

*Town of Weymouth  
Massachusetts*

Kathleen A. Deree  
Town Clerk

Town Clerk's Department  
781-340-5017  
781-682-6129 (FAX)



Robert L. Hedlund  
Mayor

75 Middle Street  
Weymouth, MA 02189

February 27, 2024

To Whom It May Concern:

I, Kathleen A. Deree, Town Clerk of the Town of Weymouth do hereby certify this to be the action taken by the Board of Zoning Appeals at their meeting held on December 13, 2023 on APPLICATION OF: 1409 Commercial Street LLC, Case # 3514.

No appeal was filed within the twenty (20) day appeal period.

Signed: Kathleen A. Deree

A True Copy. ATTEST:

Kathleen A. Deree

Kathleen A. Deree  
Town Clerk

**TOWN OF WEYMOUTH, MASSACHUSETTS  
BOARD OF ZONING APPEALS  
NOTICE OF DECISION  
1409 COMMERCIAL STREET**

2024 FEB -6 AM 11:51

(To be mailed forthwith to the owner and applicant, if not the owner.)

<b>Owner:</b>	1409 Commercial Street LLC	<b>Date:</b>	February 6, 2024
<b>Address:</b>	1 Franklin St. Unit 2308 Boston, MA 02110		
<b>Applicant:</b>	1409 Commercial Street LLC	<b>Case #:</b>	3514
<b>Address:</b>	1 Franklin St. Unit 2308 Boston, MA 02110		
<b>Representative:</b>	Edward Fleming 85 Clay Street Quincy, MA 02170	<b>Site Address:</b>	1409 Commercial Street
		<b>Sheet:</b>	23
		<b>Block:</b>	306
		<b>Lot:</b>	11
<b>Hearing Date:</b>	10/11/23 11/15/23 12/6/23 12/13/2023		
<b>Filing Date:</b>	9/12/2023		
<b>Advertised:</b>	11/22/2023 & 11/29/2023		

**Zoning District:** B-2, LJSD

At a public hearing on 12/13/2023 the Board of Zoning Appeals;

**VOTED UNANIMOUSLY TO GRANT SPECIAL PERMITS and/or VARIANCES** as follows:

**Background:**

The following Board of Zoning Appeals (BZA) cases were submitted separately but simultaneously and represent the redevelopment of a significant portion of Weymouth known as Lower Jackson Square:

**Case #3511 (Building A)** 864-884 Broad Street & 890 Broad Street

**Case #3512 (Building B)** 910 & 920 Broad Street

**Case #3513 (Building C)** 881,889 & 909 Broad Street and 1404 Commercial Street

**Case #3514 (Building D)** 1409 Commercial Street

Each case was submitted under the Jackson Square Overlay District, Article VIID of the Town of Weymouth Zoning Ordinance. Each case was duly advertised as a distinct and independent matter before the BZA and the public hearings for each case were opened individually.

Due to points of overlap and interdependency, the BZA took testimony on the four applications together beginning on October 11, 2023. The Board relied upon the following supporting materials during the hearing and subsequent deliberations:

1. *Architectural and Site Plan Review* set submitted by Embarq and dated November 30, 2023
2. *Drainage and Stormwater Management Plan* submitted by McKenzie Engineering Group and dated August 4, 2023.
3. *Traffic Impact, Access, and Parking Study* submitted by Kimley-Horn Associates and dated August 2023.

### **Summary:**

The Applicants propose to construct Four (4) mixed-use buildings with retail on ground level and residential units on upper levels on the subject properties in the Jackson Square area. The new buildings are referred to as Buildings A, B, C, and D, as identified above.

The proposed buildings have been designed to comply with, in most respects, the intent and design guidelines outlined in the Town's new Jackson Square Village Center ordinance in Section 120-35.37 -44. The buildings will provide new, retail spaces on the ground level with residential units on the upper levels for a total of Two Hundred (200) units. The proposal includes structured parking with each building, hidden from view. The proposal includes significant drainage control measures to improve drainage near the Herring Run to ensure the improvement of any discharge to the Herring Run and the protection of this natural resource area. It also includes significant landscaping, walkways, exterior patios, and other public improvements to create vibrant open spaces and amenities for the Weymouth community.

### **Special Permit Findings:**

The Board voted 5-0 to grant the following Special Permits as requested for Case # 3512:

- **Flood Plain Special Permit** (Sections 120-38.3 and Section 120-38.4)
- **Intensity of Use** (Section 120-25.41) permitting a fourth floor by Special Permit

The Board found that the proposal met the requirements for Special Permits under Section 120-122 (D) as follows:

1. **The specific site is an appropriate location for such a use.** The Board found that the proposal met the intent of the Jackson Square Overlay District as stated in Section 120-25.37 of the Town of Weymouth Zoning Ordinance. Further, the Board noted the consistencies with both the *Jackson Square Land Use Study (Harriman/Innes Associates, 2021)* and the *Jackson Square Transportation Master Plan (Kimley Horn, 2023)*.
2. **The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.** The Board was satisfied that the proposal would not negatively impact the future character of the Town. The Board heard public testimony regarding the need for reinvestment in the Jackson Square Village Center as current conditions exhibit an inordinate amount of vacancies and deteriorating storefronts. The applicant has further agreed to work with the Town and the Weymouth

Historical Commission to investigate the potential for relocating or otherwise preserving the history of the Rice Tavern located within the project site.

3. **There is not a potential for nuisance or serious hazard to vehicles or pedestrians.** A traffic study was prepared by Kimley Horn and reviewed by the Town of Weymouth Traffic Engineer. The proposal, which includes substantial on-site and off-site parking as well as appropriate alterations to existing traffic patterns was found to create no additional hazards to vehicles or pedestrians. The Board noted the importance of including safety infrastructure at the ingress/egress points of each proposed building to alert vehicular and pedestrian users to potential conflicts. The applicant also agrees to work with the Town to analyze additional infrastructure improvements that may become necessary.
4. **There are adequate and appropriate facilities, utilities, and other public services provided for the proper operation of the proposed use.** This application was reviewed concurrently with the Weymouth Conservation Commission. Throughout each process, the stormwater plans were subject to the review of the Town of Weymouth Engineering Department as well as the additional scrutiny of an independent peer review performed by Comprehensive Environmental, Inc. The Board found that this redevelopment project represented a significant enhancement to existing infrastructure and would significantly increase the capacity of the stormwater system. Further, the addition of modern stormwater controls and treatment would positively impact the health of the herring brook and other environmentally sensitive resources in the vicinity.
5. **That the public convenience and welfare will be substantially served with the proposal.** The proposal will add 200 much-needed residential units to an area well-served by the East Weymouth Commuter Rail Station with a further commitment to make a minimum of 10% of the units affordable. Additionally, the project is to include significant and viable retail and restaurant space that will stimulate additional economic development in the area. The project also demonstrates an understanding of the sensitive environmental assets within the project area and provides additional buffers and protections to those areas while also creating additional opportunities for public enjoyment and education.

#### **Conditions:**

1. The Applicant and Town shall reach an agreement for the issuance of a Revocable License/Permit permitting the Applicant's use of the Town's property identified on Exhibit A (Town's Property) and permitting the construction and use of driveways providing access to Buildings A, B, and C, as well as the construction and use of appropriate stormwater management structures under the Town's Property. The Applicant acknowledges that the Town's Property which abuts the Applicant's Property is protected open space by Article 97 of the Article of Amendment to the Constitution of the Commonwealth of Massachusetts. The Town is strictly prohibited from granting to the Applicant a deed, easement, lease or any other instrument effectuating a transfer, conveyance or change of the Town's Property. In the event that the Applicant requests to purchase, lease or obtain an easement for the Town's Property then the Town and Applicant shall cooperate and obtain the necessary votes from the Conservation Commission; Park and Recreation Commission; Town Council; and Massachusetts

Legislature together with compliance with the requirements of Land and Water Conservation Fund and EOEA Article 97 Land Disposition Policy.

2. A detailed lighting, landscape, and streetscape plan will be submitted to the Office of Planning and Community Development and to the Department of Public Works for approval.
3. A sample of all exterior building materials is to be submitted for Planning Department review and approval.
4. The applicant agrees to designate 10% of the total units as affordable units for households that qualify at 80% of the Boston-Cambridge-Quincy Metropolitan Statistical Area Median Income Level. The rental rate for these households will be determined by using the monthly rental rates for studio/efficiency and one-bedroom and two-bedroom units in the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area for the applicable Fiscal Year as published by the U.S. Department of HUD, as the FY Fair Market Rent Documentation System – Final FY Boston City FMR's by Unit Bedrooms.
5. The applicant will work with the Fire Department to maximize fire safety, using as a reference its letter titled "Jackson Square – Papachristos Proposal". In particular, its fire apparatus needs must be accommodated on all Papachristos property.
6. The applicant shall submit a construction phasing plan for the project, defining the phasing of the construction of each building, which shall identify a provision for adequate parking for each building as completed.
7. The applicant shall submit a bicycle parking plan that includes both interior and exterior parking for each building.
8. In the buffer zones along the Herring Run, the applicant shall submit a detailed landscaping plan for the approval of the Planning Department and Conservation Agent.
9. All transformer vaults shall be placed outside of the FEMA flood zone.
10. All mechanical equipment shall be properly screened and concealed from public view.
11. The Office of Planning and Community Development, the Department of Public Works, and the applicant shall work to agree on the most appropriate materials for crosswalks, such that they meet the desires of all three parties.
12. The applicant will further develop the detailed design for review by the Office of Planning and Community Development and will work with the abutter in the rear of Building D on Pleasant Street, with particular attention to concerns about the retaining wall and landscaping, and how they will affect the abutter's property. Prior to the issuance of the first building permit, the applicant agrees to provide the following material related the shared property line between Building D and the abutter at 1419 Pleasant Street.
  - a) A photo survey of the existing condition of the existing rock walls separating the properties and a detailed description of its condition.
  - b) A detailed landscape and fencing plan depicting the proposed final, post-construction condition including elevation of the backyard fill at 1419 Pleasant St.
  - c) A survey of the shared property to include relevant elevation data. The shared property line shall be staked.

The Office of Planning and Community Development shall work with the abutter at 1419 Pleasant Street to ensure the above are to the Town's satisfaction.

13. The applicant will clarify the heights of all retaining walls for the project.

14. The applicant will submit a water usage plan for the entire project for review by the Department of Public Works.
15. The applicant and the Office of Planning and Community Development will work to define a reasonable plan for comprehensive public improvements throughout Lower Jackson Square, with specific emphasis on improvements adjacent to the applicant's properties. The parties shall also work to define a reasonable financial commitment by the applicant for the design and/or construction of such improvements.
16. The applicant and the Office of Planning and Community Development will work to define a reasonable financial commitment by the applicant for the design of water main improvements to be made on Broad Street.
17. The applicant and the Office of Planning and Community Development will work to define a traffic mitigation plan for the square, including transportation management improvements, with the applicant and the town working together to obtain state funds for such improvements, and the applicant and the town working to define a reasonable financial commitment by the applicant for the design and/or construction of such improvements.
18. The applicant will be responsible for the maintenance of the stormceptor system to be located on town property.
19. The applicant will be responsible for one-time sediment removal of the Herring Pool during the Construction of Building "B".
20. The applicant will provide a minimum 10' public walkway along the Niko's side of the herring run to provide connectivity to Steven Rennie Park. The finished state of the strip will be coordinated with the Planning Department and Weymouth Conservation Commission.
21. The applicant will work with the Planning Department and National Grid to locate any and all utility poles in locations that will be of maximum effectiveness to the applicant and the town.
22. The applicant will work with the Planning Department and the Fire Department to define an appropriate number of EV chargers in each parking facility of the project, and to address all safety concerns of the Fire Department.
23. The Decisions entered by this Board in BZA Case Nos. 3511, 3512, 3513 & 3514 shall be deemed to be related Cases and merged whereby the issuance of a building permit in one case shall be deemed to be an exercise of the relief granted in all cases protecting the Applicants from the expiration of said relief as provided in M.G.L. c.40A, Sections 9 & 10.

Under MGL Chapter 40A, Section 11, the approval of the Board of Zoning Appeals will NOT take effect until it has been recorded in the Norfolk Registry of Deeds.

**After the twenty (20) day appeal period has passed, the Town Clerk will send to the petitioner: (1) the certificate that no appeal was filed, (2) the certificate of granting of variance and/or special permit. The petitioner shall record these documents with the Norfolk Registry of Deeds, Dedham, MA, with the appropriate filing fee.**

When a receipt from the Registry of Deeds is presented to the Building Inspector (to show that the decision has been recorded), the proper permit will be issued.

Decision filed with the Town Clerk on **February 6, 2024**

IMPORTANT: Notice is further given that any person aggrieved by this decision may appeal, according to MGL Chapter 40A, Section 17, and said appeal, if any, must be filed with the Town Clerk within twenty (20) days after the filing of the decision with the Town Clerk.

A handwritten signature in dark ink, appearing to read 'R. Luongo', is written over a horizontal line.

Robert J. Luongo, Director of Planning and Community Development

THE COMMONWEALTH OF MASSACHUSETTS

WEYMOUTH

BOARD OF APPEALS

February 6, 2024

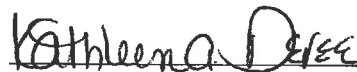
Certificate of Granting of Variance or Special Permit  
(General Laws Chapter 40A, Section 11)

The Board of Appeals of the Town of Weymouth hereby certifies that a Variance or Special Permit has been granted to 1409 Broad Street LLC, 1 Franklin St. Unit 2308, Boston, MA 02110, affecting the rights of the owner with respect to land or buildings at 1409 Commercial Street also shown on the Weymouth Town Atlas Sheet 23, Block 306, Lots 11, and the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said variance – special permit, and that copies of said decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.



Robert J. Luongo, Planning Director



Kathleen Deree, Town Clerk

Case # 3514

Date of Hearing: 12/13/2023