

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, April 15, 2015**

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

Absent: Brad Vinton

Also Present: Jeff Richards, Director of Building & Municipal Inspections
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 – Deliberation and Discussion on Public Hearing close on 3/25/15 – Sitting members: 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 - Absent

The applicant has requested that his application be withdrawn without prejudice.

Ed Foley made a motion to accept the applicant's request to withdraw without prejudice and was seconded by Chuck Golden. Voted unanimously

Case # 3249 – 211 Main Street – Public Hearing continued from 3/4/15 & 3/25/15)

The petitioner, Hikor, 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 - Absent

Mr. Richards stated if the board approves this they would be allowed 59.28 square footage of signage, if denied then Honda could go forward with an individual signage requests from the individual businesses and be allowed 125 square feet.

Chuck Golden made a motion to open the public hearing on Case # 3249 – 211 Main Street and was seconded by Jonathan Moriarty. Voted unanimously

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

Mr. Gordon stated he submitted comments and apologized for the confusion on all the permit requests. They are asking to keep two signs, Honda Marine and Honda Power signage. They have a very good ongoing relationship with their neighbors.

Public comment:

Bob Thomas – Is in favor of the applicants request.

Chuck Golden made a motion to close the public hearing on Case # 3249 and was seconded by Jonathan Moriarty. Voted unanimously

Chuck Golden made a motion to approve the application for a variance on the signs. The board had come to an agreement on all the signs at a previous meeting to amend that approval by adding approximately 60 square feet total for two signs.

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.

All previous conditions under the application still exist regarding the chain link fence being removed and the stockade fence being repaired along Front Street and all other conditions. Seconded by Jonathan Moriarty. Voted unanimously

New Business:

Case # 3250 – 1434 Pleasant Street – Public Hearing (postponed from 3/25/15)

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.

Members sitting: Richard McLeod
 Edward Foley
 Chuck Golden
 Kemal Denizkurt
 Jonathan Moriarty

Ed Foley made a motion to open the public hearing on Case #3250 – 1434 Pleasant Street and was seconded by Jonathan Moriarty. Voted unanimously

Ed Foley made a motion to waive the reading of the legal notice on Case # 3250 and was seconded by Jonathan Moriarty. Voted unanimously

Appearing before the board was Frank Baldasini, Attorney and the applicant Mr. McLaughlin

The original plan was to construct 18 micro units plus one unit over the commercial building. After working with the planning department it was recommended to keep the commercial space. The applicant has since purchased the property and is now looking to construct (12) 500 square foot 1 bedroom units, landscaping has been addressed and the area is less dense. There are now 33 parking spaces provided and they are not seeking a variance for parking.

Mr. Joe McLaughlin addressed the Board and stated that he has listened to the public and the board members along with the Civic Association and has addressed everyone's concerns. The apartments will be called "Herring Run Place". He has committed to cleaning up the town brook on a weekly basis from April to October. There is an abutting municipal parking lot that they do not intend on using. The applicant does not believe townhouses will work at this site that is why they will remain as apartments. The applicant has offered to help with the landscaping at the Pratt Library. The applicant feels the new design of the building is an improvement.

Mr. Choo, the Architect for the project stated that the units on the 1st floor are duplex style with space underground and the second floor units have attic space. The number of dormers has also been increased.

Mr. Mark Copchell with MKA Landscaping stated that he tried to enhance the front of the site as much as possible, provided a picket vinyl fence and plantings. The parking lot is now a oneway in and oneway out.

Mr. Jim Burke, engineer stated that the drainage plans have not changed. They looped in a water main for the town which helps with water pressure.

Mr. Foley asked what the micro units were and it was stated 300 square feet and they are increased 67% to 500 square feet. Mr. Foley asked why the applicant feels that townhouses won't work in this area? It was stated that the area is too busy as it is zoned commercial and a bank would not appraise the lot appropriately. It was asked how he will clean the brook weekly and it was stated that he will hire someone to perform these duties.

There is no tenant for the commercial space yet as the applicant has been working with the food pantry but they finally felt the area was too small.

The applicant estimates about \$1100-1200.00 a month in rental income.

Kemal Denizkurt still feels that parking space # 10 is a concern. He feels the intensity of the site is too great. He feels the spaces in the back area are too difficult to maneuver around. The applicant stated that they really don't need those spaces and is willing to eliminate them if the board wishes.

Jonathan Moriarty stated that he is not in favor of the location of the handicap parking spaces. The applicant will look at moving the handicap spaces down closer to the dumpster.

There was a question as to whether or not there is space to empty the dumpster onsite. The applicant stated that he is working with the town to get the specifications of the vehicle emptying the dumpster.

Chairman McLeod stated the dumpster seems very close to the building and it appears that space #10 is inoperable and could you put the dumpster in that location. It was stated that that was the original location but it can be moved there.

Mr. Richards reviewed the staff comments with the Board.

Spaces 29 & 30, 33 is a maneuvering issue. Sidewalk will need to have a vertical curb cut (designed with the ADA compliance). There are unsuitable soils and want to assure there are no contaminants at the 66 inch depths. DPW's comments on stormwater management are addressed. Tax office has outstanding taxes due and it was stated that the applicant is now current. Conservation has some concerns with storm water standards. Measures should be taken to ensure that construction does not spread the existing invasive Japanese Knotweed.

Public comment:

Councilor Ken DiFazio, District 3 Town Councilor – stated that the applicant has met with him several times and there has been a significant reduction in the size of the units and are now all one bedroom units. He still has three concerns. Are there any plans to renovate the outside of the building and it was stated it will be consistent with the new building. Also, would the commitment to the Herring Run clean up be subjected to another owner and could it be made a condition so it is. Finally, the intensity of the parking and the parking in the rear area. He would like to see the parking spaces in the rear remain green space but reserved for future use if needed. Basically the board approved the spaces but they never get built unless needed.

Wayne Mathews, 33 Whitman Street and President of EWNA. They have met with Mr. McLaughlin several times and his proposal is a good faith result of their negotiations. The association would still like to see 10 units. He also changed the building shape, color scheme and added green space. There are light blocking shields. The Association would like these conditions in the approval. They would like the parking in the rear not to be built yet and there is an issue with the wall. They do not support or oppose this proposal they were just trying to mitigate for the neighbors.

Pat O'Leary, 999 Commercial Street – suggested not developing the back area and the access walkway to the face of the door in the back.

Bob Thomas, 848 Washington Street stated that he has previously submitted his comments to the board for the record.

Ken Ryder, direct abutter who build 27 Shawmut Avenue said he has a few concerns. The building is 44 feet tall. He would like more information on the retaining wall and would like to see a snow removal plan.

Mr. McLoughlin stated that there is 10-12 feet grade and the building is only 30 feet tall above ground. Snow removal will not be put onto anyones property. If there is another winter like this it would be trucked off site.

Bob Thomas asked if there is a zoning restriction of a 35 foot height and it was stated that is only in an R1 Zone, it is 80 feet in the B2 zone.

Michael Healy, 1419 Pleasant Street – There are currently 3 bedrooms in the unit now and there are 3 people living there. There are 3 cars and motorcycles.

Glenn Fitzsimmons, 10 Shawmut Avenue – He will be looking at the back of the building instead of green space that is there now. There are no sidewalks on Shawmut Avenue. The parking spots in the back are not agreeable to himself or his neighbors. He was told that this lot was not part of the Master Plan Jackson Square Village Center, yet he believes it is. It is not part of the village statement for the Master Plan. It doesn't have large store front windows along the sidewalks with apartment above.

Ed Foley made a motion to continues this public hearing to May 6, 2015 and was seconded by Jonathan Moriarty. Voted unanimously

Case # 3252 – 0 Bellgrade St., 0 Edison St., 0 Edge St., 0 Hyde St., and 0 Trefton Ave. – Public Hearing

The petitioner, Kenneth C. Ryder, for five properties located at **0 Bellgrade St., 0 Edison St., 0 Edge St., 0 Hyde St., and 0 Tefton Ave.**, also shown on the Weymouth Town Atlas Sheet 13, Block 155, Lots 23, 26 and 28 and Sheet 13, Block 156, Lots 28 and 59, located in a R-1 (Single-Family / Low Density) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Exceptions by Board of Zoning Appeals (Article XV, Section 120-53).

The five parcels are presently undeveloped. The petitioner is proposing to subdivide the land to create 14 buildable lots for single-family homes. Six of the 14 lots are under 25,000 square feet but over the 17,500 square foot minimum allowed by Special Permit under Zoning Ordinance Section 120-53.

Members sitting: Richard McLeod
 Edward Foley
 Chuck Golden
 Kemal Denizkurt
 Jonathan Moriarty

Ed Foley made a motion to open the public hearing on Case # 3252 and was seconded by Chuck Golden. Voted unanimously

Ed Foley made a motion to waive the reading of the public hearing and was seconded by Chuck Golden. Voted unanimously

Appearing before the Board was Attorney Greg Galvin, 775 Pleasant Street and the applicant Ken Ryder and Al Trakimas.

The applicant has been able to layout 14 lots at 25,000 square feet each. The applicant is proposing to reduce 6 lots to be less than 25,000 square feet but more than 17,500 and the remaining 8 lots would be greater than 25,000 square feet. The average lot size in the area is less than 17,500 square feet. The owner of the property is keeping 2 acres of land.

Kemal Denizkurt would like to see proof that the lots are all one big lot prior to 12/31/2013. He would like to see the lot frontage for each lot.

Ed Foley asked for a definition between intermittent stream and perennial stream and the applicant stated that there isn't enough water for it to be perennial stream. Mr. Foley would like clarity on this subject.

Mr. Richards reviewed the staff comments with the Board.

Public Comments:

Thomas J. Lacey, District 4 Town Councilor – stated that he is disappointed that the only discussion this evening is the lot sizes and not the access into this particular subdivision. The paper street he is using for his lot size would entertain a discussion for access. He believes the Hyde Street option should be considered.

He asked the board to explain the process of what happens after this evening. The area has gone through several large projects over the past few years. How the property is being accessed is an issue.

Mr. Galvin stated that there will be a public hearing at the Planning Board to discuss access and roadway issues. Currently the access is through Narraganset and Edison as it has been laid out that way since the 1940's. Hyde Street does not have a 40 foot right of way, it is intermittent and there is a ledge there with a significant drop. They understand the neighbors do not want to see any more vehicles on their roadway. It is not possible to service a subdivision off Hyde Street.

Councilor Thomas Lacey asked why they decided to use Edison and he believes it was not built to prepare for a subdivision. Are the paper streets able to be utilized.

Tom Eldridge, 16 Narraganset - asked if the board's decision tonight sets the plan for the layout of the subdivision and it was stated no. This board does not address roadway layouts only lot sizes.

Matt Tallon, President of the Idlewell Association handed out a memo to the board and it was labeled Exhibit #1. They have met with Mr. Ryder and discussed this project. There have been 5

projects that have impacted this neighborhood and the neighbors are concerned about another one. They do not believe that Edison would be the right access point to a subdivision. Hyde Street has many issues and it seems more feasible to extend Hyde Street into a cul-de-sac within the subdivision, repair it and it helps keep Narraganset clear of more vehicles. They would like lot #1 to be eliminated and they are concerned about blasting in that area. They need more answers from Mr. Ryder.

Mr. Galvin stated that blasting comes under the Fire Department. Hyde Street width does not meet the town requirements for a roadway width, it is intermittent and is not 40 feet wide in all the areas, and finally it is quite steep.

Mr. McCusker asked if you could widen Hyde Street by eminent domain and it was stated no it would have to be a town project, not a private project.

Joe Scolara – Trefton Avenue there is a lot ledge in the area. Everyone in the area will need to be protected.

Dennis Gezian, Meeting House Lane - asked where the sewerage line is coming from. During rain storms raw sewerage floods the area. The marsh is filled with water on a regular basis. FEMA has forced him to purchase flood insurance.

Mike Cohane, 46 Narraganset Street – asked if Trefton was 27 feet wide then you need to come up with an additional 13 feet.

Mr. Ryder stated a typical paved roadway is 22 feet wide.

Tom Eldridge, 16 Narraganset asked if the roadway needs to be widened to 40 feet and it was stated no. Regulations says 22 feet of pavement, grass strip and then a sidewalk.

Diane O’Neil, 42 Narraganset asked when the bylaw went into affect and it was stated in December of 2013.

Kemal Denizkurt wants to know if the land was subdivided before or after the purchase and for the square footage of the frontage of each lot.

Ed Foley made a motion to continue this case to May 6, 2015 and was seconded by Kemal Denizkurt. Voted unanimously

Case # 3253 – 120-140 Winter Street – Public Hearing

The petitioner, New Cingular Wireless PCS, LLC, for **120-140 Winter Street**, also shown on the Weymouth Town Atlas Sheet 20, Block 375, Lot 6, located in a POS (Public, Open Space) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Wireless communications free-standing structure (Article XXI, Section 120-106.2B(1)).

The petitioner is proposing to install AT&T's antennas on the existing 150 ft. lattice tower, and add an equipment shelter and associated diesel generator northwest of the tower.

Ed Foley made a motion to open the public hearing on Case # 3253 and was seconded by Jonathan Moriarty. Voted unanimously

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

Dan Bilazikian, Verizon Wireless appeared before the board. He stated that Verizon is already on the tower and it is located next to the police station. Verizon is moving out of the police station and into the equipment shelter across the street and AT&T will be in the same area. The tower is 150 feet high and they will be installing at 110 feet high. This will create more room at the Police Station. The equipment in the building has aged.

Mr. Richards reviewed all departmental comments with the board. Some of the comments have already been negotiated into the agreement with town. The town has been negotiating with them to remove the equipment from within the Police station to another location off site. The town believes this site to be the most suitable for both parties. They also allow the town to put our communication equipment on the tower as well. The road will always be passable during the construction of the underground culverts.

Mr. Thomas asked if there is any concerns with water issues and it was stated no as they are not digging down to that depth.

This parcel of land is already owned by the town.

Ed Foley made a motion to close the public hearing on Case # 3253 and was seconded by Jonathan Moriarty. Voted unanimously

Ed Foley made a motion to approve the Special Permit. The board believes the applicant has met all of the criteria 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.

Condition:

- Engineering's concerns on the storm drain lines
- The plan should be revised to show the existing drainage system
- Unrestricted access to police, fire and DPW yards must be provided at all times during construction.
- A trench opening permit issued by the DPW-Engineering Division will be required.
- All excavation shall be backfilled and temporarily paved at the end of each work day.
- A permanent trench repair detail should be added to the plans. The permanent trench repair shall include a straight sawcut line set back 1-foot from the edge of trench, 95% compaction, tack coat used on all vertical surfaces between existing and new pavement and pavement thickness shall match the thickness of adjacent pavement.

This motion was seconded by Jonathan Moriarty.

Voted unanimously

Upcoming Meetings – May 6, 2015, May 27, 2015, June 17, 2015, July 8, 2015, August 5, 2015

Review of Minutes – March 4, 2015 – not available

Other Business:

ADJOURNMENT


Jonathan Moriarty made a motion to adjourn at 10:30 pm and was seconded by Chuck Golden.
Voted unanimously

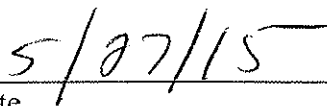
Respectfully submitted by,

Lee Hultin

Recording Secretary

Approved by:


Kemal Denizkurt, Clerk


Date