

**BOARD OF ZONING APPEALS (BZA)**  
**RECORD OF MINUTES AND PROCEEDINGS**  
Wednesday, June 28, 2017

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

**Also Present:** Robert Luongo, Planning Director  
Eric Schneider, Principal Planner  
Janet Murray, Recording Secretary

Chairman McLeod called the Board of Zoning Appeals meeting to order at 7:10 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

**Old Business:**

1) Case #3333 - Continued from 6/7/2017 - The petitioner, Paul Zakrzewski, Trustee of P& R Realty Trust, for property located at **347 Ralph Talbot Street**, also shown on the Weymouth Town Atlas sheet 43, block 500, lot 11, located in an R-1 Zoning District and the Watershed Protection District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance.

Variance:            120-51            Dimensional Requirements (Lot Size and Width at Building Line)

Presently located on the ~49,570 SF lot is a ~3542 SF building. The petitioner seeks to demolish the existing building, subdivide the lot into two (2) house lots, each consisting of ~24,785 SF, and construct two new single-family homes.

Mr. Foley made a motion to re-open the public hearing on Case #3333 and was seconded by Mr. Moriarty. **UNANIMOUSLY VOTED.**

Mr. McLeod stated that this hearing is a continuation of the public hearing on June 7, 2017.

Mr. Whitney appeared before the board with the applicant, Mr. Zakrzewski. He stated that the applicant is looking to subdivide the 49,570-square foot lot into two 24,785-square foot lots. He pointed out that the existing 3300-square foot building is in serious disrepair.

Mr. Whitney addressed some of the concerns of the neighbors that were brought up at the previous meeting.

- The applicant has provided a map showing the contour lines.
- The two hydrants on the site will remain in the same spots

**BOARD OF ZONING APPEALS (BZA)**  
**RECORD OF MINUTES AND PROCEEDINGS**  
Wednesday, June 28, 2017

- Trees cut
- Impervious area

Hoyt Land Surveyors provided detailed maps. The elevation on most of the site is 130' to 126'. One corner at the front of the lot (southerly) shows at 133. The lot is 275' feet deep. For most of the lot, the change in elevation is 4'.

There is a greater change to the rear where the trees are located. The trees are to be preserved. The applicant is willing to add a restriction to the deed that the trees are not to be removed.

Currently, the Impervious area (building & hardtop pavement) is 11,754 square feet. The proposed plan would have 6500 square feet of impervious surface.

The two proposed houses will be 40 feet apart.

Mr. Whitney stated that the lot was originally two lots which were combined when the grange building was built.

Mr. McLeod disclosed that he and Attorney Whitney will be working as adversaries on an upcoming lawsuit. He asked the applicant if he was comfortable with continuing the case with him on the board.

Mr. Zakrzewski stated that he was willing to continue. Mr. McLeod asked if the board or the public present had a concern about him remaining on the case.

Mr. Moriarty asked when the other unrelated case began. Mr. McLeod stated that he was not formally retained on that case until after the 1<sup>st</sup> hearing.

Mr. Moriarty stated that he had no objection. Nor did Mr. Foley, Mr. Denizkurt, or Mr. Golden.

The board proceeded with the hearing.

Mr. Moriarty expressed concerns regarding the existence of a hardship.

Mr. Whitney stated that the hardship is not relative to the applicant. The hardship is relative to the shape, topography, or soil conditions; or in this case, Weymouth has noted that the hardship may apply to the structure.

He stated that the lot is significantly larger than the surrounding lots.

Mr. Luongo stated that Weymouth amended the zoning ordinances that all lots must be 25,000 square feet. Rule 22 looks to have lots be square sized. He also stated that consideration is no longer given to the size of the surrounding lots.

**BOARD OF ZONING APPEALS (BZA)**  
**RECORD OF MINUTES AND PROCEEDINGS**  
Wednesday, June 28, 2017

Mr. McLeod asked if there was anyone present who would like to speak. There was the following response.

Tim Dwyer asked how far the building envelope is from the north/south lot line. It was noted to be 36 feet. He asked what the distance is to the property line.

Mr. Schneider stated the applicant must meet the current zoning requirements which is for the building to be 10 feet from the property and 20 feet from the next dwelling. The building envelope is the proper place to build the structure.

David Juffre asked where the no-cut zone would stand when a new owner purchases the property. Mr. McLeod stated that if the application were to be approved, the no-cut zone would be a condition of the approval.

Mr. Moriarty stated that the applicant is willing to add a deed restriction which would ensure the no-cut zone. If this zone were cleared, that could be grounds for a lawsuit.

Mr. Juffre asked if the application is denied, the applicant could build and clear cut if he wanted to. Mr. McLeod stated that this was correct as it would be allowed as a matter of right.

Laura Howes thanked Mr. Zakrzewski for the meeting. She noted that there are still concerns regarding the digging up of the parking lot, the placement of the new buildings, and most concerning additional drainage.

Ms. Howes asked if the applicant could change the building envelope to allow for more space between building.

Mr. McLeod stated that this was not in the jurisdiction of the board. They are tasked with deciding if the requested variance should be allowed.

Mr. Foley stated that he is concerned that the applicant has created his own hardship. He raised the question of where do you stop with how close to 25,000 square feet is allowed. The requirement is 25,000 square feet.

Mr. Whitney stated that the applicant purchased the lot prior to the bylaw change

Mr. Zakrzewski stated that he had purchased a copy of the town's zoning regulations prior to the zoning changes.

Mr. Denizkurt stated that he agreed with Mr. Foley regarding the existence of a hardship on the case.

**BOARD OF ZONING APPEALS (BZA)  
RECORD OF MINUTES AND PROCEEDINGS**

Wednesday, June 28, 2017

Mr. McLeod pointed out that two of the board members have indicated that they do not see a hardship. He stated that a four-fifths vote in favor of the application is required. He offered the option to withdraw the application without prejudice.

Mr. Whitney requested, on behalf of the applicant, to withdraw the application without prejudice.

Mr. Foley made a motion to allow the applicant to withdraw without prejudice the request for a VARIANCE for Case #3333 and was seconded by Mr. Moriarty.  
UNANIMOUSLY VOTED.

2) Case #3334 - Continued from 6/7/2017 - The petitioner, SHI III Weymouth, LLC, c/o Paul T. Casale, for property located at **43 School House Road**, also shown on the Weymouth Town Atlas sheet 21, block 220, lot 2, located in a POS Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance.

Special Permit: Amendment to Case #97-9/17

Presently located on the ~181,645 SF lot is a two-story, 70-unit assisted living facility, allowed by Special Permit on November 24, 1997, Case #97-9/17. The petitioner seeks to amend the existing Special Permit to allow for construction of a ~20,486 SF, 2-story, 26-unit addition, and to allow for a reduction in the number of parking spaces from eighty-six (86) to eighty-two (82).

Mr. Foley made a motion to re-open the public hearing on Case #3334 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. McLeod stated that this hearing is a continuation of the public hearing on June 7, 2017.

John Twohig and Paul Casale appeared before the board on behalf of the applicant.

Mr. Twohig stated that there was a community meeting on July 15, 2017. The maintenance issues were worked out. He noted plan changes to fencing, landscaping, curb cut/turn-arounds, screening and the gate lock. These changes are incorporated into the new plan.

He noted that generator testing will be limited to Tuesday morning at 10am and trash pick-up and other deliveries will be made between 7am to 6pm.

Mr. McLeod asked if there was anyone present who would like to speak. There was no response.

**BOARD OF ZONING APPEALS (BZA)  
RECORD OF MINUTES AND PROCEEDINGS**

Wednesday, June 28, 2017

Mr. Luongo stated that he had discussions with Jean Pendergast who represented the condominium association about parking.

Mr. Luongo stated that School House Road is privately owned by the Welch group. He stated that there have been discussions for the applicant's placement of no parking signs on both sides of the street from Middle Street up to where the road curves and bears to the right.

He stated that the town is considering paving and re-striping the park lot that is used for town sports. He also stated that there would be directional signage directing drivers to overflow parking. As it is a private road, it is up to the private owners to tow illegally parked cars.

Mr. Schneider stated that he had spoken to Mr. Reilly today. It is likely that the soccer games on weekends will be moved to Lovell Fields in the spring of 2018. The fields will be used during the week for practice.

Mr. Luongo stated that Mr. Reilly would work to be diligent about trash pick-up.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3334 with the following conditions:

- Generator testing on Tuesdays at 10am
- No trash pick-ups or other deliveries before 7am or after 6pm
- The applicant will work with the town on signage on School House Road
- \$20,000 contribution to the improvements on Broad Street
- Re-pave School House Road in front of the condominiums
- Trees and screening as per plans submitted
- Fencing as per plans submitted
- Enhance landscaping as per plans submitted
- Type of gate and lock per fire department requirements

**SPECIAL PERMIT**

1. The specific site is an appropriate location for such a use.
2. The proposed use of 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, utilizes 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.

**BOARD OF ZONING APPEALS (BZA)  
RECORD OF MINUTES AND PROCEEDINGS**

Wednesday, June 28, 2017

The motion was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

**New Business:**

**Members Present:** Richard McLeod, Chairman  
Kemal Denizkurt  
Jonathan Moriarty  
Ed Foley  
Brad Diem

1) Case #3335 - The petitioner, Shahram Moghaddan, for property located at **45-47 Washington Street**, also shown on the Weymouth Town Atlas sheet 20, block 278, lot 5, located in an B-2 and the Village Overlay Zoning District. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance.

**Special Permit:** 120-25.7 Required parking spaces

Presently located on the ~1220 SF lot is a two-story commercial building housing a dental practice, business offices and a free-standing ATM kiosk. The petitioner seeks to demolish the ATM kiosk and construct a ~single-story addition to expand the dental practice.

Mr. Foley made a motion to open the public hearing on Case #3333 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to waive the reading of the public notice and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Edward Fleming appeared before the board with the applicant, Shahram Moghaddan. He stated that the current location is a dental office on the 1<sup>st</sup> floor and general business offices on the 2<sup>nd</sup> floor. The parking lot is accessed from Front Street and has 18 spaces.

There is currently an ATM kiosk on the location. This area has become a gathering place for individuals who are engaging in illegal activities.

Mr. Moghaddan would like to build an 875 SF addition. This request is for relief from the number of required parking spaces. There are shared and public spaces available. He also noted that the dental practice encourages employees to park off-site at the doctor's other location on Broad Street. He noted that the appointments are scheduled and there is turn-over of patients over the course of the day.

The addition will be one-story and will match the addition on the other side of the building as well as the roofline of the abutting building.

**BOARD OF ZONING APPEALS (BZA)  
RECORD OF MINUTES AND PROCEEDINGS**

Wednesday, June 28, 2017

Mr. Fleming mentioned that there is a fire fighter's plaque that memorializes Firefighter Willard Frank who died in a blaze of a three-story building previously located on the site. The plaque will be removed and placed into the care of the fire department. It will be re-installed once the addition is completed.

Mr. Fleming spoke to the 38 required parking spaces. He noted that 1.3 parking spaces are required for every 200 SF of medical/dental office space and 1 space for every 300 SF of office space. There is a 10% discount for location in the village overlay district.

The 18 on-site spaces will remain. He pointed out that there are an additional 22 spaces located on-street within 200 feet and the municipal parking lot is within 1000 square feet.

Mr. Schneider noted that the Health Department submitted a memo regarding a past oil spill adjacent to the applicant's property and seepage onto his property. The health department recommends that a licensed soil excavator be retained to monitor the site work.

Mr. Fleming stated that there is another party responsible who will be notified.

Mr. Luongo stated that in speaking with the applicant the dumpster will be fenced and the casings on the rear of the building will be repaired and painted.

Mr. Luongo asked about when the first patient is seen. Mr. Moghaddan stated that he sees his first patient at 7am. Mr. Luongo pointed out that these hours are not the same as the commerce located in the area.

Mr. Moghaddan stated that the 2<sup>nd</sup> story is not rented fully. He noted that he currently has two (2) tenants who do not require parking spaces. He stated that he has had other inquiries and offers but has declined them because they have requested parking spaces.

Mr. McLeod asked if there was anyone present who would like to speak. There was no response.

Mr. Foley made a motion to close the public hearing and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Mr. Foley made a motion to APPROVE the request for a SPECIAL PERMIT for Case #3335 with the following conditions:

- Enclose the dumpster
- Repair and paint the metal casings on the rear of the building
- Re-install fire fighter plaque
- Repair damaged fencing

**BOARD OF ZONING APPEALS (BZA)**  
**RECORD OF MINUTES AND PROCEEDINGS**  
Wednesday, June 28, 2017

- Licensed site professional to monitor site excavation as per memo dated 6/5/17 from Daniel McCormack, Director, Weymouth Health Department.
- Planning Department approve material for new facade

**SPECIAL PERMIT**

1. The specific site is an appropriate location for such a use.
2. The proposed use of 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, utilizes 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.

The motion was seconded by Mr. Denizkurt. **UNANIMOUSLY VOTED.**

**Upcoming Meetings - July 26, 2017, September 6, 2017, September 27, 2017**

**ADJOURNMENT**

Mr. Foley made a motion to adjourn at 8:25pm and was seconded by Mr. Moriarty. **VOTED UNANIMOUSLY.**

Approved by:

Mr. Denizkurt, Clerk

 9/6/17  
June 28, 2017