

**BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, June 22, 2016**

Members Present: Richard McLeod, Chairman
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Ed Foley - **Absent**
Brad Vinton

Also Present: Bob Luongo, Planning Director
Eric Schneider, Principal Planner
Lee Hultin, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:06 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

Old Business:

Case #3286 – Continued Public Hearing from 6/1/2016- The petitioner, Anthony Nota, for property located at **138 Bridge Street**, also shown on the Weymouth Town Atlas sheet 6, block 62, lot 13, located in an B-2 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-40 Extension or change of non-conforming use or structure

Presently located on the property is an existing ~58 SF pylon sign. The petitioner is proposing to change the face of the existing sign with the names of the new tenants.

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

Appearing before the board was Leslie Rich representing the owner as he was unable to attend this evening.

Eric Schneider said that he spoke with the building department and they did some research. The sign was originally placed in 1991 which predates the ordinance in 1994. The opinion of the Building Inspector is that this would be grandfathered in and not applicable to the 1994 update.

Kemal Denizkurt asked if the frame was changing and Mr. Rich said no, they will not be changing the sign design at all. Originally they wanted to be able to change the face of the sign with the new tenants but they decided to leave it the way it is.

Mr. Rich said they have received a temporary permit and need a final permit. They are looking for a continuation of a nonconforming sign.

Jonathan Moriarty made a motion to close the public hearing on Case #3286 and was seconded by Kemal Denizkurt.
VOTED 4-0

Kemal Denizkurt made a motion to approve the application on Case #3286 and was seconded by Jonathan Moriarty.
VOTED 4-0

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. **The sign has been in existence since 1981.**
2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town. **They are not changing the size, location or square footage.**
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.

New Business:

1. Case #3288 – The petitioner, Frank Bridgeman, for property located at **82 Broad Street**, also shown on the Weymouth Town Atlas sheet 20, block 269, lot 19, located in an B-1 zoning district and Village Center Overlay District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit;	120-40	Extension or change of non-conforming use or structure
Variance;	120-25.3	Multi-family dwelling units

Presently located on a ~10,000 SF lot is an existing ~10,000 SF two-story building. The petitioner is proposing to convert the building to all residential use by constructing 8 units, 3 1-bedroom units and a studio on the first floor, and 4 1-bedroom units on the second floor, with 12 parking spaces.

Sitting Members: Richard McLeod
Kemal Denizkurt- **Recused**
Chuck Golden

Jonathan Moriarty
Brad Vinton

Ed Foley made a motion to open the public hearing on Case # 3288 and was seconded by Jonathan Moriarty.

VOTED 4-0

Ed Foley made a motion to waive the reading of the publication on Case # 3288 and was seconded by Jonathan Moriarty.

VOTED 4-0

Appearing before the board was Attorney Greg Galvin, 775 Pleasant Street, Weymouth.

This property is within the Village District and it is the former Fire Station. The former owner operated an accounting business and tried to get other businesses into the location unsuccessfully. A restaurant in the lower level was previously been denied. This is in the overlay district. The owner is looking to convert it into 8 units, 3 1-bedroom units and a studio on the first floor and a 1-bedroom on the second floor. There will only be one entrance and exit.

The overlay district looks for the owners to provide visible amenities. Unfortunately he cannot put in both landscaping and a fence in as there is not enough room. The existing face of the building will remain with minor modifications as recommended by the Planning Department.

Brad Vinton asked how the person in the handicap space would get out if a person is trying to enter the building as the entrance is right there. He asked how many feet from the parking space to the edge of the building. The applicant replied about 10-12 feet.

There will be two small dumpsters that roll out for disposal. The entrance way will be off Fields Avenue and not Washington Street per the town's request. The town will approve any modifications to the front of the building.

Brad Vinton asked what the snow removal plan would be and the applicant said he would remove it or stock pile it on the ledge if needed.

Public Comment:

Susan Barret, 8 Fields Avenue – Asked how will this impact Fields Avenue? Her driveway is diagonally across from the gate. Will she still be able to back out of her driveway? The applicant stated yes. She then asked if there be any fencing along there and the answer was no.

Marion Barret, 8 Fields Avenue – Fields Avenue is almost a single car road. Can she still back into the lot to turn around as she does not want to back out onto Washington Street and the owner said nothing will change, she can still back into his lot.

Wayne Mathews, 952 Commercial Street – Asked about the size of the apartments that are going in and the applicant said the studio units would be 450 square feet and the one bedroom would be 550 square feet.

Staff Comments:

Bob Luongo said this is in the Landing Overlay District and we are encouraging density in this area and he is requesting some relief to increase the density. This building has been problematic over the years. He believes this is the best use for the property. He has a few concerns that he will talk to Attorney Galvin about. Bob requested that the final design on the windows have the Planning Departments approval. The owner would like to make them look like a garage door. They will work together. Also, all four sides of the dumpster should be enclosed, any HVAC systems will need panels around them. He would like to review the fencing to see if they are in line with the rest of the street. A pedestrian scale lighting should be the same style as in the landing with a dual lighting for the parking lot and the sidewalk. Approval of an easement to the town for the signal light.

The signalization at the intersection of Washington and Broad Street are failing and the Planning Department would like the applicant to help contribute to funding this project at a cost of \$30,000. The applicant said tonight this is the first time he has been asked for a mitigation fee and he is willing to work with the town but he is a little taken back at this time. He is planning on gutting the building and this is a very expensive undertaking. The impact he will have on the corner is not productive.

Bob Luongo said the signals will cost approximately \$300,000. This would only average out to be about \$8,000 per unit cost.

Chairman McLeod suggested closing the public hearing while the Planning Department and the applicant have a private conversation about this.

There were no other public comments.

Jonathan Moriarty asked if there will be any signage.

Jonathan Moriarty made a motion to close the public hearing on Case #3288 and was seconded by Chuck Golden.

VOTED 4-0

Jonathan Moriarty made a motion to take this case under advisement until the next meeting on July 27th and was seconded by Chuck Golden.

VOTED 4-0

2. Case #3289 – The petitioner, Tony Yu, for property located at **22 Drew Avenue**, also shown on the Weymouth Town Atlas sheet 19, block 250, lot 8, located in the R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-40 Extension or change of non-conforming use or structure

Presently located on an 8,478 SF lot is an existing two-family dwelling. The petitioner seeks to extend the first floor foundation ~10' and construct a 24.3' x 40.5' second floor addition.

Sitting Members: Richard McLeod
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Brad Vinton

Eric Schneider stated that the applicant has requested a continuance to July 27, 2016.

Jonathan Moriarty made a motion to continue Case #3289 to July 27, 2016 and was seconded by Kemal Denizkurt.

VOTED UNANIMOUSLY

3. Case #3291 – The petitioner, Donald J. Rafferty, Jr., for property located at **36 Oak Cliff Road**, also shown on the Weymouth Town Atlas sheet 30, block 396, lot 36, located in the R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-56 Required frontage

The ~49,228 SF lot is presently vacant. The petitioner seeks to construct a new single family dwelling.

Previous Special Permit has expired.

Sitting Members: Richard McLeod
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Brad Vinton

Jonathan Moriarty made a motion to open the public hearing on Case # 3291 and was seconded by Chuck Golden.

VOTED UNANIMOUSLY

Jonathan Moriarty made a motion to waive the reading of the publication on Case # 3291 and was seconded by Chuck Golden.

VOTED UNANIMOUSLY

Donald Rafferty 22 Sea Street, North Weymouth purchased this parcel about a year and half ago. At that time he was told that there was a BZA decision that made it a buildable lot. The 2010 and 2013 BZA decisions were filed with the Purchase and Sales Agreement per Jim Clarke's recommendations and he purchased the property. This past January he went to Jeff Richards for

a building permit and he said that it had expired and needed to go back before the BZA for approval.

The same hardship exists that was there on the first variance and there is an additional hardship because he has already purchased the property and it is being taxed as a buildable lot.

There were no staff comments from the departments.

Public Comments:

Karen & Frank Younie, 16 Oakcliff Road – the past few times they have come before the board they have required to fix the grade in the road, loop the water, build the road and put in sewer all before he started building. Is this still going to be done?

Eric Schneider said we received no comments from DPW, Water and Sewer and Engineering.

The applicant said the previous owner was going to subdivide and build 5 houses.

Karen said even if this is a new application the street will not hold up to this kind of machinery, the road is terrible. She said she spoke to the building department a year ago and they said all stipulations would still be in effect.

Chairman McLeod asked for copies of the previous decisions to see if they were placed on the single family lot or the subdivision.

50 Oakcliff – asked what will happen to the single family home there. The applicant said he did not purchase that house only the lot behind it.

Bob Luongo asked for a condition not to subdivide this lot, it will remain a single family lot.

Jonathan Moriarty made a motion to continue this public hearing to July 27, 2016 and was seconded by Kemal Denizkurt.

VOTED UNANIMOUSLY

4. Case #3292 – The petitioner, John Deady, for property located at **958 Commercial Street**, also shown on the Weymouth Town Atlas sheet 18, block 189, lot 8, located in the R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit;	120-40	Continuation of non-conforming use
Variance;	120-48 & Table 1	Required frontage

Presently located on the property is a single-family dwelling and one-car garage. The petitioner seeks to reduce the frontage on Commercial Street and on the right side of the dwelling to allow access to the rear lot and to allow the existing structure to remain.

Sitting Members: Richard McLeod
Kemal Denizkurt
Chuck Golden
Jonathan Moriarty
Brad Vinton - **recused**

Jonathan Moriarty made a motion to open the public hearing on Case # 3292 and was seconded by Kemal Denizkurt.

VOTED UNANIMOUSLY

Ed Foley made a motion to waive the reading of the publication on Case # 3292 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Brad Vinton disclosed that his is a member of the 103 Union and so is John Deady. There are 6500 members and he has never worked with him, he is in a maintenance division and John is on the construction side. Brad believes he can hear this case objectively.

Chairman McLeod asked the applicant if he objected to this and he said no. There was one objection by the public as he is also a union member and union brothers are very strong.

Because there was an objection from the public the applicant has a choice to either go forward with 4 members and need a unanimous vote to pass his application or wait until July 27, 2016 when there is another 5th member. The applicant agreed to proceed with 4 members.

Appearing before the board is John Deady. There is an existing house already and he would like to allow access to the rear lot without having to take down the existing house and turn it sideways. If this was allowed the residents at 958 Commercial Street would be able to turn around onsite and not have to back out onto Commercial Street which would be much safer. He said at this time he is not looking to construct anything just reduce the amount of frontage on his lot from 100 to 80 feet.

Jonathan asked if it will be a private road and the applicant said it will be a town accepted road per their request. The existing curb cut will be eliminated.

Stefanie Coyt, 972 Commercial Street – asked why didn't you purchase my house when it was for sale so you could use the easement on it. The applicant said he looked at that property and it was for 1st time homeowners only. He didn't own this property at that time.

Jonathan Moriarty asked if all the utilities were

Wayne Mathews, 952 Commercial Street lives directly to the left of the property. He is an abutter and has already spoke with Mr. Deady. He will be adding square footage to 958 Commercial Street but it will be a "pork chop" going along his property.

The reason for the pork chop is because the town of Weymouth has requested an easement to repair a culvert for water.

Donald Rafferty – if you are only taking 20 feet from the lot how does that give you 40 feet for the road.

Mike McMillian, Commercial Street – the radius is a 5 foot radius and he needs 30 foot radius on his side. It is very dangerous where he wants it.

Mr. Deady said right now he is looking to change the square footage of the frontage. After if this is approved the planning board will have to approve the roadway being done, if it does not get approved by the planning board he will have to tear the house down, but he prefers not to do that.

Mr. Bob Luongo said Mr. Deady is here tonight because he needs the relief on the frontage from this board in order to continue on with the Planning Board. If he doesn't get his relief tonight he will need to return to the Planning Board and do a modification to the subdivision plan to conform to the rules and regulations of the subdivision control law. If he gets his relief tonight, that decision will be transmitted to the planning board and they will be free to continue on with the subdivision as proposed.

Kemal Denizkurt said so if we grant this application the property in back will have 40 feet of frontage and that would be acceptable to the Planning Board. So we are granting permission to put a road in an R1 property.

Eric Schneider said the action of the board will determine if the house remains or gets turned toward the new road. He has the ability to build the subdivision with or without the relief, the question is does he need to turn the house or not.

Jonathan asked how often is forgiveness of a 5 foot radius granted and Eric said it is rare. Not requested often.

Mr. Graff, 982 Commercial – does each dwelling have to have frontage on commercial street and the answer was no because he is extending the road.

Kemal Denizkurt said you are asking us to reduce your frontage to 80 feet but ultimately you are creating a roadway between you and your neighbor in an R1 zone to access the back property.

Mr. Deady said he meets the set backs with the neighbors and he has offered to pay for a driveway off the new street for the neighbor to the right. Mr. McMillian stated for the record, no he did not.

Has the Planning Board asked you to make a condition of a left hand turn only and he said yes.

Keith Delvecchio, 37 Shore Drive – In the continued attempt to separate this decision from what's going to happen down the road, doesn't that also eliminate the hardship? Where is the hardship

if he does not want to combine the two. If one has nothing to do with another then there is no hardship. The applicant keeps trying to separate the two issues.

Kemal Denizkurt said that is a point well taken, what is the hardship. And the applicant said it is financial because he will lose the income he will potentially make.

Jonathan said the argument to make more money is not a financial hardship.

Mr. Deady said the size and shape of the lot is his hardship.

Bob Luongo said this is being considered in the context of a subdivision with the planning department. The planning board has jurisdiction over the radius and other issues relative to subdivisions. This board has jurisdiction over the setback requirements. It really isn't separate he needs this relief to continue on with the Planning Board.

Kemal Denizkurt said so why isn't the planning board make him tear down the house and not come before us. Bob Luongo said he could do that but he does not want to tear it down. Bob Luongo does not like when the side of house faces a main Street (Commercial). This would be a 4 lot subdivision.

Kemal asked if the town doesn't like a house turned then why would the planning board approve it. Bob Luongo said because if they conform with all the requirements the planning board is obligated to approve it.

Keith said it seems a little odd that in some situations the two are connected and in another situation you want to keep them separate.

Mr. McMillion is most affected because if this is approved the roadway is going to be 25 feet closer to his property than is allowed. If he can get a four lot subdivision without duress on Mr. McMillions property then that is way it should be done.

Woman if there is opportunity to access the lot a different way would that sway the decision?

Kemal asked Bob to restate why the applicant would have to turn the house sideways. Mr. Luongo said if the board denies relief for the frontage, he can turn the house sideways and have the frontage face the new roadway. It is a buildable lot. It was suggested by the Planning Board to try to get this relief first.

He has an easement across another property. She offered to sell her property to him to make a roadway.

Jonathan Moriarty asked if the planning board had a public hearing?

If BZA gives this relief then the planning board can approve his plan on the lot issue. The other issues such as the radius will need approval.

Wayne Mathews asked if there have ever been any subdivision plans prior that have not been acted upon. The answer was no, not that he knows of.

Kemal Denizkurt said he is still unclear on the hardship. The frontage would be in keeping with the area. If we don't grant it, he tears down the house and rebuilds it.

Chairman McLeod agrees and struggles with future applications. This is a very unique situation.

Keith Delvecchio said didn't he knowingly create his hardship by purchasing this property. Sometimes you take a chance and strike out.

Chuck Golden said he has difficulty with jurisdiction. Can the planning department take over when putting the parcels together. The answer was no, we are the only authority to grant this variance.

Jonathan Moriarty asked if he could put a single family home on the lot and use the easement as a driveway to it and Mr. Luongo said no, there isn't enough frontage he would need a variance. He wants to unlock the value of the land and create a subdivision.

Chairman McLeod when looking at this individually we are granting something that the board has expressed a concern over the hardship. Why would we approve this. The applicant said his hardship is because of the size and shape of the lot. It does not allow him to do what he wants to do.

Jonathan Moriarty said self created hardships do not count. His hardship can not be because of loss of income because he can't do the subdivision in the back.

Jonathan asked if he was forced to make the house have frontage on the new road, how would he be out of conformity? He would have to take off the porch and make a doorway there and then it would be a corner lot.

Mary Clark, 34 Unicorn Avenue – are you saying just moving the front door to the side of house would work without taking down the house. She hates to see subdivisions but hates to see a house torn down.

The applicant said he would agree to a condition that he put the door on the side of the house instead of turning it.

Jonathan asked if he could then move the road away from the abutter and it was stated no there isn't enough room because of the 18 foot set back requirement.

Chairman McLeod explained the procedures going forward and the applicant asked for a vote of the board as he would like to move on with this.

Jonathan Moriarty said if he were to request a continuance, he would like to see a little bit more about the character of the neighborhood, a few lots where there has been a road similar put in and a curb cut as well as the minutes from the last planning board meeting.

The applicant said there were three similar lots shown to the board on his powerpoint presentation.

Bob Luongo said Dandelion Way is a similar situation with a cul-de-sac and 4 lots and that one received some relief on the radius although not as severe.

Ms. Clarke said the three examples are not roads they are driveways.

Chuck Golden said the current house is beautiful and enhances the neighborhood. He does not believe we can solve the problem here. If he withdraws without prejudice maybe he could work with the planning board to resolve this. The applicant said he tried that but they sent him to this board.

Chairman McLeod said he is not comfortable voting based on the evidence submitted, he does not believe he met his burden of proof.

The applicant Mr. Deady requested a continuation to July 27, 2016.

Eric Schneider said that meeting is getting packed, you already continued 3 and there are 6 new cases.

Kemal Deniz Kurt made a motion to continue this public hearing on Case #3292 to July 27, 2016.

VOTED 4-0

Other Business:

Minutes – June 1, 2016


Jonathan Moriarty made a motion to approve the minutes of June 1, 2016 and was seconded by Chuck Golden. VOTED 4-0

Upcoming Meetings – July 27, 2016, August 24, 2016

ADJOURNMENT

Jonathan Moriarty made a motion to adjourn at 9:25 pm and was seconded by Kemal Deniz Kurt. VOTED UNANIMOUSLY

Respectfully submitted by,
Lee Hultin, Recording Secretary

Approved by: 
Kemal Deniz Kurt, Clerk

Date

7-27-16