

**BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, December 2, 2015**

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

Absent: Ed Foley

Also Present: James Clarke, Planning Director
Eric Schneider, Principal Planner
Lee Hultin, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:05 p.m. at the McCulloch Building and explained the procedures that would be followed to the people present.

Old Business:

1. Case #3265 – Continued Public Hearing from 11-4-2015 The petitioner, Jennifer Porter, for property located at 73 Cain Avenue, also shown on the Weymouth Town Atlas Sheet 18, Block 246, Lot 1, located in an R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: 120-13A Single-Family to a Two-Family

Presently located on the premises is a single-family residential dwelling on a 15,376 SF lot. The petitioner is proposing to demolish an existing detached garage and construct a ~1,104 SF addition with a separate entrance, kitchen, bath, two-bedrooms; and to construct a ~13'x 24' deck onto the rear of the dwelling.

Sitting Members: Richard McLeod
Chuck Golden
Jonathan Moriarty
Ed Foley - **Absent**
Kemal Denizkurt

Appearing before the board was the applicant Jennifer Porter. She is asking for a continuance on her case as she is having her foundation inspected to see if it is viable. She will be in touch with the Planning Department.

Jonathan Moriarty made a motion to continue Case #3265 to January 6, 2016 as the applicant has requested and was seconded by Chuck Golden

VOTED 4-0

1. Case # 3263 – Continued Public Hearing from 10-7-2015, 11-4-15 - The petitioner, Edward Corkren, for property located at 289 Lake Street, also shown on the Weymouth Town Atlas Sheet 26, Block 295, Lot 25, located in an R-3 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Variance: Table 1 Minimum Lot Area Requirement

Presently located on the premises is a single-family residential dwelling on a ~36,300 SF lot. The petitioner is proposing to retain the existing dwelling and construct four (4) duplex townhouses.

Sitting Members: Richard McLeod
Chuck Golden
Jonathan Moriarty
Ed Foley - **Absent**
Kemal Denizkurt

Appearing before the Board was Attorney Robert Franklin and the applicant Edward Corkren. The applicant stated that he has made some adjustments to his plan and the neighbors are all in support.

The Board feels the applicant needs to articulate his hardship for this relief. Attorney Franklin stated that it is a long narrow lot and in order to develop it affectively he is proposing to keep the existing home and to construct four (4) new duplexes. By right, the applicant can build two four-plexes but it would not look as nice and would be less attractive to families and young couples.

In addition, if he is obliged to build the two “boxes” he will not be able to sell them as easy. The financial hardship of this would cause him to lose money and be difficult to maintain. This could potentially bankrupt him.

Chairman McLeod stated that there are only 4 members here this evening and he would need a unanimous vote or he could wait for another meeting.

There is a list of 3 conditions that need to be in the decision.

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

Chuck Golden made a motion to close the public hearing on Case # 3263 and was seconded by Jonathan Moriarty.

VOTED 4-0

Chuck Golden made a motion to approve Case # 3263 for a variance based on testimony from the applicant creating the financial hardship.

1. Install a new vinyl fence 8 feet tall from street to rear of property. Six inches inside the applicant's property line.
2. Keep existing trees on the lot line within the subject property and add bushes
3. The decks of the first three new buildings will be installed off the sides of the buildings and there will be no second floor windows out the rear of the three buildings.

Variance Criteria for Approval. Weymouth Zoning Ordinance Section 120-119A(3). The Three Required Findings For Granting A Variance:

Finding #1: Soil, Shape, Topography

Owing to circumstances relating to soil conditions, shape or topography of the land or structure and especially affecting such land or structure but not generally affecting the zoning district in which it is located. **The lot is narrow and abuts single family homes. The four duplex proposal will permit the units to be staggered and create a more residential feel.**

- The board must also find that the peculiarity is unique to the zoning district where the parcel is located.
- The peculiarity must not be found in the district as a whole.

Finding # 2: Hardship

A literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise. **There is a financial and developmental hardship in that, as a private land owner, the applicant does not have the financial resources to cover carrying costs in the event that units do not sell.**

Finding # 3: Public Good

Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance or bylaw.

The number of units being proposed are allowed by-right in a different configuration. The applicant has made arrangement with the neighbors and they are supportive of this configuration with the stated conditions.

Kemal Denizkurt added the following to Chuck's motion:

The applicant has demonstrated that the lot is narrow and creates some issues with how it can be developed. The property does abut some single family homes and the duplex configuration would allow for less massing of the property and a better transition to those single family streets. The lot itself has created a limited site design option and the most practical option for the owner and the neighbors is a duplex arrangement.

Seconded by Jonathan Moriarty.
VOTED UNANIMOUSLY

3. Case #3266 – Continued Public Hearing from 11-4-2015, The petitioner, Elliot Savitz, for property located at 30 Aspinwall Avenue, also shown on the Weymouth Town Atlas Sheet 9,

Block 77, Lot 15, located in an R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; Variance: 120-40; 120-51 Front and Rear Depth

Presently located on the premises is a single-family residential dwelling on a 7,012 SF lot. The petitioner is proposing to extend a rear deck to the front of the dwelling including stairs and covered landing.

Sitting Members: Richard McLeod
Chuck Golden
Jonathan Moriarty
Ed Foley – **Absent**
Kemal Denizkurt

Appearing before the board was Attorney Gregory Galvin, 775 Pleasant Street and the applicant Elliot Savitz. At the last meeting a more detailed architectural rendering was requested. This was reviewed with the board members.

Jim asked what the width of the deck was and it was stated the rear deck is 8 feet along the side, and the front deck is 5'10".

Public Comment:

Kevin O'Leary, 37 Wachusett - The positioning of the deck was clarified with him and he was happy with the results. He is not opposed to this project.

Jonathan Moriarty made a motion to close the public hearing on Case # 3266 and was seconded by Kemal Denizkurt.

VOTED UNANIMOUSLY

Kemal made a motion to approve the application for a special permit variance on Case # 3266, 30 Aspinwall Avenue

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 120-122D.

1. The specific site is an appropriate location for such a use.
2. The proposed use or 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 applicant has proposed putting on a small 5x10 inch deck on the front of the house with a roof structure and a 7 foot open deck to the side (the pergola) which provides him better coverage from the elements. The proposed structure will reduce the set back from 18 to 14.3 feet.

Variance Criteria for Approval. Weymouth Zoning Ordinance Section 120-119A(3). The Three Required Findings For Granting A Variance:

Finding #1: Soil, Shape, Topography

Owing to circumstances relating to soil conditions, shape or topography of the land or structure and especially affecting such land or structure but not generally affecting the zoning district in which it is located.

- The board must also find that the peculiarity is unique to the zoning district where the parcel is located.
- The peculiarity must not be found in the district as a whole.

Finding # 2: Hardship

A literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise.

Finding # 3: Public Good

Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance or bylaw.

Moving the front door would be a hardship and therefore the variance would be granted. At this point there is no opposition to the addition and several neighbors were in support of it.

Jonathan Moriarty seconded.

VOTED UNANIMOUSLY

New Business:

4. Case #3268 – The petitioner, Hang Zhang, for property located at **352-360 Bridge Street**, also shown on the Weymouth Town Atlas Sheet 7, Block 92, Lots 5 & 6, located in the B-2 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; Dimensional Variance: 120-101 Service Stations, Repair Garages and Car Washes

Presently located on lot 5 is a ~3,984 SF single-story building formerly used for retail sales, lot 5 is ~24,959 SF; presently located on lot 6 is a ~2,183 two-story building formerly used for retail sales, lot 6 is ~9,528 SF. The petitioner is proposing to open an automobile sales and repair business.

Sitting Members: Richard McLeod
Chuck Golden
Jonathan Moriarty
Ed Foley - **Absent**
Kemal Denizkurt

Jonathan Moriarty made a motion to waive the reading of the publication on Case # 3268 and was seconded by Kemal Denizkurt. VOTED UNANIMOUSLY

Jonathan Moriarty made a motion to open the public hearing on Case # 3268 352-360 Bridge Street and was seconded by Kemal Denizkurt. VOTED UNANIMOUSLY

Appearing before the board was Thomas Nguyen General Manager and Hang Zhang

The Town Ordinance requires that they service the cars that they sell. They will not be servicing cars. There will not be any garages in the front and they will add flowers and bushes in the front to clean it up. The applicant spoke to all neighbors and the Civic Association and they are all in support of this project. The roof needs to be repaired and the building will be beautified. There will be extra fencing put in along the back (8 foot fencing). They will be using the existing signs and will be adding a bathroom to the building. Morris engineer will be hired to perform the work.

Kemal Denizkurt asked the following questions:

- What will be done with the 2 story building on lot 6 and it was stated nothing at this point in time. They will be renovating lot 5 first.
- Do you truck any cars in and the applicant said no because they don't have the room and it would be too dangerous. They have 4 dealer plates and they will bring them in individually.

The hours of operation would be from 9:00 am – 8:00 pm Monday through Thursday and Friday & Saturday 10:00 – 6:00, Sunday 10:00 – 5:00.

Snow plan would be on site because there is a lot of space onsite. The summer is the busy season and they will have more cars.

Lighting will be added to the lot and 24 hour surveillance will be installed. There is an R1 zone behind him so the lighting will be facing down. All the cars will be in the front.

Kemal Denizkurt asked what are the plans for trash pick-up and it was stated that a dumpster will be on the side.

The applicant's uncle will be performing all the work and is licensed and will comply with all the building codes.

They will not be asking for a variance on signage as they are using the existing signs. They want to sell good cars \$7-10K and up.

There will be no washing of cars onsite. A landscape plan will be submitted to Planning Department.

Chuck Golden stated that even though you don't need the drain at all, you are going to comply with it and it was stated yes.

Eric Schneider asked if he was modifying the fences with gates and he stated yes because they are dangerous and open out onto the sidewalk.

Public Comment:

Becky Haugh, District 1 Town Councilor stated that she has met with them and she is happy with the plans but her only hesitation is the nature of the business "auto" and it isn't something you frequent every day as you would in a "village center". Some of the resident's concerns are the fencing along the back and that any maintenance would be halted around 6 pm for the abutters. The importance of painting the large 2 story building that is not being used and is multicolored would be great for the abutters.

Jim Clarke stated the hearing would be continued so we can get the answers to Kemal's questions that were not answered regarding the dumpster location, lighting plan and landscaping plan.

Jonathan Moriarty made a motion to continue Case #3268 to January 6, 2016 and was seconded by Kemal Denizkurt.

VOTED UNANIMOUSLY

Other Business:

Review of Minutes – November 4, 2015 – Not available

Adoption of Complete Streets Policy

Jonathan Moriarty made a motion to adopt the Complete Streets Policy as part of the BZA's Rules and Regulations Policy and was seconded by Chuck Golden.

VOTED UNANIMOUSLY

Upcoming Meetings – January 6, 2016

ADJOURNMENT


Ed Foley made a motion to adjourn at 8:05 pm and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Respectfully submitted by,

Lee Hultin
Recording Secretary

Approved by:



Kemal Denizkurt, Clerk

Date 1/27/14