

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, May 27, 2015**

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

Also Present: Jim Clarke, Director of Planning
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

Case # 3250 – 1434 Pleasant Street – Public Hearing postponed from 3/25/15, con't from 4/15/15) sitting members McLeod, Foley, Denizkurt, Golden, Moriarty

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.

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

Chairman McLeod stated that Attorney Frank Baldasini has filed for a continuance on behalf of his client to June 17, 2015.

Ed Foley made a motion to continue Case #3250 to June 17, 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. – Continued Public Hearing (con't from 4/15/15) sitting members McLeod, Foley, Denizkurt, Golden, Moriarty

The petitioner, Kenneth C. Ryder, for five properties located at **0 Bellgrade St., 0 Edison St., 0 Edge St., 0 Hyde St., and 0 Trefton 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.

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

Mr. Clarke stated that he does not have any additional information since the past meeting.

Discussion:

Chairman McLeod stated that it was interesting to see all the abutters coming out that have concerns about this project. They have put up with a lot of disruption in that area. At the same time, we have an applicant who has a reputation of working well with the residents. Now a decision needs to be made.

The intent of the bylaw was for an applicant who did not meet the requirements. After review of previous notes when creating the bylaw, Chairman McLeod believes the petitioner falls within the 4 corners of this bylaw. If the board would like to make an amendment to the by-law going forward then we can do that but this evening the board needs to stick to the current bylaw that is in place.

Ed Foley stated that the minimum lot size is 25,000 square feet and if they meet that requirement he does not believe they should come before the board to have the lots reduced to 17,500 square feet. The applicant can still get his 14 lots of 25,000 sq feet. Mr. Foley does not believe he meets all the requirements of Section 120-122D. Chairman McLeod agrees with Mr. Foley in some areas.

Typically the applicant meets with the abutters and addresses their concerns and this did not happen with this project.

Kemal Denizkurt stated that he does not like pigtail lots but the applicant chose to carve up the lots that way to create 14 lots at 25,000 square feet. That was his choice in the layout. He could have reduced the amount of lots to 11 in order to have uniform lots. Kemal Denizkurt stated that the spirit of the ordinance was not for someone who can already meet the requirements but for someone who could not.

Chuck Golden stated that in the past the board was tired of lots before us of 5-10,000 sq ft. That is why we created the new bylaw for lots needing to be 17,500 sq ft. Some of the other issues that came up are not under our jurisdiction. How do we say no when we said under the new ordinance that 17,500 was ok. The fact that the 25,000 sq ft is available was never part of our discussion. Perhaps we should consider that if we want to change the bylaw. Chuck Golden believes it meets the intent of the new by-law and either way the vote goes we are setting a precedent.

Ed Foley stated every individual case should be looked at individually. He believes the applicant has not met criteria #5.

Jonathan Moriarty stated that he could go either way, he does not like the pigtails as nobody does. We chose a minimum of 17,500 and he has complied with it, however he cannot forget the fact that he does not need to be here. The applicant could reduce it to 12 lots at 25,000.

Ed Foley made a motion to deny the application for a special permit. This is a request to subdivide 5 parcels into 14 lots, 6 lots are under 25,000, 8 are not. Table 1 calls for a 25,000 square foot minimum. The applicant has said that if denied at BZA he would go before the planning board.

Under Section 120-122D Criteria for a Special Permit, Mr. Foley believes the applicant has not met #5. There was no second to this motion.

Chairman Macleod made a motion to approve the application for a Special Permit on Case # 3252 and was seconded by Jonathan Moriarty. It falls within the four corners of the bylaws. All the criteria of Section 120-122D are met and other issues can go before Planning Board. The lots are cleaner than the pigtails. Jonathan added that it makes sense, liability, insurability and survey.

Voted 4-1 (Ed Foley-No)

Ken Ryder stated that he was only trying to do the right thing. He did meet with the neighborhood twice and will continue to meet with them throughout this project.

New Business:

Case # 3254 – 1255 Main Street – Public Hearing

The petitioner, Bike Realty LLC, for property located at 1255 Main Street, also shown on the Weymouth Town Atlas Sheet 53, Block 593, Lot 7, located in a HT (Highway Transition) zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Article VIB Section 120-22.8E Restaurant (less than 20 seats) with Drive Through and minimum lot size land area shall be 43,560 SF.

Presently located on the premises is a ~9500 SF single story building with five potential retail units. The petitioner is proposing to move the existing Dunkin Donuts from unit 1 & 2 to unit 5 on the south side of the building and seeks to add a drive through window.

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

Chuck Golden made a motion to open the public hearing on Case # 3254 1255 Main Street and was seconded by Jonathan Moriarty. Voted unanimously

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

Appearing before the Board was Bill Donovan, Brian Donahoe, Tony Espasito, Attorney Daniel McDonald and Jeffrey Derk.

Jeffrey Derk, Vanesse Associates stated the entire building is practically empty. They will move Dunkin Donuts to the left side of the building to add queuing lanes going around the back of the building. A traffic study was done and has been provided to the board. The average queue is 5-9 vehicles. They can accommodate the maximum of 14-15 vehicles easily.

The study was done with the Route 18 improvement project and the build out of Southfield in mind. Route 18 will be widened on both sides to two lanes. This is a benefit for a left hand turn into Dunkin Donuts. It is difficult to make a left turn coming out of the lot back onto Route 18.

Three locations used for the study were Dunkin Donuts at:
1534 Commercial Street
174 Bridge Street
39 Winter Street

Chuck Golden stated that the Dunkin Donuts at Park Avenue is the busiest in the world and you didn't use that one as a comparison and it is only 1.5 miles away. The applicant stated that the queuing at that site is an abnormally large. They have never seen anything like it in the commonwealth. It gets cars from Park and Main Street and has a drive thru kiosk as well.

Jim Clarke stated that the town's traffic engineer reviewed this and the Commercial street drive thru is very active, Bridge Street is another 4 lane road that is similar to the current site. Jim Clarke stated that he is satisfied with the study.

Chairman McLeod stated that the one on Winter Street is not a similar location and the Park Avenue is very similar.

Jonathan Moriarty agrees the Park Avenue Dunkin Donut site is the same traffic and has the same layout and would like to see a traffic study using that site.

This was all done using the build out date of 2022. The volume during the peak traffic is projected at 300 vehicles per hour. Saturday mid-day is 280 going southbound and 180 going northbound. The volume of traffic grows about 1% per year over the next 7 years. Site lines of about 500 feet for vehicles at 40 mph. It is also estimated that 80-90% will be existing traffic that is just turning into Dunkin Donuts.

Brian Donohue, Tony Espazito stated that they have already been before Conservation and that public hearing has been continued to next week. They have been working with the DPW, Conservation and the Planning Department. The brook will be cleaned out and a guard rail with a chain link fence will be put in to keep debris out of it.

Jim Clarke referred to an email from Maryellen Schloss, Conservation Administrator who is moving forward in getting her issues addressed.

Kemal Denizkurt stated that the ordinance said the requirements should be stated. There will be 16 seats in the restaurant.

Public Comments:

Robert Thomas, Washington Street – stated that he is in support of this project. When the state widens the street there will be some takings done, will they still have 43,000 sq ft left? The bridge is right beyond the entrance way. People will make a left hand turn into DD but he is concerned about how they will get out, maybe a police detail needs to be added. There is a stream that runs along it and he is concerned about the taking of the area near it. All chemicals need to be kept out of the stream as he is concerned about pollutants going into a watershed area. The loading dock needs to be relocated. A dumpster needs to be covered and a location needed. Handicap parking requires 3 spaces and one needs to be van accessible. Highway Transitional Zone needs to have 25% greenery. Traffic controls and a snow management plan needs to be in place. He is not opposed to this project but it needs environmental safe guards put in place.

Kemal Denizkurt asked what the snow plan and dumpster plan is? It was stated that the snow plan is to use the right side of the building in the vegetation area. Dumpsters are in the back and are covered. The loading docks will be removed as they are not needed.

Ed Foley asked if we have a police detail at Bridge Street or Commercial Street locations during peak hours and Mr. Clarke stated no.

Jim Clarke will check on the amount of handicap spaces with the building department.

It was asked if land is taken by eminent domain will Dunkin Donuts still have enough land? It was stated that land taken with eminent domain does not impact the requirements of the bylaw.

Jim Clarke stated that any left turn out of the 4 lane highway is not easy, but there is a passing lane.

Employees will have dedicated parking spaces and chairman stated the 5 spaces next to the exiting cueing would be the best location for them.

Ed Foley made a motion to close the public hearing on Case # 3254 and was seconded by Jonathan Moriarty. Voted unanimously

Ed Foley made a motion to take Case # 3254 under advisement and was seconded by Jonathan Moriarty. Voted unanimously

Review of Minutes – March 25, 2015, (April 15, 2015, May 6, 2015 if received)

Ed Foley made a motion to approve the minutes of March 25, 2015, April 15, 2015 and May 6, 2015 as written and was seconded by Jonathan Moriarty. Voted unanimously

Other Business:

Jim Clarke stated that he is trying to set up a meeting with the Planning Board Tuesday night and the Regional Planning Agency for a healthy aspect for suggestions for zoning changes.

Upcoming Meetings – June 17, 2015, July 8, 2015, August 5, 2015, September 2, 2015

ADJOURNMENT

Ed Foley made a motion to adjourn at 8:45 pm and was seconded by Jonathan Moriarty. Voted unanimously

Respectfully submitted by,
Lee Hultin, Recording Secretary

Approved by:


Kemal Denizkurt, Clerk


Date