

**TOWN OF WEYMOUTH  
BOARD OF ZONING APPEALS (BZA)  
RECORD OF MINUTES AND PROCEEDINGS  
Wednesday, March 25, 2015**

**Members Present:** Richard McLeod, Chairman  
Ed Foley, Vice Chairman  
Kemal Denizkurt  
Chuck Golden  
Jonathan Moriarty  
Brad Vinton  
Rob Stevens

**Also Present:** Abby McCabe, Principal Planner  
Jim Clarke, Director of Planning  
Lee Hultin, Recording Secretary

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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**

**Case # 3243 – 110 King Avenue – Public Hearing** (Continued from 10/1, 10/15, 11/19/14, 3/4/15) – (McLeod, Denizkurt, Golden, Vinton, Foley)

The petitioner, Liberty Realty Development, Inc., for property located at **110 King Avenue**, shown on the Weymouth Town Atlas Sheet 20, Block 282, Lot 37, located in a R-1 (Single-Family / Low Density Residential) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

**Special Permit:** Extension or change of a non-conforming use or structure (Article XIII, Section 120-40). The property is nonconforming with respect to the use (auto-repair in single-family zone), lot size (25,000 SF, 17,063 SF provided) and lot width (120 ft. required, 75 ft. provided).

Presently located on the premises are two one-story buildings used for automobile repair. The petitioner is proposing to demolish the existing buildings to construct five two-story residential townhouse units in a ~3,150 SF building footprint and 16 off-street parking spaces.

**Members sitting:** Richard McLeod  
Edward Foley  
Chuck Golden  
Kemal Denizkurt  
Brad Vinton

Appearing before the board was Attorney Ray Jennings and the applicant Bob Gabriel.

The applicant could not find any analysis to compare this lot/project to as it is very unique. He believes it is similar to other projects in density that the board has approved before. The original plan of 7 units have been reduced to 5 units and added some additional parking, unless more green space is desired by the board.

Dana Artibello, Merrill Corporation stated that there are 2 parking spaces per unit with 1 additional guest space as well for a total of 16 spaces. The trash is centralized in one area. There is also a four foot walkway.

Ed Foley stated that he believes the comparisons provided by the applicant are not quite the same situation. He requested more information from Ms. McCabe on the analysis in the chart.

Kemal Denizkurt agreed and would like the same information.

Brad Vinton asked if the snow removal was addressed and it was stated the green area will be used for storage. The lighting will be four poles (16 feet tall) that will be shielded in the parking lot, one at each door and lighted bollards along the walkway.

The buildings in the back have been kept away from the ledge and will be graded towards the front of the lot. Brad Vinton stated that there is a lot of flooding there during rain storms. The applicant stated that the parking area will have a berm around it.

Kemal Denizkurt is very concerned with a 5 unit project on this lot.

Chairman McLeod agrees, back in 2007 it was changed to an R-1 zone for a reason. This request is asking this board to undo what the board already did and that would be circumventing that change. He has a hard time granting this application. He does not believe the comparisons are similar.

Public comment:

William Herlihy is the current owner of 110 King Avenue –he stated that the zoning change was done to stop a taxi cab company from going into that location. Before the zoning change his lot was worth \$350k and after the zoning change it is only worth \$150k. He would not fight the zoning change at that time as he did not have the money. He believes this was spot zoning and was an illegal act. He has been working with the town since then and believes this proposed use would be better than a business coming in. He will keep it as an industrial use if he is going to loose money.

Mr. Metri stated he was purchasing the land, he had a P&S with Mr. Herlihy for the taxi business but after hearing from the neighbors he withdrew it.

Maria Kamperities, 18 DF Haviland stated that all the lots there are 25,000 sq ft lots. She believes some of the applicants information is inaccurate. The \$350,000 price tag included 2 additional lots there were all going to be connected. The applicant is proposing 5 families in a 16,000 sq ft lot. This was not spot zoning by the Town Council. This was part of the master

plan at the time to make it more conforming to the area. She submitted a petition which was labeled Exhibit #1.

Steve Barton, 53 King Avenue stated he spoke up back in 2007 and it was rezoned because the demographics of the neighborhood had changed over the years. The Town Council recognized this and rezoned it. You should ask yourself whether you should allow this when all the neighbors are against it. This opens up a can of worms for everyone else to come before the board and ask for the same thing. This will set a precedent going forward, what happens when Electro Switch closes.

Bob Thomas, Washington Street stated that there is no plan for snow removal or trash removal. There is asbestos contamination as well. He is not in support of this application.

Kathy Marr, 86 Kennsington Road stated that this project is still too big, maybe a duplex would be ok. The parking lot is very close to her property (only 7 feet) away.

Ling Ming -140 King Avenue, He purchased his house in 2008 because it was rezoned R-1 and now suddenly they want to change it.

Mr. Herlihy stated that there are about 20 R-1 and 95 R-4 units, it is not all zoned R-1 especially at his end of the street.

Joyce Livingston, 82 Kennsington Road asked if some of these units need to be section 8 and it was stated no.

12 DF Haviland is concerned about the security of the neighborhood.

Mark O'Brien, 16 King Avenue asked if this isn't approved it could remain commercial venue R-2 use. Mr. Herlihy is taking a loss but is trying not to hurt the neighborhood.

Jane McDonald, 17 Granit Street is in support of this project, she believes it would add to the neighborhood.

Mark Kelly 40 DF Haviland Lane, stated that the neighbors have already gone through this zoning change with the town and is not in support of this

Mary Quen, member of the Homestead Civic Association and she is in favor of the proposal.

Kathy Marr, 85 Kensington Road said in general everyone would like to see something nice go in there just scaled back.

Steve Barton stated that if the applicant wants to improve the neighborhood for the residence then he should listen to them because they are all here this evening and they are not in support of this project.

Ms. McCabe stated that this board petitioned back in 2007 to change the zoning to an R-1. The board needs to ask itself, is this proposal more detrimental than the current use.

Ed Foley made a motion to close the public hearing and was seconded by Jonathan Moriarty. Voted unanimously

Ed Foley made a motion to take this matter under advisement and was seconded by Jonathan Moriarty. Voted unanimously

Kemal Denizkurt took over the meeting at 8:30 p.m.

**Case # 3248 – 75 Finnell Drive – Public Hearing continued from 3/4/15**

The petitioner, Stephen E. Goldman, for property located at **75 Finnell Drive**, also shown on the Weymouth Town Atlas Sheet 36, Block 452, Lots 5 & 12, located in the I-1 (Limited Industrial) and Watershed Protection overlay zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

- Special Permit: Place of recreation or assembly (Article IX, Section 120-29E).
- Special Permit: Extension or change of a non-conforming use or structure. The property is nonconforming with respect to lot coverage and landscaping (Article XIII Section 120-39 & 120-40, Article XV, Section 120-51 “Schedule of District Regulations” Table 1.
- Variance: Relief of 16 parking spaces from the minimum required spaces (297 required, 281 proposed) (Article XVII, Section 120-74N & Q).

Presently located on the premises is a fitness and multi-use center on two lots (Weymouth Club). The petitioner is proposing to eliminate the first floor tennis court use on the first floor and use the area for an exercise and spa area. The existing unused second floor space above the tennis court is proposed to be used as a ~3,200 SF multi-use area, a ~1,350 SF function area, storage, and office use. The proposal also includes a splash pad in the rear pool area.

Members sitting: Chuck Golden  
Kemal Denizkurt  
Jonathan Moriarty  
Rob Stevens  
Brad Vinton

Jonathan Moriarty made a motion to reopen the public hearing on Case #3248 – 75 Finnell Drive and was seconded by Chuck Golden. Voted unanimously

Jonathan Moriarty made a motion to waive the reading of the publication and was seconded by Chuck Golden. Voted unanimously

Appearing before the Board was the applicant Steve Goldman-Owner, Jeff Lynn-Executive Director and Attorney Gregory Galvin of 775 Pleasant Street, Weymouth. At the last meeting there were two abutters that had some concerns with noise. Mr. Goldman found an acustafence to be installed and would remove the current chain link fence. Mr. Metri has made improvements in his back yard that encroach about 16 feet onto Mr. Goldman's property. Mr. Goldman would not disturb these improvements but go around the improvements and is willing to have the fence painted the color of Mr. Metri's choice as well. Mr. Goldman will maintain his 50 foot buffer.

Exhibit #2 was a photo of the land showing where the fence would go with a yellow box.

The existing chain link fence is about 8 feet and the proposed height of the new fence is 6 feet of fabric. This would go from the parking lot to the back at the drop off. This is about 550 feet.

Exhibit #3 is an 8 page packet from Mr. Metri.

Mr. Metri likes the fence the applicant picked out. He is proposing another fence right behind the splash pad and he is willing to pay for it in order to cut down on the noise and keep the members off the 50 foot buffer zone.

Brad Vinton stated that this fence is used at Logan Airport and it works very well. He is at the Weymouth Club everyday and they are very strict.

Bob Thomas – stated that Mr. Metri is getting 16 feet of land for his enjoyment for nothing. On google earth it shows a lot of trees and foliage dividing the property. He is in favor of this application.

Mr. Metri is very concerned about the use of the 50 foot setback and would like a second fence installed at Mr. Metri's expense for additional privacy so people do not congregate on that area. This way, Mr. Goldman could use it for additional storage.

Jonathan Moriarty made a motion to close the public hearing on Case # 3248 – 75 Finnell Drive and was seconded by Chuck Golden. Voted unanimously

Jonathan Moriarty made a motion to grant the two Special Permits. The first one being Special Permit for Place of recreation or assembly (Article IX, Section 120-29E) and the second one being for a Special Permit for Extension or change of a non-conforming use or structure. The property is nonconforming with respect to lot coverage and landscaping (Article XIII Section 120-39 & 120-40, Article XV, Section 120-51 "Schedule of District Regulations" Table 1.

**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.

With the following conditions:

- To remove the chain link fence and replace it with an 8 foot sound barrier acoustic fence, that will run approx 550 linear feet from the parking lot to the drop off which consists of natural wood color and appearance.
- Operating Hours of the pool will be from 9 am to 8 pm weekly Monday thru Sunday, that there be no angled direct lighting on the abutting residences.
- That there be no restrictions within the 50 foot buffer area.

The business was there prior to the abutter purchasing his land and putting any further restrictions would be meddling in his business and this board does not have authority to do so. The abutter purchased his property after this business was already established.

This motion was seconded by Chuck Golden. Voted unanimously.

Jonathan Moriarty made a motion to approve the variance for relieve of 16 parking spaces from the minimum required spaces (297 required, 281 proposed) Article XVII, Section 120-74N&Q.

**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.

***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.

With a condition that:

- The parking remain gravel for additional parking spaces as they are today.

This motion was seconded by Chuck Golden. Voted unanimously.

**Case # 3249 – 211 Main Street – Public Hearing continued from 3/4/15**

The petitioner, Hikar, Inc., for property located at **211 Main Street**, also shown on the Weymouth Town Atlas Sheet 29, Block 374, Lot 7, located in a B-1 (Limited Business) and Groundwater and Watershed Protection Overlay District. The petitioner is seeking to modify the decision on Case #3233, Special Permit under Section 120-64.3A Wall Signs and Section 120-40 Extension or change of nonconforming use to allow two existing wall signs “Honda Power” and “Honda Marine” shown on plan prepared by W. McKinnon and Associates to remain on the building.

Members sitting:      Chuck Golden  
                                  Kemal Denizkurt  
                                  Jonathan Moriarty  
                                  Rob Stevens  
                                  Brad Vinton

The Chairman stated that the applicant has requested a continuance to the April 15, 2015 meeting.

Chuck Golden made a motion to continue Case # 3249 – 211 Main Street to April 15, 2015 and was seconded by Jonathan Moriarty. Voted unanimously.

**New Business:**

**Case # 3250 – 1434 Pleasant Street – Public Hearing**

The petitioner, Weymouth Pleasant Realty LLC, for property located at 1434 Pleasant Street, also shown on the Weymouth Town Atlas Sheet 23, Block 304, Lots 14 & 15, located in a B-2 (General Business) and a portion in the Watershed Protection Overlay zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Multiple dwelling (Article VIII, Section 120-27 C “Special Permit Uses”).

Presently located on the premises is a ~1,993 SF two story building with one commercial unit on the first floor and one residence on the second floor. The petitioner is proposing to remove a portion of the existing building to construct a new 2.5 story building for 12 residential dwelling units and 33 off-street parking spaces. The residence and 600 SF of retail space in the existing building are proposed to remain for a total of 13 residences on the property.

Appearing before the board was Frank Baldasini, Attorney stated that the applicant is requesting a continuance.

Ed Foley made a motion to continue to April 15, 2015 and was seconded by Kemal Denizkurt. Voted unanimously.

**Review of Minutes – March 4, 2015**

Jonathan Moriarty made a motion to approve the minutes of March 4, 2015 as written and was seconded by Chuck Golden. Voted unanimously

**Other Business:**

Conflict of Interest and Ethics Training Reminder due by March 31, 2015

**Upcoming Meetings – April 15, May 6, 2015, May 27, 2015, June 17, 2015**

**ADJOURNMENT**


Chuck/Jonathan Moriarty made a motion to adjourn at 9:30 pm and was seconded by Chuck Golden. Voted unanimously

Respectfully submitted by,

Lee Hultin

Recording Secretary

Approved by:

  
Kemal Denizkurt, Clerk

5/27/15  
Date