

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.

**Old Business:**

**Case #3313** - Continued from 11/30/16 - The petitioner, Sandra Martel, for property located at **90 Main Street** also shown on the Weymouth Town Atlas sheet 29, block 329, lot 22, located in a B-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance.

Variance:	120-64.3(B)(3) 120.39	Height not to exceed 25' Continuation of non-conforming use
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Presently located on the property is a McDonald's restaurant with a ~21.5 foot-high free-standing sign located ~14.6 feet from the street. The abutting shopping plaza has relocated their sign, blocking the applicant's sign for northbound motorists. The applicant seeks to extend their existing sign to ~40 feet, and above the neighboring signage.

<b>Sitting Members:</b>	Kemal Denizkurt, Acting Chairman Chuck Golden Jonathan Moriarty Brandon Diem
<b>Not Present:</b>	Edward Foley

Mr. Moriarty made a motion to re-open the public hearing on Case #3313 and was seconded by Mr. Golden. VOTED 4-0 in favor.

Mr. Moriarty made a motion to waive the reading of the public notice and was seconded by Mr. Golden. VOTED 4-0 in favor.

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

Wednesday, January 25, 2017

Attorney Gregory Galvin, 775 Pleasant Street, Weymouth, appeared before the board with the applicants, Sandra Martel and Jeff Brewster.

Mr. Denizkurt informed Mr. Galvin that Mr. Foley was unable to be present this evening. He explained that without Mr. Foley's presence, the applicant needed a unanimous vote of the members sitting. Mr. Galvin decided to go forward with the application.

Mr. Galvin stated that the question was raised at the November meeting as to why this hardship now exists regarding the RK Mall sign blocking the McDonald's sign, specifically why was McDonald's not present at the public hearing when RK came before the board approximately three (3) years ago. The initial proposal by RK sent to the abutters located their sign in a different location that allowed for the view of the McDonald's sign. It was planned to be under the high-tension wires. Prior to this meeting in October or November of 2012, NStar came forward and stated that the sign could not be within the easement area. The matter was continued in order to negotiate with NStar. However, NStar was adamant that the sign not be in the easement.

RK then came before the Board with an alternative placement for their sign that did not show the McDonald's sign. Only the Board and the Town were aware of the change. The Board approved the alternative placement of the sign.

The applicant did not have the information about the current location of the RK sign. Had they known, they would have been present to object to the current location.

It is the applicant's position that this has created the hardship. The applicant has had several meetings with the town planning office. Mr. Galvin acknowledged that raising the sign above the RK sign would make their sign the tallest sign in Weymouth.

McDonald's has looked at moving the sign closer to Main Street but this would block the traffic lights that were installed at the RK Plaza. They have also looked at placing the sign further north. The problem is that there is only one entrance at the signalized entrance to the RK Mall.

The current sign has a drive thru open 24 hours about two feet below but that will not be moved up if the sign height is allowed. McDonald's is trying to limit how high they are asking for the relief.

RK is not interested in allowing McDonald's to have their sign on the plaza's signage.

Mr. Galvin stated that the sign variance would only be for McDonald's. If the site were ever sold, the variance would not transfer to the new owners.

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

Wednesday, January 25, 2017

Sandra Martell stated that the pole does not need to be larger, but the base would need to be larger.

Mr. Schneider stated that the Planning Office and the Mayor's office are concerned about approving this variance for a 40-foot sign.

Mr. Schneider asked the Board to continue the hearing one more time for two weeks.

Mr. Galvin agreed to the continuance.

Mr. Golden asked if the square footage of the sign is 40 and ½ feet? Mr. Galvin stated that he would get this information for the next meeting.

The public was given the opportunity to speak and there was no public comment.

Mr. Moriarty made a motion to continue the public hearing until February 15, 2017 and was seconded by Mr. Golden. VOTED 4-0 in favor.

New Business:

Sitting Members:               Richard MacLeod, Chairman  
  Kemal Denizkurt  
  Chuck Golden  
  Jonathan Moriarty  
  Brandon Diem

**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.

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

Wednesday, January 25, 2017

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.

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

Wednesday, January 25, 2017

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 a 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.

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

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.

**Case #3318** - The petitioner, 186 Main LLC, for property located at 186 Main Street, also shown on the Weymouth Town Atlas sheet 29, block 375, lot 2, located in a B-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: 120-40 Extension of use requiring Special Permit under 120-24(A)

Presently located on the lot is an existing 3-story, ~22,000 SF, 502-unit self-storage facility. The petitioner seeks to construct a 3-story ~12,700 SF addition with 277 self-storage units.

Mr. Moriarty made a motion to open the public hearing on Case #3318 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.

Frank Marinelli appeared before the Board. He introduced David Maxwell from Kelly Engineering Group who prepared the site plan as well as Scott MacDonald, general manager of Castle storage. The proprietors of Castle Self-Storage, Mr. Gardner and his son, were also present.

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

Mr. Marinelli gave a brief break-down of Mr. Gardner's business ties to Weymouth. He also noted that the property brings \$150,000 in real estate revenue for the town.

In 2014, the applicant demolished the 38,000-square foot Mass Electric building that had been located on the site.

He stated that the addition will carry forward the same design and materials as in the original building.

Mr. Marinelli noted that this is a quiet use of the property in a B-1 zoning district. There have been not problems to date.

The lot is 9.4 acres. The addition will be 12,700 square foot which with the existing building will still be a smaller foot print than the original building. He also noted that this use does not consume municipal services.

The parking requirement is one parking space for every 8200 square feet of the building. There are currently 13 spaces. With the addition, five more spaces are required but the site plan calls for a total of 18 spaces.

There are 20 vehicle trips per day and two during the peak hours. The site has a state of the art security system. Hours of business are as follows: 8-7 Monday through Friday, 8-5 on Saturday, 10-4 on Sunday. The same hours will apply for the addition.

Mr. Marinelli stated that he believes that the application meets the following special permit requirements:

1. The specific site is an appropriate location for such a use.  
The site is already used for this purpose.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.  
The site is in a commercial corridor and is a low impact use.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
4. There are adequate and appropriate facilities, utilizes and other public services provided for the proper operation of the proposed use.  
Castle Storage and its entities are experienced self-storage operators.
5. That the public convenience and welfare will be substantially served with the proposal.

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

Wednesday, January 25, 2017

The public convenience is served as they would not build more units if not needed.

Mr. MacLeod asked what is located in the rear of the property.

Mr. Marinelli stated that Honda of Weymouth Vehicle storage and Kennedy Automotive are behind the storage units. He stated that Kennedy Auto has had recent issues with the Health Department and the Conservation Commission (this statement was later corrected to state that the issues are with National Auto Recovery (NAR)).

He informed the board that a letter was sent on Friday and his client has spoken with the tenant. The tenant has been told that the owner agrees that the site must be cleaned up and in compliance with town requirements.

There is an existing garage building. Neither of these tenant's occupancy impacts the proposed use.

Mr. McLeod asked if the lighting in the back will be similar to what is in front. Mr. Marinelli stated that it will be the same.

Eric Schneider stated that there were no additional comments about the proposed permitted use.

Mr. Luongo asked if there will be landscaping around the back? He noted that a landscape plan was not submitted. Mr. Marinelli stated that it will be similar to what is already on the site.

Mr. Luongo asked if all four facades will be the same. Mr. Marinelli stated that the westerly façade blends into the back but that the other facades will be the same material.

Mr. Luongo stated that there is an order of conditions that needs an extension. Mr. Marinelli stated that Kelly Engineering has filed for the extension of the order of conditions on 2/8/17.

Mr. Luongo then stated that a notice of intent may need to be filed with the Conservation Commission on the addition, as well.

David Mackwell will the Kelly Group, stated that there will be a filing the conservation. A request to amend the existing order of conditions will be filed after it is extended. He noted that this has been planned for in order to finish the project.

Mr. Luong stated that he would suggest the following conditions:  
All concerns of the Health Department and the Conservation Commission and Fire Department are satisfied.



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

Mr. Luongo noted that the applicant has been cooperating with the town to resolve the issues with the tenant.

Mr. Gardner stated that Kennedy Auto is not the problem. NAR, National Auto Recover, Glen Gillis, is the problem.

Mr. Luongo also stated that prior to issuance of Building Permit all of the concerns noted be resolved.

Mr. Marinelli stated that they served a copy of January 20, 2017 letter from the town concerning the violations to NAR. The tenant has been informed that they correct the problem or be evicted.

Mr. Gardner requested that corrections of the issues be tied to the Certificate of Occupancy rather than building permit.

Mr. Luongo also stated that a landscape be submitted.

Mr. MacLeod asked if there was anyone present who would like to speak. There was no comment.

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 special permit for Case #3318.

1. The specific site is an appropriate location for such a use.  
*This is a continuation of an approved use as a storage facility.*
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, utilizes and other public services provided for the proper operation of the proposed use.  
*The site is already operating as a storage facility.*
5. That the public convenience and welfare will be substantially served with the proposal.

With the following conditions:

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

Wednesday, January 25, 2017

- Prior to issuance of a certificate of occupancy, all the Health Department and Fire Department issues are resolved, as well as all Conservation Commission issues as outlined in the letter dated 1/18/17 be addressed satisfactorily to the town.
- The Existing order of conditions dated 10/26/2012 and extended for 1 year, is extended again.
- Submission of a landscape plan for approval by Planning Department
- Hours of operations to remain the same

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

**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.

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

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.

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

**Case #3320** - The petitioner, Ryder Development Corp., for property located at **32-38 Washburn Street**, also shown on the Weymouth Town Atlas sheet 23, block 304, lot 36, located in an R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit:	120-39	Continuation of non-conforming use
	120-40	Extension or change
	120-70(B)	Off-street parking

Presently there are two (2) buildings on the lot, a single-family dwelling with off-street parking and a 3-family dwelling with off-street parking. The petitioner seeks to rehabilitate the single-family dwelling and to demolish the 3-family to construct a 2-family duplex with green space and four (4) off-street parking spaces.

Mr. Moriarty made a motion to open the public hearing on Case #3320 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 Gregory Galvin, 775 Pleasant Street, Weymouth, MA, appeared before the board with the applicant, Ken Ryder.

Mr. Galvin stated that the property is in a R-1 zone. The lot currently has two dwellings on it, a single family and a 3-family.

Mr. Galvin stated that Mr. Ryder's Intent is to rehab the single-family dwelling, and keep it as a single-family dwelling. He would remove the 3-family, demolish it and construct a two-family. This would lessen density by removing one unit

Mr. Ryder would move the building further to the rear of the property when constructing the two family, thus providing off-street parking for this lot. The single family will still have on-street parking.

Mr. Galvin stated that he spoke to Ken DiFazio whose family owns property on the corner of Washburn and Shawmut Streets. He noted that Mr. DiFazio expressed support for the project as it will remove cars from Washburn Street.

Mr. Galvin stated that comments were received from DPW and the Traffic Department. The comments are addressed in the plan. He stated that he received the plan, today, from Hoyt engineering.

The town has not seen plans, however Mr. Schneider stated that the items are housekeeping items with nothing that is a deal-breaker.

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

Mr. Denizkurt asked how many bedrooms are in the single family. Mr. Ryder stated that the one family has two bedrooms and will remain a two bedroom. The house needs a new roof, siding, and windows. He also noted that the landscaping needs to be Cleaned up land.

Mr. Ryder stated that the three family has structural issues and it is better to take the structure down, push the building back, and provide on-site parking.

Mr. Denizkurt asked if they will remain rentals. Mr. Ryder stated they will be remain rentals.

Mr. Diem asked about the distance between the proposed two family and the existing single family.

Mr. Ryder stated that the current distance is 8 feet and will be Increased to 12-15 feet. He noted that the Side setbacks are then met. The proposed dwelling will be more centered on the lot.

The Health Department requested that they Inspect building before it is demolished.

Mr. Schneider pointed out that the existing single family does not have off-street parking. The new two family will have four parking spots.

Mr. Schneider asked for clarification as to why the parking was not in the back to keep the streetscape. Mr. Ryder stated that easements would be needed and the topography from the front to the back is a 20-foot drop.

Mr. Diem asked if there would be construction issues with accessing the property. Mr. Ryder stated that he owns the property to the rear of this lot so he will use that access. The project should take about four to five months and work hours are 7:30 AM to 4:30 PM, Monday through Friday. They do not work on Sunday, but do work on Saturdays.

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

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

Mr. Golden made a motion to approve the application for a special permit for Case #3320.

1. The specific site is an appropriate location for such a use.

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

Wednesday, January 25, 2017

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, utilizes 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 site will have three dwelling units rather than the current four as well as four off-street parking spots for the two-family dwelling. One condition is that the property be inspected by Board of Health prior to demolition

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

**Minutes - November 30, 2016, January 4, 2017**

Mr. made a motion to approve the minutes of November 30, 2016 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Mr. Moriarty made a motion to approve the minutes of January 4, 2017 and was seconded by Mr. Moriarty.

Mr. Golden noted that the meeting was opened by Ed Foley not Richard MacLeod. VOTED UNANIMOUSLY as amended.

**Upcoming Meetings - February 15, 2017; March 1, 2017; March 22, 2017**

**ADJOURNMENT**

Mr. Moriarty made a motion to adjourn at 8:50 pm and was seconded by Mr. Golden. VOTED UNANIMOUSLY.

Approved by:

Kemal Denizkurt, Clerk



1/25/17