

BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
March 2, 2011

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, March 2, 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
 Kemal Denizkurt
 Chuck Golden
 Martin Joyce
 Robin Moroz

Not Present: Edward Foley, Vice-Chairman
 Francis Kenneally, Clerk

Staff: Rod 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 #3121 - Public Hearing, 15 Canacum Road

Application of Paul and Lisa Milone of 10 Canacum Road for property located at 15 Canacum Road, also shown on the Weymouth Town Atlas as Sheet 3, Block 2, Lot 21, located in R-1 zoning district, seeking a special permit and/or variance under Chapter 120-40 to replace a single family dwelling on a lot of less than 5,000 sq. ft.

Members sitting: Richard McLeod, Chairman
 Kemal Denizkurt
 Chuck Golden
 Martin Joyce
 Robin Moroz

Paul Milone appeared before the board. He explained that he purchased the house across the street from his and had a survey completed. The house meets all setback requirements although the lot size is less than 5,000 sq.ft.

Rod Fuqua reported that the application has been routed through the various town departments with no special concerns raised, although the DPW Water & Sewer Department recommend the sewer line be replaced with 6" PVC and the old water line be cut and capped at the main once it is replaced. The DPW also noted a boundary marker is located in the southwest corner of the property and that the board consider a favorable vote on the application be conditional to survey markers being protected during construction.

He also noted that there are two issues for the board to consider:

1. The nonconforming lot size.
2. The existing house is less than 15 ft. from the neighbor at #19. There is an existing easement on the right side with a driveway. The proposed house will bring it within 18' of #19.

A motion was made by Chuck Golden to close the public hearing, seconded by Kemal Denizkurt and unanimously voted.

To vote on the of BZA Case No. 3121 – to approve a variance to build a house within 20 feet of an existing dwelling and a special permit to build on a nonconforming lot size

FINDINGS

The Board found that the variance and special permit 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. Owing to the circumstances, shape and topography of the lot, there is no reasonable way to meet the 20' requirement, and because of the existing driveway, it is not possible to reposition the house on the lot.

A motion was made by Chuck Golden, seconded by Kemal Denizkurt to approve the application for a variance and a special permit as per plans and application submitted based on the following findings:

1. The specific site is an appropriate location for such a use.
2. There will be no detriment to the established or future character of the neighborhood or town. The neighborhood was developed with small lots
3. There will be no nuisance or serious hazard to vehicles or pedestrians. There is no change in access.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. All utilities are provided.
5. The public welfare and convenience will be substantially served, based on all of the above.

DECISION OF THE BOARD

Due to the above findings, it was unanimously voted to approve the request for a variance and for a special permit with the following condition.

1. Care shall be given during construction to protect the existing survey monuments.

BZA CASE #3123 - Public Hearing, 32 Raycroft Avenue

Application of Julie Johnson for property located at 32 Raycroft Avenue, also shown on the Weymouth Town Atlas as Sheet 28, Block 359, Lot 24, located in R-1 zoning district, seeking a special permit and/or variance under Chapter 120-40, 120-51 & Table 1 to increase the footprint of existing breezeway and width of existing single car garage, extend existing 2nd floor living space over extended breezeway space within side yard setback.

Members sitting: Richard McLeod, Chairman
Kemal Denizkurt
Chuck Golden
Martin Joyce
Robin Moroz

Julie Johnson of Custom Home Designs appeared before the board. A special permit is being requested. Currently the driveway is not large enough to park a car inside. The proposed breezeway extension will not encroach further than 20.26' of the setback, within the setback requirements. The breezeway cannot be located in any other position on the lot. The existing foundation will be pulled and the new breezeway will be built on a new foundation and two of the existing walls.

Rod Fuqua reported that the application was routed to the various town departments with no special concerns raised.

Neighbors were invited to email any comments, and Ms. Johnson provided emails from Jacqueline Dean of 38 Raycroft Avenue and Martin McIsaac of 33 Raycroft Avenue.

A motion was made by Kemal Denizkurt to close the public hearing, seconded by Chuck Golden and unanimously voted.

To vote on the of BZA Case No. 3123 – to approve a variance to increase the footprint of existing breezeway and width of existing single car garage, extend existing 2nd floor living space over extended breezeway space within side yard setback

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. The proposed breezeway will encroach slightly more on the side, but still within the 20 ft. setback requirement. To locate it anywhere else on the property is not feasible. Literal enforcement of the Ordinance is not feasible.

A motion was made by Chuck Golden, seconded by Kemal Denizkurt to approve the application for a variance and a special permit as per plans and application submitted based on the following findings:

1. The specific site is an appropriate location for such a use. It is residentially zoned.
2. There will be no detriment to the established or future character of the neighborhood or town. Most of the homes in the neighborhood are very similar size, with similar setbacks. Lots are developed in a similar pattern in the neighborhood.
3. There will be no nuisance or serious hazard to vehicles or pedestrians. No access is changed.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, utilities are not impacted.
5. The public welfare and convenience will be substantially served, based on all of the above findings.

DECISION OF THE BOARD

Due to the above findings, it was unanimously voted to approve the request for a variance and for a special permit.

Submittal: Exhibit A- email document from Jacqueline Dean of 38 Raycroft Avenue
 Exhibit B- email document from Martin McIsaac of 33 Raycroft Avenue

BZA CASE #3124 - Public Hearing, 185 Washington Street

Application of W. M. Realty, Inc. for property located at 185 Washington Street, also shown on the Weymouth Town Atlas as Sheet 20, Block 276, Lot 32, located in B-2 and VCOD zoning districts, seeking to demolish an existing building and construction of a new single story building, 95' x 34'. The two-bay service area currently existing would be eliminated and there would no longer be any automobile repair conducted on the site.

The applicant requested via a letter from his attorney that this case be continued to April 6, 2011. A motion to continue the public hearing to April 6, 2011 was made by Chuck Golden, seconded by Kemal Denizkurt and unanimously voted.

Minutes

Meeting, February 16, 2011 Case #3110, 3120, 3122 and 3116;- A motion was made by Kemal Denizkurt, seconded by Chairman McLeod to approve the minutes of the February 16, 2011 meeting and was unanimously voted.

Other Business

Rod Fuqua reported that each member has been provided with a binder of draft rules and regulations for the Board. The last revision was done in 2000. The existing rules and regulations are vague. The intent is to be able to provide applicants with a downloadable version that indicates clearly what the town requires in the application process. The members will need to review, as will the Town Solicitor and the mayor. A public hearing will be required in order to formally adopt revisions. Rod Fuqua proposed the board plan to meet to review within the next month to allow sufficient lead time for a public hearing to take place in April or May.

At 7:25 PM, there being no further business, a motion was made by Chuck Golden to adjourn the meeting, seconded by Kemal Denizkurt and unanimously voted.

Approved:

Kemal Denizkurt

Date