

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, October 15, 2014**

Members Present: Richard McLeod Chairman
Ed Foley, Vice Chairman
Chuck Golden
Kemal Denizkurt
Jonathan Moriarty

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

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:05 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 9/3/14 & 10/1/14

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 10 residences and 28 off-street parking spaces.

Members sitting: Richard McLeod
Edward Foley
Chuck Golden

Jonathan Moriarty
Kemal Denizkurt

Ms. McCabe, Principal Planner stated that both Edward Foley and Jonathan Moriarty were absent for the last hearing but they have listened to the tapes and are both willing to participate and have submitted the certification form.

Jonathan Moriarty stated that after listening to the tapes of the last hearing, he would like a condition that no construction will take place while the Food Pantry is occupying the building. Attorney Galvin stated that if you make that a condition, it puts the Food Pantry out of business.

Ken Ryder said he was planning on working on the upper level and doing the envelope items such as the roof, windows, parking lot and drainage. He has given his word to the Food Pantry that they could stay there for one year. Nothing will be done on the first floor while they are in there. He would like to begin some of this work this winter.

Jonathan Moriarty stated that he realizes it is a tough balance and perhaps if the Health Department monitors it during construction, that would be ok.

Ed Foley asked if they are working with the DPW (Department of Public Works) on the drainage and it was stated yes, they are tying into the system. They will also need permission from Immaculate as they will be going onto their property and need to tie into their system which would improve it as well.

Since the plans have been revised from 12 units to 10 units, a variance will no longer be needed for the lot coverage or the landscaping as initially requested.

Public Comment:

Bob Montgomery Thomas asked what the final number of proposed units was and the Board responded that it was 10.

Ed Foley made a motion to close the public hearing on case # 3237 – 1199 Commercial Street and was seconded by Jonathan Moriarty. Voted Unanimously.

Ed Foley made a motion to approve the application for a special permit for a multi-family dwelling Section 120-37.1B, Case # 3237 – 1199 Commercial Street. The Board of Zoning Appeals found that all of the following criteria have been met in accordance with Zoning Ordinance Section 120-122D.

1. The specific site is an appropriate location for such a use. The proposal will provide housing opportunities, will increase the landscaping on site, provides sufficient parking and has been revised from the initial submission so that no variances are needed.
2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town (the applicant has reduced the number of units from 12 to 10).
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.

4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

In addition, this motion will include all the conditions in Ms. McCabe's memorandum dated 10/15/14 memo with the additional condition that trash pick-up hours will be limited to between 7 am – 6 pm, and that the Board of Health review and inspect the Food Pantry to verify safety during construction and renovation. The motion was seconded by Jonathan Moriarty and voted unanimously.

Ed Foley made a motion to approve the application for a special permit under section 120-39 and 120-40 on Case #3237 – 1199 Commercial Street. The Board of Zoning Appeals found that all of the following conditions are met in accordance with Zoning Ordinance Section 120-122D.

1. The specific site is an appropriate location for such a use.
2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town (the applicant has reduced the number of units from 12 to 10).
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

In addition, this motion will include all the conditions in Ms. McCabe's 10/15/14 memo and added trash pick-up hours between 7 am – 6 pm, and that the Board of Health review and inspect the Food Pantry to verify safety during construction and renovation. The motion was seconded by Chuck Golden and voted unanimously.

The Board noted that the variances for landscaping and lot coverage were no longer needed and were withdrawn.

Case # 3243 – 110 King Avenue – Public Hearing - Continued from 10/1/14

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

Ed Foley
Chuck Golden
Kemal Denizkurt
Brad Vinton (not present on 10/15/14)

Chairman McLeod stated that the applicant has requested this public hearing case be continued to the November 19, 2014 Board meeting as they need more time to prepare requested material.

Edward Foley made a motion to continue this public hearing to November 19, 2014 and was seconded by Jonathan Moriarty. Voted unanimously.

NEW BUSINESS

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
Edward Foley
Chuck Golden
Jonathan Moriarty
Kemal Denizkurt

Ed Foley made a motion to open the public hearing on Case # 3244 for 41 Jessica Lane and was seconded by Jonathan Moriarty. Voted Unanimously.

Kemal Denizkurt made a motion to waive the reading of the published legal notice on Case #3244, 41 Jessica Lane and was seconded by Chuck Golden. Voted unanimously.

Ken and Lynn Fitzgerald appeared before the Board and explained that they are requesting to add a family room and a three season room on the rear of their house. They stated that they believe the addition needs to be placed in the rear as it is impracticable to put the addition anywhere else. They have a well on the side of the house and a garage on the otherside and a front addition would not be ideal.

The applicant stated that they have not heard any objections from any of the neighbors.

Kemal Denizkurt stated that the current deck is 18 feet off the rear property line and the proposed addition is an additional foot of encroachment based on the submitted plan.

Ms. McCabe reported that this same application was approved by the Board back in 2003 and they never built it and the previous variance has expired so they submitted again. A recent plot plan dated October 6, 2014 was submitted correcting the errors on the 2003 plan but the recent plan has been updated and included in this meeting packet.

The Chairman asked for public comment and there were none.

Ed Foley asked why they did not do the addition back in 2003. The applicant stated that they could not find a contractor they liked and due to his job situation they postponed it.

Ed Foley made a motion to close the public hearing on Case # 3244 and was seconded by Chuck Golden. Voted unanimously.

Ed Foley made a motion to approve this application for a variance as there is no other place to put the addition as there is a 500 foot well off to the side and without ruining the beauty of the lot. Jonathan Moriarty seconded and was voted unanimously.

Case # 3245 – 41 Glen Road – Public Hearing

The petitioners, Tara & Shauna Egan for property located at 41 Glen Road, also shown on the Weymouth Town Atlas Sheet 30, Block 384, Lot 8, 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 8.5 ft. from the front yard setback (18 ft. required, 9.5 ft. proposed) (Article XV, Section 120-51 Dimensional Regulations, Table 1).

Presently located on the premises is a single-family residence. The petitioner is proposing to construct a 10' x 27' ft. deck within the front yard setback.

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

Ed Foley made a motion to open the public hearing on case # 3245- 41 Glen Road and was seconded by Jonathan Moriarty. Voted Unanimously.

Kemal Denizkurt made a motion to waive the reading of the published legal notice on Case #3245, 41 Glen Road and was seconded by Chuck Golden. Voted unanimously.

Appearing before the Board was Shauna and Tara Eagan. The applicant stated that there was a deck there previously and it was unsafe so they removed it and now would like to rebuild it.

They spoke to their neighbors and did not hear of any opposition. This is a corner lot. The front door is on Glen Road. Due to the design of the house, there is no other area to put the deck and there is a large tree that would need to be removed that would cause some financial hardship. There are already double doors on the house going out to the deck.

Ms. McCabe stated that there were no comments from the staff departments. Although she noted that the relief is for 8.4 ft. because the deck is proposed to be setback 9.6 ft. as the legal advertisement incorrectly said 8.5 ft. of relief.

The Chairman opened the hearing up to public comment.

Public comment:

Arthur Mathews, District Four Town Councilor, stated that he has not had any objections to the proposal and supports this application for the variance.

Bob Montgomery Thomas recalls the old deck and doesn't see anything different or harm in the proposal.

Ed Foley made a motion to close the public hearing on Case # 3245 – 41 Glen Road and was seconded by Jonathan Moriarty. Voted unanimously.

Ed Foley made a motion to approve this application for a variance on the front yard setback. There is no other area to put it due to financial hardship, there was an existing deck already there and the existing door is still there, there is a stone patio and removing the large tree would cause financial hardship and due to topography of the lot this is the only place to put it. Voted unanimously.

Review Amendments to the Board's Rules and Regulations and Revised Zoning Board Application

A revised application was submitted with the packets to the Board. After careful review the Board had the following comments.

Ed Foley thinks this is long overdue. Chuck Golden agreed and feels it will reduce time and work required by the town staff.

Floor plans should be prepared by a certified architecture or other design professional and the Board can waive it if necessary. Elevations are more important for applications than floor plans.

The staff will make these changes to the applications. The applications don't necessarily need approval of the Board but the Rules and Regulations should be approved by a vote of the Board. The applications are online and a hard copy is in the Planning Department.

Ed Foley made a motion to approve the revised plans for the applications for a special permit and variance in the town of Weymouth and was seconded by Jonathan Moriarty. Voted unanimously.

Bob Montgomery Thomas suggested working design/specialist into the wording for the elevation and floor plans.

The discussion on the Rules and Regulations was continued to the November 19, 2014 meeting.

These are the proposed changes to the Rules and Regulations.

1. Time frame
2. Elevation and floor plans
3. Changes to the traffic

Reword and revisit traffic study wording and floor plans and elevations may be sketches, hand drawn by applicants and designers, preliminary review by staff and Board may ask for professional ones during hearing, if needed. Ms. McCabe will revise the language for Board's review.

APPROVAL OF MINUTES –October 1, 2014

Ed Foley made a motion to approve the minutes of October 1, 2014 as written and was seconded by Jonathan Moriarty. Voted unanimously.

OTHER BUSINESS – Cancel November 5, 2014 meeting (if not needed)

Ed Foley made a motion to cancel the meeting of November 5, 2014 and was seconded by Jonathan Moriarty. Voted unanimously.

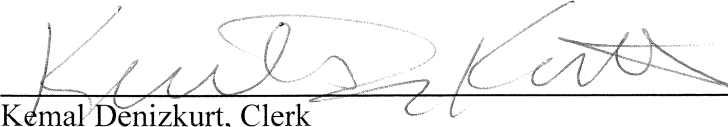
UPCOMING MEETINGS –November 19, 2014, December 3, 2014


ADJOURNMENT

Ed Foley made a motion to adjourn at 8:00 pm and was seconded by Jonathan Moriarty. Voted unanimously.

Respectfully submitted by,

Lee Hultin
Recording Secretary
Approved by:


Kemal Denizkurt, Clerk


Date