

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

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, December 18, 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 parties in interest of the subject locus and by publication in the Weymouth News.

Present: Kemal Denizkurt, Clerk  
Jonathan Moriarty  
Chuck Golden  
Brandon Vinton (Alternate)

Not Present: Edward Foley, Vice Chairman

Staff: Jim Clarke, Planning Director

Recording Secretary: Ann Flynn Dickinson

Kemal Denizkurt, acting Chairman, called the meeting to order at 7:15 PM and explained the procedures that would be followed to the people present. He then made the announcement that only four members of the Board are present tonight. Applicants have the choice to go forth with the four members or ask for a continuance when there are five members to vote.

**Old Business:**

**BZA Case # 3214 – 211 Main Street, Public Hearing (continued from 11/13/13)**

Motion was made by Kemal Denizkurt to continue this case upon a request from the applicant until the January 29, 2014 Board meeting and seconded by Chuck Golden, voted unanimously.

**BZA Case # 3216 – 666 Bridge Street, Public Hearing (continued from 11/13/13)**

The applicant was not present at meeting.

Motion was made by Kemal Denizkurt to continue this case until the January 15, 2014 Board meeting upon the request of the applicant, and seconded by Chuck Golden, voted unanimously.

**New Business:**

**BZA Case #3217 – 466 Main Street, Public Hearing**

Kemal Denizkurt motioned to take out of order Case # 3200 - 97 Candia Street listed as item # 4 on the agenda since the applicant for 466 Main Street was not present at the time the case was called, the motion was unanimously voted.

**BZA Case #3220 – 97 Candia Street, Public Hearing**

Motion was made by Kemal Denizkurt to open the Public Hearing and the motion was seconded by Jonathon Moriarty.

The Petitioners Kathleen DiBona and Brandon DiBona are seeking the following relief from the requirements of the Weymouth Zone Ordinance:

Special Permit: Extension or change by Special Permit for a non-conforming structure (Article XIII, Section 120-40).

Kathleen and Brandon DiBona were invited before the Board to speak on their behalf.

The DiBona's explained they are looking for a Special Permit to allow the deck to be extended out 13 inches from the existing dwelling and make flush with the house so that the side yard setback will be 8.9-ft when 10-ft is the minimum required.

Kemal Denizkurt, Clerk made it known to the DiBona's that there were only 4 members present and if they wanted to continue. The DiBona's agreed to continue with the four members.

Johnathan Moriarty asked when the house was built and Kathleen DiBona replied that it was built in 1971.

Chuck Golden asked if they discussed this with the neighbors that abut the property. Kathleen DiBona responded that they did notify them.

Kemal Denizkurt wanted to confirm that they were encroaching 5 inches on the lot line.

Kathleen DiBona replied that the porch needs to be tied into the house and this would flush the decking to the house.

Jim Clarke, Planning Director, added that he received response back from water and sewer they did not have any comments. There is a small water bill that needs to be paid. The School District is Academy Ave. and Abigail Middle School with no concerns from them. Police Dept had no particular issues.

Kemal Denizkurt opens the forum to the public for any comments on the application. There were no comments at this time.

Jim Clarke states it is a Special Permit because it is an existing non-conforming structure.

Kemal Denizkurt motions to close the public hearing with all in favor.

Chuck Golden wanted to clarify some comments and verify what relief was needed. It looks like they are looking for 5". Jim Clarke stated the addition is 13" within the minimum required side yard setback (1.1-ft of relief needed).

Kemal Denizkurt asks for any further discussions.

Motion was made by Chuck Golden to approve Special Permit for a change or alternation to an existing non-conforming structure. The motion was unanimously voted.

**BZA Case 3217- 466 Main Street, Public Hearing**

The applicant, Metri R. Metri, was invited to speak before the Board for the public hearing for property located at 466 Main Street.

Kemal Denizkurt informed the applicant that there are only four Board members, that he had the option to continue to another date to have five members present. If he wished to proceed this evening he would need all four to vote in favor in order to obtain his requested variance.

The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

- Variance: Relief of 70.02-ft from the 120-ft minimum frontage requirements (49.98-ft provided) for parcel A (Table 1-Schedule of District Regulations).
- Variance: Relief of 100-ft from the 120-ft minimum frontage requirements (20-ft provided) for parcel B (Table 1-Schedule of District Regulations).
- Variance: Relief of 15,320 SF from the 25,000 SF minimum lot area requirements for parcel A (9,680 provided) (Table 1-Schedule of District Regulations).
- Variance: Relief of 9,571 SF from the 15,000 SF minimum lot area requirements for parcel B (15,429 SF provided) (Table 1-Schedule of District Regulations).

Presently located on the premises are two single-family dwellings on one lot. The petitioner is proposing to subdivide the ~25,109 SF lot into two lots so that each dwelling is on a separate lot shown as parcel A (front lot) and parcel B (rear lot) on the submitted plan. The petitioner is also proposing to remove the existing dwelling in the rear and rebuild with an attached garage.

Metri R. Metri went on to explain the house in the back needs repair and has not been repaired in many years. It does not sit on a proper foundation, or have proper sewer and water services.

Mr. Metri did some research and states that the house in the back has a septic system right now and water and sewer connection goes to the driveway but was never connected to the house in the rear. When he connects to the new house at the rear of the lot there will be no need to dig up the sidewalk or Route 18 to connect the sewer and water.

Kemal Denizkurt asked how long there has it been two homes on the one property?

Mr. Metri replied he was not sure but he knows that in 1957 it was subdivided into two separate lots through and approval from the Board of Appeals but he did not know about the house at the rear.

Kemal Denizkurt asked if the house has been or is occupied. Mr. Metri replied that yes it has been occupied up until he bought the house a couple of months ago.

Kemal Denizkurt asked if it was approved as a separate lot or an in-law? Mr. Metri replied a separate lot addressed as 466 Main and 466R Main Street and that the subdivision was part of the 1957 approval but the Form A / ANR was never recorded.

Mr. Metri provided Kemal Denizkurt with Exhibit 1 which is a copy of a letter from Andrew Chisholm Director of Zoning Appeals. It talks about subdividing the land into two lots.

Kemal Denizkurt asked the size of the proposed house.

Mr. Metri replied it is a colonial three bedroom 1,700 sq ft with no garage.

Kemal Denizkurt said that the town needs a certified plot plan this one is not certified, and is the home being occupied or used at this time.

Mr. Metri states the house in the front is being rehabbed. The house in the back is sitting on dirt with no foundation. It will cost too much money to fix and he wants to do a tear down and build a new one a little bit further away from the house in the front.

Kemal Denizkurt asked when was the back house last occupied. Mr. Metri replied when he bought the property a couple of months ago, but it is unoccupied now.

Kemal Denizkurt asked about the access to the rear house. Mr. Metri replied that it is a shared paved driveway.

Jim Clarke commented that he did get a memo from the Principal Planner and wanted to clarify because it went before the Board of Appeals back in 1957 to put a residential unit in the rear. Building permit was issued in 1959 for the rear dwelling and has been on one

lot since that time. The applicant can come in and subdivide and not meet the zoning dimension requirements.

The lot's subdivision was not recorded. The Conservation Administrator submitted comments that the site is not within the Commission's jurisdiction. The Fire Department, Health Department, and Police Department had no comments. The Department of Public Works requests a certified copy of the plan and utilities shown on the plan with an access easement across lots the front lot and the taxes are up to date.

#### Public Comments:

Jerome Riley, 477 Main Street, his property abuts the subject property and he has concerns about the house in the rear. He has lived there for 13 years and stated that house has a cesspool not sewer. He asked if the driveway needed to be ripped up to complete the connections. Mr. Riley also asked about the exact location of the proposed dwelling and how far it will be located from his property.

Kemal Denizkurt asked about the cesspool that would not be allowed has to be changed over to sewer system on route 18 and not sure how the town handles. Jim Clarke stated that there are Health Department procedures to terminate a septic system usage.

Mr. Metri had drawings of where sewer and lines are in the driveway. The house out back has electric coming from the pole from Route 18. There is a pole on the corner on the house in the rear.

Jim Clarke stated that the new house meets the Town's setback and dimensional requirements.

Bob Montgomery Thomas, Washington Street resident, stated he was present in the office when the application was submitted and submitted comments asking about drainage, electrical and several other items that he would like answered.

Kemal Denizkurt thanked Bob for his time and asked Mr. Metri if he wanted to respond.

The size of the house is about 24' x 36'. As far as cutting down trees, the size of the house is small and has plenty of opening without cutting anything down. The whole idea behind pushing the house back is to have some more room for parking cars or maneuvering or pushing snow for convenience. As far as the opening of the driveway if it needs to be widened, and if he is allowed to widen it, he would make it 20 ft.

Jim Clarke responded that the town is not asking the driveway to be widened it has been used since the 50's and is fine in its current configuration. The curb cut is a few feet short.

Kemal Denizkurt commented that the Fire Department had no issues with it.

Mr. Metri proposed landscaping that will be done after taking the old house down.

Kemal Denizkurt asked Jim Clarke just for point of order if he can rebuild the home and did not have to come to the Board for that. Jim Clarke replied that the applicant is here because he is taking down the old house and putting in up new one.

Mr. Montgomery believes there is an ordinance to have a 20 ft driveway. Main Street is Route 18 and trying to converge traffic into a state highway. The applicant should call Mass DOT to approve the opening. Jim Clarke stated that is a different section for zoning used for different circumstances.

Jerome Riley commented that in the back house previously was a person that did not drive so there were not two cars going in and out of there.

Mr. Metri replied that is one of the reasons why the house is needed to be pushed back and this would help for cars to move around easier.

Chuck Golden asked Jim if he remodels the back property as long as he does not change the foot print he does not have to come before the Board, is that correct. Jim Clarke replied that the applicant could remodel the dwelling in the rear and leave it in its current location and that would not have to before the Board of Appeals.

Chuck Golden asked if it makes sense to tear it and start it over is the question for the Board. Brad Vinton asked what the applicant's intent for the property and Mr. Metri stated that he wants to sell it. Brad Vinton asked if the electrical feed would be from the main house at the front of the lot?

Mr. Metri replied no he has to install a pole in the back. Right now the water is coming from the main house. The sewer is sitting in the driveway but previous owners never connected back house to the sewer.

John Moriarty asked if the electrical could be put underground. Jim Clarke states it would be a problem they would have to put another pole in on the east side and drop the new service down, if he already has above ground service.

Kemal Denizkurt asked if the Board would like to ask for more information. Chuck Golden stated he would be more comfortable if the Board could see where the utilities were going before moving ahead.

In response to Mr. Riley's questions regarding any lead paint, Jonathan Moriarty responded that a permit is needed for any hazardous materials.

Jim Clarke recommends that the Board continue the hearing in order for the applicant to provide additional information requested by the Board.

Chuck informed the applicant that the Board's next meeting are scheduled for January 15 or the 29. Mr. Metri requested the application be continued to the January 15 meeting.

Kemal Denizkurt made a motion to continue the public hearing on the application for 466 Main Street to the Board's January 15, 2014 meeting subject to the submission of the requested information. The motion was made, seconded and unanimously voted

**Approval of Minutes**

A motion was made by Chuck Golden to approve the minutes of December 4, 2013 meeting as written; seconded by Jonathan Moriarty and unanimously voted.

The review of the 2014 meeting schedule was postponed to the next meeting.

**Other Business**

Jim Clarke stated that we will be having two meetings off schedule because of holiday schedule.

**Adjournment**

With no further business a motion was made at 8:15 PM to adjourn the meeting by Kemal Denizkurt, seconded by Jonathan Moriarty, and unanimously voted.

Respectfully submitted:

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Kemal Denizkurt, Clerk