

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, April 19, 2017

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

Also Present: Robert Luongo, Director of Planning
Eric Schneider, Principal Planner
Christine Malloy, 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 #3330 - Petitioner Requests Withdrawal of Application without Prejudice - The petitioner RMLE Realty LLC for property located at **165 Washington Street**, also shown on the Weymouth Town Atlas sheet 20, block 276, lots 34 & 35 located in the B-2 Zoning District and Village Center overlay district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

120-25.9 Special Permit: Parking Requirements dictated in 120-25.7

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

Mr. Foley made a MOTION to ALLOW Case #3330 to withdraw without Prejudice. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Case #3323 - Continued from 3/1/17 - Public Hearing not open - Public Hearing open 3/16/17, continued to 4/19/17 (RM, KD, CG, JM, BD) - To be continued to April 26, 2017 letter from Attorney Fleming per applicant's request, no testimony. The petitioner, GND Realty Trust, for property located at **4-48 Commercial Street**, also shown on the Weymouth Town Atlas sheet 20, block 202, and 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)

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- 120-25.7 Variance from Required Parking & 120-25.9 (Special Permit Parking)
120-25.10 Variance from required landscaping.

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

Mr. Foley made a MOTION to ALLOW Case #3323 to Continue Public Hearing to 4/26/17. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Case #3327 - The petitioner, Robert Bowes for property located at 27 Massasoit Road, also shown on the Weymouth Town Atlas sheet 4, Block 27, and Lot 6, located in an R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

- 120-40 Special Permit: Extension or change of a non-conforming structure
120-52 Variance: Lot less than 5,000 s.f.

Presently located on the ~4650 SF lot is a single-family dwelling. The petitioner is seeking to square off the first and second story of the dwelling by constructing a ~ 12' x 6.5' 2-story addition at the rear end of the dwelling, re-frame an existing front section, re-frame the existing second story, and relocate the entry, with a deck, to the front of the dwelling.

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

Mr. Foley made a MOTION to OPEN the PUBLIC HEARING. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to WAVE the READING. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Robert Bowes stated he is present seeking relief for the second floor. Mr. Schneider stated applicant is seeking a variance for the lot that is less than 5,000 feet and continuation of non-conforming structure. Mr. Foley stated the lot was grandfathered in. Mr. Schneider stated that is correct. Mr. Denizkurt asked will the home remain a single family home. Mr. Bowes answered yes. Mr. Schneider stated there are letters of support from direct abutters on file for this case; one

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already on file and now a second from 31 Massasoit Road. Mr. Foley asked that the letters of support be added into the record.

Mr. Foley made a MOTION to CLOSE the PUBLIC HEARING. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to APPROVE Special Permit 120-40, Extension or change of a non-conforming plot. That the applicant has submitted to BZA a certified plot plan along with his application and 2 letters of support from his neighbors. And under measure 120-122D Mr. Foley believes the applicant has met the criteria for a special permit and that the specific site is an appropriate location for such a use. It is an existing lot. The use will not be detrimental to the neighborhood or town. Applicant will use all appropriate architectural siding materials that are in keeping with the neighborhood. There no serious nuisances or hazards to pedestrians or vehicles. Adequate or appropriate facilities will be provided for the proper operation or proposed use. And the public condition and welfare will be substantially served. The applicant has two letters of support from his abutting neighbors. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to APPROVE Special Permit 120-52, Variance, lot less than 5,000 s.f. This applicant's lot does meet the criteria of 120-52 and this board can grant this variance without derogating from the intent of the by-law; due to the shape and size of the lot that this variance may be granted without detriment to the town. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Case #3328 - the petitioner, Shawn Wallace, for property located at **57 Morningside Path**, also shown on the Weymouth Town Atlas sheet, 27, block 347, lot 2, located in an R-1 Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

120-40 Special Permit: Extension or change of non-conformity

Presently located on the ~ 5,220 s.f. lot is a single family dwelling with a smaller structure to the rear of the dwelling. The petitioner seeks to increase the current living space by constructing a ~ 8' x 16' addition to connect the two existing structures.

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

Mr. Foley made a MOTION to OPEN the PUBLIC HEARING. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

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Mr. Foley made a MOTION to WAVE the READING. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Shawn Wallace and Mr. Donald Wallace of 57 Morningside Path stated they are present requesting a special permit to add more living space. Currently on the property are 2 structures, main home and a second structure with heat and electricity. They plan to connect the two structures, put up a fence between their home and the existing neighbor and they will not put any windows in the new structure on the wall that faces the neighbor's side.

Mr. Schneider stated this home is in the Watershed Protection District and does trigger an additional review; from section 120-10.4.2. When you are increasing the impervious by more than 15% a design for ground water recharge must be provided which does not degrade ground water quality. The regulation is very cognizant of the fact that the type of drain, the presence of ledge, or something like that applicant must conform with this as much as possible. The applicant will have to submit a Ground Water Plan to be reviewed by both the Building Department and the Conservation Commission Administrator.

Chairman McLeod stated there are two letters of support. Chairman McLeod read letter of support from Ms. Karen DeMasi aloud for the record.

I, Karen L. DeMasi of 53 Morningside Path, Weymouth, MA agree to the construction of my neighbor Shawn Wallace's addition to his home on 57 Morningside Path which will consist of connecting two existing structures which abut my property. I also understand that the construction of the proposed project runs along the existing building line of the smaller structure. I understand there will be no windows on my property side. The evergreen tree will be removed by the owner and a new fence will be put up where the existing wall and fence are on the property line.

Sincerely,

Karen L. DeMasi

Chairman McLeod stated so there will be an order of conditions on this that the tree will be removed by the applicant and that a fence will be put up.

Mr. Foley made a MOTION to CLOSE the PUBLIC HEARING. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to APPROVE Special Permit 120-40 Extension or change of non-conforming lot. The applicant has met the criteria under 120-122D the specific site is an appropriate use for such a site. There is an existing building on the lot and applicant is looking to tie the building to the existing house. The use will not be

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detrimental to the neighborhood or town. Applicant will use all appropriate architectural siding materials that are in keeping with the neighborhood. There no serious nuisances or hazards to pedestrians or vehicles. Adequate or appropriate facilities will be provided for the proper operation or proposed use. The applicant will submit a written letter to BZA that a ground water plan was approved by the Building Department and Conservation Commission Administrator per section 120-10.4.2. And the public condition and welfare will be substantially served. The applicant has two letters of support from neighbors. The evergreen tree will be removed from Mrs. DeMasi's property, a fence will be put up on the property located at 53 Morningside Path, and there will be no windows on the side of this addition facing Mrs. DeMasi's home. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Case #3316 - Continued from 1/14/17, Hearing not opened, Public Hearing opened 2/15/17, continued to 3/1/17, 3/22/17, Public Hearing closed 3/22/17, continued to 4/19/17 for deliberation - (RM, EF, KD, CG, JM) - 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 Ordinance:

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

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 (56%)
Variance:	120-59.1	Measurement across lots

Presently located at 4 Mutton Lane is a ~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. Without the requested relief, the applicant intends to demolish the existing home and subdivide the property to create one (1) additional buildable lot.

Sitting Members: Richard McLeod, Chairman
 Kemal Denizkurt

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Ed Foley
Chuck Golden

Mr. Golden stated he has reviewed both the minutes of the previous meeting and the film/tape of the previous meeting as well and is prepared to go forward on this matter.

Mr. Foley stated he understands the unusual nature of the house and the need to save it. While compelled to support this project, there are conditions to put on the project to uphold the integrity.

Mr. Denizkurt stated he agrees with Mr. Foley regarding the hardship to save the house. There are considerable wetlands surrounding the house; the threshold for a variance, which has been set fairly high, has been met in this case.

Mr. Golden stated that the circumstances on this case are so different that he feels BZA is not concerned that it's setting a precedent.

Mr. Moriarty stated he has had concerns on this project, he struggles with them. This is an isolated case. On a 100,000 sf lot approximately 55,000 sf is unusable. Then carve from that remaining 45,000 sf; (1) 9,600 sf lot the historical home (2) another 17,000 sf lot for another home and (3) the remainder of that is for another home. Mr. Moriarty stated he struggles with this, would like an estimated budget of the costs to restore/preserve this home from Mr. Flaherty. This committee is now committed to saving this house. Eleven (11) homes on Mutton Lane are one the historical register.

Mr. Moriarty asked Mr. Flaherty if he has recorded his ANR Plan. Mr. Flaherty stated no.

Mr. Luongo stated if the application was for two (2) lots it would qualify for an ANR Plan. If the board approved this application the applicant has to go to the Planning Board for a subdivision approval. If the applicant knocks down the house and created two (2) lots then it would be an ANR Plan.

Chairman McLeod asked what are the numbers; what are the costs of restoring this house. What is missing here is a plan. There are no conditions. How do you know if you will make a profit on this project? A complete list of what is to be done to the house; Planning Department and Building Inspector will both need to see this list.

Chairman McLeod asked Mr. Flaherty to prepare these documents.

Mr. Luongo stated that the applicant would have to enter into a Preservation Restriction with the Town acting as through the Historical Commission to preserve that house. The Preservation Restriction has to go to the Secretary of State who's the

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Massachusetts Historical Commission under the State who will approve of this Conservation Restriction as well. As part of the restriction Mr. Flaherty will have to hire an architectural historian so that he knows the exact period of that house and what materials were used in that period and exactly what needs to be done to restore the house. Mr. Flaherty will have to restore the house up to the Secretary of Interior's standards which will be interpreted by the architectural historian.

Mr. Luongo stated the architectural historian will write up the spec, Mr. Flaherty will follow the spec and then Planning Department and Building Inspector will confirm the house was done as it should.

Mr. Luongo stated if anyone else wants to come to this board (BZA) for relief and they feel they have an old home and want to put a conservation restriction that has to be approved by the Secretary of the State; hire an architectural historian to create the plans and specs to restore their house. Mr. Luongo stated he welcomes anyone in this town to do just that.

Mr. Moriarty asked should Historical Commission have to weigh in on this application. Mr. Luongo stated this application will be approved "historically" by The Secretary of Interior standards; and the Preservation Restriction will approve this application via the Historical Commission.

Mr. Flaherty discussed foundation permit only. Restoration will include a post and beam style house, second house will have the same style, gas lanterns and plaque with a story of the historic house. Stone wall to easement; stone wall will be broken down and graded.

Mr. Luongo stated this is a complicated project and it must go through Conservation Commission and Planning Board too. This project will be three (3) lots under subdivision and must do utilities to the foundations. Then water, sewer, gas, drainage and binder course on the roadway. The town's interest is they don't want houses to be built without the infrastructure in place. At a minimum applicant will have to put in the roadway and the infrastructure to service all three lots.

Mr. Luongo stated infrastructure put in with condition to restore house first:

- Subdivision approved
- Infrastructure approved
- Must post bond for roadway work

Mr. Foley made a MOTION to APPROVE the application for eleven (11) variances. The town would like to see the applicant save the house and in order to do that the applicant needs to create an additional two (2) houses on the lot in order to restore that house to the historical time period.

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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

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 (56%)
Variance:	120-59.1	Measurement across lots

Mr. Foley stated the applicant has incurred sufficient hardship both topographical and geographical on this lot due to the wetlands that are on this lot. The financial hardship is that the applicant does not know what the cost is to restore this property is to restore to the historical time period per the Department of Interior. Mr. Foley feels this board can grant the financial hardship due to the topographical, geographical, and financial and wetland variance with this lot. The conditions on this approval are as follows:

- No building permits will be issued until the exterior conditions of the existing Mutton Lane homes are approved to the satisfaction of the Weymouth Building Inspector and Weymouth Director of Planning and Community Development.
- The infrastructure will be permitted to go forward for the two (2) additional lots and the historical restoration of the historical building.
- The exterior of the home at 4 Mutton Lane will be restored in perpetuity based on the Secretary of Interiors standards guidelines for rehabilitation
- The applicant will procure the services of a certified historical architect who will spell out the specs of the restoration of the home.
- The applicant will enter into a historic preservation covenant with the Town of Weymouth to ensure that continued preservation of the building as a cultural resource of the town. The covenant will be renewed and reviewed by the Town's Solicitor.
- Mr. Gratta has also promised financial investment to support this project. This is the reason that Mr. Foley feels confident in making this motion and variances.
- No Certificate of Occupancy will be granted until the work on the historical restoration is completed first.

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- Two new homes will be sprinklered per conditions from Fire Department.
- Both homes will be in similar conditions, whether it be shaker, etc.
- Any and all
- Specifications from historical architect must be strictly adhered to before any building permits are granted.
- Interpreted plaques to explain some of the history of the house.
- House will be open for tours at certain time of the year.
- Public tours will be incorporated into the preservation restriction.

Mr. Moriarty stated this is truly a unique project for this town. Town staff and this board have exhausted every and all options to reconfigure and preserve this home. Chairman McLeod stated the Town Solicitor explained to him that by granting relief and giving a third lot that saves taxpayers money and paying him to restore this home to the year that it was once built; so there is his compensation for that. The reason that it increases the hardship, not making enough profit is not a standard ever to be adhered to by this board, if developers say we are not making enough.

Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Case #3329 - The petitioner, RMLE Realty LLC for property located at **143-145 Washington Street**, also shown on the Weymouth Town Atlas sheet 20, block 276, lot 39 & 40, located in the B-2 Zoning District and Village Center overlay district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning ordinance:

120-25.3	Special Permit:	Multi-family dwelling units (20 or more)
120-25.5	Variance:	Height and lot coverage
120-25.7	Special Permit:	Parking Requirements dictated in 120-25.7

Presently located at 143-145 Washington Street is a two-story building and adjacent parking lot. The petitioner seeks to construct a 4-story mixed use building with retail space on the street level, 2 levels of parking and 42 residential, 1-bedroom apartments.

Sitting Members:

- Richard McLeod, Chairman
- Kemal Denizkurt
- Jonathan Moriarty
- Chuck Golden
- Ed Foley

Mr. Foley made a MOTION to OPEN the PUBLIC HEARING. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to WAVE the READING. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

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Attorney Ray Jennings stated he is here regarding two (2) adjoining lots in a B-2 zone and has an existing two (2) story building on it with a paved parking lot which formerly housed a taxi stand business. The property is presently unoccupied. This plan represents the culmination of discussions with the Planning Department and other city officials which have taken place over the course of a year and have involved reiterations and redesigns. The plan design reflects the desire to develop the property in conjunction with the library and the Weston Park and the landing area as well as the design criteria of the village overlay district. The proposal incorporates in it improved access to Weston Park and additionally accessible public space which will be available for the usage on the Weston Park including an open air patio which will have seating that overlooks the park. And a small open air private function space on the roof that may be available for use for private functions and such for rental by the public. The plan before you calls for 42 single bedroom apartments and 1,700 sq ft of retail located along Washington Street at street level. The petitioner is requesting the following relief; special permit 120-25.3 for multiple-family dwelling units for in excess of 20 units; 120-25.5 which includes Height and lot coverage; and 120-25.7 which is parking which will be covered later. Most of the building is four (4) stories with exception of the mezzanine which extends one (1) story higher. Topography of the lot is that it slopes to the rear one full story, so that the building will appear five stories from the rear. Asking for relief for 63 feet.

Attorney Jennings stated auto access along Western Street limited to guests and residents only for this building. There will be a trash room, no dumpster, trash room accessible by tenants only. Small dogs will be permitted by tenants. 40 ft easement for staging. The traffic study has been contemplated but not finalized. The Police Department has looked favorably upon the plan of more windows on Weston Park.

\$1,650 per month for a single bed apartment. These plans are prepared in conjunction with 65 Washington Street, prepared by same architect.

Mr. Gratta stated they want this building to organically blend with Weston Park which is also getting a makeover. The design is nice; the rooftop with the grass and trees.

Mr. Foley asked why another bagel shop; why not a real restaurant? Mr. Gratta stated this will be more or a sit down and enjoy your cup of coffee/bagel shop.

Mr. Foley asked what is the size of the rooftop that can be rented. Mr. Gratta stated it's approximately 600 sq ft.; total roof is 5,000.

Mr. Foley asked is the traffic study coming soon. Mr. Gratta stated yes.

Mr. Foley the seating at the mezzanine, is that for the public? Mr. Gratta stated yes.

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Mr. Denizkurt asked what the dimensions of the parking area are; it needs to be a 9 x 8 with a garage door facing Washington Street with lights.

Mr. Gratta stated they intended to have all of that and lights and sound to alert pedestrians of cars coming out. Mr. Denizkurt stated sound is frowned upon.

Chairman McLeod stated this meeting will need to be continued until next week and the traffic engineer will be present.

Mr. Luongo stated 20K for redesign of signalization at Broad/Washington Street; project may run more than that. Create new signals and ramps at intersection with grant from Mass.dot and Mass Grants (complete streets) hope to get additional 400K renovation at Union Towers. Mr. Luongo suggests the applicants traffic engineer do a full presentation at the next meeting. Then the town's traffic engineer can present his recommendations for the whole landing area.

At the last BZA meeting, just to refresh everyone, Councilor Lacey recommended BZA look at the area and how it would impact a number of projects. Planning Department, Eric, Bob and Owen did meet with traffic engineers and the developers to go over the issues and Owen will be ready to make recommendations at the next meeting. Still want to hear from traffic engineer about how to enter and exit Weston Street.

Mr. Golden asked what are the species and types of landscaping and number of plantings that will be installed.

Mr. Gratta stated he will have all of this information at the next meeting.

Mr. Foley made a MOTION to CONTINUE the PUBLIC HEARING for CASE #3329 until April 26, 2017. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

OTHER BUSINESS

MINUTES

Mr. Foley made a MOTION to APPROVE the minutes of March 16, 2017. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Mr. Foley made a MOTION to APPROVE the minutes of March 22, 2017. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

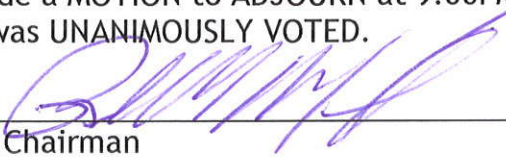
NEXT MEETING

The next meeting of the Board of Zoning Appeals will be held on April 26, 2017, May 10, 2017 and June 7, 2017.

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ADJOURNMENT

Mr. Foley made a MOTION to ADJOURN at 9:00PM. Mr. Moriarty SECONDED the MOTION. It was UNANIMOUSLY VOTED.

Approved by: 
Mr. McLeod, Chairman

6-7-17
Date