

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
March 3, 2010**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, March 3, 2010, at 7:00pm at McCulloch Building, Whipple Center Conference Room, 182 Green Street, Weymouth, MA for the purpose of passing on the applications of certain persons whose petitions were properly before the Board. Notice of the public hearing had been given by mail to the parties in interest of the subject locus and by publication in the Weymouth News.

BZA CASE #3079 57 Harding Avenue

Application of Paul and Collette Murphy for property at 57 Harding Avenue, also shown on the Weymouth Town Atlas Sheet 16, Block 216, Lot 6, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 to convert a 1 ½ story single family into a 2 story building.

Present:	Richard McLeod, Chairman Mary McElroy, Clerk Charles Golden Francis Kenneally Martin Joyce
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

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.

Mr. Murphy stated that he would like to add a second story addition. It will not further encroach on the setbacks. It will stay within the footprint of the existing building.

Rod Fuqua stated the application was routed to various Town Departments and received favorable or no adverse comments. It was noted that the water bill is past due. He recommended that documentation that all municipal fees are paid in full be required.

Mr. Fuqua stated that the setback does not comply on the north side. The proposal will not further encroach. He pointed out that the existing ridgeline is currently 23 ½ feet and will remain the same after the addition is built.

The Chairman asked if the public had any comments, to which there was no response.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

A MOTION was made by Mrs. McElroy to APPROVE the request for a SPECIAL PERMIT to convert a 1 ½ story single family into a 2 story building with the condition.

- (1) Proof of payment of municipal fees shall be submitted prior to the issuance of a building permit.

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The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use; it is single family.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town. The house will be similar to others in the neighborhood
- (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.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mr. Golden and was UNANIMOUSLY VOTED.

FINDINGS:

The Board found that the 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.

- (1) The specific site is an appropriate location for such a use; it is single family.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town. The house will be similar to others in the neighborhood
- (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.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT to convert a 1 ½ story single family into a 2 story building with the following condition.

- (1) Proof of payment of municipal fees shall be submitted prior to the issuance of a building permit.

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use; it is single family.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town. The house will be similar to others in the neighborhood
- (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.
- (5) The public convenience and welfare will be substantially served.

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BZA CASE #3080 132 Pond Street

Application of Michael Nervi for property at 132 Pond Street, also shown on the Weymouth Town Atlas Sheet 53, Block 553, Lot 2, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-51, Table 1 and 120-53 to subdivide 1 lot into 2 lots.

Present:	Richard McLeod, Chairman
	Francis Kenneally
	Mary McElroy, Clerk
	Charles Golden
	Martin Joyce
	George Berg, Alternate
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

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.

Mr. Nervi stated that he would like to subdivide 1 lot into 2 lots. He pointed out that the majority of the houses in the neighborhood are less than 25,000 square feet. His current lot is 48,600 square feet. The proposed house lot would have 25,000 square feet and the existing parcel with the house would have 23,600 square feet.

Rod Fuqua stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission noted that based on the wetland delineation provided, the new lot would contain area within the 100 foot buffer zone to a Bordering Vegetated Wetland. A Request for Determination should be filed with the Commission for any land clearing, grading or other alterations within the 100 foot buffer zone. Conservations has received complaints of flooding downstream of this location. If the project is built, the Conservation Administrator recommends measures to infiltrate storm water runoff to the extent practicable.
- Health Department had no objections.
- Police Department had no issues.
- Fire Department had no comment.
- DPW (Water, Sewer, Engineering, Highway)
 - Water
 1. Service will require a 12" x 1 ½ tap with service saddle at main.
 2. 1 ½ " K copper is required on town because of the distance from the house to the main.
 3. Utilities should be kept out of driveway.
 - Sewer:
 1. Water and sewer mitigation fees are due.
 2. Sewer service shall be 6" SDR 35 PVC.
 - Highway/C&M/DPW Director:

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1. Flowable fill/controlled density fill (CDEF) backfill will be required in all trenches within roadway pavement limits.

Engineering had no comments.

- School Department noted that this request presents no special concerns.
- Tax Department noted that there are no outstanding bills.

Mr. Fuqua stated that this application is a special permit under 120-53 where they are looking to subdivide smaller than required. He noted that under the special permit process things such as the lot width and lot size are covered.

The Chairman asked if the public had any comments, to which there was no reply.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

A MOTION was made by Mr. Kenneally to APPROVE the request for a SPECIAL PERMIT to subdivide 1 lot into 2 lots with the following conditions:

- (1) The utilities shall be placed outside of the driveway.
- (2) All of the utilities shall be installed per DPW standards.

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use, it is zoned single family.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town, there are many lots similar sized in the neighborhood..
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mrs. McElroy and was UNANIMOUSLY VOTED.

FINDINGS:

The Board found that the 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.

- (1) The specific site is an appropriate location for such a use, it is zoned single family.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town, there are many lots similar sized in the neighborhood..
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

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The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT the following conditions

- (1) The utilities shall be placed outside of the driveway.
- (2) All of the utilities shall be installed per DPW standards.

The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use, it is zoned single family.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town, there are many lots similar sized in the neighborhood..
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

BZA CASE #3081 132 Union Street

Application of Mike and Cherylanne Harkin for property at 132 Union Street, also shown on the Weymouth Town Atlas Sheet 46, Block 529, Lot 6, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 to extend a nonconforming building by creating a mud room/laundry from the existing porch.

Present:	Richard McLeod, Chairman
	Mary McElroy, Clerk
	Charles Golden
	Francis Kenneally
	Martin Joyce
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

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.

Mrs. Harkin stated that they would like to add a mud room/laundry from the existing porch. This will allow for inside access to the basement from inside as currently the basement is only accessible from the outside.

Mr. Fuqua noted that in looking at the site, one point came out in looking at the aerial photos from 1998, the garage was reroofed between 1998 and 2008 when the next aerial photos were taken. He noted that dormers were added. Permits were pulled for this work; however, there is a question as to whether the garage is further overhanging and encroaching onto the setback.

Mr. Fuqua stated that he will review this matter with the building department to resolve the question and determine if the applicant needs to come before the Board.

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If it is not an issue the application may be voted on at the next meeting. If it is an issue a new application will need to be filed as this application does not address that issue.

Rod Fuqua stated the application was routed to various Town Departments and received favorable or no adverse comments.

The Chairman asked if the public had any comments, to which there was no reply.

A MOTION was made by Mrs. McElroy to CONTINUE the public hearing until 3/17/10 and was seconded by Mr. Golden and UNANIMOUSLY VOTED.

BZA CASE #3082 119 Fort Point Road

Application of Pamela J. Duprez for property at 119 Fort Point Road, also shown on the Weymouth Town Atlas Sheet 2, Block 7, Lot 2, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 to join the house to garage to allow access to existing room above garage.

Present:	Richard McLeod, Chairman
	Mary McElroy, Clerk
	Charles Golden
	Francis Kenneally
	Martin Joyce
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

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.

Ms. Duprez stated that she would like to join the existing house to the existing garage. She stated that this will not further encroach as she is filling in the space between the house and garage.

Mr. McLeod noted that this was previously before the board in 2002 under case #2671.

Rod Fuqua stated the application was routed to various Town Departments and received the following comments:

- Building Department noted that if they change the use of the garage, it will require that any portion of the building closer than 3 feet from the property line will be protected by a 1 hour firewall.
- Conservation Commission noted that according to the proposed plan, the proposed addition is located within Land Subject to Coastal Storm Flowage and within the 100 foot buffer zone to a Coastal Bank. Work within these areas require approval from

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Conservation Commission. Given the minor change involved, the applicant could file a Request for Determination of Applicability rather than an Order of Conditions.

- Health Department had no objections.
- Police Department had no issues.
- Fire Department had no comment.
- DPW (Water, Sewer, Engineering, Highway) had no comments.
- School Department noted that this request presents no special concerns.
- Tax Department noted that FY 10 has been paid in full and there are no outstanding taxes.

The Chairman asked if the public had any comments, to which there was no reply.

Richard Walsh of 111 Fort Point Road stated that he has no objection to the proposal.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

A MOTION was made by Mrs. McElroy to APPROVE the request for a SPECIAL PERMIT to join the house to garage to allow access to existing room above garage. The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use, it is zoned single family.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town, a similar application was previously approved.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians, no new access is proposed.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mr. Kenneally and was UNANIMOUSLY VOTED.

FINDINGS:

The Board found that the 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.

- (1) The specific site is an appropriate location for such a use, it is zoned single family.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town, a similar application was previously approved.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians, no new access is proposed.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

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DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT to join the house to garage to allow access to existing room above garage. The Board finds that, in its judgment; all of the following conditions are met:

- (1) The specific site is an appropriate location for such a use, it is zoned single family.
- (2) The use involved will not be detrimental to the established or future character of the neighborhood or town, a similar application was previously approved.
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians, no new access is proposed.
- (4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (5) The public convenience and welfare will be substantially served.

ADJOURNMENT

The meeting was adjourned at 8:00 P.M.

Mary McElroy, Clerk

Date