

**BOARD OF ZONING APPEALS**  
**RECORD OF MINUTES AND PROCEEDINGS**  
**September 18, 2013**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, September 18, 2013 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  
Rob Stevens, Alternate Member  
Brad Vinton, Alternate Member  
Brandon Diem, 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 7:00 PM and explained the procedures that would be followed to the people present.

A motion was made by Kemal Denizkurt to take Case #3209 out of order; seconded by Chuck Golden and unanimously voted.

**BZA CASE #3209–68 Pond Street, Public Hearing**

Application of Michael R. Bates for property located at 68 Pond Street also shown on the Weymouth Town Atlas as Sheet 49, Block 555, Lot 3, located in R-2 zoning district, seeking to add dormers to the second floor for storage; no changes to the footprint

Members sitting: Edward Foley, Vice Chairman  
Kemal Denizkurt  
Chuck Golden  
Jonathan Moriarty  
Brad Vinton, Alt.

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

Mr. Bates presented the application to add to dormers; one on either end in the crawlspace above the garage for storage. He will use it for bicycle storage and will not run plumbing or electricity to the space. Jim Clarke asked if the dormers will be on the interior portion. Mr. Bates responded that they will be on both sides. Vice Chairman Foley noted the plan doesn't show both dormers. The applicant will provide a plan that shows both.

Jim Clarke reported the application was routed to the various departments and reviewed the comments.

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

**To vote on Case #3209 – to approve a Special Permit to add dormers to the second floor**

A motion was made by Vice Chairman Foley to approve the application for a special permit under 120-40; seconded by Jonathan Moriarty.

**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. No plumbing, bathroom facilities or electricity will be brought in.
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, with the following conditions:

1. Applicant will provide a new drawing that shows both dormers.

**Other Business**

Jim Clarke reported that he and Abby McCabe went to inspect 1090 Washington Street; Case #3157 approved by the board. They were generally pleased with the work; however, based on the correspondence with Bob Luongo, the board and the applicant, the door is supposed to be wood faced to look like a barn door and the window muntins, trim and corner boards painted a contrasting white. They are meeting again with Mr. Glynn on 9/19. Jim asked for the board's direction; these are design issues. There was a brief discussion. Jonathan Moriarty asked if the foundation could be stained to provide a less stark contrast. Chuck Golden responded that if the board was amenable to not painting the corner boards, the applicant might be willing to do something about the foundation.

Vice Chairman Foley noted the yellow door doesn't resemble a barn door. Jim will discuss these items and the landscaping by the sign.

Abby McCabe reported that the Board received a request on 9/18/13 for six-month extension on Case #3168, 120 Mt. Vernon Road East. Construction hasn't begun yet and the Variance granted on 9/19/12 expires on September 19, 2013. The applicant is proposing changes from the original design approved in 2012. The original application was for a 2-car garage connected to the main dwelling via a breezeway. The new plan will be a detached garage with no breezeway and a reduction in the footprint.

A motion was made by Chuck Golden to grant an extension to March 19, 2014 and the applicant is required to provide new plans; seconded by Jonathan Moriarty. Kemal noted the date in the memo should read March 19, 2014. Unanimously voted.

At 7:29 PM, a motion was made by Vice Chairman Foley to recess; seconded by Jonathan Moriarty and unanimously voted. During the recess, at 7:30 PM, Chairman McLeod arrived. At 7:35, the meeting resumed.

### **BZA CASE #3202–3 Campbell Street, Discussion and/or Decision**

Application of Donald Rafferty for property located at 3 Campbell Street also shown on the Weymouth Town Atlas as Sheet 55, Block 611, Lot 10, located in R-1 zoning district, seeking to subdivide the property into two lots about 10,500 square feet each.

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

A motion was made by Kemal Denizkurt to deny the application for a special permit. Based on the evidence the proposal would be detrimental to the neighborhood and the applicant did not provide sufficient evidence that the application meets the criteria under 120-53. Evidence provided by the town indicates that 75% of the lots in the area are greater than the proposed lots. Chairman McLeod read the language from the code of Ordinances:

*If adjoining areas have been developed to a substantial extent by the construction of dwellings on lots generally smaller than is prescribed by this article **and** the standard of the neighborhood so established does not reasonably require a subdivision of the applicant's land into lots as large as is hereby prescribed, the Board of Zoning Appeals, by special permit, may grant such relief by making exceptions to the forms of this article, subject to the conditions and requirements of Article XXV of this bylaw. See Table 1 for applicability.*

The motion was seconded by Vice Chairman Foley and unanimously voted.

**Discussion of possible zoning amendment**

Jim Clarke opened the discussion, specifically on 120-53. Councilor Conlon was also present for the discussion. Many applicants come before the board looking for relief on the lot size. Jim reviewed for the board the number of applications that have been heard since the change in form of government and adoption of the ordinance. He reported that of 8 applications prior to the adoption, 7 were denied and 1 approved for lot reduction to size of less than 10,000. He then looked at applications heard from August 2008 through August 2013. There were five cases and he reviewed them; they included Hobomack Road, 114 Forest Street, 5 Pleasant Street, Regatta Road.

He noted that when the language was initially drafted they tried to include specific criteria: frontage on public way and subdividing of a parcel into no more than 2 parcels; lots similar to surrounding neighborhood, and minimum lot size. There have been times when the provision is useful and he cited 4 Pond Street and Wampum Street. He requested the discussion to determine if there is reasonable value to changing the process and if the board can come to a consensus to prepare a request to the town council for a change in the ordinance. He reviewed the procedure- a request to town council generates public hearings with planning board and based on their recommendation, final disposition by town council. Chairman McLeod agreed; he would like to see the ambiguity removed and suggested the language include “no smaller than...and neither of 2 lots smaller than....”. Jonathan Moriarty agreed and cited the Central Avenue case, although he noted there were other issues with that property. It’s time to stop overtaxing the system.

Vice Chairman Foley reminded the board that the 30,000 has been suggested, but Planning’s intent was not to allow building on anything smaller than 25,000. Kemal Denizkurt responded that decisions take into account all of the criteria. Allowing a 40,000 lot to be subdivided into 2-20,000 would give some relief. Hi is also in favor of specific frontage size, say 100’ to less than “x” would eliminate some applications. There was a discussion of the legal definition of the configuration of a neighborhood and whether “in its existing configuration” means what is in place at the time the application is submitted. Jim Clarke also recommended the language should include that once a subdivision takes place it cannot be re-subdivided. Chuck Golden asked if the discussion applies any cases currently under consideration. They could not be a part of the discussion. Vice Chairman Foley asked if planning would be amenable to the 40,000 number and whether a joint discussion should take place. Jim Clarke responded that the board may make its recommendation, but the planning board and/or town council has the right to amend a proposal. Chairman McLeod asked if the board recommends a 40,000 lot size is the minimum that can be subdivided, would they then suggest a recommendation for the split size- say 30/10 minimum? Vice Chairman Foley and Chuck Golden both responded yes. Kemal Denizkurt responded that they don’t want to see every half-acre chopped up. Jonathan Moriarty agreed and referred to Central Street- it will result in a domino effect that will change the character of the neighborhood. Right now there are a good number of nicely sized lots.

Rob Stevens noted that Weymouth is a mature town that is fairly built out and with little opportunity for new growth. Kemal Denizkurt responded that the town needs smarter

growth, maybe redistricting apartment areas. Jonathan Moriarty suggested commercial growth is needed, and he reviewed the board's recent decision that allowed parking to be changed to meet a commercial need on Libbey Parkway.

There was a discussion on how to configure lot sizes in a split. Chairman McLeod suggested that a percentage split would offer more flexibility. Jonathan Moriarty responded that there might be topographical issues that would restrict this and not make it feasible. Jim reviewed the history- there were many "mom and pop" lots of less than 10,000; these were taken out and then the watershed protection came in inn 1985. In the 90's, the language changed to 25,000 minimum lot size, but they could combine the lot minimum size with a minimum split and frontage requirements. Jonathan Moriarty noted he favors a lot size of 17,500. Based on the discussion, Jim will take the comments and draft some language. He asked if they were comfortable at a 40,000 starting point, or was it too big? Chairman McLeod responded that if that were the case, it would have eliminated 5 cases from the list that they were provided. And Jim noted that these aren't including the residents who come in looking to make changes that don't make it to the application process. The discussion included the minimum frontage; the current language and how frontage is measured. There are exceptions in cases where property flares. Kemal Denizkurt favored language that would include minimum frontage for both parcels, to avoid "pork chop" lots and to be fair to the neighbors. Jonathan Moriarty noted it would be good to look at what other towns have done, how the bylaws have been challenged, and a review of cases in land court. Jim Clarke noted that single-family zoning is one size fits all. Rob Stevens noted that Quincy has four distinct residential zoning districts. He noted that he tended to lean towards smaller lot sizes, but that it would be helpful to run an average lot size study using the GIS mapping and looking at potential redistricting of some residential areas. There was some discussion of possible litigation if this goes through. Jonathan Moriarty noted it might encourage some other type of development. There was a brief discussion of standards for special permit use and variance. Jim Clarke will do more research and come up with draft language that includes:

- Original lot minimum size
- New lot minimum size
- Frontage requirements

Rob Stevens also suggested that the language include that any new proposal with new building must remain within the building envelope with no further encroachments. Jonathan Moriarty responded that a developer could let a subdivision sit and submit plans to build later. Vice Chairman Foley responded that an applicant can't put through an application that creates a hardship. Jim Clarke responded that the board reserves some authority to grant relief. Chuck Golden noted that they would have to make sure they meet initial criteria in the guidelines; they can't take away homeowner rights. Jonathan Moriarty responded that the language reads: "must initially comply."

Jim Clarke will provide a draft that incorporates the points raised in this discussion for the board's review at the October 2, 2013 meeting. there was a brief discussion of the October 2, 2013 agenda.

**Adjournment**

The next meeting of the Board of Zoning Appeals will be on Wednesday, October 2, 2013. At 8:35 PM, a motion to adjourn the meeting was made by Vice Chairman Foley, seconded by Jonathan Moriarty and unanimously voted.

Approved:

---

Kemal Denizkurt, Clerk