

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, June 17, 2015**

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

Also Present: Jim Clarke, Director of Planning
Eric Schneider, Principal Planner
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 # 3250 – 1434 Pleasant Street – Public Hearing postponed from 3/25/15, con't from 4/15/15, 5/5/15, 5/27/15) 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. The applicant’s current proposal is for a total of 11 units.

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

Appearing before the board was Attorney Frank Baldassini. Mr. Baldassini stated that the number of units have been reduced to 10 units plus the 1 existing unit over the store. Parking spaces have

also been reduced. The original application was 19 micro units and the applicant has tried very hard to comply with the board's recommendations.

Mr. Clarke clarified that this property is not an abutter to an R-1 zone.

Public Comment:

Glenn Fitzsimmons, 10 Shawmut Avenue – has attended all the meetings. He submitted a 7 page document in opposition of this project which was marked as an exhibit. He does not believe that this project fits into the guidelines of the Town of Weymouth's Master Plan and stated all the reasons why. The zoning for the four villages which Jackson Square is one of, was created by many people in the town of Weymouth looking out for the best interest of the community. There was a lot of effort by the town and its residents to create these documents and he believes this project is violating them. He is not in support of this project.

Mr. McLaughlin arrived and appeared before the board.

Bob Thomas, Washington Street – the board should consider limiting the number of continuances allowed for a case. The height at 44'10" is above the requirements of 35 feet as he believes it abutts an R-1 Zone. He realized that it was stated this evening that it does not abut an R-1 Zone but it is within 300 feet of it. He would like a legal opinion from the Town Solicitor as to what an abutter is.

Michael Heally, abutter across the street – he has attended these meetings since the beginning. It's the building itself and not the layout of the parking lot or where the dumpster is located as discussed this evening. It is not the look that the residents want for this area. The regular builders in this town that do a good job looked at this location and it did not work for them.

Lauren Carberry, Shawmut Avenue is hoping that the board is listening to the residents as they have been fighting this project the entire time. More commercial space with mixed use would be appropriate for this area.

Wayne Mathews, President of EWNA – hopes this will be the last meeting to discuss this project. Their final concern is the construction fence that abuts the municipal lot next to George Washington Toma. The association neither supports or opposes this project but is a mediator for the neighbors. Some of the concerns are legitimate and should not be ignored. If approved, he would like to have the reasons why the neighbors concerns were not justified.

Dan McKay, 1429 Pleasant Street – he believes the building is too big for the area. A year ago it was all about the Veteran's, then 1 bedroom units, now he is offering to pay to clean up the Herring Run. He feels the applicant just wants any project and is not vested in the community.

Joe Spalding, 7 Shawmut Avenue – If this is illegal, how can we put the building in there. It is clear that it is within the Jackson Square Village. He likes the idea of a small community.

Mary Heinrichs, 75 Epping Street, the Executive Director of WETC and is a tenant in the Pratt Library which already has limited parking at the library and trying to cross the street to the teen center is very difficult. She believes that it is too large. She was on the Master Plan Steering Committee and the concept was for mixed use in the villages. The real feeling was to preserve the historic character to the community. She would have preferred it to be more commercial space.

Ken DiFazio said it should not go unnoticed that all these residents have attended these meetings. After all is said and done, there are still residents that feel the project is too big. He would like to see a final analysis from the board as to why it is not too big and would like to see the legal opinion on the height of the building and there is an argument between the town's Master Plan and this ordinance that allows for a special permit to put up this building. He would like his three concerns to be addressed. How does it meet the 5 criteria if you feel it is too big as this building would change the characteristics of the neighborhood.

Mr. Mathews clarified that the Herring Run clean up was to make sure that Mr. McLaughlin was invested in this town if this project was going forward. The association asked him to adopt the herring run and it was not for a favorable vote.

The Master Plan is a guideline and not a law.

Attorney Baldassini stated that the extra spaces could be used by the library so they would not have to walk across the street. The abutters comments states that notification goes to abutters within 300 feet of the property, this does not mean that under the zoning bylaws that those people are direct abutters to the property. The applicant is also willing to work with the building department regarding the construction fence in order to keep this project safe.

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

Jonathan Moriarty made a motion to take Case # 3250 under advisement and was seconded by Kemal Denizkurt. Voted unanimously

This will be on the agenda for July 8, 2015.

Case # 3254 – For Deliberation - 1255 Main Street – Public Hearing Closed 5/27/15
sitting members McLeod, Foley, Denizkurt, Golden, Moriarty

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 - Absent
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty

Deliberation:

Jim Clarke stated the staff submitted a memo recommending approval of this permit. They are cleaning up the area along the intermittent stream and landscaping.

Jonathan Moriarty asked if the town is satisfied with the traffic study and Mr. Clarke stated yes, the traffic engineer reviewed it and feels it is effective and appropriate. Jonathan Moriarty asked if there will be sidewalks when the road is widened? It was stated yes by Mr. Clarke.

Jonathan Moriarty would have liked to have seen the Dunkin Donuts on Park Avenue used in the traffic study as he believes this is more comparable to this project. Mr. Clarke said there are two reasons it is not comparable, (one) its on a corner and (two) it has a kiosk. Jonathan Moriarty does not have an issue with the queuing, it's the left turn he is concerned about. Mr. Clarke said you would have to compare it to all left turns off Route 18.

As the board is missing one member this evening that applicant has requested to continue deliberations to July 8 and not take a vote this evening.

Kemal Denizkurt made a motion to continue Case # 3254 and was seconded by Jonathan Moriarty. Voted unanimously.

New Business:

Case # 3255– The petitioner, Aldon Electric, Inc., for property located at 38 Greenwood Avenue, also shown on the Weymouth Town Atlas Sheet 25, Block 335, Lot 5, located in an R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Article XIII Section 120-40 Extension of an existing non-conforming use or structure

The property is currently being used as an electrical contractor's yard with an existing ~3244 SF building. The petitioner seeks to construct a new ~1080 SF two-story building in the rear of the property to replace several existing storage trailers.

Sitting Members: Richard McLeod

Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Brandon Diem

Jonathan Moriarty made a motion to open the public hearing on Case # 3255 and was seconded by Kemal Denizkurt. Voted unanimously

Jonathan Moriarty made a motion to waive the reading of the legal notice on Case # 3255 and was seconded by Kemal Denizkurt. Voted unanimously

Appearing before the board was Greg Kianti, representing Donald Mullaney of Aldon Electric, owner and applicant. Proposing to construct a 45x24 foot cold storage building. They won't be changing the existing building but will eliminate the storage units that are on site.

Kemal Denizkurt asked if there will be any utilities to the new structure and it was stated electricity only. It will be dry storage such as fixtures, solar panels etc. to keep them out of the elements. Nothing hazardous will be in the building.

The storage units on site are temporary and will be phased out. The existing building is office on the front floor and a shop on the lower level, they eliminated the loading dock in the front of the building. He will be removing some trees in the front, adding fill and creating more curb appeal with a fence.

Jonathan Moriarty stated he is glad the loading ramp in the front has been removed and appreciated the updating that has been done. The containers were always temporary. There is always a lot of staging going on depending on the projects that they have. They grade the site every two years.

It was asked if there will there be a system for all the pallets? It was stated that they found a company in Fall River that recycles them. Nobody wants pallets and they try to manage them the best they can. It is a priority to keep the place clean.

Jonathan Moriarty stated that the yard is not locked up and there is a potential hazard. There are ladders around not secured and he is hoping they will be stored in the new building. Eventually the applicant would like to get a swing gate in there to be able to lock it up in the evenings.

If there is heat and water Jonathan Moriarty would have a concern because there is a second floor. The applicant stated that it is strictly cold storage as he is not adding bathrooms to the building.

Eric Schneider reviewed the staff comments with the board. There were comments from Conservation and the Health Department. They would like screening of the fill at the excavation area.

Brandon Diem asked if there would be a second floor and the applicant stated that he is not sure yet, the application shows a photo of a second floor but the wording says one floor. It is a storage

building only. The footprint of the building is correct but they have decided they may eliminate the second floor and make the first floor with a very tall ceiling for a storage. A final set of plans will be submitted.

Public Comments:

Bob Thomas, Washington Street asked if there is a possibility that there may be some endangered species abutting the site. Conservation Commission has looked at this and they were satisfied with it.

Jonathan Moriarty made a motion to close the public hearing on Case # 3255 and was seconded by Kemal Denizkurt. Voted unanimously

Jonathan Moriarty made a motion to take Case #3255 under advisement and was seconded by Chuck Golden. Voted unanimously

Case # 3256 – Brent May, for property located at 15 Canacum Road, also shown on the Weymouth Town Atlas Sheet 3, Block 2, Lot 21, located in an R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit: Article XIII Section 120-40 Extension or change of an existing non-conforming use or structure

Presently located on the premises is a single-family residential dwelling on a ~4765 SF lot. The petitioner is proposing to raise the height of the second floor walls to increase the head-room; no change to the present footprint.

Sitting Members: Richard McLeod
 Kemal Denizkurt
 Chuck Golden
 Jonathan Moriarty
 Brandon Diem

Chuck Golden made a motion to open the public hearing on Case # 3256 and was seconded by Jonathan Moriarty. Voted unanimously

Chuck Golden made a motion to waive the reading of Case # 3256 and was seconded by Jonathan Moriarty. Voted unanimously

Paul Lameau appeared before the board and stated that he is trying to raise the second floor walls and will not be changing the square footage or the circumference of the house. There are three dormers on the house now and he would like to raise the outsides of the walls and lessen the pitch of the roof.

Eric Schneider stated he received comments from a neighbor Gail Palmer, 14 Driftway Road who expressed opposition to the existing nonconforming use of the structure.

Jim Clarke stated that the existing ridge line of the roof will not be raised any higher.

The original porch was enclosed and is now a farmer's porch so he lost square footage with that.

Public Comment:

George Mutch – direct abutter, he is concerned as he has not heard about a new deck being added. It was stated that there will be two decks added that are 12 feet and the top one is 8 feet. There has been some fill added to the property. The applicant stated that the fill will be removed it is only being stored there temporarily. He would like to see something done with the property but is concerned about the 12 foot deck. There is no parking and there is no driveway planned.

John Mutch, Driftway – asked if this board would review the additional decking or just the height of the building. It was stated that the deck conforms and is not before them.

Mr. Clarke stated that he will confirm with the building department the status of the deck.

Paul Milone, 10 Canacum Road – He was concerned about the raising of the roof but has worked with Paul on this project and it will not block his view enough for him to be concerned. This will improve the neighborhood.

George Mutch stated other than the deck he is happy there will be improvements to this property.

Chuck Golden made a motion to close the public hearing on Case #3256 and was seconded by Jonathan Moriarty. Voted unanimously

Kemal Denizkurt made a motion to approve Case # 3256 for a special permit under Section 120-122D:

1. The specific site is an appropriate location for such a use.
The use is remaining a single family home
2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
He is retaining the basic form of the home, just decreasing the pitch of the roof
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
This would correct the nuisance since it has been an abandoned property
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
It is serviced by all the utilities a home would normally have
5. That the public convenience and welfare will be substantially served with the proposal.

Jonathan Moriarty added that there be no future development to the roof, roof deck or lookout. Kemal Denizkurt agreed to add this condition. This motion was seconded by Chuck Golden. Voted unanimously

Other Business:

Review of Minutes –May 27, 2015

Jonathan Moriarty made a motion to approve the minutes of May 27, 2015 as written and was seconded by Chuck Golden. Voted unanimously

Other Business

Upcoming meeting with the Planning Board on June 23, 2015 at 7pm. Also Legion field reopening event is this Saturday from 2-6.

Chuck Golden stated they will not able to make the June 23rd meeting.

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

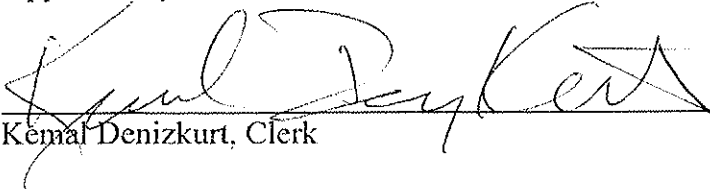
ADJOURNMENT

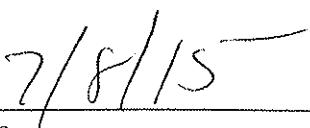
Jonathan Moriarty made a motion to adjourn at 8:50 pm and was seconded by Chuck Golden. Voted unanimously

Respectfully submitted by,

Lee Hultin
Recording Secretary

Approved by:


Kemal Denizkurt, Clerk


Date