

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
OCTOBER 3, 2012**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, October 3, 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: Richard McLeod, Chairman
 Edward Foley, Vice Chairman
 Kemal Denizkurt, Clerk
 Chuck Golden
 Jonathan Moriarty
 Robert Stevens, Alternate Member

Staff: James Clarke, Director of Planning and Community Development

Recording Secretary: Mary Barker

The Vice Chairman called the hearing to order at 7:10 PM and explained the procedures that would be followed to the people present. A motion was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and unanimously voted.

BZA CASE #3171-24 Woodbine Road, Public Hearing, (cont.)

Application of Zdzislaw Marecki for property located at 24 Woodbine Rd., also shown on the Weymouth Town Atlas as Sheet 30, Block 391, Lot 12, located in R-1 zoning district, seeking relief from the minimum side yard depth for construction of a new house

Members sitting: Edward Foley, Vice Chairman
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty
 Rob Stevens, Alternate

Mr. Marecki again appeared before the board. The Vice Chairman advised the applicant that he would require unanimous action by the members present (Jonathan Moriarty arrived later in the meeting), and gave the applicant the option to continue. The applicant chose to go forward. Architectural plans have been submitted and were reviewed by the board.

Suzanne Helmar, 20 Woodbine Rd., voiced her opposition to the proximity of the proposed house to her home. A discussion ensued on the existing nonconformity, the distances between the old, new and abutting properties, the shed and fence that both encroach on the applicant's property, the timber wall on the property and how to access to the rear of the property from the side yard. The new plan was explained to Ms. Helmar. She also asked if any of the existing

construction will remain. Mr. Marecki responded that the proposed house will be all new construction.

District Four Councilor Arthur Mathews also made recommendations for the applicant, abutter and board to consider. It was also suggested that the abutter could get her own survey done and compare with the applicant's survey. Jim Clarke noted the discussion was segueing into matters outside of board's scope.

A motion was made by Chuck Golden to continue the public hearing to the November 14, 2012 meeting. The abutter will obtain a certified plot plan, and Chuck Golden and Councilor Mathews suggested the applicant and abutter try to come to some compromises before the next meeting. This was seconded by Kemal Denizkurt and unanimously voted.

BZA CASE #3173– 30 Weyham Road, Public Hearing

Application of Jason Hayes for property located at 30 Weyham Rd., also shown on the Weymouth Town Atlas as Sheet 8, Block 111, Lot 45, located in R-1 zoning district, seeking to construct a new wood framed full shed dormer. The new dormer will allow for a more efficient use of the floor area.

Members sitting: Richard McLeod, Chairman
 Edward Foley, Vice Chairman
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty
 Rob Stevens, Alternate

Jason Hayes appeared before the board. The board reviewed the plans, which will not exceed the existing footprint. The dormer will include two bedrooms. No bathrooms are requested.

Jim reported the application was routed to the various departments and reviewed the comments. He noted an outstanding water bill on the property. The applicant responded that the bill has since been paid.

Consuela Medina, 26 Weyham Rd. noted she is a direct abutter and the plans were reviewed with her. Construction of the dormer will be on the side of house that faces the property abutting the opposite side from 26 Weyham Rd..

To vote on the of BZA Case No. 3173 to approve a Special Permit to construct a new wood framed full shed dormer:

A motion was made by Vice Chairman Foley to close the public hearing, seconded by Chuck Golden and unanimously voted.

A motion was made by Vice Chairman Foley to approve the application for a special permit and was seconded by Jonathan Moriarty. Chuck Golden commended the applicant for working with the town and the neighbors, addressing their concerns and incorporating them into the design.

FINDINGS

Further, the board finds that:

1. The specific site is an appropriate location for such a use. The plan will not increase the existing footprint.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town.
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 the application for a special permit.

BZA CASE #3167–316 Washington Street, Public Hearing (cont.)

Application of Jens Lisinski for property located at 316 Washington St., also shown on the Weymouth Town Atlas as Sheet 24, Block 324, Lot 1, located in B-1 zoning district, seeking to construct a drive-thru specialty coffee kiosk in the parking lot of Fox Shopping Plaza. Relief also requested from the parking restrictions, signage restrictions, and a modification to the special permit granted for the construction of the plaza on 1/23/89, Case #88-11-9/9, regarding allowed hours of operation

Members sitting: Edward Foley, Vice Chairman
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty

The applicant again appeared before the board. Additional materials were presented to the board that addressed some of the concerns relayed in the last meeting. The applicant will lease additional space within the plaza to accommodate the need for bathroom facilities, as well as allowing him to store stock. Vice Chairman Foley reiterated the concerns with displacing parking spaces and how it might affect future tenants. Jim reported that they have not been given a site plan with actual dimensions. He is concerned that the existing parking spaces do not meet the zoning and will be out to the site again to measure. The traffic plan is not accurate as to the number and size of parking spaces. He noted the plan shows parking spaces that are no longer there, and dumpsters displacing space. It would be helpful to have a site plan that incorporates fixed landmarks and proximal to parking. Kemal Denizkurt and Chuck Golden discussed viability of the business. The discussion also included queuing during peak times and its affect on Washington Street traffic. Kemal also asked if any food preparation will be conducted. Mr.

Lisinski responded that due to the limited space in the kiosk, he will provide a very limited amount of prepackaged items. No retail sales will be conducted in the leased space within the Fox Plaza building. Terms of the lease were discussed. Mr. Lisinski noted that under the terms drafted in his lease agreement, if his business fails he will be required to remove the kiosk and return the parking lot to its original condition; a sublet is not an option. Kemal also noted that the applicant is seeking relief to the signage variance and that what the applicant is proposing is more than 5 times what is allowed under the ordinance. Mr. Lisinski noted that if his leased space in the plaza building could factor in to the signage. The building department has not addressed this yet. The water tank for the kiosk will not be on the building's exterior. The board requested the applicant provide a site plan with dimensions shown off set landmarks on the property. A motion was made by Vice Chairman Foley to continue the hearing to the October 17, 2012 meeting and was seconded by Jonathan Moriarty. The applicant will notify the administration if more time is needed. Unanimously voted.

BZA CASE #3166–1072 Washington Street - Decision

Application of Ed Kelcourse for property located at 1072 Washington St., also shown on the Weymouth Town Atlas as Sheet 30, Block 399, Lot 3, located in HT zoning district, seeking to construct a 2-story building with 2 residential units and 3 commercial units.

Members sitting: Edward Foley, Vice Chairman
 Kemal Denizkurt, Clerk
 Chuck Golden
 Jonathan Moriarty

A list was crafted since the last meeting and the board reviewed. A brief discussion followed, and modification recommended to the hours for truck delivery and dumpster services.

To vote on the of BZA Case No. 3166 to approve a Special Permit to construct a two story building with 2 residential and 3 commercial units

A motion was made by Kemal Denizkurt to approve the application for a variance and was seconded by Jonathan Moriarty. Chuck Golden commended the applicant for working cooperatively with the town, administration and neighbors, addressing their concerns and incorporating them into the design plan.

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.
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 the application for a special permit, subject to the following conditions, as modified:

- Site Plan shall be as shown on exhibit F.
- Elevation Plan shall be as shown on Exhibit G.
- Signage-all signage on the property shall be in conformance with the Town's ordinance, Sec.120-64.3 (Signs in business districts). Freestanding sign shall be as shown on Exhibit M. Lighting of freestanding sign shall be provided by up lights.
- Landscape Plan-landscaping shall be in conformance with the plan submitted with the application entitled "Proposed Landscape Plan-1072 Washington St." and marked as Exhibit J. In addition, planting of an appropriate number of arborvitae along the entire length of the east side of the metal building shall be planted in sufficient quantity to conceal the metal façade when plantings are fully matured.
- Dumpster shall be properly screened according to Town code.
- Lighting shall be located per lighting plan submitted as part of the application as shown on Exhibit K. Type and design of lighting fixtures shall be as indicated on the cut sheet submitted as part of the application, Exhibit L.
- All retail businesses operating on the site shall have as their hours of operation (open to the public) no earlier than 8 AM and no later than 9 PM Monday through Saturday, and 9 AM to 6 PM Sunday.
- The service businesses shall be open to the public from 7 AM to 7 PM Monday through Sunday.
- No drive-through service or windows shall be allowed for any uses on the property.
- No overnight parking of commercial vehicles (over 1 ½ tons) in the parking spaces located in the front of the building.
- Truck deliveries shall be allowed between the hours of 8 AM to 5 PM Monday through Friday, and 9 AM to 5 PM on Saturday.
- Dumpster service shall be allowed between the hours of 8 AM to 5 PM Monday through Friday, and 9 AM to 5 PM on Saturday.
- The public sidewalk, the length of the frontage, shall be replaced with bituminous concrete.
- Mass Highway shall make the final determination of the location of the curb cut.
- If traffic issues arise from the operation of any business on the site, the Town's traffic engineer shall analyze the situation and make appropriate recommendations to the town's public safety officials who have the power to enforce any recommendations deemed necessary to protect public safety.

Minutes-September 19, 2012

A motion was made by Chuck Golden to approve the minutes of the September 19, 2012 meeting, seconded by Jonathan Moriarty and was unanimously voted.

Other Business

Jim provided some materials to incorporate the design guidelines crafted in 2006 with a comprehensive zoning review and to consider adoption to the board's Rules and Regulations. A

work session will be conducted at the next meeting with participation from all members and alternates.

Adjournment

At 9:00 PM, there being no further business, a motion to adjourn the meeting was made by Jonathan Moriarty, seconded by Chuck Golden and unanimously voted.

Respectfully submitted:

Kemal Denizkurt, Clerk