

**BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS**

October 16, 2019 - 7:00 p.m.
McCulloch Building, Mary McElroy Room
182 Green Street, Weymouth, MA 02191

RECEIVED
TOWN OF WEYMOUTH
TOWN CLERK'S OFFICE

2020 JAN 10 PM 9:31

Members Present: Richard McLeod, Chairman
Kemal Denizkurt
Jonathan Moriarty
Ed Foley
Brandon Diem

Also Present: Robert Luongo, Planning Director
Eric Schneider, Principal Planner
Janet Murray, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:00 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

New Business:

1. **Case #3396** - The petitioner, Zhaoyong Yang, for property located at **44 Washburn St** also shown on Weymouth Town Atlas sheet 23, block 304, lot 6, located in the R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

| | |
|----------------|--|
| Special Permit | 120-40 Extension or change by special permit |
| Variance | 120-52 lot less than 5000 sf |

The subject property is 1764 sf with an existing single-family home which has been condemned and is in a dangerous state of disrepair. The applicant seeks to reestablish the nonconforming use by tearing down existing house and rebuilding using existing foundation.

Mr. Foley made a motion to open the public hearing on Case #3396 and was seconded by Mr. Moriarty. **UNANIMOUSLY VOTED.**

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

Zhaoyong Yang appeared before the Board. He stated that he intends to demolish the existing building but keep the existing footprint when rebuilding. The granite foundation may be used, if possible. He noted that the house was built in 1868. There will be one parking space on Shawmut Street.

Mr. Schneider stated that the existing building has been condemned. The lot is less than 5000 SF but it is preexisting lot. The architectural drawings are available this evening.

Mr. Foley asked if there were any permits. Mr. Yang stated that a demolition permit has not yet been issued.

Mr. Denizkurt asked on which street the front door will be. Mr. Yang stated that it will be on Washburn Street.

Mr. Diem asked about the parking. Mr. Yang stated that the space will be beside the house.

Mr. McLeod stated that the applicant has submitted four pictures marked Exhibit #1.

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

Mr. Joseph Ceralo, 42 Washburn Street, asked if this will be a single-family home. Mr. Yang stated that it will be a single-family. He expressed concern about demolition as his home sits five feet from Mr. Yang's. He asked if the contractors will have insurance.

Mr. Yang stated that an excavator will be used to demolish the home.

Mr. Luongo stated that when the building permit is issued a certificate of insurance is required.

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

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3396

SPECIAL PERMIT

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

The following conditions will apply:

- The building must be demolished or made structurally sound, forthwith.

- The site must be secured if an open pit exists or excavations must be filled in after the conclusion of work each day.
- The Health Department shall be notified of the date and time of the foundation removal to observe if evidence of an oil release exists.
- A certificate of insurance will be submitted.

The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

VARIANCE

Mr. Foley made a motion to approve this application for a variance because the applicant has shown that this is a pre-existing condition. The Board is able to grant the variance without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance. The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

2. **Case #3397** - The petitioner, Michael Ahern, for property located at **650 Main Street** also shown on Weymouth Town Atlas sheet 41, block 490, lot 6, located in the R-2 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Variance 120-13.2 (B) Two- or three- family dwelling, new construction

The subject property is 37,335 sf with an existing dilapidated single-family home. Petitioner seeks to erect five condominiums each with a two-car garage. Each unit will contain three bedrooms and two and a half bathrooms.

Mr. Foley made a motion to open the public hearing on Case #3397 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

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

Michael Ahearn appeared before the Board. He presented a site plan as well as a flood and drainage plan.

Mr. Foley asked if the existing home is a single-family. Mr. Ahearn stated that it was a single-family with four bedrooms.

Mr. Ahearn noted that there is a driveway on one side of the property and a Town of Weymouth easement on the other side.

Mr. Ahearn stated that he is seeking the variance because when he purchased the property, he understood Table 1 (Schedule of District Regulations) to allow for five units. He pointed out that there was no indication in Table 1 that referred to Section 120-13.2 (B) which limits the number of new units from new construction to three. He added that he interpreted the table correctly but not the code.

Mr. Luongo stated that the Building Inspector interprets the code to read that in an R-2 district, which this home is located, the maximum number of units allowed is three for new construction. The first unit requires 10,000 sf and the two additional units require 5,000 sf each. It doesn't matter if the lot size is greater than 20,000 SF; only three units are allowed in total.

Mr. MacLeod asked Mr. Ahearn what the hardship is for the variance. Mr. Ahearn stated that the lot is narrow. He noted that he looked at the sub-division rule but there was not enough space for the turn around for a fire truck.

Mr. Denizkurt stated that he does not believe that the bar has been met for a variance.

Mr. MacLeod stated that the applicant is increasing the intensity of the usage and creating the hardship.

Mr. Ahearn disagreed. He stated that going by the acquisition costs, there is a financial hardship.

Mr. Ahearn stated that it is a financial hardship for him to only build three units. He stated that under the existing code he could build ten units.

Mr. Luongo stated that the existing structure can altered/rehabbed, not rebuilt, and expanded up to 10%; up to ten units could be built. This would be allowed by special permit.

Mr. Luongo stated that Councilor Harrington was unable to attend the meeting this evening. He has expressed opposition to this variance.

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

Frank Yalowchuck, 642 Main Street, spoke before the board. He stated that he is not adverse to development. He stated that he has lost part of his property for the easement to the conservation property in the rear. He expressed concern about the row of trees along the right of way. He is concerned about the tree line between his property and the applicant's property. He pointed out that he is one of a very few owner-occupied properties on Main Street. He would like to see the trees properly maintained.

Mr. Ahearn stated that the property was marketed by the realtor in such a way as to indicated that the building of five units would be allowed.

Mr. Luongo stated that Mr. Ahearn could have appealed the Building Inspector's interpretation of Table and Code.

Mr. Ahearn stated that he would like to withdraw this application for a variance without prejudice.

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

Mr. Foley made a motion to APPROVE the request to withdraw the application for a variance without prejudice and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

3. Case #3398 - The petitioner, Michael McDonald, for property located at 11 Gibbens Street also shown on Weymouth Town Atlas sheet 16, block 208, lot 1, located in the R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit 120-40 Extension or change by special permit

The subject property is 13,392 sf with an existing 1.5 story single family home with an existing three season porch and a detached garage. Petitioner seeks to remodel existing porch by widening to the existing house width, add full second floor living space and new roof.

Mr. Foley made a motion to open the public hearing on Case #3398 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

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

Mr. Michael McDonald appeared before the Board. He stated that they are looking to square off the front of the house which currently has a small three-season porch that lacks function and add a second floor. He noted that they would stay within the existing footprint of the house.

Mr. Moriarty asked if the front left corner of the house would encroach on the side setback. The addition would not encroach into the 10 foot setback.

Mr. Schneider stated that the only change to the existing foot print is to bring the porch out to match the house.

Mr. McLeod asked if there was anyone present who would like to speak. There was no response.

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

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3398.

SPECIAL PERMIT

1. The specific site is an appropriate location for such a use.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
5. That the public convenience and welfare will be substantially served with the proposal.

The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Other Business:

Discussion: 40B process

Minutes: 9/4/19

Mr. Foley made a motion to approve the minutes from September 4, 2019 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Upcoming Meetings: November 6, 2019

ADJOURNMENT

Mr. Foley made a motion to adjourn at 8:15 p.m. and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Approved by:

Mr. Denizkurt , Clerk



1-8-2020

Date