

BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
January 9, 2013

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, January 9, 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

Staff: James Clarke, Director of Planning and Community Development
 Bob Luongo, Principal Planner

Recording Secretary: Mary Barker

The Chairman called the hearing to order at 7:15 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 #3176–110 Main Street and 559 Washington Street, Public Hearing, (cont.)

Application of RK Weymouth, LLC for property located at 110 Main St. and 559 Washington St., also shown on the Weymouth Town Atlas as Sheet 29, Block 329, Lot 10,12,15 & 21, located in B-1 zoning district, seeking a variance to remove the existing nonconforming free standing signs and replace them with modern and more aesthetically pleasing signs. The new sign at Washington St. will have the same non-conforming size as the existing one, but the sign on Main St. will be slightly larger. The applicant needs the larger sign to meet the current marketplace needs and due to the expansion of the plaza.

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

A motion was made by Vice Chairman Foley to reopen the public hearing, seconded by Jonathan Moriarty and voted unanimously. Attorney Gregory Galvin, with offices at 775 Pleasant Street, again appeared before the board. The applicant was unable to be present at this time. Atty. Galvin reviewed the applicant's request to increase the size of the pylon signs that are within the Mass Electric (NSTAR) right of way. The existing signs have been there since 1976 with no

objection from the utility. No headway was made with NSTAR since the last meeting. If the board was inclined to approve the application at this time, it could be conditional to NSTAR approval. With the assistance of the Planning office, an alternative location was proposed (see Exhibit A) that would not require NSTAR approval; the sign is narrower and located more northerly, outside of the easement area. There was a brief discussion about moving the sign location. Kemal Denizkurt asked if the applicant has considered moving the sign past the entrance and locating it on an island. Atty. Galvin responded that it would not leave enough space for the turning lane. The proposal allows for the least obstruction to visibility for traffic. Vice Chairman Foley asked if NSTAR will approve. Atty. Galvin responded that the applicant expects the utility ultimately will approve, since they have never raised an objection to the existing sign or the wires above it; however, the applicant is under a time constraint to get the entrance work done.

There was a brief discussion of the revised plan. The sign will not be any higher than the original proposal; just narrower (higher would require a new application). The condensed size will be acceptable to the applicant. It will be 17' wide as opposed to the original 20' proposal. Bob Luongo noted that the traffic engineer has reviewed the revision and does not see any impact to visibility.

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

To vote on the of BZA Case No. 3176 to approve a Special Permit to remove the existing nonconforming freestanding signs and replace them with more aesthetically pleasing signs

A motion was made by Vice Chairman Foley to approve the application for a special permit and was seconded by Jonathan Moriarty.

FINDINGS

Further, the board finds that:

1. The specific site is an appropriate location for such a use. The applicant has provided sufficient evidence that visibility will not be hampered.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town. The applicant is not requesting to increase the square footage; the proposed "plan B" will narrow the size of the signage.
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. The proposed signage will increase visibility.

To vote on the of BZA Case No. 3176 to approve a Variance to remove the existing nonconforming freestanding signs and replace them with more aesthetically pleasing signs

A motion was made by Vice Chairman Foley to approve the application for a Variance and was seconded by Jonathan Moriarty.

FINDINGS

Further, the board finds that:

1. Owing to circumstances relating to the soil conditions, shape or topography of the land, a literal enforcement of the provisions would involve substantial hardship, financial or otherwise. The applicant has provided sufficient evidence that a hardship exists due to the location of the utility easement.
2. Relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance.

The use involved will not be detrimental to the established or future character of the neighborhood or town. The applicant is not requesting to increase the square footage; the

DECISION OF THE BOARD - Due to the above findings, it was unanimously voted to approve the application for a special permit and variance with the following conditions:

1. Before proceeding with the initial location plan, the applicant must have approval from NSTAR; otherwise Plan B (2nd location per Exhibit A) will go forward.
2. Signs on both Main and Washington Streets will use sign lighting of die cut letters only.

BZA CASE #3180–174 Central Street, Public Hearing, (cont.)

Application of Paul Mackintire for property located at 174 Central St., also shown on the Weymouth Town Atlas as Sheet 50, Block 565, Lot 13, located in R-1 zoning district, seeking to subdivide the property into two lots about 10,000 square feet each.

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

A motion was made by Vice Chairman Foley to reopen the public hearing; seconded by Chuck Golden and voted unanimously. Attorney Gregory Galvin, with offices at 775 Pleasant Street again addressed the board on behalf of the applicant requesting the property be subdivided from the existing lot of 21,000 square feet into two buildable lots with a starter sized home to be built on each. At the last meeting, the neighbors expressed their concern with the plan based on the problems with water pressure and drainage in the area. There was a house on the lot that tapped off of a 6" line from Huntington. The house at the corner of Central and Huntington is off a 12" main on cENTRAL; the house further up is off a 6" line, per the Water Department.

Communication from the Water Department to Jeff Bina indicated #52 and #53 come off a 2" steel line beyond the hydrant. The rest tap off of the 6" line with a reading of 42psi noted throughout the 6" line. There would be better service if the service was looped, and the easement that between 52 and 53 and straddling the property line between 19 and 27 Reed is adequate to do so, but it will not impact the neighbors up Huntington Ave. Vice Chairman Foley asked if the applicant has researched the feasibility or cost to loop the service. Atty. Galvin responded that the applicant has not looked into it. There was a brief discussion of the line conditions and DPW replacement/cleaning schedule. Some of the residents have booster pumps to increase the pressure. There was a brief discussion of the driveway location for the new houses. Both drives will come off Huntington, but specific location hasn't been determined.

A letter from Town Council Vice President Patrick O'Connor supporting the application was accepted into testimony.

Brian McGeoghegan, 34 Huntington Ave., asked when the water lines were last cleaned or replaced. A brief discussion followed regarding the process and costs of relining and/or cleaning. Outside contractors are hired as part of the Water Department's procedures. Chairman McLeod asked if the applicant would be amenable to sharing the cost with the town of cleaning the line. Atty. Galvin responded that the applicant would need to know what the costs would be before he could consider. Even if he were willing, does the town have it in the budget? Vice Chairman Foley noted that the Water Department has already indicated that the current psi is adequate.

John Lawless, 39 Huntington Ave., noted his concern with water flow throughout the area. Water use by neighbors further along the line affects his ability to get adequate pressure. The flow is restricted, and looping will not help. The pipe needs to be increased or replaced. He also noted that putting in two homes will increase the density and the added foundation will affect the groundwater absorption. He would like to see a groundwater containment plan. He also noted the safety concern of two driveways with entrances just beyond a busy intersection.

Robert Arnold, 52 Huntington Ave., noted the last two houses are not on the 6" line but are on a separate line, a 2" steel line after the hydrant. The stormwater flow is a problem at the end of the street because it is at the lowest point of the street. Atty. Galvin responded that the map shows there is a high spot in the road past these two proposed lots.

John Cassidy, 22 Huntington Ave., noted that the existing lot is 4,000 sq. ft. less than the zoning requires and asked if there is a height limitation. There are no sidewalks on Huntington and there is no room to avoid cars coming in or out.

Robin Marks, 17 Huntington Ave., an abutter, referenced the zoning bylaw minimum lot requirement and noted her concerns with water runoff, further displacement if trees are removed during construction, and the proposed size of the house in relation to the neighboring properties.

Ray Todd, 57 Reed Ave., an abutter, noted his property is larger than the surrounding lots and asked about the process of subdivision. He also noted his poor water pressure. He runs a pump and also a sump to control drainage.

Donald DeCoste, 48 Huntington Ave., noted his property comes off of the 6" line and it can take more than an hour to run a load of wash. He noted the original proposal he saw online was for one single family house priced at \$509,000, which he does not believe is in line with the neighborhood, and now is proposing 2 homes at a lesser cost.

Matt Johnston, 53 Huntington Ave., noted that he would like to see a better alternative to alleviating the water pressure problems than tearing up yards in the easement to accommodate another house.

Kemal Denizkurt noted there is commonality to what the residents have testified. The town has investigated the problems with water pressure and issued its response. Runoff control can be made a condition in approval. It might relieve the abutters concerns, but probably not the

neighbors further away. The board can also issue a condition on the location of driveways from the new homes. He reviewed for the residents the zoning requirements and the process of seeking relief for a smaller lot size. He also noted the concerns with lack of sidewalks and traffic is a concern in almost every neighborhood in town. Chairman McLeod noted that the bylaws allow an applicant to seek relief and the board has routinely approved application like this frequently; in his 12 years on the board, he has only seen one application that had overwhelming support of the neighbors. He noted his sympathy for the water issues, and encouraged the applicant and his neighbors to work toward a resolution. If the cost of line cleaning was acceptable, it could go a long way to making for good neighbors. He is not comfortable with the application as it stands. Atty. Galvin responded that he will speak again with the Water Department to see about costs for cleaning the lines or extending or looping and requested a continuance. Chuck Golden noted that the complaints seem to be too much runoff and not enough pressure, and this with a house taken down. If the applicant were to withdraw, he could build a single family home without the board's approval and suggested perhaps mitigation might be the way to go. Chairman McLeod added that it is not in the board's purview to make deals, and they do encourage coming to an agreement, but it is not the criteria to making a decision.

John Cassidy responded that it is not in the town's best interest to overdevelop small lots.

A motion was made by Vice Chairman Foley to continue the hearing to the February 6, 2013 meeting; seconded by Kemal Denizkurt and unanimously voted.

Submitted:

Exhibit 1- memo from Water Dept. to Jeff Bina, DPW Director

Exhibit 2- letter from Patrick O'Connor, Weymouth Town Council

BZA CASE #3182–5 Seminole Avenue, Public Hearing

Application of Catherine Devlin for property located at 5 Seminole Ave., also shown on the Weymouth Town Atlas as Sheet 13, Block 135, Lot 17, located in R-1 zoning district, seeking to construct a 2nd floor deck on a corner lot within 18' of the setback area.

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

Catherine Devlin reviewed her application, requesting a variance to add a 2nd floor deck onto an existing one. The project has gone before the Conservation Commission and been approved. The house is on a corner lot with frontage on two sides, and it will not block anyone's view of the water. A letter was sent out to the neighbors, with no opposition. There was a brief discussion; Trefton Road runs along the water and is a dirt road; a dead end private way. It is part of the Montcalm Interceptor improvements and there is no intent to pave. The dirt road is 20' wide.

Bob Luongo reported that the application was routed to the various departments and discussed their comments. Conservation Commission has noted the project can tap onto its erosion control measures with the Montcalm project.

To vote on the of BZA Case No. 3182; to approve a Special Permit to construct a 2nd floor deck on a corner lot within 18' of the setback area

A motion was made by Vice Chairman Foley to approve the application for a Special Permit and was 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. The proposed deck will not increase the original footprint nor will it infringe on anyone's view.
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. The applicant will tap onto the town's erosion control measures.

DECISION OF THE BOARD - Due to the above findings, it was unanimously voted to approve the application for a special permit with the following conditions:

1. The applicant will conform to the recommendations of the Conservation Commission.
2. If construction goes beyond when the town removes its erosion controls, adequate controls will be put in place.

BZA CASE #3181–203 Middle Street, Discussion and/or Vote

Application of Davis Clapp, LLC for property located at 203 Middle St. also shown on the Weymouth Town Atlas as Sheet 22, Block 291, Lot 9, located in POS zoning district, seeking a Special Permit to convert existing building to ten (10) owner occupied condominium units and for the construction of ten (10) new condominiums on the rear of the subject property within four (4) buildings

Members sitting: Richard McLeod, Chairman
 Edward Foley, Vice Chairman
 Chuck Golden
 Jonathan Moriarty
 Brad Vinton

There was a brief discussion with Jim Clarke. He reviewed his memo with the suggested conditions and criteria for approval. Jonathan Moriarty asked for clarification on the A/C and whether it referred to Central A/C throughout. Vice Chairman Foley noted the board has reviewed these and they meet the requirements for the Special Permit.

To vote on the of BZA Case No. 3181; to approve a Special Permit to convert existing building to eight (8) owner occupied condominium units and for the construction of twelve (12) new condominiums on the rear of the subject property within four (4) triplex buildings

A motion was made by Vice Chairman Foley to approve the application for a Special Permit and was seconded by Jonathan Moriarty, based on the following findings:

FINDINGS

1. The specific site is an appropriate location for such a use.
 - a. The Public Open Space zoning allows for the conversion of quasi-public property for multi-family.
 - b. The Central Square neighborhood is a mixed-use area with business, multi-family, and single-family uses.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town.
 - a. The renovation of the Clapp Memorial building preserves a contributing building to the Central Square National Register Historic District.
 - b. The multi-family use of the property will increase pedestrian activity in the neighborhood.
 - c. The new residents will patronize local business, thereby improving the business climate of Central Square.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
 - a. Adequate parking is provided on site.
 - b. Access from both Middle Street and Broad Street will limit additional traffic at Middle and Broad Street.
 - c. Traffic studies and the Town Traffic Engineer analysis shows that there will be no negative impact on neighborhood streets by the added traffic from the development.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
 - a. Public utilities, water and sewer, are adequate to handle the new use.
5. The public convenience and welfare will be substantially served.
 - a. The reuse of the property for residences provides additional housing options for the Central Square area.
 - b. The new housing is on a bus line and is within walking distance of commercial services.

DECISION OF THE BOARD - Due to the above findings, it was unanimously voted to approve the application for a special permit, with the following conditions (Attachment A):

**Attachment A
Central Square Historic District
Property Improvement Fund
Terms and Conditions**

The Davis Clapp, LLC intends to provide matching funds for improvements to homes and businesses located in the Central Square Historic District. The purpose is to encourage property

improvements to the area that are reflective of the design and historic character of the neighborhood.

A. Funding

Davis Clapp, LLC will establish a separate bank account that will be funded in the following manner.

1. \$1500 will be deposited from the proceeds of the first sale of each unit in the existing building (eight units = \$12,000).
2. \$2000 will be deposited from the proceeds of the first sale of the townhouse units (twelve units = \$24,000).
3. \$500 will be deposited for the Community Room upon issuance of the Certificate of Occupancy for the Clapp Memorial Building.

B. Eligible Work

Any exterior building repairs or improvements, business signs or awnings, or site improvements are eligible. Applications for funding may be submitted by the property owner or tenants, with approval of the property owner. The applicant should submit a plan or sketch of the proposed work. The applicant should solicit three quotes for the work identifying the proposed contractor. Applicants are encouraged to use Weymouth contractors.

C. Approval Process

There will be a three-person committee to review and approve applications for funding. The members will be:

1. Member of Davis Clapp, LLC
2. Member appointed by the Weymouth Historical Commission
3. Member appointed by the East Weymouth Neighborhood Association

These are unpaid positions. Minutes of meetings will be prepared.

The committee will review and approve funding by a majority vote of the whole committee. The funding will be a minimum 50-50 grant with a maximum grant of \$4000.

Grant funds will be released after evidence of the applicant's expenditure of their share of the costs.

Funding will be on a first come, first served basis. The program will terminate once the funds are exhausted.

The committee shall provide an annual progress report of the Weymouth Planning and Community Development Department.

Any funds remaining after five (5) years from the first sale of the last unit shall be deposited with the Weymouth Historical Commission for use in Central Square.

BZA – Design Guidelines

Jim Clarke provided draft copies to the board. He noted comments from the members have been incorporated in the document, and he commended Rita Lounge's contribution in getting the pictures included, and Councilor Hackett's support. The Building Department has been given a copy and a copy will be uploaded to the town website.

A motion was made by Vice Chairman Foley to include the Design Guidelines as an Amendment to the Board of Zoning Appeals Rules and Regulations and was seconded by Jonathan Moriarty and unanimously voted.

Minutes

A motion was made by Vice Chairman Foley to approve the minutes from the December 19, 2012 meeting, Case #3181; seconded by Chuck Golden and unanimously voted.

Other Business

Chairman McLeod reminded the members that they are required to complete the Ethics training by the end of January, and a brief discussion ensued.

Adjournment

There are no hearings scheduled for January 23, 2013. The next meeting of the Board of Zoning Appeals will be on Wednesday, February 6, 2013. At 9:15 PM, there being no further business, a motion to adjourn the meeting was made by Vice Chairman Foley, seconded by Jonathan Moriarty and unanimously voted.

Approved:

Kemal Denizkurt, Clerk

Date