

BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, June 7, 2017

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

Also Present: Bob Luongo, Planning Director
Eric Schneider, Principal Planner
Janet Murray, 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.

Mr. Luongo spoke to the Board regarding a change in the Board. He stated that the Mayor would like to give different residents opportunities to serve on Boards. On that note, he announced that Chuck Golden's term will expire at the meeting on June 28, 2017. Mr. Luongo read a congratulatory citation from the Mayor.

New Business:

1) Case #3333 - The Petitioner, Paul Zakrzewski, Trustee of P&R Realty Trust, for property located at 345 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 3512 SF building. The petitioner seeks to demolish the existing building, subdivide the lot into 2 house lots, each consisting of 24,785 SF, and construct two new single-family homes.

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.

Paul Zakrzewski appeared before the Board with Ronald Whitney, attorney with offices at 549 Bedford Street, Whitman.

Mr. Whitney gave an overview of the project. He stated that his client is requesting a variance for lot size and frontage. The property is currently one lot with an old

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building in disrepair. A Baptist church is currently using the property. He noted that the building is a non-conforming use in a residential zoning district.

Mr. Whitney stated that the applicant would like to build two houses, each 34 feet by 24 feet with two-stories and 100 feet of frontage. The current structure would be removed.

Mr. Whitney noted that 120-53 was stricken from the town's by-laws approximately four (4) months ago. Under 120-53, this request would likely have been allowed.

Mr. Whitney stated that there is a hardship, financial or otherwise. He stated that the size of this lot is an outlier in the neighborhood. He pointed out that the building will be removed from the site regardless of the outcome of this request.

Mr. Whitney stated that the request does not derogate from zoning bylaw as the removal of the commercial building and construction of two homes will be in keeping with the neighborhood locus.

Mr. Whitney stated that he believes that there would be no detriment to the public good and that the neighborhood would be served by replacing an aging non-conforming structure with two homes.

Mr. Foley asked if the applicant can build one home on the lot, by code without coming before the Zoning Board. Mr. Whitney stated that this is true.

Mr. Denizkurt asked how much impervious surface there is. Mr. Whitney stated that the proposal lessens the amount of impervious surface but he did not have the exact figure.

Mr. Zakrzewski stated that he estimates approximately 12,000 to 14,000 square feet of current impervious surface on the driveway and parking area. He stated that the two homes would be built closer to the street with shorter driveways.

Mr. Denizkurt asked if a shape-factor calculation has been determined. Mr. Whitney did not have this information.

Mr. Schneider stated that he calculated it at 29.1 which is within the lot shape factor of 30. He stated that the other lot is more regularly shaped.

Mr. Denizkurt asked how much of the property is in the water-shed protection district.

Mr. Whitney did not know. He stated that this would be figured when the applicant goes before the Planning Board.

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Mr. Schneider stated that the applicant does not need to go before the Planning Board. However, the application will receive additional scrutiny from the Conservation Administrator and DPW due to the proximity of the Watershed Protection District. He pointed out that all requirements would need to be met before a building permit is issued.

Mr. Luongo stated that 120-10.3 requires a 25,000-square foot minimum lot size in an R-1 district. He also noted that there was a provision for the Watershed Protection District that allowed for a 20,000-square foot minimum lot size but this no longer applies as it has been trumped by the new zoning changes recently enacted.

Mr. Schneider stated that the Watershed Protection District was enacted at a time when Weymouth's lot size requirements were smaller. The spirit and intent was to require larger lot sizes in the Watershed Protection District.

Mr. Denizkurt noted that there is a drainage issue surrounding this property.

Mr. Luongo stated that if the Board were to grant the requested relief, that additional relief would need to be granted from 120-10-3, minimum lot size in a Watershed Protection District in addition to relief from 120-51, minimum lot size in an R-1 district

Mr. Foley questioned if the applicant was creating the hardship by asking for two lots.

Mr. Whitney stated that the shape of the lot and the size of the existing structure create a hardship. He pointed out that residential is a logical use. Each lot is only 215 feet short and the other abutting lots are much smaller.

Mr. Whitney suggested that the applicant could use the site for other use by special permit such as a funeral home, greenhouse, two-family home, or a garage for parking of three (3) or more vehicles. He pointed out that the special permit hurdle is much lower than the hurdle for a variance. He added that one single family home on such a large lot would be an outlier and would not make sense

Mr. Moriarty agreed that having one home on such a large lot would be out of character with the surrounding neighborhood. He commented that the shape of lot #1 has a triangle portion to the rear. He questioned if there was any other way to cut up the lots differently.

Mr. Zakrzewski stated that Hoyt Engineering suggested cutting up the lots evenly

Mr. Foley asked if the applicant is an abutter to the property. Mr. Zakrzewski stated that he lives in Abington. The abutting lot is owned by his brother.

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Mr. Schneider clarified that the applicant is seeking relief from the width at building line not frontage.

Mr. McLeod stated that there were several letters submitted regarding this application. The following letters were entered into the record:

- Exhibit #1 - Laura Howes' letter noted concerns about the Watershed Protection District, lot size, and drainage issues in the neighborhood.
- Exhibit #2 - Sarah Fishkin's letter noted similar concerns as Ms. Howes. She also added that storm drains back up on the street.
- Exhibit #3 - Conservation Administrator Mary Ellen Schloss noted that the property is within the watershed district but outside the jurisdiction of the Conservation Commission.
- Exhibit #4 - Elizabeth Griffin's letter noted similar concerns regarding drainage and lot size.

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

Laura Howes, 331 Ralph Talbot Street, stated that she lives to the right of the property. She expressed concern about access as there are several fire hydrants. She also expressed concern about overcrowding and drainage.

David Juffre, an abutter, stated that he has four (4) sump pumps in his basement because of water issues. He also expressed concern about the trees being clear cut causing more problems with water. He also stated that if the contour of the land is changed it could further exacerbate the water.

Mr. Foley asked if Mr. Juffre had spoken with the applicant. Mr. Juffre stated that he had not.

James Dwyer stated that he would like to see more information about the home placement, drainage, and how the lots would be divided. He also questioned what is the financial hardship.

Mr. Foley asked the applicant to submit more detailed plans with:

- an architectural rendering showing the placement of the building envelope
- the amount of the impervious surface
- the amount of clearing of trees on land

He also suggested a neighborhood meeting.

Mr. Whitney stated that the plan is to leave all the natural screening to the rear of the property.

Mr. Moriarty asked that the plans be updated to show contouring and water flow.

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Mr. Golden asked how wide the choke point/bend is at the rear of the property. He suggested redrawing the lines.

Mr. Golden stated that 27 years ago he lived on Chisholm Road. He noted that he had water in his basement.

Mr. Luongo suggested that the applicant call a neighborhood meeting. He stated that the city council has gone on record with the 25,000-square foot requirement. He pointed out that it is a slippery slope determining when "almost" 25,000 square feet is enough.

He added that the applicant could discuss a no-build buffer zone with a tree line which could then be recorded with the Registry of Deeds

Mr. Luongo stated that a 2-family home is no longer allowed in an R-1 zone.

Mr. Foley made a motion to continue the public hearing to June 28, 2017 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

2) Case #3334 - 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 open the public hearing on Case #3334 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.

John Twohig of Goulston & Storrs introduced those present with him: Paul Casale from Welch Healthcare representing the owner, and Kevin Gaughan also from Goulston & Storrs. David Kelly from Kelly Engineering Group was also present.

Mr. Twohig stated that this application is a request for an amendment to a special permit that was issued twenty years ago for an assisted living facility.

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Mr. Twohig stated that the applicant has had a pre-filing meeting with the Planning and Building directors. He noted that there has already been a neighborhood meeting.

Paul Casale from Welch Healthcare stated that they would like to add ten (10) additional assisted living units which will be larger than the units at the existing facility as well as sixteen (16) memory care units to serve an unmet need. The addition would be two stories with a total of twenty-six (26) units.

Mr. Casale stated that there would be a \$20,000 contribution to Broad Street Improvements.

David Kelly of Kelly Engineering gave an overview of the site plan. He pointed out that the applicant has agreed to repave School House Road as part of this project. He stated that the turn in School House Road as it enters the proposed new facility will be redesigned to allow for better turning.

Mr. Kelly stated that there is an existing evergreen buffer between the proposed site and the abutting condominium complex. He stated that the applicant would redo the fence and enhance the landscaping buffer.

He stated that there were technical comments that he believes have been fully addressed but any further comments would be further addressed.

Mr. Denizkurt questioned the reduction of the number of parking spaces from 86 to 82.

Mr. Kelly stated that the change is in the service drive. There are currently eleven (11) spaces which will be reduced to seven (7). There will be no changes to any of the other parking lots. He further stated that the parking counts have been approved by the Building Inspector.

He noted that the parking analysis was done during an eleven (11) day period. The counts varied from 19-30 with an average of twenty-five (25).

Weekday staffing is twenty-three (23) employees with thirteen (13) on weekends. The proposed addition will require approximately eight (8) more employees.

Mr. Casale stated that trash removal typically occurs three (3) times per week at 9am and that the dumpster is located near the service entrance using School House Road. Currently there is one (1) tractor trailer delivery per week.

He noted that there is no compactor on site; cardboard is broken down and placed in the dumpster.

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Mr. Moriarty pointed out that waste removal would increase by 1/3 if the size of the dumpster is not increased.

Mr. Moriarty asked if there is enough space on-site to store snow. Mr. Casale replied that there is adequate space available.

Mr. Schneider noted that the 5/31/17 memo from Engineering is still open but the open items are housekeeping in nature.

Mr. Schneider stated that two letters were received
Jean Pendergast
Robert Earns
August 2016

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

Michael Connolly, property manager for Southworth Condominiums addressed the Board. He stated that there is a developer agreement which requires the condominium owners to pay one-third of snow plowing and electricity. He stated that this is unfair. The condo owners are unjustly billed for services.

He stated that there needs to be a better buffer to preserve the resale value of the condominiums. There are presently trees between them and the current building which are not maintained; 30% of the existing trees 30% dead.

Jean Pendergast stated that there are two (2) 18-wheelers that back down driveway. She said that it is never same driver which results in repeated difficulty navigating the sharp turn. The drivers are using the condominium driveways to turn around. She commented that this is a huge building on a postage stamp lot and she is concerned about how close it will be to the condominium complex's property.

She stated that it has taken five (5) years to get the gate closed between school House Road and Harrington Circle. Allerton House was told to put a lock on the gate but has not complied. She stated that she has put a lock on the gate but it is repeatedly cut off.

Ms. Pendergast stated that one-third of the property is considered common area but it is not clearly defined. She noted that the applicant placed a fence along the entire length of School House Road without consulting or informing the condominium association yet they were sent a bill for one-third of the cost.

Ms. Pendergast stated that the applicant runs a nice assisted living place which is well-kept and quiet except for the trucks.

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She noted that there was an issue with lights turned off at the end of School House Road. She also noted that they were denied use of a room at Allerton House for their yearly meeting because an assessment had not been paid.

She stated that there was a meeting on 5/25/17 but she felt rebuffed about her concerns. She also pointed out that although they pay taxes, they receive no services from the town.

Maureen Wilkinson, owner of Unit #8, stated that the town does not take care of the park and that parking is atrocious especially on the weekends when there are sports events taking place.

Steve Reilly, Director of Recreation agreed that there is a parking issue but that congestion should be relieved with the completion of the sports project behind the Pingree School. He also agreed that trash clean-up is an on-going problem. He further noted that on the Essex Street side, there is a parking area that has been expanded to relieve the parking congestion along School House Road.

Bob Luongo stated that the Town could do a better job with the maintenance plan. He pointed out that the Mayor is spending money to improve fields. He stated that he is willing to meet with the condo association. The town is currently doing a Housing production plan. It is not completed but there is a need for people who want to stay in town as they grow older.

Mr. Luongo stated that he would like to see the applicant sit down with the abutters to resolve the issues that are not the responsibility of the town.

Paul Casale stated that a solid vinyl fence will replace the 8' pine trees. He stated that the easement agreement is 20 years old.

Mr. Twohig stated that the applicant is willing to make substantial improvements without charging the one-third assessment. He pointed out that commitments have already been made for:

- Landscaping
- Fencing
- Drainage
- Buffering
- Paving
- Truck access
- Generator
- Dumpster

He stated that there are some issues that can be controlled while others cannot.

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Mr. Casale stated that Allerton House wants the gate at Harrington Circle locked. They are waiting for specifications from the fire department for a new gate with a lock.

Mr. Kelly stated that the number of parking spaces is being reduced from 86 to 82.

Mr. Luongo stated that there is no guidance in the zoning by-laws to dictate the number of spaces. The Building Commissioner has the discretion to deem 82 adequate

Thomas Pendergast stated that there is a huge parking lot that the condominium owners do not use, but they are still required to pay one-third of the cost to plow it

Mr. McLeod stated that this is not within the jurisdiction of the Zoning Board. He suggested that this be discussed with the attorneys of the applicant.

Mr. Schnieder asked if the current plans are updated. Mr. Kelly stated that they are.

Mr. Foley suggested that barrels be placed at the fields.

Mr. Foley made a motion to continue the public hearing to June 28, 2017 and was seconded by Mr. Moriarty. UNANIMOUSLY VOTED.

Minutes: April 19, 2017, April 26, 2017, (if received) May 20, 2017.

A motion was made by Mr. Foley to approve the minutes of April 19, 2017, and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

A motion was made by Mr. Foley to approve the minutes of April 26, 2017, and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

A motion was made by Mr. Foley to approve the minutes of May 20, 2017, and was seconded by Mr. Denizkurt. UNANIMOUSLY VOTED.

Upcoming Meetings - June 28, 2017, July 26, 2017, August 16, 2017 (tentative)
The meeting in August has been cancelled.

ADJOURNMENT

Mr. Foley made a motion to adjourn at 9:20pm and was seconded by Mr. Denizkurt VOTED UNANIMOUSLY.

Approved by: 
Mr. Kemal Denizkurt, Clerk July 26, 2017
June 7, 2017