

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
May 16, 2012**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, May 16, 2012 at 7:00 pm at McCulloch Building, Mary McElroy Meeting Room, 182 Green Street, Weymouth, MA for the purpose of passing on the application of certain persons whose petitions were properly before the Board. Notice of public hearing had been given by mail to the parties in interest of the subject locus and by publication in the Weymouth News.

Present: Kemal Denizkurt, Acting Chairman and Clerk
Chuck Golden
Jonathan Moriarty
Brad Vinton
Rob Stevens (Alt.)

Absent: Richard McLeod, Chairman
Ed Foley, Vice-Chairman

Staff: Robert Luongo, Economic Development Planner

Recording Secretary: Susan DeChristoforo

The Chairman called the hearing to order at 7:05 PM and explained the procedures that would be followed to the people present.

Jonathan Moriarty moved to open the public hearing and was seconded by Chuck Golden and unanimously voted

A motion was made by Jonathan Moriarty to waive the reading of the legal advertisement, and was seconded by Rob Stevens and unanimously voted.

BZA CASE #3161 - 284 Pond Street, Public Hearing

Application of Malcolm Gurney, Jr. for property located at 284 Pond Street, also shown on the Weymouth Town Atlas as Sheet 53, Block 592, Lot 6, located in R-1 zoning district, seeking a Special Permit pursuant to Section 122-13 to convert a single family home into a two family.

Members sitting: Kemal Denizkurt
Jonathan Moriarty
Brad Vinton
Chuck Golden
Rob Stevens

Mr. Malcolm Gurney, Jr. came before the Board. He informed the Board that he has owned the property at 284 Pond Street in South Weymouth for about 23-24 years, adding that the house also includes an in-law apartment. He informed members that an in-law apartment was constructed for his mother-in-law and father-in-law (who originally owned the house), and that his father-in-law had recently passed away. Additionally, his mother-in-law is now in a nursing home so the apartment is vacant. He said he was before the Board this evening seeking their approval to now rent this apartment out to new tenants. He described it as having 2 Bedrooms and 1 ½ Baths. Future plans call for no additional renovations, changes or enlargements – nor will there be an increase in the number of people living in the apartment or in the parking. It would remain the same as it has been for the past 20 years.

Jonathan Moriarty stated that he owns the property at 107-109 Pond Street and wanted to clarify for the record that it was not a conflict of interest to participate in the public hearing, commenting that he didn't believe there was a conflict.

Kemal Denizkurt, Acting Chairman asked if any of the members had any concerns about Jonathan Moriarty participating in the public hearing/vote.

Members responded 'no' to Kemal Denizkurt's question.

Malcolm Gurney, Jr. noted that he has turned in all the required paperwork with his application. He described the neighborhood as having 3-4 properties near his being two family. One property has two houses on a lot. He did not see approval of the Special Permit as producing any change to the neighborhood. In response to having adequate parking, he said he had more than ample parking, with it being all 'off street'.

Kemal Denizkurt asked the members for comments.

Jonathan Moriarty referred to the parking arrangements, commenting that he thought Mr. Gurney was sharing a driveway with a neighbor.

Malcolm Gurney, Jr. clarified that this was not the case, explaining that no one else uses his driveway and that the abutter has his own driveway. He told Mr. Moriarty that the property he was referring to was totally owned by him, describing it as 'where the stone wall stops'.

Chuck Golden asked about the length of the driveway and Mr. Gurney replied that it was 26' in the front and 40' in the rear. There are two gas meters – one for him and one for the tenant.

Malcolm Gurney, Jr. replied that there was only one electric meter for the entire house and future plans did not call for separating the electricity unless he is asked to, although he noted that there were separate gas meters (2), as there are two furnaces. Malcolm Gurney, Jr. said that the gas company installed them and moved them outside (this was done at their recommendation). He added that the apartment has its own circuit board.

Kemal Denizkurt asked when the in-law apartment was constructed.

Malcolm Gurney, Jr. responded 'in 1990', adding that the in-laws were the original owners.

Kemal Denizkurt asked if there were any conditions put on the property at that time.

Malcolm Gurney, Jr. replied 'no'.

Chuck Golden asked about any commonality, adding "is it a 'stand alone?'" and Malcolm Gurney, Jr. confirmed that it was a 'stand alone'.

Kemal Denizkurt asked about the parking arrangements.

Malcolm Gurney, Jr. explained that there presently was parking for 5-8 motor vehicles, noting it is all off-street, adding that there is easily enough room for 7-10 cars referring to their off-street parking availability. He noted that you could park on either side of the driveway and still have a full lane in the middle. Further, he explained, you can park 4 vehicles in the rear, adding that they also have a garage.

Kemal Denizkurt commented that he saw the type of housing in the neighborhood included multi-family and 2 family houses.

Malcolm Gurney, Jr. confirmed this, describing the area has having 5-8 houses on his stretch of road. He described their house as being located near the Fulton School (2-3 houses up from the school) and that there were 2-3 houses on the opposite side of the road.

Kemal Denizkurt asked if he had spoken to his neighbors about his intentions.

Malcolm Gurney, Jr. confirmed that he had and that all were fine with it, confirming that all abutters had been notified.

Rob Stevens asked if the apartment had its own kitchen.

Malcolm Gurney, Jr. said it did, adding that it had its own stove and refrigerator – a full kitchen.

Jonathan Moriarty confirmed that they were being asked to approve changing its designation from a 1-family to a 2-family.

Mr. Luongo referred them to Section 120-13, Special Permit – and read the definition to the members.

Jonathan Moriarty stated that the electricity had to be separate and metered for a 2-family.

Malcolm Gurney, Jr. replied that it was easy to do; pointing out that the gas is already separate. He wanted to clarify that he and his wife did not plan to charge the new tenants for electricity, as it would be included in their rent.

Mr. Luongo interjected that he didn't think it was a requirement to have separate electrical meters.

Malcolm Gurney, Jr. wanted to note that he was not opposed to changing it if that is what the Board wanted, but at this point he thought they were good to go. Re. his not charging for the electricity, he said that he believed in 'paying it forward' – as when he was a newlywed he received the same courtesy and his new tenants would be newlyweds.

Mr. Luongo then reviewed the responses/comments from the other town departments:

- Conservation Commission – no comment
- School Department – no issues
- Fire Department – wanted to make sure the smoke/carbon monoxide detectors were brought up to code

Malcolm Gurney, Jr. confirmed that all were up to code.

Mr. Luongo referred to the comment from the Fire Department which was made on 4/25/2012; whereby they recommended Malcolm Gurney, Jr. contact them to confirm that they were up to code. Further, Mr. Luongo told Malcolm Gurney, Jr. he would need to speak with the Building Department in regard to the Occupancy Permit – and he also wanted to make sure that Mr. Gurney's taxes were up to date.

Mr. Luongo went on to review the town department comments:

- Weymouth Historical Commission – no issues
- Police Department – no issues
- Water, Sewer and Engineering – no comments
- Building Department – no comments

Brad Vinton asked if there was a common area.

Malcolm Gurney, Jr. replied 'no'.

Brad Vinton then asked about a washer and dryer.

Malcolm Gurney, Jr. confirmed that the tenant's would have their own and that their area was 100% self-contained.

To vote on the of BZA Case No. 3161, 284 Pond Street to approve a Special Permit:

A motion was made by Jonathan Moriarty to allow the Special Permit for 284 Pond Street, Case No. 3161 pursuant to Section 122-13.

FINDINGS

1. The specific site is an appropriate location for such a use. The site is in an R-1 district and several residential dwellings in close proximity to 284 Pond Street are two family dwellings.

2. The use involved will not be detrimental to the established or future character of the neighborhood-the property as been used as a legal in law apartment since 1990 and is being converted into a two family. No enlargement or exterior alteration, or expansion of the property will take place.
3. There will be no nuisance or serious hazard to vehicles or pedestrians. No increase in number of units on the property thus will not generate vehicle or pedestrian hazards.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. The property has adequate parking and utilities. Meets all requirements of the zoning ordinance.
5. The public convenience and welfare will be substantially served. Will not have a negative impact on the neighborhood and will provide an additional rental unit to the town's inventory. Special conditions- Require that the smoke detectors and carbon monoxide detectors be brought into compliance with the current codes and regulations of Massachusetts before receiving occupancy permit as a two family – and it was seconded.

Discussion:

At this point Kemal Denizkurt noted that he first would need to open the hearing to the public.

No one spoke.

Chuck Golden moved to close the public hearing for Case #3161, 284 Pond Street for a request for a Special Permit under Section 122-13.

This motion was seconded by Jonathan Moriarty and unanimously voted.

Chuck Golden moved to amend the motion to include the following special conditions: that the passage is blocked and that the smoke inspection is handled by the Fire Department. This was seconded by Jonathan Moriarty and unanimously voted.

The applicant, Malcolm Gurney, Jr. confirmed that he would be in contact with Jeff Richards, in the Building Department and speak with the Fire Department as requested.

It was also explained to Mr. Gurney by Mr. Luongo that the necessary paperwork is to be filed with the Town Clerk – and there would be a period of 20 days for approval, then he would be notified to file with the Registry of Deeds and he would receive his Occupancy Permit by the Building Inspector.

Submittals:

There were no submittals with this application.

DECISION OF THE BOARD – Due to the above findings, it was unanimously voted to approve the application for a Special Permit to convert a single family home into a two family with the condition that the passage is blocked and that the smoke inspection is handled by the Fire Department.

Other Business:**BZA Case No. #3150 –6 Perkins Road, Request for Minor Modification**

Mr. Luongo explained that on December 15, 2011, the Zoning Board of Appeals approved Case #3150 for 6 Perkins Road, but now Mr. Wayne Fitzgerald, owner, was back to request the Board's approval for a 'minor modification' to the exterior of the house, emphasizing that it was not an increase in size. He pointed out to the members that Jim Clarke had introduced this new policy.

Wayne Fitzgerald came before the Board and explained that he went through the Building Department regarding the addition of doghouse dormers, noting that he already had a shed dormer in the rear. He wanted to point out that the footprint would remain the same.

Chuck Golden reconfirmed that the only change to the original proposal would be the addition of the doghouse dormers.

Wayne Fitzgerald confirmed that was correct, adding that some of the windows would be smaller and some larger, but the height would remain the same.

To vote on BZA Case No. #3150 –6 Perkins Road, Approval of Minor Modification:

A motion was made by Chuck Golden to approve the request for a Minor Modification to 6 Perkins Road, Case #3150. This was seconded by Jonathan Moriarty and unanimously voted.

Mr. Luongo explained to Wayne Fitzgerald that the approval would be conveyed to the Building Department and there would be nothing further required of the applicant, Wayne Fitzgerald.

Approval of Minutes:**March 31, 2012, April 4, 2012 and May 2, 2012, Case #3155 & Case #3158**

A motion was made by Jonathan Moriarty to approve the minutes of the March 31, 2012 meeting and the May 2, 2012 meeting; Case #3155 and Case #3158, seconded by Kemal Denizkurt and was unanimously voted.

A motion was made by Jonathan Moriarty to approve the minutes of the April 4, 2012 meeting, Case #3158; seconded by Kemal Denizkurt and was unanimously voted. (Chuck Golden abstained, as he was not present for this meeting.)

Adjournment

At 7:38 PM, there being no further business, a motion to adjourn the meeting was made by Jonathan Moriarty, seconded by Rob Stevens and unanimously voted.

Approved:

Kemal Denizkurt, Clerk

Date