

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, October 1, 2014**

Members Present: Richard McLeod, Chairman
Chuck Golden
Kemal Denizkurt
Brad Vinton, Alternate Member

Absent: Ed Foley, Vice Chairman
Jonathan Moriarty

Also Present: Abby McCabe, Principal Planner
Lee Hultin, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:10 p.m. at the McCulloch Building and explained the procedures that would be followed to the people present.

Old Business:

Case # 3237 – 1199 Commercial Street – Public Hearing – Continued from 9/3/2014

The petitioner, Ryder Development, for property located at 1199 Commercial Street, also shown on the Weymouth Town Atlas Sheet 19, Block 249, Lot 6, located in a POS (Public, Semi-Public, Open Space) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: A building or group of buildings for occupancy by two or more families in separate dwelling units (Section 120-37.1B “Special Permit Uses”).

Special Permit: Continuation, extension or change of a nonconforming use or structure (Section 120-39 and 120-40). The existing structure is nonconforming with respect to the front yard setback from Madison Street (20 ft. required, 16.7 ft. provided).

Variance: Relief from the maximum required lot coverage (80% max. required, 80.6% proposed) (Section 120-37.1C(5)).

Variance: Relief from the 5 ft. minimum landscape requirement from the side and rear yard paved parking areas (Section 120-37.1C(4)).

The petitioner is proposing to renovate the former school building to construct 12 residences and 28 off-street parking spaces.

Members sitting: Richard McLeod
Edward Foley (Absent)

Chuck Golden
Jonathan Moriarty (Absent)
Kemal Denizkurt

Appearing before the Board was Attorney Gregory Galvin and the applicant, Ken Ryder of Ryder Development. Attorney Galvin summarized the plan changes since the last hearing, the number of units have been reduced from 12 to 10 residential units. There will be 4 units on the first floor and 6 units on the second floor. The interior floor plans could change but the number of units will always remain at 10 units.

Attorney Galvin reviewed the questions that were asked at the last meeting and supplied answers to them. They also reviewed all the Planning Department's comments.

The issue of the lights beaming into the homes on Madison Street is being address by expanding the landscaping with planting along Madison Street on the revised plans.

Attorney Galvin questioned why the middle row of parking spaces is being asked by the Planning Department to be compact spaces when there is sufficient parking onsite. Abby McCabe, Principal Planner, clarified that it was recommended that only the front two parking spots in the middle row be compact due to the turning area radius. The Traffic Engineer reviewed the revised plans and noted that a full size vehicle could not make the turn into those spaces which would impact the overall parking but two small compact cars such as a civic or corolla could make the turn and park within the lines.

Attorney Galvin submitted to the Board the recorded easement as requested by the Board at the last hearing (marked as Exhibit #1).

Attorney Galvin continued responses to Planning Department comments that the two spaces next to the dumpster were also requested to be removed. Kenneth Ryder responded that his engineer reconfigured all the parking lot stripes and the revised plans have 28 standard size spaces when only 20 is required, therefore he has no problem looking at that again to verify. Attorney Galvin added that the concern was only when the dumpster doors were open the two adjacent spaces were not accessible. The revised plans also show the addition of a catch basin near the Madison Street stairs to help with drainage in the parking lot.

Ms. McCabe responded that the concern from staff with the two parking spaces adjacent to the dumpster was not only when the doors were open but the location of the dumpster did not permit cars from backing out of those two spaces and a car would have to back all the way up in the aisle before it could turn around. Ms. McCabe also requested a note that the lot would be repaved be added to the plan because it was stated at the heareing and in the cover letter but not shown on the plans. Ms. McCabe also asked for the new floor plans that show 10 units instead of 12 units to match the site plans.

Attorney Galvin was hesitant to submit revised floor plans because he was concerned with any furture interior changes having to return to the Board for a modification. The Chairman agreed that revised floor plans be submitted so the file is clear that the application before the Board is

for 10 units and the applicant agreed. Ms. McCabe also requested the existing and proposed utilities (for water and sewer service) be shown on the plans since it has been requested by the Planning and Public Works Department (DPW) staff for a few months now both verbally and in writing in August and September in the Town Engineer's and Principal Planner's memorandums. Ms. McCabe reiterated that the utility information is important so the Board can determine that the project meets the Special Permit criteria #4 set forth in the Zoning Ordinance that says the Board must find the facilities are adequate and appropriate and this application is a change of use and the Board has not yet received this information.

Public Comment:

Bob Thomas, 848 Washington Street, comment that he believes the issue of the compact cars is a bit of overkill. All spaces need to be 9 x 18 ft. and this appears to be met. The dumpster has been relocated and the gates will swing open, this should not interfere with getting in and out of the parking spaces. Regarding the utilities, they are already recorded with the DPW. He believes the applicant will be a good neighbor and address any problems they may have. He supports the project.

Christine Write, 29 Summer Street, asked what will be done with the basement? She is pleased the proposal has been reduced to 10 units. She asked if there is any way to restrict the use of the basement so he cannot put studios down there.

Ms. McCabe reported that Bill Meade was present at the beginning of the meeting but had to leave and provided some questions and photographs. The photographs are of water coming down the staircase onto Madison Street and were distributed to the Board. The applicant responded that he will be installing catch basins near Madison Street to help address the run-off. Mr. Meade's note also stated that there may be bats in the chimney and there is a concern about asbestos on site.

Chairman McLeod informed the applicant and the people present that since two of the Board members on this continued case are absent they are going to keep the public hearing open and continue to the next meeting on October 15 in case either of the members have questions on the revised plans.

Kemal Denizkurt made a motion to continue Case # 3237 to October 15, 2014 and was seconded by Chuck Golden. Voted Unanimously.

New Business:

Case # 3243 – 110 King Avenue – Public Hearing

The petitioner, Liberty Realty Development, Inc., for property located at 110 King Avenue, also shown on the Weymouth Town Atlas Sheet 20, Block 282, Lot 37, located in a R-1 (Single-Family / Low Density Residential) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Extension or change of a non-conforming use or structure (Article XIII, Section 120-40). The property is nonconforming with respect to the use (auto-repair in single-family zone), lot size (25,000 SF, 17,063 SF provided) and lot width (120 ft. required, 75 ft. provided).

Presently located on the premises are two one-story buildings used for automobile repair. The petitioner is proposing to demolish the existing buildings to construct seven (7) two-story residential townhouse units in a ~3,150 SF building footprint and 14 off-street parking spaces.

Members sitting: Richard McLeod
Chuck Golden
Kemal Denizkurt
Brad Vinton
Edward Foley (absent on 10/1/14)

Chairman McLeod made a motion to open the public hearing on case # 3243 110 King Avenue and was seconded by Chuck Golden. Voted Unanimously.

Chairman McLeod made a motion to waive the reading of the published legal notice on Case #3243, 110 King Avenue and was seconded by Chuck Golden. Voted Unanimously.

Appearing before the Board was the applicant Mr. Bob Gabriel, owner of Liberty Realty Development, and his attorney Ray Jennings of Jennings, Jennings and Fishman, as well as the property owners William and Peg Herlihy.

Attorney Jennings explained that the neighborhood is residential with the exception of the industrial use by the Electro Switch plant company and the apartments across the street. This particular use is automobile repair and it is a pre-existing nonconforming use. The area and subject property was re-zoned by the Town to R-1 several years ago. The proposed use for multi-family residential will not be more detrimental to the neighborhood.

Exhibit #1 – Six photograph
Exhibit #1 – Color rendering of the proposed building

Project Engineer Dana Altobello, of Merrill Associates, stated that the applicant will construct a 7 unit townhouse complex. Each unit will have 2 bedrooms and 1.5 bathrooms and a deck off the back. There will be individual trash bins that will be picked up privately. The applicant has met with the abutters and incorporated their comments into his plan. These units will be owner occupied condominiums.

Kemal Denizkurt asked what the size of each unit would be and the applicant responded that each unit would be approximately 1024 square feet and will be two floors.

Kemal Denizkurt was concerned that the property is zoned R-1 which is a single-family use and they are proposing a 7 unit complex in an R-1 zone area. He asked for a comparison to other R-1 zones that may have a 7 unit or similar sized complex.

Kemal Denizkurt is concerned with the proposed density for this location. Seven years ago when the town rezoned it, they could have rezoned it R-3 or R-4 that would allow for multi-family but they didn't, they zoned it R-1 for a reason. The Board requested that Ms. McCabe review this history and report back why the Town of Weymouth changed the zoning to R-1.

The landscaping plan was reviewed and Kemal Denizkurt asked if there was any fencing going up. Mr. Altobello responded that there is an existing stockade fence along the property line owned by the neighbors.

In response to a question on snow removal, Mr. Altobello responded that snow removal will be pushed to the north and south of the parking lot and then removed off site for any larger storms.

Brad Vinton asked what the applicant was doing for drainage and the applicant reviewed the proposal storm water management and drainage improvements.

Kemal Denizkurt asked if there were any landscaping proposed. Mr. Altobello responded that they have a landscape architect that provided a planting plan. The proposed landscaping includes three new trees to be planted at the front of the lot near the street; plantings in the rear of the property and the sides of the property would be lawn / grass areas.

Attorney Jennings submitted the letter that was provided to the neighbors for the neighborhood meeting (marked Exhibit #3).

Ms. McCabe reported that the application was distributed to the various town departments and summarized the comments received. The Health Department provided a summary of the property's environmental history and their recommendations to have another environmental assessment to verify there have been no further contamination and a licensed site professional be on site during construction. The DPW had an only a few comments regarding showing the dumpster location on the plan, to use stainless steel tapping sleeves to tap off the main, and to cut and cap the water service main at King Avenue. The Town's Tax Collector also noted that there was still an outstanding balance in taxes owed to the Town in the amount of \$10,000, and the Traffic Engineer asked for a turn-around space for the two rear parking spaces.

The applicant responded that they would bring the land and soil in compliance with the environmental standards.

Ms. McCabe also added that a letter dated 9/30/2014 from Steven Barton was received today and provided to the Board at the start of tonight's meeting. Mr. Barton had concerns regarding the height, density, and the precedent this would set if this were approved.

Public Comment:

Maria Campanetie, 18 D.F. Haviland Lane, commented that the plan is pretty much the same as the original proposed plan. This is their 3rd home in Weymouth. She has had several issues in her neighborhood alone beginning with the home she had built. She is opposed to this project.

Chairman McLeod requested the applicant provide a comparison for a past approval to a similar project.

William Herlihy, owner of 110 King Avenue, explained that the neighborhood has changed over time and the business has been there since the 1940s. Some of the neighbors have requested chain link fences and arborvitaes along the property line.

Jill Collins, 116 King Avenue, has concerns about water run-off. She has terrible water issues in her basement ever since the development on D.F. Haviland Drive. All the foliage was removed and if there is more removed the flooding will be worse. She also requested that they have no on street parking. She feels that 7 are too many and maybe 5 units would be better.

Kathy Marr, 86 Kensington Road, was concerned about the number of units, she feels 5 is too high and maybe a duplex would be a better fit.

Joyce Livingston, 82 Kensington Road said the building on the property used to be a clutch shop which was the original garage to her family's home and it was a grandfathered use and then more recently the area was re-zoned to R-1 zone. The zoning change was initiated after someone tried to make it a cab stand.

Councilor T.J. Lacey stated that the proposal for 7 units is too much in the proposed area. The full Town Council voted to rezone this lot and others as an R-1 zone. As a representative of this area it was zoned R-1 for a single family use and maybe a duplex but 4, 5 and 7 units are just too much. It would be more detrimental to the neighborhood than the existing business use. He also had concerns with fire safety.

Chairman McLeod also stated that he was very concerned about setting a precedent with a 7 unit complex in an R-1 zone. An R-1 zone is meant to protect the single-family residential areas. There are zones for multi units in other parts of town.

Mark Kelly, 40 D.F. Haviland Drive, had the same concerns as neighbors. He believed there is clearly a financial gain when the property is valued at \$170,000. He isn't opposed to a duplex but 7 are too many. The contamination is a concern as well.

Richie Maher, 86 Kensington Road, stated her opposition to this project.

Christine Wright she has no problem with the business as it is grandfathered in but because it was just rezoned R-1 recently by the Town Council, this is what the neighbors want and when it is no long a business it should only be consistent with R-1 zoning.

Jill Collins – Is also concerned that they will not be owner occupied.

Bob Thomas, 848 Washington Street, he doesn't feel the snow management plan is adequate and the trash removal plan isn't complete.

Antonio Donggalao, 12 D.F. Haviland Drive, said he was not against building but only a single family home as it is zoned R-1.

Le Minh Le, 114 King Avenue, stated his opposition to this project and believes it should only be a single family home as it is zoned R-1.

Chairman McLeod explained to the applicant and the people present that this public hearing will be continued. Ms. McCabe summarized the material requested from the applicant to provide updated plans to address staff comments (dumpster/recycling shown on plan, add walkway, mailbox location, turn-around space for 2 rear spaces), show snow storage areas and she will check in with the Fire Department as requested by Councilor Lacey.

Kemal Denizkurt made a motion to continue the public hearing to October 15, 2014 and was seconded by Chuck Golden. Voted Unanimously.

Case # 3244 – 41 Jessica Lane – Public Hearing

The petitioner, Kenneth and Lynne Fitzgerald, for property located at 41 Jessica Lane, also shown on the Weymouth Town Atlas Sheet 61, Block 639, Lot 40, located in a R-1 (Single-Family / Low Density Residential) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Variance: Relief of 6.5 ft. from the rear yard setback (24 ft. required, 17.5 ft. proposed)
(Article XV, Section 120-51 Schedule of District Regulations, Table 1).

Presently located on the premises is a single-family residence. The petitioner is proposing to construct a 280 SF addition and enclose the existing 16 ft. x 12.5 ft. deck within the rear yard setback.

Members sitting: Richard McLeod
Chuck Golden
Kemal Denizkurt
Brad Vinton

Abby McCabe stated that the applicant has requested that this be continued to October 15, 2014.

Kemal Denizkurt made a motion to continue the public hearing to October 15, 2014 and was seconded by Chuck Golden. Voted Unanimously.

Review and Approve Amendments to the approved Board of Zoning Appeals' Rules and Regulations and Revised Zoning Board Application

Chuck requested that we postpone this discussion until the rest of the Board members are here as well as getting some feedback from the alternate members.

Ms. McCabe informed the Board that she has received some fee back from the alternate members. She also received comments from DPW, engineering and other review staff. She

believed more complete applications would be more beneficial and create less continued hearings.

Kemal Denizkurt commentented that revised plans not be presented/submitted at the public hearing that are different from what they received in packet. Chairman McLeod added that it would be helpful to have some clarity on what exactly the applicant is applying for i.e. special permit variance etc. because often times applicants aren't checking the correct box or aren't checking them at all. The Board also discussed their role in reviewing the floor plans to verify zoning compliance not necessarily the details and layout of a project's interior.

APPROVAL OF MINUTES – September 17, 2014

Chuck Golden made a motion to approve the minutes of September 17, 2014 as written and was seconded by Kemal Denizkurt. Voted Unanimously.

SIGNING OF DECISIONS FROM PRIOR MEETINGS

Signing of Decisions from prior meetings – 1434 Pleasant Street #3227, 1224 Commercial Street #3230, 1235 Main Street #3240, 110 Main Street #3241, 50 & 56 Fogg Road #3242, were included in the approval of the September 17, 2014 minutes.

OTHER BUSINESS


UPCOMING MEETINGS – October 15, 2014, November 5, 2014, November 19, 2014 and December 3, 2014

ADJOURNMENT

Kemal Denizkurt made a motion to adjourn at 9:25 pm and was seconded by Chuck Golden. Voted Unanimously.

Respectfully submitted by,

Lee Hultin
Recording Secretary
Approved by:


Kemal Denizkurt, Clerk

10/15/2014
Date