the following concerns. She stated that she had invited Board members and the proponent to view her property as related to the proposed project. She reported that no one has reached out to her. She continued that she has had two realtors come to her property and both have suggested that if this project is built as proposed, she would lose \$100,000 in property value.

Ms. Baker asked that the proponent consider adding fast-growing arborvitaes along the property line where parking spaces are located.

Ms. Baker stated that she agreed with Councilor DiFazio about water pressure.

Glen Fitzsimmons, 10 Shawmut Avenue, stated that the McLaughlin project was not allowed variances so they should not be allowed for this project.

Mr. Diem noted that there are variance requests for Floor/Area Ratio (FAR) and parking, but there doesn't appear to be one for height.

Mr. Jennings stated that he was not certain if one is required but that the request was part of this proposal for the present meeting.

Rod Fuqua stated that this proposal does not meet the criteria for any of the requested variances. He pointed out that variances are supposed to be site specific based on adverse conditions. He added that the underground tank is man-made and should not be considered, the lot is regular shaped, and the topography is fairly level, with a gentle slope. He concluded that proposals are to be based on zoning not on what the proponent wants.

Mr. Luongo asked if the School Street neighbors would be willing to meet one more time with Mr. Metri to try to come to some agreement.

Mr. Baker stated that he believed if Mr. Metri could reduce to three stories, there could be agreement.

Mr. McLeod pointed out that if this proposal does not go forward and zoning regulations change, there could possibly be something taller. He added that having a gas station in that location is not ideal abutting an R-1 zone.

Mr. McLeod suggested that both parties consider having one more community meeting. Mr. Metri agreed to continue the public hearing.

Mr. Moriarty made a motion to CONTINUE the public hearing until February 16, 2022 and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

**New Business:** NONE

**Other Business:**

1. **Minutes:** None
2. **Upcoming Meetings:** February 16, 2022
3. **ADJOURNMENT**

Ms. Snow-Eikelberg made a motion to adjourn at 9:37 p.m. and was seconded by Mr. Denizkurt. VOTED UNANIMOUSLY.

Approved by:  
Mr. Moriarty, Clerk

4/13/2022  
Date