

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, March 16, 2017

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

Not Present: Ed Foley

Also Present: Robert Luongo, Director of Planning
Eric Schneider, Principal Planner
Owen MacDonald, Traffic Engineer
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:

Case #3313 - Continued from 11/30, 1/4/17, 1/25/17, 2/15/17, 3/1/17 - Public Hearing closed 2/15/17 and continued to 3/1/17, 3/16/17 for deliberation. - 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 Ordinances:

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.

Sitting Members: Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Brandon Diem

Absent: Ed Foley

Mr. Denizkurt informed the applicant that Mr. Foley was not able to be present this evening. He gave him the option to continue. Mr. Galvin stated that there is a statute on the time frame in which the Board of Zoning Appeals must act noting that this application was initiated on 11/30/16. Mr. Galvin stated that he did not have the authority to agree to a continuation.

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, March 16, 2017

Mr. Luongo stated that he takes back his opposition to this request. He noted that this matter has been on-going for several months. The hardship was created by RK Mall which received a variance from the Board of Zoning Appeals for that sign placement and height which inadvertently blocked the view of the McDonald's sign from northbound traffic on Route 18.

He stated that McDonald's has agreed that if they vacate the premises, the sign structure will be removed in its entirety. This would include the sign, pole, and base. This removal would happen even if the site were transferred to another McDonald's entity. However, if the franchisee changes, but McDonald's remains, the sign will remain.

Mr. Luongo continued that McDonald's and the town have worked diligently over the past months in trying to come up with a solution to this problem. Several different options were reviewed such as the placement of a roof sign, placement within the National Grid easement, and placement on the RK Mall sign. None of these options were feasible.

Mr. Luongo stated that applicant came forward with \$10,000 in beautification funds of their own volition with no prodding from the town.

He noted that if the board denies this request, the applicant will appeal. If they were to prevail, the sign would be grandfathered even if McDonald's left the site.

Mr. Golden expressed concern regarding the height of the sign.

Mr. Denizkurt pointed out that the sign will appear to sit on top of the RK Mall sign.

Mr. Moriarty asked if there was more modern branding of the McDonald's sign that did not include the name. Mr. Galvin stated that he had been unable to reach the corporate office late this afternoon.

Mr. Denizkurt made a motion to approve this application for a variance for Case #3313 because the applicant has shown the following hardships: 1) the inadvertent placement of the RK mall sign in a way that blocked the McDonald's sign from northbound traffic, 2) the site is set back 184' from the street, 3) the building is not structurally capable of withstanding the placement of a roof sign, and 4) the 150' wide National Grid (NStar) easement. 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 conditions of this approval are 1) the sign, in its whole, will be taken down if McDonald's leaves the property. The sign is not grandfathered for any other tenant regardless if they are a subsidiary of McDonald's, 2) McDonald's has agreed of their own accord to donate

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

Wednesday, March 16, 2017

\$10,000 to the town's beautification fund to be used at the mayor's discretion. The motion was seconded by Mr. Moriarty and passed 4-0.

Case #3321 - Continued from 2/15/17, 3/1/17 - Public Hearing closed 3/1/17 and continued to 3/16/17 for deliberation - The petitioner, Zero Front Street LLC c/o The Heritage Companies, for property located at **0 Front Street & 59 Washington Street** also shown on the Weymouth Town Atlas sheet 20, block 277, lot 23 & 1, located in a B-2 zoning district and within the Village Center Overlay District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

- 120-25.3 Special Permit for multi-family building (2) in excess of 29 units
- 120-40 Special Permit for the extension of existing non-conformity
- 120-25.5 Special Permit for Intensity of Use (height, setback, transparency)
- 120-25.7 Variance from Required Parking & 120-25.9 (Special Permit Parking)
- 120-25.10 Variance from required landscaping

Presently located at 59 Washington Street is a two-story commercial building with a first-floor restaurant and vacant office space on the second story. Presently 0 Front Street consists of a sixteen (16) vehicle parking lot. The petitioner seeks to rehabilitate the existing commercial building at 59 Washing Street and convert the second story into two residential units, and construct a new three story residential building at the existing 0 front Street parking lot, with 21 residential units and two levels of parking; the grade level parking to be shared with the commercial space at 59 Washington Street.

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

Absent: Ed Foley

Chairman McLeod asked Mr. Fleming, the attorney for the applicant, if they were willing to go forward with only four (4) members present. Mr. Fleming stated that his client was willing to go forward this evening with the four (4) members present.

Mr. McLeod asked the board members if they had any comments.

Mr. Moriarty stated that he has concerns regarding the parking as the Landing undergoes redevelopment.

Mr. McLeod stated that the board does not have jurisdiction to dictate the design of a building. He noted that he is concerned about the hours for construction which are set at 7:00am - 3:30pm. With heavy duty trucks on Front Street, this could create

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

Wednesday, March 16, 2017

problems during rush hour. Although this will be temporary, it will be an impact on the neighborhood. He suggested that deliveries and large equipment not be on site until after 9:00am.

Mr. McLeod questioned allowing dogs on the property. He asked if there could be a condition against dogs on the property. Mr. Kiley stated that there is a means to take the DNA of an occupant's dog. It is difficult to have a no dog policy but there is a 50-pound weight limit.

Mr. Moriarty expressed concern that since there is no mulch or green space, dog urine would collect on the impervious concrete. There was discussion regarding how to alleviate this concern.

Mr. Golden asked if there was any way to designate some of the unused area in the rear of the building for dog use. Mr. Kiley stated that this would be reviewed. He noted that this is not a simple matter as any space provided for residents must be accessible.

Mr. Golden asked what is the policy if there is a problem with a dog. Mr. Kiley stated that in the lease, there is a system that includes a warning for the first offense, then a fine, and on the third offense, eviction proceedings would begin.

Mr. Luong stated that Owen McDonald, Weymouth's traffic engineer, has reviewed the impact of this project as well as other potential projects. The town is looking at the effects of multiple projects in their entirety and working to coordinate with the town of Braintree.

He noted that there will be timing adjustments at Washington & Front Streets. The town will look at the Front and Summer Street intersection, separately. The state has appropriated \$200,000 for work at the intersection of Washington and Broad Streets. Mr. Kiley has agreed to contribute \$20,000 to the Washington and Broad Street projects.

Mr. Golden made a motion to approve the request for a Special Permit for Case #3321.

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.

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

Wednesday, March 16, 2017

5. That the public convenience and welfare will be substantially served with the proposal.

Mr. Golden added that all agreed upon conditions will be met including but not limited to 1) looking at creating a pet space in the rear of the property, 2) screening of the transformer, and 3) large delivery trucks and cranes will not be used before 9am.

The motion was seconded by Mr. Mr. Moriarty and passed 4-0.

VARIANCE

Mr. Golden made a motion to approve this application for Case #3321 for a variance for screening of the 1st floor, the setback, required parking, and landscape because the applicant has shown hardship in the long, triangular shape of the lot, with difficult soil condition and topography, and carving out the hill at the rear of the lot. 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 and passed 4-0.

Case #3323 - Continued from 3/1/17 - Public Hearing not open - The petitioner, GND Realty Trust, for property located at **4-48 Commercial Street** also shown on the Weymouth Town Atlas sheet 20, block 202, lot 20, located in a B-2 Zoning District and within the Village Center Overlay District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

- 120-25.3 Special Permit for multi-family building(s) in excess of 19 units.
- 120-25.5 Special Permit for Intensity of Use (height, setback, transparency.
- 120-25.7 Variance from required parking & 120-25.9 (Special Permit Parking)
- 120-25.10 Variance from required landscaping

The property formerly consisted of seven (7) commercial/retail storefront units, which were demolished in anticipation of redevelopment. The applicant seeks to construct a new four (4) story mixed use building with approximately 10,588 square feet of commercial/retail space on the ground floor level two levels for use as parking garage, and eighty-seven (87) residential units. A portion of grade level parking to be available for the commercial/retail units. Egress to be from two Commercial Street locations and one egress through the municipal parking lot to the Frank Lloyd Wright Connector.

Present: Richard McLeod, Chairman
Kemal Denizkurt
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BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS

Wednesday, March 16, 2017

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

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

Mr. Edward Flaherty appeared before the board on behalf of the applicant, Nick Delagas, who was also present. Mr. Flaherty noted that both Jack O'Leary from Sitec and Gary Gardner, the architect, were in attendance as well.

Mr. Flaherty gave an overview of the project. He noted that the applicant has been working on this project since 2005 and that there have been many meetings with the town as well as community meetings. He pointed out three hardships, 1) the location of the Smelt Brook, 2) the municipal parking lot, 3) multiple utility easements on the site, and 4) difficult soil conditions. All of these make for challenging conditions.

Mr. Flaherty noted that the insufficiency of parking has been one of the largest concerns. Structured parking, to avoid the look of a sea of cars, is an integral part of the design of this project.

Mitigation includes the removal of the Bricke Grille to daylight the Smelt Brook as well as the reconstruction of the municipal parking lot so that it is user-friendly with better amenities.

There will be 87 residential units and 10,088 square feet of retail space in a four-story mixed use building. There will be 112 structured parking spaces which is 1 space per unit and 25 spaces for retail. He noted that shared parking provides for overlapping: when residents are at work, the retail use will have access to the spaces.

Jack O'Leary of Sitec gave an overview of the site.

Gary Gardner, architect, gave an overview of the building.

Owen MacDonald, Weymouth's traffic engineer, spoke to the board about traffic concerns. He noted that each project is required to take other projects into account when doing their traffic studies. He noted that the signal at Washington and Front Streets is tied into two other signals in Braintree. He stated that coordination will be required.

Mr. McLeod asked about the driveway that will exit onto Commercial Street. Mr. MacDonald noted the suggestion that the driveway be signed "right turn only."

Mr. Denizkurt asked about other ways to remediate traffic other than signal changes such as lane designations and on-street parking changes to improve flow.

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

Wednesday, March 16, 2017

Mr. MacDonald stated that these are certainly options and will be reviewed.

Mr. Moriarty asked if the lights are on the same power grid.

Mr. MacDonald stated that Braintree has its own municipal light company and Weymouth is serviced by National Grid.

Mr. Diem asked if there is internal parking for the Katzen project in Braintree. Mr. MacDonald stated that there is.

Mr. Fleming noted that there are three (3) separate means of access to and from the site.

Mr. Denizkurt asked about pedestrian safety with the driveway access.

Mr. Gardner noted that the location is very open and visible. The access from the residential interior parking will have doors to secure the site.

Mr. Moriarty asked if there will be pets allowed and what will be provided to minimize issues.

Mr. Delgas noted that pets will be allowed with a size limitation. There is some landscaped areas.

Mr. Schneider noted that this application has gone through the Conservation Commission and received an Order of Conditions.

Councilor TJ Lacey stated that he fully supports the overlay district. He stated there needs to be an overarching plan for signage, traffic flow, parking, signalization and line striping. He questioned the water and sewer easement demarcation.

Jack O'Leary addressed the sewer concern. He stated that there is a 24" sewer pipe that will be re-routed so that the line does not run under the building. An easement will be provided to the town.

There was additional discussion regarding parking and access to the site entering and exiting onto Route 53.

Mr. Luongo stated that this is a complex project that includes a sewer easement and an Army Corps of Engineers flood control drainage easement, and easement rights for open space for the Smelt Brook daylighting.

He noted that the Mayor has obtained a Massworks grant to stimulate private economic development. The town will be able to utilize \$1.6 million in these state funds to daylight the Smelt Brook.

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, March 16, 2017

He stated that work will be done on the Washington and Broad Street intersection with \$200,000 in state funds and other additional funds.

Councilor Lacey acknowledged the partnership and collaboration. He reiterated the need to review the data and numbers about traffic.

Mr. Moriarty made a motion to continue the public hearing for Case #3323 until April 19, 2017 and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Other Business:

Minutes - February 15, 2107, March 1, 2017

A motion was made by Mr. Denizkurt to approve the minutes of February 15, 2017 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

A motion was made by Mr. Denizkurt to approve the minutes of March 1, 2017 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Upcoming Meetings - March 22, 2017, April 19, 2017, May 10, 2017

ADJOURNMENT

Mr. Denizkurt made a motion to adjourn at 9:30pm and was seconded by Mr. Moriarty. VOTED UNANIMOUSLY.

Approved by:

Mr. Denizkurt, Clerk

Kenel Denizkurt

4/19/17
Date