

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
November 13, 2013**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, November 13, 2013 at 7:15 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: Richard McLeod, Chairman
 Edward Foley, Vice Chairman
 Kemal Denizkurt, Clerk
 Chuck Golden
 Jonathan Moriarty
 Brad Vinton, Alternate Member

Staff: Jim Clarke, Director of Planning & Comm. Development
 Abby McCabe, Principal Planner

Recording Secretary: Mary Barker

The Vice Chairman called the hearing to order at 7:30 PM and explained the procedures that would be followed to the people present.

BZA CASE #3183 - 0 Greenvale Avenue, Public Hearing (Cont. from 10/2/13)

Jim Clarke, the Planning Director, reported that staff requests a continuance to the next meeting to allow additional time for a legal opinion from the Town Solicitor. The applicant is willing to allow the additional time. A motion was made by Chuck Golden to continue Case #3183 - 0 Greenvale Ave. to the December 4, 2013 meeting; seconded by Jonathan Moriarty and voted unanimously.

BZA CASE #3205 – 90 Church Street, Public Hearing, (cont. from 10/16/13)

Application of Norman Preston of NT Development for property located at 90 Church Street, also shown on the Weymouth Town Atlas as Sheet 13, Block 174, Lots 29 & 1, located in R-1 zoning district, seeking to subdivide two lots (owned for more than 5 years and considered 1 lot for zoning purposes) into two lots one with a single-family dwelling and one buildable lot.

Members sitting: Richard McLeod, Chairman
 Edward Foley, Vice Chairman
 Kemal Denizkurt

Chuck Golden
Jonathan Moriarty

A motion was made to reopen the public hearing and waive the reading of the published notice.

Attorney Ray Jennings, with offices at 775 Pleasant Street again appeared before the Board with the applicant, Norman Preston/NT Development. Atty. Jennings referenced the decision by the Board for 174 Central Street voted by the Board (Case 3180) approved in March 2013. That property was a similar corner lot location and he provided a map for analysis. He noted the lots running along the side street were about 50/50 distribution of lots larger or smaller than 10,000 with the exclusion of two lots. A similar analysis exists with Church Street. Lot sizes, not including the church, school, convenience store and other commercial property include 16 residences on Church Street; three of those meet the 25,000 minimum. Seven are less than 10,000 and nine are greater than 10,000. He also provided a map of the Commercial Street area which has (excluding a multi-family dwelling) twenty properties less than 10,000 and eighteen properties with lot sizes larger than 10,000; four of which meet the minimum 25,000 square footage. The original lot was in existence since 1943 and a re-subdivided in 1961. The lot has been held since then as a buildable lot, but now do not meet the criteria. The owner pays a separate tax bill on the lot.

Chuck Golden asked if the comparison between the two neighborhoods extended to a traffic study. Atty. Jennings responded that he did not include a traffic study and he did not believe the addition of one house would contribute to the traffic in the neighborhood. He provided anecdotal evidence that most of the traffic issues are a result of the Fore River bridge closure and determined this from personal experience living in the area. Kemal Denizkurt asked why five lots along the bend on Commercial were not included in the evidence. Atty. Jennings responded that Commercial Court is off of Commercial Street. Jim Clarke noted the topography of the two areas in the attorney's comparison is not similar as the Central Street neighborhood slopes. Atty. Jennings responded that the area where the house would be is relatively flat.

Abby McCabe, Principal Planner, noted that the Board received in their packets correspondence from Mr. and Mrs. Lydon, of Church Street, and Councilor-at-Large Brian McDonald with concerns for the project specifically related to traffic and a letter in support of the project from Mr. Gordon McGinnis. Kemal Denizkurt noted that the Board received a 14 page document into evidence with signatures in opposition to the project because of the traffic issues. He asked if the applicant has taken this into consideration. Atty. Jennings responded that the addition of one house will not contribute to the traffic in the neighborhood. Kemal also asked about the slope from the grade of the property to the street. Mr. Preston responded that he would treat like any other new home; tree clearance and lower driveway to provide a sight line. Kemal Denizkurt noted that MassDOT supports that the traffic in the area is a concern, citing the calming measures that were put into place such as signage and painted lines.

Brian Carlic, 58 Church Street resident, provided a handout that had been read into the record at a prior meeting.

Elaine Kemp, 70 Church Street resident, provided a packet of information to the Board that included a list of homes on Church Street; when they were built and the square footage. Most were built in the 1800's and the newest was constructed in the 1960's she also provided a photograph, noting the MBTA and school bus stops located across from the property. She also noted there is a blind driveway at street level and the submitted items were entered into the file's exhibits.

A motion was made by Vice Chairman Foley to close the public hearing; seconded by Jonathan Moriarty and unanimously voted.

A motion was made by Vice Chairman Foley to take Case 3205 – 90 Church Street under advisement and to render a decision on December 4, 2013; seconded by Jonathan Moriarty and unanimously voted.

BZA Case #3191 - 767 Main Street (Cumberland Farms), Discussion

Chairman McLeod reported that a decision on Case 3191-767 Main Street will be rendered at the December 4, 2013 meeting. Jim Clarke reported that they are going over all of the items from the public hearings so there is a clear understanding of the issues and concerns are and need additional time to draft the recommended conditions of approval language. They include:

1. General
 - a. no auto sales
 - b. set the store and delivery hours
2. Traffic
 - a. review of the reports and the Traffic Engineer's analysis
 - b. recommendation for signal timing requirements to be coordinated with MassDOT
 - c. reduction in number of curb cuts
 - d. proposed no left turn out of site from property
3. Site Layout
 - a. Changes based on comments/ concerns
 - b. Elimination of outdoor seating and walkway to Adams Place
 - c. Rearrange location of pumps
 - d. Fuel delivery access moved
 - e. Parking layout and adequate parking spaces (lot to be striped per plan)
 - f. Sidewalks all identified
4. Building- colonial style
 - a. HVAC/equipment screened
 - b. Access points
 - c. Waste disposal location
5. Signage-review and adjust
 - a. All signage shall meet the zoning ordinance
6. Landscaping

- a. Identify/appropriate to the area
- 7. Drainage
 - a. Ponding at Main/Adams Place intersections – staff to work on a condition to address with the Town and Mass DOT

Jim Clarke noted these are guidelines for the review and other items can be included. Chairman McLeod noted that used cars were sold at one time on the property and asked if it will continue. Vice Chairman Foley asked if it can be covered under conditions. He also asked to include a snow removal plan and delivery hour limits for vendors. Jonathan Moriarty asked about striping in the parking lot to indicate the no left turn and Jim Clarke responded he will look into it. Jim will provide a draft analysis for the Board to review prior to the December 4, 2013 meeting.

A motion was made by Vice Chairman Foley to continue the discussion and/or decision to the December 4, 2013 meeting; seconded by Jonathan Moriarty. Unanimously voted.

Two residents of Adams Place noted that they were not aware there were other public hearings after the initial one and asked why they did not receive notice and asked if they were allowed to speak. Jim Clarke reviewed the public notice policy; the Town is required to send written notice to those abutters within 300 feet of the subject location for the first hearing. The public hearing has been closed and no further testimony can be accepted. The Chairman recommended they call the Planning Department office for further information.

Following this discussion, Vice Chairman Foley left the meeting.

BZA CASE #3214 – 211 Main Street, Public Hearing

Application of Andrew Gordon for property located at 211 Main Street also shown on the Weymouth Town Atlas as Sheet 29 & 33, Block 374, Lots 7 & 8, located in B-1 zoning district, seeking a Variance under Article XVI “Signs,” chapter 120-64.3 “Signs in Business Districts” to remove the existing building, wall and free-standing signs and replace with new signage that exceed the maximum allowable sign area.

Members sitting: Richard McLeod, Chairman
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty
 Brad Vinton

A motion was made to open the public hearing and waive the reading of the published notice. The applicant, Andrew Gordon, presented the plan to the Board requesting changes to upgrade the existing dealership signage to conform to the national Honda branding model. The property has been in existence for over forty years, and includes the sale of multiple Honda product lines. He provided a packet to the Board that included the proposed signage and includes directional signage on the property and upgrade to the building fascia so it matches with other Honda dealerships. A letter was also included

from Building Inspector Jeff Richards outlining the allowed signage. The applicant stated that the current signage does not conform to Honda's model or company policies. Chairman McLeod noted that if the Board were to act favorably and allow signage that exceeds the allowance in the Zoning Ordinance, it would set a precedent for other businesses. Kemal Denizkurt asked if the signage on the top peak of the building is necessary. Mr. Gordon responded that the sign provides visibility to the property from both sides of Route 18. There are multiple franchises located on the lot that are separate and distinct: cars, motorcycles, sport and marine motor lines and the lot needs directional signage to each area. Signs will not be placed in any area where cars will be parked. Jonathan Moriarty asked if the applicant could eliminate or scale down the size of "Weymouth" in the signage to decrease the overall signage dimensions. Kemal Denizkurt asked if there were any plans to replace or update the old chain link fencing fronting the property. Mr. Gordon responded that the fence does get repaired regularly. He can check with Honda about using a smaller "Weymouth" in the logo, but the signs were prepared based on Honda's trademark guidelines. Brad Vinton reported that he went by the property, and noted the signs can't be seen clearly unless you go into the property. Abby McCabe, Principal Planner, provided a staff memo to the Board to help review the signage calculations and the existing compared to the proposed. Kemal Denizkurt agreed that it is not easy to find each separate area once inside the property, and asked if directional signage is needed at every entrance to the property. Mr. Gordon responded that the goal is to provide direction from the entry. The applicant's intent of is a one-to-one sign replacement that is updated and looks pleasing. Chuck Golden asked the applicant to provide what is allowed for each sign, and the heights so the Board can make a fair comparison and recommended reviewing further with staff. The signage is based per property, not per business even though there is more than one franchise on the site.

Mary Ellen O'Brien, 267 Neck Street resident, noted that the applicant is in a tough spot because he is required to abide by signage and there aren't concessions for each business on the property.

The Board recommended that the applicant meet with staff and revise the proposal to address the concerns heard this evening. A motion was made by Kemal Denizkurt to continue the public hearing to the December 18, 2013 meeting; seconded by Jonathan Moriarty and unanimously voted.

BZA CASE #3215 - 30 and 36 Oak Cliff Road, Public Hearing

Application of Heinz Jouchmans for property located at 30 and 36 Oak Cliff Road also shown on the Weymouth Town Atlas as Sheet 30, Block 396, Lot 18 & 35, located in R-1 zoning district, seeking an amendment to the Variance granted on June 2, 2010 (Case #3084), seeking amendment to the Board's condition to straighten the angle of the lot line with the abutting property at 36 Oak Cliff Road, shown as parcel 5 on the approved plan.

Members sitting: Richard McLeod, Chairman
 Kemal Denizkurt
 Chuck Golden

Jonathan Moriarty
Brad Vinton

Attorney Bernadette Kenny, was present on behalf of Mr. Jouchmans, and presented the request to the Board to amend the decision of the Board dated June 2, 2010. She reported that the request was now back before the Board because one of the mortgage holders on the property will not allow Condition #2 in the Board's decision that asked that the applicant straighten out the lot line.

Abby McCabe reported that the application was distributed to the various departments and reviewed the comments. There are outstanding property taxes on the property and there was a discrepancy on the plan regarding the size of parcel 5. The size of parcel 5 does not match the size listed in the plan notes. A motion was made by Chuck Golden to close the public hearing and was seconded by Jonathan Moriarty. Unanimously voted.

To vote on Case #3215 – to approve an Amendment to the Variance granted on June 2, 2010:

A motion was made by Kemal Denizkurt to amend the Variance granted on June 2, 2010 (Case #3084), by removing the Board's condition #2 to straighten the angle of the lot line with the abutting property at 36 Oak Cliff Road shown as parcel 5, and was seconded by Chuck Golden. Unanimously voted with the following conditions of approval:

1. That the proof of payment on any outstanding taxes are submitted to the Planning Department;
2. That the size of the parcel (parcel 5) be clarified; and
3. That there be an easement to allow access.

BZA CASE #3216 – 666 Bridge Street, Public Hearing

Application of U-Haul of Rhode Island for property located at 666 Bridge Street, also shown on the Weymouth Town Atlas as Sheet 5, Block 13, Lot 7, located in B-1 zoning district, seeking a Special Permit under Article VII, Section 120-25(b) "Special Permit Uses" for the construction of a ~2,450 sq. ft. building for a U-BOX service building on the easterly portion of the site with a lot area of 40,000 sq. ft. or more.

Members sitting: Richard McLeod, Chairman
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty
 Brad Vinton

A motion was made to open the public hearing and waive the reading of the published notice. Peter Olio of U-Haul presented the application. He reported the request is to construct a U-Box facility for the purpose of storage of U-Boxes, trailer hitches and cold storage. No chemicals will be stored, and there will be no sprinkler, heat or lights to the facility. The only lighting will be at the loading dock. It will be ~2,450 sq. ft. (approximately 70 ft. x 30 ft.). Kemal asked about the location on the lot. The applicant

responded that it proposed as shown so that it would not impact the wetlands in the rear of the site or be right up against the street. The building will have vinyl siding and the trim will match the existing building on the lot. There was a brief discussion of the traffic pattern on the site. Jonathan Moriarty asked if the lot will be striped to indicate traffic flow.

Abby McCabe reported that the application was distributed to the various Town Departments and reviewed the comments. She recommended the Board request a revised plan with dimensions and setbacks, a zoning summary table, parking summary table, utility plan, the parking spaces, pedestrian walkways and access, and directional signage. Jim Clarke recommended that the applicant provide this information before the Board considers taking action on the application.

Victor Pap, 267 Neck Street resident, asked if there will be buffer space behind the facility. He is also concerned that the height of the building would be visible from route 3A over Sullivan Tire. He noted there is a lot of suspicious activity in the woods adjacent to the property.

Mary Olindy, 267 Neck Street resident, expressed her concern with people congregating in the woods.

Mary Ellen O'Brien, 267 Neck Street resident, noted certain times of year there are trucks parked along the perimeter and out onto Neck Street. She asked the roof style and height. The applicant responded that the roof will be peaked and similar in height to a single family house. She also noted that she has been involved in two motor vehicle accidents at the intersection of Neck and route 3A and is concerned with traffic flow. Jonathan Moriarty asked what hours there will be truck traffic. The applicant responded that the business will be open normal business hours.

Donna Sullivan, Shore Drive resident and owner at 267 Neck Street, asked for an explanation of "pod storage" and the process. The applicant explained that it is another form of self storage. The pods are delivered five at a time and stored in the proposed building until the owners request them (avg. 2-3 months). The building can hold 60 pods and are accessed via a garage door and has a ventilation system.

Abby McCabe reported that the application was distributed to the various departments and reviewed the comments. Jim Clarke requested the applicant provide a rendering with more description including the location, distance to side lot lines, current parking and access for the Board to review.

A motion was made by Kemal Denizkurt to continue the public hearing to the December 18, 2013 meeting; seconded by Chuck Golden and unanimously voted.

BZA CASE #3213 – 73 King's Cove Beach Road, Public Hearing (postponed from 11/6/13)

Application of Evangelina Baez for property located at 73 King's Cove Beach Road, also shown on the Weymouth Town Atlas as Sheet 6, Block 55, Lot 21, located in R-1 zoning

district, seeking a Special Permit request under Chapter 120-40 “Extension or Change for Nonconforming Uses or Structures” for the construction of a deck within the required minimum front and side yard setbacks.

Members sitting: Richard McLeod, Chairman
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty
 Brad Vinton, Alternate

A motion was made to open the public hearing and waive the reading of the published notice. Evangelina Baez presented her application, which the Conservation Commission reviewed at their meeting earlier in the evening. She requested the Board retroactively approve a request to build a deck on the front of her house. The deck has already been constructed because she was not aware she was required to get an approval prior to construction. The deck was built within the required front and side yard setbacks. Kemal Denizkurt asked where vehicles park on the property. Ms. Baez responded that there are spaces for 2-3 cars on the side of the house.

Abby McCabe reported the application was distributed to the various departments and reviewed the comments. The Building Inspector performed a site inspection and found that many of the neighboring properties also have decks and structures within the front yard setback. Abby McCabe also noted that the Board received a staff memo that included photographs of the abutting and nearby properties that also had front porches and decks.

Rob Cushing, 9 King’s Cove Beach Rd. resident, spoke in support of the application and cited the improvement to the neighborhood.

Dave McSweeney, 67 King’s Cove Beach Rd. (abutter) resident, also provided his support and noted his deck juts out further towards the water than this one.

Dick Buckley, 79 King’s Cove Beach Rd. resident, also supported the application.

Ms. Hamm, 104 King’s Cove Beach Rd. resident, also supported the application.

Kemal Denizkurt asked if the deck was built to code and Jim Clarke responded that it was.

A motion was made by Chuck Golden to close the public hearing; seconded by Jonathan Moriarty and unanimously voted.

To vote on Case #3213 –73 King’s Cove Beach Road to approve a Special Permit for the construction of a deck within the required minimum front and side yard setbacks:

A motion was made by Chuck Golden to approve the application for a special permit; seconded by Jonathan Moriarty and unanimously voted.

FINDINGS

Further, the board finds that:

1. The specific site is an appropriate location for such a use.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town, as evidenced by the support of the neighbors.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
5. The public convenience and welfare will be substantially served.

DECISION OF THE BOARD - Due to the above findings, it was unanimously voted to approve a Special Permit.

Approval of Minutes

Abby McCabe reported that the minutes from the October 16, 2013 were further amended by staff because the draft provided to the Board indicated both a Variance and Special Permit for one of the cases when only a Variance was approved. A motion was made by Vice Chairman Foley to approve the minutes from the October 16, 2013 meeting as amended, and was seconded by Jonathan Moriarty and unanimously voted.

Adjournment

The next meeting of the Board of Zoning Appeals will be on Wednesday, December 4, 2013. At 9:50 PM, a motion to adjourn the meeting was made by Chuck Golden, seconded by Jonathan Moriarty and unanimously voted.

Respectfully submitted:

Kemal Denizkurt, Clerk