

**BOARD OF ZONING APPEALS (BZA)
RECORD OF MINUTES AND PROCEEDINGS
Wednesday, September 7, 2016**

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

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 7:10 p.m. at the McCulloch Building, 182 Green Street and explained the procedures that would be followed to the people present.

Case #3297 – The petitioner, BJ’s Wholesale Club, Inc., for property located at **110 Main Street and 559 Washington Street**, also shown on the Weymouth Town Atlas sheet 29, block 329, lot 10, 12, 15, & 21, located in the B-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-24 (A) Use by Special Permit – Service Station

120-40 Extension or change to a non-conformity – Sign Height (120-64.3)

The petitioner seeks to construct a service station for the sale of gasoline and related products on a vacant ~57,797 SF lot (lot 21) to the rear of an existing retail shopping mall and several other retail businesses, and to extend an existing non-conforming sign located on Washington Street by ~5.333’.

Eric Schneider stated that the applicant has withdrawn their application. This was a continuation from July 27, 2016 but the public hearing was never opened.

New Business:

Case #3301 – The petitioner, John Hylan, for property located at **41 Barnes Avenue**, also shown on the Weymouth Town Atlas sheet 55, block 611, lot 14, located in an R-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit; 120-53 Lot Size less than 25,000 but greater than 17,500

Application to reconfigure several contiguous lots along Barnes Avenue into 2 lots. Proposed Lot 1 will be 29,681 SF. Proposed Lot 2 will be 23,677 SF.

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

Ed Foley made a motion to open the public hearing on Case #3301 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Ed Foley made a motion to waive the reading of the publication on Case # 3301 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Appearing before the board was Attorney Frank Baldasini and the applicant Mr. John Hylan. Mr. Baldasini handed the board members a new plan that was submitted as there was an error on the original one. The applicant owns both parcels of land. The applicant would like to transfer 14,400 square feet to 53 Barnes Avenue. After the transfer 41 Barnes Ave would contain 23,677 square feet and 53 Barnes Avenue would contain 29,681 square feet.

The new lots will not be less than 17,000 sq. feet.

Ed Foley asked if his intent is to just square the lots off and will not be subdividing them any further and the applicant stated that is correct. It is only to get rid of the "L" shaped lot.

Bob Luongo asked if he owns both parcels and the applicant stated yes.

Eric Schneider stated that they reviewed the engineering comments and everything has been addressed. New plans were submitted due to errors in the original survey plan submitted.

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 # 3301 and was seconded by Jonathan Moriarty. VOTED UNANIMOUSLY

Ed Foley made a motion to approve Case # 3301 for a Special Permit 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.

Both properties will continue to be used as single family residences. He would like to just square off the lots.

2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
The transfer of the rear portion will not be detrimental or adversely affect the character of the neighborhood. This will eliminate the pork chop effect of the lots.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
He has the appropriate frontage on both lots.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
The applicant has submitted a new plan with the correct footage on both lots.
5. That the public convenience and welfare will be substantially served with the proposal.
It serves the neighborhood to have the lots squared off.

Condition:

This is to only square off the lots and they will not be subdivided in the future.

Case #3302 – The petitioner, Stephen Goldman, for property located at **75 Finnell Drive**, also shown on the Weymouth Town Atlas sheet 36, block 452, lots 5 & 12, located in the I-1 zoning district. The petitioner is seeking the following relief from the requirements of the Weymouth Zoning Ordinance:

Special Permit;	120-29E	Use (Place of recreation or assembly)
	120-39	Continuation of nonconforming use
	120-40	Extension or change of nonconforming use
Variance;	120-51	(Table 1) Front yard set-back
	120-74Q	Minimum required parking spaces

Presently located on the property is a multi-use fitness and recreational facility. The petitioner seeks to reconfigure the front entrance by moving the drop-off from the left side of the entrance roadway to the right side; and to remove approximately 24 parking spaces located on an unfinished roadway and relocate them onto the applicant's property.

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

Ed Foley made a motion to open the public hearing on Case #3302 and was seconded by Jonathan Moriarty.
VOTED UNANIMOUSLY

Ed Foley made a motion to waive the reading of the publication on Case # 3302 and was seconded by Jonathan Moriarty.
VOTED UNANIMOUSLY

Chairman McLeod disclosed that his family and his colleague Kemal Denizkurt both have memberships at the Weymouth Club and Mr. McLeod has his two children that have part time summer jobs there as well. There were no objections from the public or the staff.

Appearing before the Board was Attorney Greg Galvin, 775 Pleasant Street and the applicant Mr. Steve Goldman. He is looking to modify the front entrance by adding a canopy. He will have to widen the front entrance driveway thereby reducing the landscaped area.

Weymouth Club has been parking on a portion of Finnell Drive that was gravel and now that Finnell Family sold the property the new owners do not like them parking on their property. Mr. Goldman is now requested to add 24 parking spaces to his own property.

Ed asked how many parking spaces are you losing off the gravel road and it was stated approximately 25 it isn't striped and they are adding 33 spaces. The variance is for the front because he won't have the required set back as he will be cutting into the front landscaping about 4 feet.

Conservation has requested that they replicate about 2700 square feet of wetlands which they are doing.

Kemal Denizkurt asked if the doors are on either side of the front entrance-way and it was stated yes. He asked if the 24 foot corridor goes all the way through to the back on the left side of the building and it was stated yes.

Jonathan asked when the arrangement with Finnell Family took place and it was stated back about 8 years ago. The new owner doesn't like it and will not allow them to use this parking anymore.

Eric Schneider said the staff is comfortable with this and the applicant is currently going through Conservation Commission.

Jonathan Moriarty asked if there was any additional lighting being added and Attorney Galvin stated no.

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 # 3302 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Ed Foley made a motion to approve Case # 3302 for a Special Permit under Industrial 1 (L-1) 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 site is presently used as a multi-use health and recreational facility and the owner is seeking to keep up with the changes in the industry and provide the amenities that are sought by their membership base.
2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
This is an exercise facility and the applicant is looking to protect their clients using the facility by allowing them to pull up to the facility to enter without facing the weather.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
The police department has stated that they are in support of this application.
4. There are adequate and appropriate facilities, utilities and other public services provided for the proper operation of the proposed use.
The applicant has submitted architectural renderings and has shown exactly what he would like to do with the new entrance way.
5. That the public convenience and welfare will be substantially served with the proposal.
The applicant is improving the club for his patrons.

Condition:

Entrances to be limited to sides of new structure as per plan.

Ed Foley made a motion to approve the Variance for Case # 3302 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

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.

To abide by all the bylaws of this town it would create a substantial hardship for the applicant. He is willing to move the wetlands and increase the size of the wetlands. The dimensional variance as it relates to the length of the lot on the entrance side will not be detrimental to the current by laws.

Case #3303 – The petitioner, Jane Cleary for property located at **24 Caldwell Street**, also shown on the Weymouth Town Atlas sheet 2, block 5, lot 10, 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 use, non-conforming lot
Variance;	120-52	Lot size under 5,000 SF

Presently located on the ~2800 SF lot is an existing single-family dwelling. The petitioner seeks to construct a ~7' X ~44' wrap-around deck located above the roof of a first floor extension.

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

Ed Foley made a motion to open the public hearing on Case #3303 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Ed Foley made a motion to waive the reading of the publication on Case # 3303 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Appearing before the Board was Jane Cleary and her friend Jim Kurk. The applicant is requesting a Special Permit and Variance to build a wrap-around deck on the second floor of two sides of an existing home. The front side yard setbacks are currently nonconforming. The installation of 4"x4" support posts will slightly increase the nonconformity. Per MGL, the applicant also requires a variance as the lot is less than 5,000 s.f.

Mr. Kurk said this was a two story house that had a one story screen porch that was converted into living space a number of years ago. Ms. Cleary would like to build a deck around one corner of the house.

Eric Schneider said he discussed this with the Building Inspector and he is fine with the plan.

There were no neighbors opposed and have signed off in support on the application.

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

Ed Foley made a motion to close the public hearing on Case #3303 and was seconded by Jonathan Moriarty. VOTED UNANIMOUSLY

Ed Foley made a motion to approve Variance on Case #3303 and was seconded by Jonathan Moriarty. VOTED UNANIMOUSLY

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.

Variance Finding:

The existing home was built in 1908 on a small lot typical for this neighborhood. The area is at full build out and the lot is bordered on two sides by public ways further constricting it. Their lot is hindered by the fact that it is less than 5,000 square feet.

Ed Foley made a motion to approve a Special Permit for Case #3303 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 addition of a deck is consistent with the architecture of the neighborhood and serves a legitimate purpose of increasing ocean views.
2. The proposed use or structure will not be detrimental or adversely affect the character or future character of the neighborhood or town.
Elevated decks are common in this neighborhood.
3. There is not a potential for nuisance or serious hazard to vehicles or pedestrians.
The deck is elevated and will not impact vehicular or pedestrian access.
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 provide additional outdoor space and increase views of the ocean. The future appraised value of the home will be increased.

Case #3304 – The petitioners, Jason Kennedy and Sheila Buchanan, for property located at **29 Arnold Street**, also shown on the Weymouth Town Atlas sheet 10, block 124, Lot 15, located in the R-1 zoning district. The petitioners are seeking the following relief from the requirements of the Weymouth zoning Ordinance:

Variance; Required Street Frontage

Formerly located on the ~26,484 SF lot was a ~943 SF dwelling destroyed by fire; presently located on the lot are the decaying remains of the original foundation. The petitioners are seeking to construct a new ~2,000 SF 2-story, single family dwelling, with a new foundation on the lot, accessible only by the existing right-of-way to North Street.

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

Ed Foley made a motion to open the public hearing on Case #3304 and was seconded by Jonathan Moriarty.

VOTED UNANIMOUSLY

Ed Foley made a motion to waive the reading of the publication on Case # 3304 and was seconded by Jonathan Moriarty.
VOTED UNANIMOUSLY

Appearing before the board was Jason Kennedy, Builder/Buyer and Sheila Buchanan. Applicant is requesting a variance from the 40 feet of frontage required by Table 1 of the Zoning Ordinance. The original home located on the property was built in 1937 at the same time the land was initially subdivided. Since 1937, the home has been accessed via a 15 foot town right of way connecting it to North Street. On February 13, 2016 the home was destroyed by fire. The house was a total loss and the original foundation is unusable. The owner of the property wishes to sell the lot to this applicant but requires this variance for the lot to be buildable. If the applicant was able to use the existing foundation, no variance would be required.

Ed Foley said the home was destroyed by a fire and Sheila is selling the lot to Jason. Jason stated he will be building a colonial home with a garage under on the lot.

Eric Schneider said they are not able to use the existing foundation so they need to come before the board for a variance. There was ledge there. The home was built in 1937.

Jonathan Moriarty asked what it was made from and Jason stated it was concrete block/concrete. The existing foundation cannot be reused.

The dimensions for the proposed home are 28x42 feet.

Bob Luongo said you need 40 feet at the street line and they have 28 feet at the street line.

Chuck Golden said you are moving the house to avoid the ledge, does that mean there will be no blasting? The applicant said he is not 100 percent sure but would prefer not to do any blasting.

Bob Luongo asked if the proposed house will be in compliance and the applicant state yes, he will not need to come back to this board.

Bob Luongo said if the Board grants this relief it goes with the owner and not the buyer. So if this deal falls through she will not have to come back beffore the board again.

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 #3304 and was seconded by Jonathan Moriarty.
VOTED UNANIMOUSLY

Ed Foley made a motion to approve the Variance on Case # 3304 and was seconded by Jonathan Moriarty.
VOTED UNANIMOUSLY

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.

Variance Finding:

The existing home was built in 1937 per a subdivision plan approved that same year. The home was in constant use from 1937 to February 2016 accessing North Street from a 15 foot ROW. The current plan continues that precedence. Due to the shape of the lot and the other development around it, no other option for access is available. The lot would, in effect be land locked without this variance.

Comments: As requested by the staff this variance will stay with the homeowner. The foundation was not salvageable after the fire and needs to be destroyed.

Minutes –August 24, 2016

Ed Foley made a motion to approve the minutes of August 24, 2016 and was seconded by Jonathan Moriarty. VOTED 4-0 (Chuck abstained)

Upcoming Meetings –September 28, 2016, October 19, 2016, November 9, 2016

ADJOURNMENT

Ed Foley made a motion to adjourn at 8:05 pm and was seconded by Jonathan Moriarty. VOTED 5-0

Respectfully submitted by, Lee Hultin, Recording Secretary

Approved by:


Kemal Denizkurt, Clerk

9-29-16
Date