

**BOARD OF ZONING APPEALS**  
**RECORD OF MINUTES AND PROCEEDINGS**  
**February 16, 2011**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, February 16, 2011 at 7 pm at McCulloch Building, Mary McElroy Meeting Room, 182 Green Street, Weymouth, MA for the purpose of passing on the application of certain persons whose petitions were properly before the Board. Notice of public hearing had been given by mail to the parties in interest of the subject locus and by publication in the Weymouth News.

Present:                        Richard McLeod, Chairman  
                                     Edward Foley, Vice-Chairman  
                                     Francis Kenneally, Clerk  
                                     Kemal Denizkurt  
                                     Robert Galewski

Not Present:                        Chuck Golden

Staff:                                Roderick M. Fuqua, Principal Planner

Recording Secretary:                Mary Barker

The Chairman called the hearing to order and explained the procedures that would be followed to the people present. A motion was made to open the public hearing and waive the reading of the legal advertisement, and was seconded and unanimously voted.

**BZA CASE #3110 - Public Hearing, (cont.) 1145 Washington St.**

Application of Jessica Nassif for property located at 1145 Washington Street, also shown on the Weymouth Town Atlas as Sheet 35, Block 440, Lot 7, located in B-1 zoning district, seeking to add a canopy over the gas pump service area.

Members sitting:                Richard McLeod, Chairman  
                                     Francis Kenneally, Clerk  
                                     Kemal Denizkurt  
                                     Chuck Golden (not available)

Jessica Nassif, 33 Stockbridge Rd., Hanover appeared before the board. Rod Fuqua noted that the service station was closed for a time while pump renovation work was being done, which delayed the traffic study. While testimony can continue to be taken, it will be necessary to again continue the hearing until the traffic study has been reviewed by the Traffic Engineer. Ms. Nassif reviewed the plans for a canopy to shelter the area of the pumps.

Arthur Mathews, President, Weymouth Town Council reported that he was present on behalf of the Council and residents to voice concerns over the queuing of traffic on Washington Street and Mutton Lane and the impact on public safety. He requested that the board consider a resolution to

the traffic issues that has the approval of the Traffic Engineer before making a decision on the application. Ms. Nassif responded that the flow of traffic will be marked.

Scott Johnson, 70 Mutton Lane, direct abutter to the property, expressed his concern with the traffic to the business, the affect the canopy could have on watershed and light emission issues, and the recent renovations which now have the pumps within 5 feet of his property line. Ms. Nassif responded that the runoff will drain directly to dry wells and will not increase the watershed. She is unsure of the setback of the pump to the property line. The roof of the canopy lines up with the building and should not emit further light; lighting will be directed down from the canopy to the pumps. The height will preclude any delivery trucks from going under the canopy. Rod recommended the abutter meet with the owner to discuss issues and view plans before the next meeting.

Francis Kenneally asked if it will encroach further into the setback. Ed Foley asked if there is a certified plot plan. Rod responded that he has one, and he will have the building inspector look at it to check the set back. Ed Foley noted there is nothing in the plan regarding the lighting; Rod responded that it will be needed. Ms. Nassif will provide. The lights will be in operation only during business hours and shut off at closing or by 10 PM.

A motion was made by Kemal Denizkurt to continue the public hearing to March 16, 2011, seconded by Francis Kenneally and unanimously voted.

Submittal: Exhibit #1- traffic study

**BZA CASE #3120 - Public Hearing, 102 Tower Ave.**

Application of Laurie Jakaitis for property located at 102 Tower Ave., also shown on the Weymouth Town Atlas as Sheet 45, Block 523, Lot 13, located in R-1 zoning district, seeking to install a swimming pool within a side yard. The lot is a corner lot so there is no rear yard.

Members sitting:     Richard McLeod, Chairman  
                             Edward Foley, Vice-chairman  
                             Francis Kenneally, Clerk  
                             Kemal Denizkurt  
                             Robert Galewski

Laurie and Anthony Jakaitis appeared before the board. The property is a corner lot and there is no rear yard; they wish to install the pool on the side lot. The yard has a 6' stockade perimeter fence and a smaller fence will be installed surrounding the pool, with a child safety lock. They are applying for a variance. There is no other location on the lot where the pool can be situated. Rod reported that the plan has been routed to the various town departments, with no concerns noted. Taxes are paid up to date. He also noted the orientation of the lot is set up so that the side yard is actually to the back of the house. Kemal Denizkurt asked where the utilities for the pool will be placed. They will be adjacent to the existing shed. Kemal asked them to be mindful of the set backs. Bob Galewski asked the proximity to the neighbors and where the backwash will be drained. Mr.

Jakaitis responded that the nearest neighbor is 20' from the property line. He will install a dry well for the backwash at the lower end of the property.

A motion to close the public hearing was made by Edward Foley, seconded by Francis Kenneally and unanimously voted.

**To vote on the of BZA Case No.3120 – to approve a variance to install a swimming pool within a side yard**

**FINDINGS**

The Board found that the variance would not derogate from the intent and purpose of the Zoning Ordinance, and the requested relief could be granted without substantial detriment to the public good nullifying or substantially derogating from the intent and purpose of the Ordinance.

A motion was made by Edward Foley, seconded by Francis Kenneally to approve the application for a variance as per plans and application submitted based on the following findings:

1. There is no other site on the lot to install the pool; there is sufficient topographical and financial hardship shown due to the layout and orientation of the lot.
2. The specific site is an appropriate location for such a use due to zoning.
3. There will be no detriment to the established or future character of the neighborhood or town as there is adequate area to site a pool.
4. There will be no nuisance or serious hazard to vehicles or pedestrians.
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
6. The public welfare and convenience will be substantially served.

**DECISION OF THE BOARD**

Due to the above findings, it was unanimously voted to approve the request for a variance with the following conditions:

1. Drywell plan shall be viewed by the Department of Municipal Licenses and Inspection at the time a permit is issued for the pool. Drywell shall not interfere with the neighbors.
2. Pool utilities shall be placed as close to the house as is possible.

**BZA CASE #3122 - Public Hearing, 754 Main Street**

Application of TD Bank, N.A. for property located at 754 Main St., also shown on the Weymouth Town Atlas as Sheet 41, Block 491, Lot 30, located in B-1 zoning district, proposing a bank and providing plans with provisions to increase the amount of landscaping on lot frontage; provide 1 less parking space than required; add 3 drive through lanes; and move the entrances further from the intersection.

Members sitting:     Richard McLeod, Chairman  
                             Edward Foley, Vice-chairman  
                             Francis Kenneally, Clerk  
                             Kemal Denizkurt

Robert Galewski

Attorney Gregory Galvin, with offices at 775 Pleasant Street, and William Goebel of Bohler Engineering, 352 Turnpike Rd, Southborough appeared before the board. Also present was Robert Vanasse of Vanasse& Associates, Ms. Manning of TD Bank, N.A. and Matt Hyatt of Bergmire & Associates.

Mr. Goebel has conducted a study of the conditions of the site and has been in touch with the town engineer and Rod Fuqua. Access by Park Ave. and Main St. were reviewed. There is 2-way traffic on both roads. The site plan was reviewed. The entire site will be razed and the bank building will be erected, with three drive through lanes located in the center of the property. Ingress and egress will be from Park Ave and Main Street, further from the intersection. There will be 14 parking spaces and 1 HP space in the front of the proposed building. The bank will have a center entrance. There will be sufficient room for queuing. Translucent canopies will be installed over the drive through area with photovoltaic cells on the roof. Pedestrian access will be from Park Ave. Green space will be increased by 67%; impervious surfaces will be reduced. There will be buffer growth and 6' cedar fencing. There will not be a dumpster; all waste will be carried out by the cleaning crew at night. There will be a bio-retention swale to manage stormwater. They will tie into existing town services and the lighting plan has no spillage.

Attorney Galvin noted that two variances will be requested:

1. Site calls for 15 parking spaces; they are requesting a variance of one space; 14 are proposed.
2. Due to lost frontage with land taking by eminent domain when the Route 18 repairs were done, the site will be less non-conforming with this construction and will meet set back requirements.

Chairman McLeod noted there is a discrepancy with the street number of the property. Attorney Galvin responded that both numbers are in use; the lot was combined at one time. Rod noted that the Building Department will assign the street number.

Attorney Galvin noted that there was a neighborhood informational meeting held; only one resident, immediately north of the property was present. The owner of the Dunkin Donuts franchise across Main St. was present, as was Councilor Ed Harrington. The only issue of concern brought up at that meeting was regarding fencing.

Robert Vanasse addressed the board. A traffic study was submitted in January. As a result of the response received on January 27<sup>th</sup>, several issues were revisited. Drive delays and blockage as a result with moving the driveway 100' from the intersection. Chairman McLeod noted the left turn onto Main Street will need to be addressed. The bank will operate 7 days per week with extended hours and ATM, and three drive throughs will lessen any peak traffic and keep queuing minimal.

Matt Hyatt reviewed the building plan. It will be a less than 3,000 sq. ft. footprint, sustainable construction and design, and openness and transparency by design. It will be one story with perimeter glass and natural lighting that will use 1/3 less electricity and less water. There is one

solid corner with walk in access and ATM access at night. The design will pick up the red brick and neoclassical style of the neighborhood.

Bob Galewski asked about roof drains. They will be internal and run to a surface drain. The heat/ac unit will be concealed in the back of the building. Ed Foley asked if the work will be done with local building trades; he noted that as of February 24, 2011 sheet metal workers will be required to be licensed. Kemal Denizkurt complimented the completeness of the plans. He asked about signage to the walk up ATM. He also asked the dates in which the traffic study was done; they were November 20, and December 1, 2, and 4. He also asked that consideration be given that demolition materials not be hauled out during rush hours. Rod noted that that will be considered when the Health and Fire Departments weigh in. Ed Foley asked about signage. Attorney Galvin responded that the total signage requested is less than allowed and complies. Construction time is expected to be about 6-8 months from groundbreaking to completion. Snow removal was also discussed. There is adequate space on the grounds to handle normal removal; snow will be hauled out if it impedes the customers.

Rod noted the application has made the rounds of the various departments and he noted the concerns; the police recommend exiting only right onto Main St. (no left turn), and the traffic engineer is reviewing the traffic information and reports submitted. There was a brief discussion of comparative locations and traffic issues with other TD Bank branches.

Arthur Mathews, President of the Town Council spoke on behalf of the council and residents. He noted the traffic congestion that already occurs across the street at the Dunkin Donuts and the queuing of cars in traffic. He also noted that less than a mile further south on Main St. the bank must rely on police detail to address traffic during peak operation. This branch is the first TD Bank is opening in Weymouth and all TD Bank customers will be drawn to this single location. He asked the board to consider eliminating any left turn onto Main St. and get public hearing input before making a decision. There was a brief discussion of whether the study takes into consideration that this is a single branch location and the whether the number of customers in Weymouth is known. Market share distribution of banks in town was briefly discussed as was the traffic study of an existing business which has attracts a very different customer base (video store) in comparison with the traffic a bank will draw. Councilor Mathews noted the comparison is apples and oranges.

Harry Brent, agent with Plumbers' Union reported that he drives Route 18 on a daily basis and although there is no left turn marked into Dunkin Donuts, it doesn't stop it from occurring on a regular basis. Chairman McLeod noted that the board is not the enforcing authority. Requiring a police detail on Route 18, 100' from the intersection would be a danger to the officer and not something he would recommend.

A motion was made by Edward Foley to continue the public hearing while the questions Councilor Mathews has raised be addressed by the administration and was seconded by Francis Kenneally. Chairman McLeod noted that the administration has already reviewed the application and noted its concerns and there isn't any more information being requested than what was already responded to. He responded that the board defers to the administration and he can't see any additional evidence is needed. The administration reviewed the plan and made a recommendation that there be no left turn out onto Main St.

Councilor Mathews responded that he was not privy to the traffic study and asked how no left turn onto Main St. will affect the volume of traffic on Park Ave. Once the project is voted and completed, it is the Town Councilors who will get the complaint calls.

Vote passed 4/1.

**BZA CASE #3116 - Decision**

Application of RCL Realty Trust for property located at 141 Broad Street, also shown on the Weymouth Town Atlas as Sheet 20, Block 274, Lot 17, located in R-4 zoning district, seeking to subdivide property so that the commercial business is on a separate lot from the multi-family dwelling.

Members sitting:     Richard McLeod, Chairman  
                             Edward Foley, Vice-chairman  
                             Francis Kenneally, Clerk  
                             Kemal Denizkurt  
                             Chuck Golden (not available)

Due to the absence of one of the sitting members, this matter was continued to the March 16, 2011 meeting.

**Minutes**

Meeting January 5, 2011 Case #3096, 3117, 3118 and 3119;- A motion was made by Edward Foley, seconded by Kemal Denizkurt to approve the minutes of the January 5, 2011 meeting and was unanimously voted.

**Other Business**

Rod noted that attorney Robin Moroz has been appointed and sworn in as an Alternate Member of the board. She was introduced to the board.

At 8:55PM, there being no further business, a motion was made by Edward Foley to adjourn the meeting, seconded by Kemal Denizkurt and unanimously voted.

Approved:

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Richard McLeod, Chairman

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Date