

**TOWN OF WEYMOUTH, MASSACHUSETTS
BOARD OF ZONING APPEALS
NOTICE OF DECISION ON VARIANCE
41 JESSICA LANE**

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

Owner:	Kenneth & Lynne Fitzgerald	Date:	October 30, 2014
Address:	41 Jessica Lane Weymouth, MA 02190		
Applicant:	Kenneth & Lynne Fitzgerald	Case #:	3244
Address:	41 Jessica lane Weymouth, MA 02190		
Representative:	None	Site Address:	41 Jessica Lane
		Sheet:	61
		Block:	639
		Lot:	40

RECEIVED
TOWN OF WEYMOUTH
TOWN CLERK'S OFFICE
2014 OCT 30 PM 4:18

Zoning District: R-1 (Residence, Low Density / Single-Family)

Board of Zoning Appeals application filed on August 26, 2014 for the construction of an addition and to enclose an existing deck within the rear yard setback.

After a public hearing on October 1, 2014, postponed to October 15, 2014, the Board of Zoning Appeals at its meeting of October 15, 2014:

VOTED TO GRANT THE VARIANCE under Weymouth Zoning Ordinance Article XV, Section 120-51 "Dimensional Requirements", to grant relief of 6.5 ft. from the 24 ft. minimum rear yard setback to construct a ~280 SF addition and enclose the existing 16 ft. x 12.5 ft. deck within the rear yard setback as shown on the plan entitled "Proposed Additions, 41 Jessica Lane, Weymouth, MA"; prepared by CCR Associates; dated September 6, 2002; revised on 2014.

VARIANCE FINDINGS OF FACT:

The Board found that:

1. Owing to circumstances relating to the soil conditions, shape or topography of the land or structure, a literal enforcement of the provisions of the Zoning Ordinance would involve substantial hardship, financial or otherwise.

The Board found the applicant's argument that due to the well on the side of the house and the garage on the other side and the existing deck on the rear of the dwelling, a hardship could be granted.

2. Relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance.

The Board found the applicant's proposal would not be detrimental to the public good as the existing property has a deck that is 18.5 ft. from the rear property line and the proposed addition will be only a foot more of an encroachment with a 17.5 ft. rear setback. The variance request was approved by the Board with BZA Case # 2697 and there were no comments or opposition from the public during this public hearing.

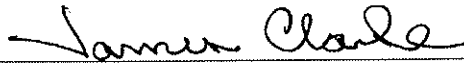
Under MGL Chapter 40A, Section 11, the approval of the Board of Zoning Appeals will NOT take effect until it has been recorded in the Norfolk Registry of Deeds.

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, and (3) the Record of Proceedings. 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 October 30, 2014

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.



James Clarke, Director of Planning and Community Development

THE COMMONWEALTH OF MASSACHUSETTS

WEYMOUTH

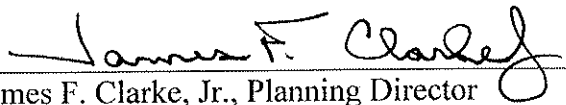
BOARD OF APPEALS

October 30, 2014

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 Kenneth & Lynne Fitzgerald, 41 Jessica Lane, Weymouth, MA 02190, affecting the rights of the owner with respect to land or buildings at 41 Jessica Lane, also shown on the Weymouth Town Atlas Sheet 61, Block 639, Lot 40, 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.


James F. Clarke, Jr., Planning Director

Kathleen Deree, Town Clerk

Case # 3244

Date of Hearing: 10/1/2014, 10/15/2014

**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.

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.

**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.

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 other side 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.