

**TOWN OF WEYMOUTH, MASSACHUSETTS
BOARD OF ZONING APPEALS
NOTICE OF DECISION
21 WESTERN AVENUE**

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

Owner: Ernest Bettuchy **Date:** February 27, 2017

Address: 21 Western Avenue
Weymouth, MA 02188

Applicant: Ernest Bettuchy **Case #:** 3319

Address: 21 Western Avenue
Weymouth, MA 02188

Representative: N/A **Site Address:** 21 Western Avenue

Sheet: 40

Block: 456

Lot: 46

Zoning District: R-1

Board of Zoning Appeals application filed on December 20, 2016.

After a public hearing on January 25, 2017, advertised in the Weymouth News on January 11, and January 18, 2017, the Board of Zoning Appeals at its meeting of January 25, 2017

VOTED TO GRANT THE VARIANCE under Weymouth Zoning Ordinance Table 1; Frontage to grant relief for the petitioner to demolish an existing structure, presently accessed via a ~20 foot wide driveway from Western Avenue, and construct a new single-family dwelling on a new foundation per plan entitled "Building Permit Plan 21 Western Avenue Weymouth, MA" prepared by KLIM Land Surveying, Inc., dated October 17, 2016.

FINDINGS:

The Board voted to approve the request for a variance for case #3319 owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law the property is an existing non-conforming and is in disrepair. The town Health Department would like to see the dwelling demolished as soon as possible. The house will be located within the original footprint and will remain a single-family home.

CONDITIONS:

1. Demolition will occur prior to April 1, 2017.

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) 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 **February 27, 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.

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 #3319 - The petitioner, Ernest Bettuchy, for property located at **21 Western Avenue**, also shown on the Weymouth Town Atlas sheet 40, block 456, lot 46, located in an R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Variance: Table 1 40' frontage (20' Proposed)

Presently located on the ~12,115 SF lot is a vacant single-family dwelling. The petitioner seeks to demolish the existing structure and construct a new single-family dwelling. Existing building is accessed via a 20' wide driveway accessing Western Avenue. Applicant requires relief from the 40' frontage requirement as structure will be built on a new foundation.

Mr. Moriarty made a motion to open the public hearing on Case #3319 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.**

Steven Whitney, the contractor, appeared before the board for the applicant who was unable to be present this evening.

Mr. Whitney stated that they will not be using the existing foundation. This is what triggered the need for a variance.

The property is in disrepair. A Variance is required because there is only 20 feet of frontage.

Mr. Diem asked about access to the property. Mr. Whitney stated that there is a common driveway/pathway. Mr. Diem questioned if an easement from the front house to traverse the property to the rear house will be required. Mr. Whitney stated that they are moving the hydrant so an easement is not needed.

Mr. Denizkurt stated that there is a note that the taxes are not up-to-date. Mr. Schneider stated that the amount due is about \$600 and this could be a condition.

Mr. Denizkurt asked if the existing house is hooked up to town sewer. Mr. Whitney stated that is not. He noted that the new dwelling will be connected to town sewer.

Mr. MacLeod asked if there was anyone present who would like to speak. There was the following response.

Richard Schmidt, 25 Western Avenue, asked if there could be a date certain of when building will be demolished. He stated that the building is in such disrepair, that it is a hazard. He stated that he has no objection to the application.

Mr. Whitney stated that they had started process but there was asbestos which had to be abated. Then they realized that a variance was needed.

Mr. Luongo asked if the applicant would object to a date certain being added to the
Special permit/variance.

Mr. Whitney asked about the time frame for receiving the building permit.
30 days to get building permit
April 1, 2017

Mr. Schneider stated that some plans show drainage inlet in the northeast corner. The Conservation Commission has requested that the applicant check for an inlet, if one is in existence that they take protection to keep debris out of that area.

Mr. Whitney agreed that this would be done.

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

Mr. Denizkurt made a motion to approve the request for a variance for case #3319 owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law the property is an existing non-conforming and is in disrepair.

The town Health Department would like to see the dwelling demolished as soon as possible. The house will be located within the original footprint and will remain a single-family home. This approval includes the condition that the demolition take place by April 1, 2017. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

THE COMMONWEALTH OF MASSACHUSETTS

WEYMOUTH

BOARD OF APPEALS

February 27, 2017

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 Ernest Bettuchy, 21 Western Avenue Weymouth, MA 02188, affecting the rights of the owner with respect to land or buildings at 21 Western Avenue also shown on the Weymouth Town Atlas Sheet 40, Block 456, Lot 46, 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 # 3319

Date of Hearing: 1/25/2017