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TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS APPLICATION

2021 APR 30 AM 11:50

TO BE COMPLETED BY STAFF

Case Number: 3449

Town Clerk Stamp

Submittal Accepted: Monica Kennedy Date 4/30/21
Signature of Planning Dept. Staff for minimal requirements

Determined to be complete and may now be filed with Town Clerk: _____
Signature of Principal Planner or Director

PROPERTY INFORMATION - TO BE COMPLETED BY APPLICANT

PROJECT / PROPERTY STREET ADDRESS: 734 Pleasant Street

Assessor's Map Sheet, Block, & Lot: Sheet 35, Block 444, Lot 38

Zoning District: R-1 Overlay District: N/A

OWNER OF RECORD (S) (print & sign): Justin Ryder

(The owner of record is the person or entity who owns title to the property as of today's date)

Address of owner of record: 741 Broad Street, Weymouth, MA 02189

Norfolk County Registry of Deeds Book and Page No. Book 36026, Page 159

Or registered in Land Registration Office under Certificate No. _____

NAME OF APPLICANT (S) (print & sign): Justin Ryder

Applicant's Address: 741 Broad Street, Weymouth, MA 02189

Contact Information: Email _____ Phone _____

Check if you are an: owner(s) ☒ lessee(s) ☐ optionee (s) ☐

NAME & AFFILIATION OF REPRESENTATIVE:

Address: Gregory F. Galvin, 775 Pleasant St., Weymouth, MA 02189

Contact Information: Email ggalvin@gregorygalvin.com Phone 781-340-5335

NAME OF ENGINEER AND / OR ARCHITECT: SITEC, Inc.

Prior to submitting your application you must review this entire package and the Board Rules and Regulations outlining the Board's policies and procedures. Your signature signifies that you have read the required material and you will be expected to adhere to them.

I (we) hereby certify that I (we) have read the Board of Zoning Appeals Rules and Regulations and that the statements within my (our) application are true and accurate to the best of my (our) knowledge.

Justin Ryder
By his attorney Gregory F. Galvin
Applicant / Petitioner - Date (sign & print)

April 28, 2021

NATURE OF REQUEST

Application is for: _____ Special Permit ☒ _____ Variance Other: _____

Applicable Section of Zoning Ordinance (specify Section (s) of the Zoning Ordinance from which relief is sought):

Article XV S.120-51, Table 1 minimum lot size; rear yard set back

The above relief and Ordinance sections will be further reviewed after a complete package is submitted. This may be amended by the Planning or Building staff during the application review process after having the benefit of plan to accurately advertise the application before the Board.

PETITIONER'S DESCRIPTION AND NARRATIVE:

To be completed by all Board of Appeals Applicants. Attach additional sheets as necessary.

1. Describe what is presently located on the property (use as much detail as possible including all uses and square footage of each use):

The lot was part of a 3-lot ANR subdivision with each lot having a minimum of 25,000sf, that was approved by the Planning Director initially in December 2018, with a modification in April, 2020. A building permit was issued March 2020. A law suit was filed by an abutter contesting the locus of the common lot line on June 30, 2020.

2. The applicant seeks to (describe what you want to do on the property in as much detail as possible):

Subdivide the contested land from the lot leaving a lot with a partially constructed home with 21,942sf+/- land and a contested lot of approximately 3,065sf of land.

3. Such a use is permitted by the Town of Weymouth Zoning Ordinance under Article (insert Article, Section of the Zoning Ordinance which permits the proposed use of the property).

Article XXIV S.120-119(3) hear and decide variances.

4. Are you aware if this property has been previously granted approvals from any Town Board or Commission? If so, please list (provide dates of previous approvals, book and page numbers or any recorded decisions and copies of past decisions).

The only approval is the Approval Not Required Plans all issued prior to the current law suit.

5. Any other additional information as relevant to the Variance or Special Permit:

The abutter claims the applicant's lot line is incorrect and has sought and received a lis pendens on the entire lot notwithstanding the fact that he is only claiming title to the 3,000+/-sf. The requested relief will allow the parties to move forward on just the

ZONING COMPUTATION WORKSHEET
(To be attached with all Board of Zoning Appeals Applications)

The Zoning Computation Worksheet must be completed by the Applicant / Petitioner. All information should be measured and calculated in accordance with the Weymouth Zoning Ordinance (Section 120-51 Table 1 "Schedule District Regulations" and other applicable sections of the Zoning Ordinance). The information should be based on engineer/surveyor/architectural prepared plans and or calculations. Further guidance can also be provided by the Board's step-by-step application instructions and by contacting the Planning or Building Department while completing this section.

Data	Required	Existing	Proposed
Use			
Lot Area / Size (Sq. Ft.)	25,000		21,942
Dwelling Units	1		1
Frontage (ft.)	120	130.23	130.23
Lot Width (ft.)	120	>120	>120
Front Yard Setback (ft.)	18	>18	>18
Front Yard Setback (ft.) – corner lots			
Side Yard Setback (ft.)	10	>10	>10
Side Yard Setback (ft.)	"	"	"
Rear Yard Setback (ft.)	35	>35	>35
Height (ft.) & # of Stories	35-21/2		35-21/2
Lot Coverage	N/A	N/A	N/A
Off-Street Parking Spaces	2	2	2
Off-Street Loading Spaces	N/A	N/A	N/A
Parking Setback	"	"	"
Accessory Structure Setback	"	"	"
Landscaping	"	"	"
Floor Area Ratio	"	"	"
Signage	"	"	"
Other:	"	"	"

SPECIAL PERMIT APPLICATION

To be completed for Special Permit Applications only.

SPECIAL PERMIT FINDINGS OF FACT

In the spaces below explain how the adverse effects of the proposal will not outweigh its beneficial impacts to the Town with respect to each of the following considerations per Article XXV, Section 120-122 of the Zoning Ordinance. The Special Permit Granting Authority may approve any such application for a special permit **only** if it finds that, in its judgment, all of the following conditions are met. (Attach additional supporting documentation as necessary).

1. Is the specific site an appropriate location for such a use? Please explain.

N/A

2. Will the proposed use / structure be detrimental or adversely affect the character of the neighborhood or town? Please explain.

3. Is there potential for nuisance or serious hazard to vehicles or pedestrians? Please explain.

4. Will adequate and appropriate facilities, utilities and other public services be provided for the proper operation of the proposed use? Please explain.

5. Will the public convenience and welfare be substantially serviced with this proposal? Please explain.

SUPPLEMENTARY QUESTIONS - SECTION 120-40 SPECIAL PERMITS

**Extension, Alteration or Change of a Privileged Pre-existing, Nonconforming Structure or Use
(Article XIII "Nonconforming Uses" Section 120-40 "Extension or Change")**

To be completed by Applicants applying for a Special Permit under Section 120-40 Only.

EXTENSION OR CHANGE FINDINGS OF FACT:

Any lawful structure or use in existences at the time the Zoning Ordinance was adopted or amended may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Zoning Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use or structure to the neighborhood.

1. Describe what is currently nonconforming about this structure (list specific dimensional nonconformities):

N/A

2. Indicate how long the nonconforming aspects of the structure have been in existence:

3. At the time the nonconformity was created (the structure or use initiated) was it compliant with the current zoning requirements? Past zoning ordinances are available for research at the Town Clerk's office and Planning Department. Past zoning maps are available at the Planning Department.

4. Explain how the extension, alteration, or change itself complies with the current Zoning Ordinance requirements:

5. Indicate the number of off-street parking spaces currently provided and to be provided for the proposed structure as extended, altered or changed:

6. Explain how the use or structure as extended, altered or changed will not be substantially more detrimental to the neighborhood than the existing structure:

VARIANCE APPLICATION

To be completed for Variance applications only.

VARIANCE FINDINGS OF FACT:

Criteria for approval. The Board may approve any such application for a Variance **only** if it finds that, in its judgment, all of the following conditions are met.

Complete the following questions. Your responses should provide justifications as to why the requested Variance(s) should be granted. Attach additional documentation as necessary.

1. Describe how a literal enforcement of the provision of the Town of Weymouth Zoning Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner.

The applicant caused a certified survey to be prepared showing a 25,007+/- sf. lot, and upon receipt file the same with the Town Planning Office. The applicant then obtained an ANR endorsement and subsequently a building permit. Began constructing a new home and about 4 months later received notice of a lawsuit.

2. Describe how the hardship is owing to circumstances relating to the soil conditions, shape, and/or topography of the land or structures and how the hardship especially affects said land or structures, but does not affect generally the zoning district in which it is located.

The applicant began and finished and sold the homes on the adjoining lots and is now left with a potentially undersized lot through no fault of his own. The applicant is defending the lot line however, it could last for many years and the house is partially finished at this time. Further, the contested land is wetlands with a topography of 15' to 20' lower than the remainder of the lot.

3. Describe how desirable relief may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Weymouth Zoning Ordinance.

The applicant is not seeking to add an additional lot, just to be able to finish the house on a lot with 21,942+/-sf and sell it while a determination is made as to the ownership of 3,065+/-sf.

4. Describe how the dimensional variance as it relates to floor space, bulk, number of occupants or other relevant measures, if granted, shall be no greater than the minimum necessary to provide relief from the statutory hardship.

The applicant caused a new plan to be drafted showing where the applicants surveyor certifies the line and where the abutter surveyor says the line should be and the difference is 3,065+/-sf. The applicant's surveyor continues to support his survey however, the abutter refuses to withdraw his claim notwithstanding the fact that the disputed area is not necessary for his lot to conform to the bylaw.

NOTE THAT THE LAW DOES NOT PERMIT THE BOARD TO GRANT A VARIANCE UNLESS ALL OF THE REQUIREMENTS SET FORTH IN CHAPTER 40A SECTION 10 OF THE GENERAL LAWS AND IN ARTICLE XXIV SECTION 120-119 OF THE WEYMOUTH ZONING ORDINANCE ARE SATISFIED. EACH OF THE ABOVE FINDINGS MUST BE ANSWERED IN DETAIL. ATTACH ADDITIONAL SHEETS IF NECESSARY.