

BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
April 4, 2012

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, April 4, 2012 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
 Jonathan Moriarty
 Robin Moroz, Alternate Member

Staff: James Clarke, Planning Director

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 #3158–24 Beals Street, Public Hearing

Application of Donald J. Rafferty, Jr. for property located at 24 Beals St., also shown on the Weymouth Town Atlas as Sheet 10, Block 125, Lot 4 & 5, located in a R-1 zoning district, seeking a special permit and variance for the minimum width at the building line and minimum lot size to subdivide one lot into two lots (17,130 sq. ft. and 13,278 sq. ft.)

Members sitting: Richard McLeod, Chairman
 Edward Foley, Vice Chairman
 Kemal Denizkurt
 Jonathan Moriarty
 Robin Moroz

Attorney Gregory Galvin, with offices at 775 Pleasant St., Weymouth presented the petition with applicant Donald Rafferty, Jr., who is under purchase agreement for the property, conditional to approval of this application by the Board. The property was originally two lots; there are two deeds and separate tax bills. The total of the two lots exceeds all other properties fronting Beals Street. The abutting neighbor built a wall that extends across the front of the lot. The lot is level at street and elevates to the rear. This property was before the Board twelve years ago at which time it was denied by 3/2 vote (special permit required 4 affirmative votes.)

The issue of blasting ledge and water runoff from the lot were raised as issues during the denial.

Attorney Galvin noted Mr. Bean of DJ Equipment reviewed the property and does not believe blasting will be needed in order to develop, and the Board can impose conditions to address water runoff.

Attorney Galvin noted that on the Town Atlas, 14 of the 21 lots fronting Beals St. are smaller than the smaller of these two lots and the neighborhood was developed on lots that were smaller. It meets the criteria for special permit.

Jim Clarke noted the application was routed to the various departments and noted their comments. He noted that third quarter taxes on Lot 5 are past due.

Kemal Denizkurt asked Mr. Bean of DJ Equipment his experience. Mr. Bean is in an excavation, land prep and roadwork business. Attorney Galvin noted that blasting is outside of the jurisdiction of the Board – Weymouth Fire Department and the Board of Health would address. The insurance company will conduct a pre- and post-blasting investigation if any blasting is needed. Kemal asked if the fire department has the ability to deny a blasting application. Mr. Bean noted he walked the property and also did an excavation for the development of an addition on the house across the street and no blasting was required, they used a hoe ram.

Vice Chairman Foley reviewed the frontage of the other lots on Beals St.; he also asked what has changed in the time since the prior application was denied. Attorney Galvin noted that application did have three members vote in favor. The two primary objections in the first application were blasting and drainage; they are presenting an opinion that development of the lot won't require blasting, the Board can impose conditions to address drainage.

Lance Magnell, 19 Beals St., whose property abuts the property where rock was drilled for development notes his property suffered as a result.

Jody Purdy-Quinlan, Fore River Watershed noted that the ledge on the lot is purple slate, is unique to the area, Precambrian and should not be blasted. It should be studied and protected as a dwindling natural resource. Evidence of trilobites has been found in the stone in the area.

Neighbor Michael O'Connor noted that since the development, he has water in his basement and a crack developed in his 4-year old gunite pool.

Joe Spallino, who lives in back of the property noted that bushes were put in but he still has a flooded basement when it rains. He also noted that a spring on Saning Rd. was capped.

Sandra Darling, 46 Beals Street noted that the street is narrow and this is the third request for division of the lots. It will cause problems with water, sewer and plowing.

Mike Burns, 32 Beals St. noted that he has led opposition to this since 2000. He noted it was never the owner's intent to divide the property and that passing the application will damage the character of the neighborhood. He built the wall across the properties with the agreement of the owner. He provided a handout to the Board outlining the issues and reviewed them for the members. He noted 19 homes on the street have an average frontage of 94'. He outlined his

opposition based on the criteria for special permit and noted the petition presented by the applicant has no Beals St. abutter signatures. He implored the Board to deny the application.

Jeanne Burns, 32 Beals St. noted that when the wall was installed, it was the owner who requested it extend across his lot because of concern with runoff.

Cynthia White- McCue, niece of the deceased owner of the lot was present and noted that the estate's intent is to subdivide the lot and sell the divided lot for development.

Keith Delvecchio spoke in support of the application.

Donald Stewart, 549 Essex St. and former owner of 32 Beals St. spoke against the application. He sold the property to his cousin, and notes the empty lot between properties gives them room.

There was a brief discussion of the Town Atlas. Attorney Galvin submitted the original and matched it up to the current. Kemal Denizkurt noted that only 6 of the 14 signatures presented are residents of Beals St. and that Beals St. addresses were crossed out. Vice Chairman Foley asked if the Burns had considered purchasing the lot themselves. Ms. White-McCue noted that they were offered the chance to purchase 7 months ago and they did not respond. The property is under agreement. The Burns responded that they were told the land could not be separated so they did not pursue the purchase.

A motion was made by Vice Chairman Foley to continue the public hearing to the April 18, 2012 meeting to allow the board time to review the materials presented and was seconded by Kemal Denizkurt. Unanimously voted.

Submissions: Exhibit 1-letter from Mr. Bean, DJ Equipment, dated 3/12/12.

Exhibit 2-email correspondence from Councilor at Large Jane Hackett dated 3-28-12 noting her objection to the application.

Exhibit 3-Petition presented by applicant with signatures of Beals Street and Saning Road residents in favor of application.

Exhibit 4-materials presented by abutter Mike Burns.

BZA CASE #3159-721 Randolph Street, Public Hearing

Application of Beverly A. Topham, Trustee of Beverly V. Topham Living Trust for property located at 721 Randolph St., also shown on the Weymouth Town Atlas as Sheet 56, Block 615, Lot 1, located in R-1 zoning district, seeking to subdivide the existing 44,100 sq. ft. lot into two dwelling lots with Lot 1 having 21,600 square feet and Lot 2 having 22,500 square feet. The applicant also seeks relief from the 120-foot minimum width requirement.

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

Jonathan Moriarty
Robin Moroz

Attorney David Kelly, with offices at 536 Granite St., Braintree presented the petition on behalf of the applicant for a special permit.

Chairman Richard McLeod reported that he and the presenting attorney both have offices at the same location but are not affiliated. The Chairman is unbiased but will step out if anyone has objections. There were no objections.

Attorney Kelly reviewed the application. If approved, the new lot will have 21,600 square feet and the second 22,500. There was a chicken coop (c.1920) that collapsed after a snow storm and was declared unsafe and subsequently demolished. He reviewed a map of the area. It is not heavily developed residential area and the application meets the criteria for special permit. The proposed building location is not within wetlands and will comply with setback requirements. He pointed out several lots in the vicinity that were less than the requested lot sizes.

Jim Clarke reported that the application was routed to the various departments and reviewed the comments, particularly the memo from Conservation Commissioner Mary Ellen Schloss. There was a brief discussion of whether a conservation filing will be necessary, whether filing with Holbrook was necessary.

Abutters Michael and Nancy Allie, 737 Randolph St. both spoke to the application. They had questions about where the building would be located, whether a road would be required for access, and their concern with any ledge removal and proximity to vernal ponds in Holbrook.

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

To vote on the of BZA Case No. 3159 to approve a Special Permit to subdivide the existing 44,100 sq. ft. lot into two dwelling lots with Lot 1 having 21,600 sq. ft. and Lot 2 having 22,500 sq. ft. :

A motion was made by Edward 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. Other lots in the neighborhood are of approximately the same size.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town. Any construction within 100' of the buffer zone will require filing with the Conservation Commission.
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, with the following conditions:

1. Any and all roof drains will drain to wells or leaching galleys.

BZA CASE #3160–South Suburban Realty Trust, Public Hearing

Application of South Suburban Realty Trust for property located at 1081-1085 Main St., also shown on the Weymouth Town Atlas as Sheet 49, Block 554, Lot 1,6,7, located in HT zoning district, seeking an Amendment to special permit #2591 for medical office building by adding Lots 1 and 6 and combining all three lots into one.

Members sitting: Richard McLeod, Chairman
 Edward Foley, Vice Chairman
 Kemal Denizkurt
 Jonathan Moriarty
 Robin Moroz

Bernard Smith, Manager of South Suburban Realty Trust, presented the petition with applicant requesting that the three parcels be merged into one to meet the criteria to add an onsite anatomic pathology lab.

Jim Clarke reported that the application was routed to the various departments and reviewed the comments. He noted he has been working with Mr. Smith for several months. In an HT zone, the medical building requires amending the special permit approved by the Board previously, by adding the other two lots. Jonathan Moriarty asked if the proposed lab intends any work with animals. Mr. Smith responded no. A motion was made by Vice Chairman Foley to close the public hearing and was seconded by Jonathan Moriarty and unanimously voted.

To vote on the of BZA Case No. 3160 to approve an Amendment to Special Permit #2591by adding Lots 1 and 6 and combining all three lots into one:

A motion was made by Edward Foley to approve amending the special permit approved under case #2591 (2001) to add Lots 1 & 6 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.
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.

Minutes- March 21, 2012, Case #3156 and 3157

A motion was made by Vice Chairman Foley to approve the minutes of the March 21, 2012 meeting; Case #3156 and Case #3157, seconded by Jonathan Moriarty and was unanimously voted.

Adjournment

At 8:50 PM, there being no further business, a motion to adjourn the meeting was made by Vice Chairman Foley, seconded by Kemal Denizkurt and unanimously voted.

Respectfully submitted:

Kemal Denizkurt, Clerk

Date