

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
December 5, 2012**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, December 5, 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  
Chuck Golden  
Jonathan Moriarty  
Brad Vinton, Alternate Member

Staff: Bob Luongo, Principal Planner

Recording Secretary: Mary Barker

The Chairman called the hearing to order at 7:25 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 St. and 559 Washington St., Public Hearing**

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, Lots 10,12,15 & 21, located in a 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 remain the same non-conforming size, 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

Attorney Gregory Galvin, with offices at 775 Pleasant Street, presented the application with the owner's representative, David Baker. The application seeks to replace the two existing signs with signage that better meets the needs of the current marketplace. RK Weymouth, LLC was granted approval to build two additional buildings on the site and the sign space is necessary to accommodate the existing tenants and attracting new tenants. Atty. Galvin reported that the sign on Washington Street will have an updated design and remain similar in size but the sign on

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Main Street is proposed with an increase in height to 29 square feet in overall size. The request is for a change or extension of the existing special permit. The new buildings are going in behind the Rockland Trust and McDonald's buildings and the Building 19 lease is up in less than 2 years. The request is proposed so that the owner can attract tenants appropriate to the property and accommodate the number of businesses in the mall. Mr. Baker provided photographs of signage used in their other properties, all of which exceed 30 feet in height. Atty. Galvin also noted that the board had approved a special permit to Lowe's for a sign of 29 feet high.

Atty. Galvin also reported that a letter was submitted from NSTAR in opposition to the proposal. NSTAR indicates the special permit should not be granted because the sign on Main Street encroaches in and on the easement granted by legislation seventy years ago to the utility for its right of way. The easement includes the towers and wires of the high tension lines as well as sway area from the lines. The proposed sign will not interfere with the high tension lines; it will be sited in and on the right of way, between the high tension lines and the street. The existing sign was built over thirty years ago, and Atty. Galvin has not found anything that indicates it was an issue with the utility when it was built.

Mr. David Baker of RK Weymouth, LLC noted he is the property manager for the company and manages 22 properties and 4 estates. He stated the owner of the property is doing upgrades to the property including designing new signalization at the entrance to the plaza at a cost of about 1 million dollars. This is being done at the owner's expense. Design of the signals is at 75%. The Planning Department Traffic Engineer and Mass Highway have been reviewing the plans which include a widening of the roadway at the approach to the signalization. The company does have alternatives to the proposed placement of the sign; it could be moved closer to the entrance to McDonalds or into the grassy area to the north of the easement. Chairman McLeod asked why that isn't the first choice and why didn't the applicant try to negotiate with NSTAR before bringing the application before the board. Mr. Baker suggested the application could be approved if that is the board's inclination, subject to the NSTAR easement. Vice Chairman Foley noted the board does not have the authority to grant approval over an easement. Atty. Galvin suggested the board could approve the application conditional to NSTAR's approval. Mr. Baker noted that the property has been owned by RK for five years, and has not been contacted by NSTAR or its attorneys during that time for the removal of the existing sign or light poles. When the McDonalds building was redone, it was found to encroach on the easement and they were required to alter their design. If the sign can be moved to the grassy area, it won't be necessary to approach NSTAR. Jonathan Moriarty asked whether the applicant would be willing to indemnify the town if the town was subject to litigation based on the board's decision. The board discussed the aesthetics of the design with the applicant. The need for more visibility for the addition of tenants is a hardship to the owner. There was a discussion of the tenants' rights to sign placement and the balance between what is best for the tenants, owner and town. Kemal Denizkurt asked if the board had granted any signage provisions when it approved the application for the additional buildings. Atty. Galvin responded that no relief was requested for signage at that time. There was a brief discussion of alternate placements and the criteria in the ordinance for signage. Vice Chairman Foley asked if the owners had proposed tenants for the new buildings. Mr. Baker responded that they are in negotiation and he is not at liberty to disclose at this time.

Bob Luongo reported that the application was routed to the various departments and reviewed their comments, which includes the Engineering Department's regarding the easement. Town Council President Arthur Mathews could not be present but noted his concerns to the Planning Department about the proposed signage on Main Street affecting traffic visibility.

Mr. Baker and Atty. Galvin suggested the board could take the following two approaches if approving the application:

- a. approval subject to an NSTAR agreement
- b. approval of an alternate placement

Bob Luongo responded that the second recommendation is a revision to the original and requires the application be rerouted to the departments for review.

Vice Chairman Foley asked if the applicant plans to readdress NSTAR after receiving the response from Mr. Cartwright. Mr. Baker responded that he would be inclined instead to reach out to Mr. Cartwright's supervisor.

A motion was made by Vice Chairman Foley to continue Case #3176 to the January 9, 2013 meeting and was seconded by Jonathan Moriarty and unanimously voted.

Submitted:

Exhibit #1- photographs of signage

Exhibit #2- photograph of height lines of the existing signage on Main Street

### **BZA CASE #3179– 80 Lake Street, Public Hearing**

Application of Cleonilda R. Coogan for property located at 80 Lake St., also shown on the Weymouth Town Atlas as Sheet 23, Block 302, Lot 1, located in R-1 zoning district, seeking an alteration of an existing 2-family dwelling.

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

The owner's nephew Mr. Walba appeared before the board with his uncle to review the application. He proposes a 10 x 12 foot room addition attached to the existing kitchen that the owner can use as a sunroom. He approached the neighbors who had no opposition to the plan. Chairman McLeod asked if the plan would bring it any closer to the side yard setback. The applicant responded "no." He showed the plan of the room to the board from his laptop computer. The distance to the neighbor on that side is 60 feet. Vice Chairman Foley if there was any change proposed to the existing bath off the kitchen. The applicant said that although he will encourage his aunt to move it in the future, there is no plan to alter it at this time. She might be persuaded to have it moved to the existing basement at some future time.

Bob Luongo reported that the application was routed to the various departments and there were no comments. The application is subject to special permit (R-1 zone, 2-family residence).

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

To vote on the of BZA Case No. 3179 to approve a special permit for alteration of an existing 2-family dwelling:

A motion was made by Vice Chairman 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.
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 for an alteration of an existing 2-family dwelling.

### **BZA CASE #3180-174 Central Street, Public Hearing**

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

Attorney Gregory Galvin, with offices at 775 Pleasant Street 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. The applicant purchased the property and removed the existing dwelling that was in disrepair. Atty. Galvin reviewed the lot sizes of the surrounding properties on Central and Huntington, many of which are similar and some larger or smaller than the proposed lot sizes. Vice Chairman Foley noted the lot sizes on Kent are larger sized lots. Atty. Galvin responded that the lots on Huntington are more representative of the neighborhood. The two lots will both front Huntington and the existing driveway will be removed. Atty. Galvin reviewed the plan and noted the proposed homes meet the dimensions in Table 1 of 120-53. Vice Chairman Foley asked why the applicant isn't

proposing a single home on the lot. Atty. Galvin responded that a single home would be out of place in the neighborhood. There isn't much vacant land in South Weymouth and this will make two homes available for first time homeowners or young families. Jonathan Moriarty reviewed the plan and noted it appears lots 27 & 28 in the neighborhood appear to have been subdivided from common ownership. He asked if Atty. Galvin researched the overlay map, if the resident at #27 signed the petition or if there is ledge, purple slate or topographical issues with the lot.

Bob Luongo reported that the application was routed to the various departments and reviewed the comments. He also reviewed the criteria for special permit and conditions under Article 25. There was also discussion of the rear and side yard setbacks and front yard width requirements.

Town Council District 6 councilor Michael Smart addressed the board. He noted he did not get any phone calls from constituents regarding the application. He is present to offer support to the neighbors.

John Marks, 17 Huntington, spoke in opposition of the application. He noted that residents have always had poor water pressure and the addition of two more homes will further impact them. The area also has poor drainage. The lot is a dumping ground.

Atty. Galvin noted the utilities for lot #1 will be off Central and lot #2 will be off Huntington. Any change would require an easement through setbacks. There is a catch basin on Central. The plans were reviewed with the neighbors in attendance.

Robin Marks, 17 Huntington, spoke in opposition. She noted that there are no catch basins on Huntington and in heavy rainwater pools in the rear of the yard. Adding two more homes will increase impervious surface and add to the problem. Jonathan Moriarty asked if there were water problems when the previous house was there. Ms. Marks responded "yes." Atty. Galvin noted the elevation of the Marks property is actually higher and the water would run to Central. Contour lines were reviewed from the map and Atty. Galvin provided a photograph of 17 Huntington; the slope of the land on the property is toward Central. Kemal Denizkurt noted that the pooling water is not necessarily a result of the Central property; however the board could impose conditions to manage runoff.

Debra Tremblay-Todd, 57 Reed Ave. noted there is a large tree on the property and she asked if it would have to be removed for the construction; she is in opposition. There was a brief discussion. Atty. Galvin noted its location should not be affected by the construction.

Angelo Trancucci, 38 Huntington also spoke to the water pressure conditions in the neighborhood. Several residents installed booster pumps to improve their conditions.

A discussion followed with the Board and Bob Luongo regarding the water mains and gates, sewer easements and water gate at the intersection of Huntington and Central. Councilor Smart suggested a water flow test might determine if there is a solution. The water tower serving the neighborhood is nearby on Reed Ave. Bob Luongo responded that the water department could check into it, but he is not aware of any complaints. There was also a brief discussion of using an



easement through both lots to bring utility service in off Central. There was a discussion of the petition; the abutters noted they were not approached to sign it. Atty. Galvin noted the neighbors were all approached but not everyone was home at the time.

A motion was made by to continue the public hearing to the January 9, 2013 meeting so staff can investigate water pressure in the neighborhood and was seconded by Kemal Denizkurt and unanimously voted.

Submitted:

Exhibit #1 – photographs

Exhibit #2 - signed petition

Exhibit #3 – Assessor's Map

### **Minutes**

A motion was made by Chuck Golden to approve the minutes from the October 17, 2012 meeting, Case #3167, seconded by Kemal Denizkurt and unanimously voted.

A motion was made by Chuck Golden to approve the minutes from the November 14, 2012 meeting, Case #3167, 3171, 3174, 3175, 3177, 3178, seconded by Kemal Denizkurt and unanimously voted.

### **Adjournment**

The next meeting of the Board of Zoning Appeals will be on Wednesday, December 19, 2012 to deliberate the Design Review Guidelines to addend to the Rules and Regulations governing the Board of Zoning Appeals. 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:



Richard McLeod, Chairman

12-18-12

Date