

**BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, September 28, 2016**

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

Also Present: Eric Schneider, Principal Planner
Lee Hultin, 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.

Old Business:

Case #3300 – The petitioner, Charles Bragdon for property located at **78 Regatta Road**, also shown on the Weymouth Town Atlas sheet 5, block 12, lot 42, located in the R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Variance; Table 1 Setback from Baylee Road

Presently located on the ~8646 SF lot is an existing single-family dwelling with frontage on Regatta Road. The petitioner seeks to construct a ~15' X 20' garage to the rear of the lot fronting Baylee Road.

Sitting Members: Richard McLeod
Kemal Denizkurt
Ed Foley
Jonathan Moriarty
Brad Vinton - Absent

Eric stated that this case is a continuation from 8/24/16. It was left off with the board looking for a more precise location and size and access point for the proposed garage. Since then a 3 page memo was given to the board and the applicant has added a fourth page to it.

Appearing before the board was the applicant Charles Bragdon. Mr. Bragdon had submitted a new plan which shows the structure to be 15 x 30' garage. Ideally he wanted a 20x30 garage which would go right up to his property line.

Kemal Denizkurt said that at the last meeting you had submitted letters of support from your neighbors based on a small garage and now it is 15x30. Have you discussed this with the neighbors and do they know the actual size. The applicant said yes, he told them that he would like to put a garage as large as the town would allow him to, they are all aware of it.

Ed Foley asked if he could live with the 15 x 30 because he is not comfortable with letting the building go directly up to the property line. When looking at the area on property viewer it appears that other neighbors have used up their land right up to the property line such the neighbor with the pool. Mr. Foley said that it is difficult to read the map as it is not exactly to size and there could potentially be 5 feet left.

Jonathan Moriarty said last time the proposal was 20x15 with a gravel driveway going toward the shed. Now it is a "garage" that is 15x30, why are you increasing it. The applicant said because he was told he could only enter the structure from the west. Now he knows he can access the building directly from Baylee Road and drive right into it. Therefore he would like to have 2 doors either sliding or overhead from the top.

What type of door is on the west side? It was stated one standard door on the west side. Two large garage doors on the southerly side. Jonathan asked how many people live in that house and it was stated just one. He currently used the driveway off Regatta Road and can fit 5 cars in the driveway so parking will never be a problem for guests.

The garage will be used for storage of cars and carpentry space. It will not be used commercially just for personal needs.

Eric Schneider said the staff would be hesitant to allow the applicant to move closer to the road.

Ed Foley made a motion to close the public hearing on Case # 3300 and was seconded by Jonathan Moriarty. Voted 4-0

Ed Foley made a motion to approve the Variance for Case # 3300 as submitted in the drawings presented this evening with a 15x30 garage with a 5.7' setback and was seconded by Jonathan Moriarty. Voted 4-0

Variance Criteria for Approval. Weymouth Zoning Ordinance Section 120-119A(3). The Three Required Findings For Granting A Variance:

Finding #1: Soil, Shape, Topography

Owing to circumstances relating to soil conditions, shape or topography of the land or structure and especially affecting such land or structure but not generally affecting the zoning district in which it is located.

- The board must also find that the peculiarity is unique to the zoning district where the parcel is located.
- The peculiarity must not be found in the district as a whole.

Finding # 2: Hardship

A literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise.

Finding # 3: Public Good

Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance or bylaw.

The applicant has shown that due to the typography of the lot, anything would create a hardship.

Condition:

- The space cannot be used as living space
- Sliding or overhead doors and not swing doors.

New Business:

Case #3305 – The petitioner, Kevin Howes & Michelle Stokes, for property located at 52 Jordan Drive also shown on the Weymouth Town Atlas sheet 42, block 497, lot 40, located in an 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 to a Nonconformity
Minimum lot width at building line

Presently located on the ~24,964 SF lot is a single family dwelling with an attached 2-car garage. The petitioner seeks to convert the existing garage, and construct a single-story addition to the left of the existing garage to create an in-law apartment with a separate front entrance, and to construct a new attached garage.

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

Eric Schneider said that this case is being continued to October 19, 2016.

Case #3306 – The petitioner, Michael Ryan, for property located at 116 Wilson Avenue, also shown on the Weymouth Town Atlas sheet 17, block 225, lot 5, 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 nonconforming use (side yard setback)

Presently located on the property is a single-family dwelling. The petitioner seeks to construct a two-story addition to extend the kitchen, and living area on the first floor, and add two bedrooms to the second floor.

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

Ed Foley made a motion to open the public hearing on Case #3306 and was seconded by Kemal Denizkurt.

VOTED UNANIMOUSLY

Ed Foley made a motion to waive the reading of the publication on Case # 3306 and was seconded by Kemal Denizkurt.

VOTED UNANIMOUSLY

The applicant is requesting a Special Permit for a two-story addition extending off the rear of the existing home. The lot is currently nonconforming as it does not meet the current sideyard setback requirement of 10 feet along the north property line. The existing side setback ranges from 5.8 feet in the front to 6 feet at the rear. The addition will extend the nonconformity but will not increase the encroachment. At the rear, proposed addition will be 6.1 feet from the property line. The addition will replace an existing deck and a rear yard setback of over 40 feet will be maintained.

Appearing before the board was Mike Ryan. Mr. Ryan submitted letter in support of this from his neighbor. This letter was labeled Exhibit A. Mr. Ryan will be adding an addition flush to his house. It will have two bedrooms upstairs and increase the kitchen and living room downstairs. He will actually be decreasing the nonconformity. He will not be replacing the deck maybe just a side porch to enter into the house.

The public was given the opportunity to speak and there were no public comments.

Ed Foley made a motion to close the public hearing on Case # 3306 and was seconded by Jonathan Moriarty. VOTED UNANIMOUSLY

Ed Foley made a motion to approve a Special Permit for Case #3306 and was seconded by Jonathan Moriarty. VOTED UNANIMOUSLY

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 current building is a single family home. The proposed addition will allow an expansion of the existing kitchen and provide additional living space for a family.

2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
The original home was constructed in 1929. The addition is in the rear and will not impact the visual character of the street. There is a letter from a neighbor supporting this application.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
The addition will not change the number of people occupying the home and the addition will not encroach into the setbacks of either Wilson Avenue or Roosevelt Road.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
All construction will be monitored by Inspector of Buildings and comply with the Massachusetts Building Code.
5. That the public convenience and welfare will be substantially served with the proposal.
The project will increase the assessed value of the home and provide additional living space for the family.

Other Business:

Minutes –September 7, 2016

Ed Foley made a motion to approve the minutes of September 7, 2016 and was seconded by Jonathan Moriarty. VOTED UNANIMOUSLY

Discussion – Zoning Amendments

Eric Schneider said they are frustrated with some of the subdivision that have come in and they had a discussion with the Planning Board last week regarding making some Zoning Changes to address these issues. The Planning Board and Councilor Ken DiFazio support these recommendations. After comments from BZA it will be sent to the Town Council. Eric reviewed the proposal with the board. Here are some of the highlights.

1. Pork chop lots or Rattail lots to meet the 25,000 square footage. They would like to adopt the “perimeter area ratios” to help combat this practice. This states that no lot shall be created so as to be so irregularly shaped or extended that it has a “shape factor” in excess of thirty-five. In addition, staff recommends reducing the percentage of the maximum percentage of lot that can be wetlands to 15.
2. Two-family dwelling in R-1 District – The board would like this to says no two-families built in R-1 District.
3. Planned Unit Development - Looking at reducing the acreage requirement to 5 acres. – Ed Foley asked what about 40B coming. Ed Foley said maybe we need to look at the 5 acres and make it 20 or something.

Eric said we just hired a new full time housing coordinator and even though we have not been at the 10% we have met the land area ratio and are looking at that now to see where we stand for the 40B status.

Chuck Golden said it seems like a huge number. 80% difference is a very large drop. Maybe we should make 15-20 acres. How many parcels would fit into all the categories at 5% increments? Eric will get this. Also, how many dwellings would normally be put on 5 acres.

Eric said maybe it is better to keep it at a high number with the ability to come before the board for relief. This might encourage a developer to accumulate and redevelop adjacent properties. The staff will review this section more closely.

4. Private Ways – some are very poor condition and the town wants to start making the developers seek acceptance of a public way. Right now they have a choice public or private but they are skirting some of the standards and these roads are not being kept up. The town is having to pick up the slack on these and we are not getting money from Chapter 90 monies. There is currently a working group from the Mayor's Office that is involved on this.

Kemal Denizkurt asked how this impacts emergency access roads like Arbor Hill's with a gate over it. Eric said that is an example of a road the town would not seek to take over. Another road like this would be in Heather Estates. Eric said any road that would be accepted needs to go through Town Council for approval.

5. Residential R-3 District – This would just beef up the design aspects of this. We have very few design guidelines on these.

The board will review these over the next few weeks and make comments for the Planning Department.

Upcoming Meetings – October 19, 2016, November 9, 2016, November 30, 2016

ADJOURNMENT

Ed Foley made a motion to adjourn at 8:10 pm and was seconded by Jonathan Moriarty.
VOTED UNANIMOUSLY

Respectfully submitted by,

Lee Hultin
Recording Secretary

Approved by:

Kemal Denizkurt, Clerk

Date

11/9/16