

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, January 4, 2017

Members Present: Richard McLeod, Chairman
Kemal Denizkurt
Jonathan Moriarty
Ed Foley
Chuck Golden

Also Present: 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.

Old Business:

Chairman McLeod explained to those present that there are three cases that were scheduled for this evening for which one of the board members is not present. He stated that each applicant has the option to go forward with the hearing with only four out of five members present or to continue to another date. He further noted that if an applicant chooses to have their case heard this evening, they must receive a unanimous vote of the four sitting members.

Case #3311 - Continued from 11/30/16 - the petitioner, Metro Sign & Awning for property located at 35 Pleasant Street also shown on the Weymouth Town Atlas sheet 49, block 558, lot 1, located in a B-1 zoning district.

Special Permit: 120-64.3(A) Signs in business area

Presently located on the lot is a retail shopping plaza with the main entrance at Rt. 18/Main Street. The petitioner representing Whole Foods Market, seeks to add a 19.5" x 1.3" lighted sign along the top of the wall on the left side of the building occupied Whole Food Market.

When asked, the representative for the applicant stated that they would like a continuance until February 15, 2017.

Mr. Foley made a motion to continue case #3311 until February 15, 2017 and was seconded by Jonathan Moriarty. Voted 4-0.

Case #3313 - Continued from 11/30/16 - The petitioner, Sandra Martel, for property located at 90 Main Street also show 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:

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, January 4, 2017

Variance: 120-64.3(B)(3) Height not to exceed 25'
120-39 Continuation of non-conforming use

Presently located on the property is a McDonald's restaurant with a ~21.5 feet 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 north bound motorists. The applicant seeks to extend their existing sign to ~40 feet and above the neighboring sign.

When asked, Gregory Galvin, representative for the applicant, stated that they would like a continuance until January 25, 2017.

Mr. Foley made a motion to continue case #3313 until January 25, 2017 and was seconded by Mr. Moriarty. Voted 4-0.

Case #3312 - Continued from 11/30/16 - The petitioners Jenny Lawler and David Cavanagh, for property located at **70 Finnell Drive** also shown on the Weymouth Town Atlas sheet 36, block 452, lot 15, located in an I-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: 120-29(E) Places of recreation or assembly

The premises, located in an industrial park, was formerly used as a product storage facility for a candy manufacturer. The petitioner seeks to utilize the space to expand their family based fitness business.

Chairman McLeod asked the applicant if they wanted to go forward with four members. The applicant replied that he was fine going forward with four. Chairman McLeod recused himself as he was not a sitting member on the board when this case was heard.

Sitting Members: Kemal Denizkurt
Jonathan Moriarty
Ed Foley
Chuck Golden

Absent: Brad Diem

Mr. Denizkurt made a motion to re-open the public hearing on Case #3312 and was seconded by Mr. Moriarty. VOTED 4-0 in favor.

Mr. Foley noted that at the previous hearing, Mr. Goldman, owner of the Weymouth Club had expressed concerns about this application.

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

Wednesday, January 4, 2017

Mr. Schneider stated that although Mr. Goldman still had concerns about traffic and safety, he does not intend to object to this application and will not be present this evening.

Ms. Lawler and Mr. Cavanagh appeared before the board. Mr. Cavanagh noted that there were previous concerns about the number of cars entering and exiting the location. The report that he had distributed to the Board (Exhibit A) was the result of counting cars.

Mr. Foley asked if a lease had been submitted. Mr. Cavanagh stated that he had a letter from the landlord.

Mr. Schneider stated that Mr. Levy was present this evening to give additional testimony. Mr. Foley called Mr. Levy forward to speak about the case.

Mr. Levy stated that he did not have any additional testimony other than what he had said at the previous meeting. He asked if there were any questions.

Mr. Denizkurt asked if Mr. Levy would walk through the parking scenario.

Mr. Levy stated that on the plot plan, the areas highlighted in red are open for common use. Areas not highlighted are for exclusive use of others. The areas highlighted in yellow are specified for the applicant.

Mr. Denizkurt asked if spots 16-22 were marked. Mr. Levy stated that they were not. Mr. Denizkurt then asked how the patrons of the establishment would know where to park. Mr. Levy stated that the applicant could use markings or signage once they moved ahead with their plans.

Mr. Denizkurt asked if spots 6-15 were stacked. Mr. Levy stated that these spots are in the rear and are not marked at this time. There are five marked spaces in front of the building.

Mr. Denizkurt asked about the common overflow parking in red. Mr. Levy stated that they are open to all. He noted that they are used 20 to 30 percent of the time. He also noted that there is a synergy in the timing of usage and the overlap is minimal.

Mr. Foley asked if a special permit had been approved for another building in the office park for kickboxing. Mr. Levy stated that this was true. Mr. Foley asked if there have been any complaints about parking. Mr. Levy stated that there have been no complaints.

Mr. Levy stated that there are other spaces available to be leased, if needed, in the future. Mr. Foley asked how many additional spaces would be available.

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

Wednesday, January 4, 2017

Mr. Levy clarified that the additional spaces are not available by right to the tenant. They would need to negotiate a lease with the landlord.

Mr. Moriarty asked what would be the peak time for overflow use. Mr. Levy stated that it is late morning and early evening. He noted that this evening there were two cars parked at 5pm.

Mr. Schneider noted that Exhibit A is the plan submitted by Mr. Levy; Exhibit B is for the plans submitted by the applicant.

Mr. Foley asked if there were any additional staff comments. Mr. Schneider stated that there were none.

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

Mr. Moriarty made a motion to close the public hearing that was seconded by Mr. Golden. VOTED 4-0 in favor.

Mr. Foley made a motion to APPROVE a Special Permit for Case #3312 with the condition that a copy of the lease is submitted before the special permit is granted and was seconded by Mr. Moriarty. VOTED 4-0 in favor.

Special Permit Criteria for Approval. The Board of Zoning Appeals may approve any Special Permit applications only if it finds that, in its judgment, all of the following conditions are met in accordance with Zoning Ordinance Section 120-29(E).

1. The specific site is an appropriate location for such a use.
This board has previously approved special permits for similar use (kickboxing and cheerleading facilities) in this office park and there have not been any complaints.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
This site is amenable for this use.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
There were no comments from the police.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
The applicant has submitted plans to demonstrate that there is adequate parking.
5. That the public convenience and welfare will be substantially served with the proposal.
Increasing the health and well-being of the residents of the town and adding additional tax revenue for the town.

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, January 4, 2017

New Business:

Case #3314 - The petitioner, Marian Dorosz, for property located at **11 Water Street** also shown on the Weymouth Town Atlas sheet 23, block 306, lot 9, located in a B-2 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: 120-40 Extension or Change of Nonconforming Use

Presently located on the ~ 25,000 SF lot is an existing garage with two service bays for an auto repair business. The petitioner seeks to construct a ~ 16' X 32' addition to the existing garage and to provide storm water improvements. The repair shop is an allowable use with a Special Permit. The application seeks to extend that use.

Mr. Foley made a motion to re-open the public hearing on Case #3314 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Mr. Foley made a motion to waive the reading of the publication on Case #3314 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Mr. Adam Brodsky, land-use lawyer in Hingham, appeared before the Board and noted that he was standing in for his colleague Mr. Kevin Burke. The applicant, Mr. Dorosz, also appeared before the Board.

Mr. Brodsky noted that there are existing bays for auto repair on the property which is allowed by special permit.

Mr. Brodsky stated that the applicant would like to add a 16' X 32" addition to the existing garage. The business repairs, among other things, buses. At present, a bus is unable to be worked on completely inside the building. The purpose of the addition is to allow for this to happen.

Mr. Brodsky noted that there is currently no storm water management on the site. Mr. Brodsky added that Herring Brook runs under the property. A Notice of Intent has been submitted to the town's Conservation Commission.

The Commission has raised concerns about the structural integrity of the culvert. There is a meeting scheduled for later this week to discuss this matter.

Mr. MacLeod asked if the proposed addition is an entrance into the main garage and the bus or large truck would pull straight in? Mr. Brodsky stated that any vehicle would only be able to pull straight in.

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

Wednesday, January 4, 2017

Mr. Foley stated that he visited the site today and was looking at the culvert. He noted that the fascia piece was rotted. He asked if the culvert had been in place for 50 years.

Mr. Brodsky stated that he was not certain as to how long the culvert had been in place and there has been discussion as to the ownership of the culvert. Although the culvert is clearly located on the applicant's property, ownership is unclear.

Mr. Foley asked how they currently work on buses. Mr. Dorosz stated that they are currently unable to close the bay doors, so the vehicle being worked on is only half in the bay.

Mr. Foley asked how close to the culvert the addition is. Mr. Dorosz stated that it is 21' from the culvert.

Mr. Brodsky stated that a storm water management system would meet the Department of Environmental Protection (DEP) standards. It would entail a rain garden.

Mr. Denizkurt asked what the building material will be and what is the building height. Mr. Dorosz stated that the material will be cinder block and the height is approximately 14 feet.

Mr. Schneider stated that the application has staff support although there are still open issues regarding the culvert.

Mr. Brodsky expressed concern that conditions could result in the need to return to the board since there are further meetings scheduled.

Mr. MacLeod stated that minor changes can be done administratively.

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

Mr. Foley made a motion to close the public hearing on Case #3314 that was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Mr. Foley made a motion to APPROVE a Special Permit for Case #3314 with the following conditions are met before the special permit is granted and was seconded by Mr. Moriarty:

1. All required environmental permitting must be obtained prior to issuance of a building permit.
2. The applicant will hire a professional engineer to prepare a structural assessment of the culvert to determine whether the culvert can safely sustain existing and proposed loads, provide structural repair/maintenance

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

Wednesday, January 4, 2017

recommendations as needed, and provide a maintenance plan for the future. No building permits will be issued until the inspector of Buildings is satisfied with these findings. All repairs to be made as per recommendations of the structural study.

3. Monitoring equipment will be installed as recommended in the structural assessment.
4. A structural assessment shall be conducted every 24 months with copies sent to the Conservation Commission and Inspector of Buildings.

VOTED UNANIMOUSLY.

Special Permit Criteria for Approval. The Board of Zoning Appeals may approve any Special Permit applications only if it finds that, in its judgment, all of the following conditions are met in accordance with Zoning Ordinance Section 120-40.

1. The specific site is an appropriate location for such a use.
Applicant currently uses site as an auto repair shop. Applicant is looking to upgrade the site with the addition which will close in the vehicles being worked on and lessening the noise.
2. The proposed use of structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
The change will include the treatment of water run-off, and increase the quality of water being sent into the Herring Run.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
Buses driving onto property are going over the culvert and part of the condition is that a professional engineer will look at this and give a structural assessment.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
Storm water run-off plan has been submitted.
5. That the public convenience and welfare will be substantially served with the proposal.
Storm water will be treatment which will increase the water quality.

Case #3315 - The petitioner, Michael Howard, for property located at **29 Welland Circle**, also shown on the Weymouth Town Atlas sheet 24, block 320, lot 65, 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 Lot size

Presently located at 29 Welland Circle is ~8,200 SF lot with an existing single family dwelling. The petitioner seeks to straighten the lot by adding ~500 SF from the abutting ~19,644 SF lot at 32 Welland Circle making that lot more nonconforming.

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

Wednesday, January 4, 2017

Mr. Foley made a motion to open the public hearing on Case #3315 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Mr. Foley made a motion to waive the reading of the publication on Case #3315 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Mr. Howard appeared before the board seeking relief from lot size requirements. He stated that he is proposing to obtain approximately 498 square feet from abutting property and incorporate into his lot.

Mr. Denizkurt noted that the applicant and the abutting property owner have already signed off on this.

Mr. Howard stated that he is looking to round off his lot. He noted that he must be vigilant to keep off this portion of the abutting property and not do any damage when moving equipment to do work onto his property.

The public was given the opportunity to speak and there was the following comment:

The owner of 32 Welland Circle, Ann Louise Gorman, stated that she has no problem with the request and hopes that it goes through.

Mr. Foley made a motion to approve this application for a variance because the applicant will be increasing the nonconformity of the abutting lot and decreasing the nonconformity of his own lot. The applicant is looking to do so to avoid lawsuits if he were to damage the abutting property. This is a hardship for him to worry about this. 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 amount of property involved is approximately 500 square feet. This portion of the property will not be a buildable lot. The motion was seconded by Mr. Moriarty.
UNANIMOUSLY VOTED.

Case #3316 - The petitioner, Patrick Flaherty, for property located at 4 Mutton Lane, also shown on the Weymouth Town Atlas sheet 35, block 444, lot 12, located in an R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Board:

Lot A

Variance:	Table 1	Lot Size (9,686 sq ft)
Variance:	Table 1	120' at the front and rear building line
Variance:	120-48	120-48 Subdivision creating a new nonconforming lot
Variance:	120-59.1	Measurement across lots

Lot B

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

Wednesday, January 4, 2017

Variance: Table 1 Lot Size (17,026 sq ft)
Variance: 120-56(c) Frontage less than 40'
Variance: Table 1 120' at the front and rear building line
Variance: 120-59.1 Measurement across lots

Lot C

Variance: 120-56(c) Frontage less than 40'
Variance: 120-53.1 Percent Upland (50%)
Variance: 120-59.1 Measurement across lots

Presently located at 4 Mutton Lane is ~101,389 SF lot with an existing single family dwelling built in 1768. The petitioner seeks to preserve the historic home by subdividing the property creating two (2) additional buildable lots. With the requested relief, the applicant intends to demolish the existing house and subdivide the property to create one (1) additional buildable lot.

The applicant has requested a continuance until February 15, 2017.

Mr. Foley made a motion to continue the public hearing until February 15, 2017 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

OTHER BUSINESS

Minutes - November 9, 2016

Mr. Foley made a motion to approve the minutes of November 9, 2016 and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.


Upcoming Meetings - January 25, 2017, February 15, 2017

ADJOURNMENT

Mr. Foley made a motion to adjourn at 8:05pm and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Approved by:

Kemal Denizkurt, Clerk

 1/25/17