

**TOWN OF WEYMOUTH, MASSACHUSETTS  
BOARD OF ZONING APPEALS  
NOTICE OF DECISION  
249 RALPH TALBOT STREET**

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

<b>Owner:</b>	Kevin & Laura Fall	<b>Date:</b>	2017
<b>Address:</b>	249 Ralph Talbot Street Weymouth, MA 02190		
<b>Applicant:</b>	Kevin & Laura Fall	<b>Case #:</b>	3317
<b>Address:</b>	249 Ralph Talbot Street Weymouth, MA 02190		
<b>Representative:</b>	Attorney David Kelly	<b>Site Address:</b>	249 Ralph Talbot St.
<b>Address:</b>	45 Braintree Hill Office Park #302 Braintree, MA 02184	<b>Sheet:</b>	46
		<b>Block:</b>	534
		<b>Lot:</b>	9

**Zoning District: R-1**

Variance/Special Permit application filed on December 16, 2016. After a public hearing opened on January 25, 2017, advertised in the Weymouth News on January 11, and January 18, 2017; and closed on January 25, 2017, the Board of Zoning Appeals at its meeting on January 25, 2017:

**VOTED TO DENY THE VARIANCE/SPECIAL PERMIT** request submitted under Zoning Ordinance 120-53; Minimum lot area and minimum lot width; seeking to subdivide an existing ~41,650 SF lot with an existing single family dwelling to create a new ~21,605 SF lot for construction of a new single-family dwelling, and a ~20,045 SF lot with the existing dwelling, per plan “249 Ralph Talbot Street Weymouth, Massachusetts Norfolk County” dated December 5, 2016, signed and stamped by Peter G. Hoyt.

**FINDINGS:**

It was the opinion of the Board that the Applicant was unable to demonstrate a hardship owing to circumstance relating to the soil conditions, shape or topography that was unique and limited to his property. Further, it was the Board’s decision that any financial hardship imposed on the Applicant was not the result of a situation unique to this applicant or his property and not by the literal enforcement Town bylaws. The application was denied as per Section 120-119 of the Town of Weymouth Zoning Ordinance. The vote was 4-1 to deny the request for a special permit with Mr. McLeod opposed.

Decision filed with the Town Clerk on           , 2017          

**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.

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Robert J. Luongo  
Director of Planning and Community Development

**BOARD OF ZONING APPEALS (BZA)**  
**RECORD OF MINUTES AND PROCEEDINGS**  
Wednesday, January 25, 2017

**Members Present:** Richard McLeod, Chairman  
Kemal Denizkurt  
Jonathan Moriarty  
Chuck Golden  
Brandon Diem

Ed Foley, Absent

**Also Present:** Bob Luongo, Director of Planning  
Eric Schneider, Principal Planner  
Janet Murray, Recording Secretary

Mr. Denizkurt called the Board of Zoning Appeals meeting to order at 7:05 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

**Case #3317** - The petitioner, Kevin Fall, for property located at **249 Ralph Talbot Street** also shown on the Weymouth Town Atlas sheet 46, block 534, lot 9, located in a R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit and/or Variance: 120-53 Minimum lot area and minimum lot width.

Presently located on the ~41,650 SF lot is an existing single-family dwelling. The petitioner seeks to subdivide the existing lot to create a ~21,605 SF lot for construction of a new single-family dwelling, and a ~20,045 SF lot with the existing dwelling.

Mr. Moriarty made a motion to open the public hearing on Case #3317 and was seconded by Mr. Golden. UNANIMOUSLY VOTED.

Mr. Moriarty made a motion to waive the reading of the public notice and was seconded by Mr. Golden. UNANIMOUSLY VOTED.

Attorney David Kelly, 45 Braintree Hill Office Park, Suite 200, Braintree, MA, appeared before the board with the applicants, Kevin and Laura Fall. He noted that the applicants have lived at the current address since 1999.

Mr. Kelly noted that the application before the board is under section 120-53 and refers to Table 1. This ordinance has been changed. He noted that this is likely the last request that the board will hear under 120-53.

Mr. Kelly stated that ordinance before the board this evening was adopted in March of 2013. In order to file an application under that ordinance there are four (4) threshold triggering events that must be met to submit the application.

Paragraphs A, B, C, and D as follows:

- The lot has been in existence prior to December 1, 2013.
- The lot to be subdivided must have at least 40,000 square feet. He noted that the lot before the board has 41,650 square feet.
- The new lots must meet frontage requirements. The existing lot has 150 feet of frontage. The proposed lots will have 40 feet for parcel A, and 110 for parcel B so they meet this requirement.
- No proposed lot may be less than 17,000 square feet. Parcel A will have 21,605 square feet, and parcel B will have 20,045 square feet.

The fifth event requires a finding of the board that the proposed lots are of a similar lot size and configuration to the lots in the surrounding neighborhood. It is a discretionary function, similar in neighborhood.

Mr. Kelly presented assessors maps to show the surrounding area. He noted there are two colorings, pink is commercial, town owned, not residential. Orange is conforming residential lots of 25,000 square feet or more. Anything that is white is a non-conforming residential lot.

Mr. Kelly distributed a copy of the referenced map.

He pointed out the various non-conforming lots in the immediate area. He noted that they are approximately 20,000 square feet. He then handed out another map that runs from Chisholm Road to the locus and would include the entrance of Jordan Ave. He noted that in Fair Acres the lots are 20,000 square feet, approximately. There are five (5) lots that are greater than 25,000 square feet. He counted 112 residential lots on Exhibit 2. Of the 112 residential lots, there were 27 lots that conformed to the minimum lot area of 25,000 square feet. He stated that this is 24% which means that 76% of the lots in the area are non-conforming lots. The triggering event under the ordinance is 17,500 square feet. The lots to be created are 21,605 square feet and 20,045 square feet.

Mr. Kelly pointed out that facilities necessary and appropriate facilities will be provided, the public convenience will be served by increasing the tax base and providing additional housing. It is his opinion that it would be arbitrary and capricious to deny this application as this proposal's lots are similar to the surrounding area. The applicant's Intent is to sell to someone to build, they are not developers. The motivation is to sell and provide the opportunity for their daughters to attend college.

Mr. Moriarty asked what the square footage of the driveway is. Mr. Kelly stated that the design plans have not been developed. Mr. Moriarty questioned the available area to build the house excluding the driveway.

Mr. Moriarty asked Mr. Kelly to review the square footage of the following lots.

- #7 is 21,558 square feet

- #8 is 24,622 square feet
- #9/#11 is 39,500 square feet
- #12 is 37,600 square feet

Across the street

- #11 is 20,009 square feet
- #12 is 20,008 square feet
- #13 is 20,007 square feet
- #14 is 20,006 square feet
- #15 is 20,005 square feet

Mr. Denizkurt stated that he has a different interpretation of 120-53 (e). He stated that it speaks to lot size and specifically to configuration which is the shape of the lot. The proposed lot is called a pork chop lot where there is a house behind a house. He noted that this configuration is the reason that he is opposed to applicant's request.

Mr. Kelly noted that there is an existing pork chop lot of an abutter to an abutter.

Mr. Denizkurt stated that he is familiar with that particular property, it is considerably larger and it is different in that the house is further back in the woods. He also noted that this is the only one in existence of this shape in the neighborhood.

Mr. Denizkurt stated that he believes that the configuration is not in keeping with the neighborhood.

Mr. Schneider stated that there were no additional comments from staff.

Mr. Luongo stated that he agreed with Mr. Denizkurt's comments regarding pork chop lots. He stated that it is not just about lot size but configuration also. He stated that he could not support the proposal.

Mr. McLeod asked if there was anyone present who would like to speak.

Jim Clark, 231 Ralph Talbot Street, stated that he is two doors down from the proposed subdivision and is not opposed to it.

Tina Gottron, 241 Ralph Talbot Street, stated that she is opposed to the proposal. She stated that she would be looking at the new place right in her back yard. She stated that she sees the existing house. The houses have been in a straight line and should stay that way. She stated that she has lived in her house for 21 years.

Mr. Moriarty made a motion to close the public hearing and was seconded by Mr. Golden. UNANIMOUSLY VOTED.

Mr. Moriarty made a motion to deny the application. He stated that he does not believe that the lot is in keeping with the nature and character of the neighborhood. He stated that houses across the street do not have pork chop lots and the back yards back up to each other. The driveways have independent driveway access to the main road and there are no houses behind other houses. The motion was seconded by Mr. Golden.

The motion to deny the request for a special permit for Case #3318 passed 4-1 with Mr. McLeod opposed. He respectfully disagreed with the other members' interpretation of lot configuration. He stated that the lot is rectangular in shape with the exception of the driveway access.