

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

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, March 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: Edward Foley, Vice-Chairman  
Francis Kenneally, Clerk  
Kemal Denizkurt  
Chuck Golden  
Robert Galewski

Not Present: Richard McLeod, Chairman

Staff: Rod Fuqua, Principal Planner  
James Clarke, Director, Planning & Development

Recording Secretary: Mary Barker

The Vice-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 Street**

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 a special permit and/or variance to install a canopy over the gas pump service area.

Members sitting: Edward Foley, Vice- Chairman  
Francis Kenneally  
Kemal Denizkurt  
Chuck Golden

A motion was made by Chuck Golden, seconded by Francis Kenneally to continue the public hearing and was unanimously voted. Written notice will be sent to all parties of interest informing them of the next meeting at which this matter will be heard.

**BZA CASE #3122 - Public Hearing, (cont.), 754 Main Street**

Application of Attorney Gregory Galvin, with offices at 775 Pleasant Street, for property located at 754 Main Street, 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:     Edward Foley, Vice- Chairman  
                             Francis Kenneally  
                             Kemal Denizkurt  
                             Robert Galewski

Not present:             Richard McLeod, Chairman

Attorney Galvin appeared before the board. He noted all information was presented on behalf of T D Bank, N. A. at the hearing and they are seeking favorable action on the petition. Vice-Chairman Foley noted that an updated traffic analysis has been received from Georgy Bezkorovainy, Traffic Engineer, via a memo dated March 1, 2011.

Rod Fuqua reported that the board requested a final traffic report. He reviewed the results of the report; recommendation for no left turn from the property onto Route 18, revised capacity analysis, results of queuing studies, proximity to the traffic signal. The Traffic Engineer also conducted a survey of other banks in town.

Bob Galewski noted that if the application is approved the board should consider no demolition related vehicles be allowed to park on either Park Avenue or Main Street as a condition.

Councilor Ed Harrington, District 5, reported that he attended a meeting with the interested parties on January 15, 2011 which was lightly attended, and that he noted concerns have been resolved other than the left turn onto Rt. 18.

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

A motion was made by Francis Kenneally, seconded by Kemal Denizkurt to take the matter under advisement to draft an order of conditions.

Under the Mullin Rule, Chairman McLeod may review the record of proceedings and take part in the vote. Unanimously voted.

Submitted: Exhibit A- Memo from G. Bezkorovainy to R. Fuqua dated 3/1/11

**BZA CASE #3127 - Public Hearing, 43 Narragansett Avenue**

Application of Ryder Development Corp. of 847 Washington Street for property located at 34 Narragansett Avenue, also shown on the Weymouth Town Atlas as Sheet 13, Block 155, Lot 81, located in R-1 zoning district, seeking a special permit and/or variance under Chapter 120-40, 120-51 and Table 1. The site is currently nonconforming due to size and width at the building line and the applicant is proposing to remove the trailer and garage and erect a single family home that will be better centered on the lot but due to the narrow lot the building will still encroach on the side yard depth as well as the distance from the dwelling to the left of the lots.

Members sitting:     Edward Foley, Vice-Chairman  
                             Francis Kenneally, Clerk  
                             Kemal Denizkurt  
                             Chuck Golden  
                             Robert Galewski

Attorney Gregory Galvin with offices at 775 Pleasant Street appeared before the board. He noted that his client, Ken Ryder, should be arriving shortly. Mr. Galvin reported that the area is single family homes. The lot is narrow, with 40' of frontage, 125' deep and presently has a trailer with an attached garage. He proposes to demolish both and construct a single family dwelling. There is a significant sized tree at the front of the property which will need to come down in order to excavate to bring in utilities; the property is not currently hooked into the town sewer system. The proposed house will be 24' wide by 36' deep and will encroach on both side lot lines. Due to the shape of the lot a hardship exists. The present dwelling encroaches; there is an existing nonconformity. Rod Fuqua noted that the present dwelling does not run parallel to the lot line, but that the proposed dwelling will be better than the existing nonconformity. Kemal Denizkurt asked where the proposed front entry will be located. It will face Narragansett Avenue. Vice Chairman Foley asked how many stories are proposed; it will be a two-story home. Bob Galewski noted that he visited the site; the proposal will be an improvement over the present conditions.

Rod Fuqua reported that the application has been routed to the various town departments and reviewed the concerns; Fire Department concerns regarding sprinkler, alarm and permits will be addressed at the building permit stage; the Health Dept. noted no concerns, but the on-site septic system will be filled once the existing structure is removed; Water & Sewer Dept. recommend ¾" water service be replaced from the main to the curb stop with 1" K copper, and that the sewer stub be video inspected from the property line to the sewer main to determine pipe condition.

Diane O'Neill of 42 Narragansett Avenue noted that she is an abutter to the property and that the proposal will be an improvement to the neighborhood. She is concerned that any damage to her fence or property during demolition, tree removal and construction be addressed by the developer.

A motion was made by Bob Galewski, seconded by Kamal Denizkurt to close the public hearing and was unanimously voted.

**To vote on the of BZA Case No. 3127, 34 Narragansett Avenue**

**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, the board finds there is a hardship, and approving the application would not be more detrimental to the neighborhood.

A motion was made by Bob Galewski, seconded by Kemal Denizkurt to approve the application for a as per plans and application submitted:

1. The applicant has shown there is sufficient hardship due to the shape and layout of the lot.
2. The specific site is an appropriate location for such a residential use.
3. There will be no detriment to the established or future character of the neighborhood or town by continuing a residential use..
4. There will be no nuisance or serious hazard to vehicles or pedestrians. The access is similar.
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use; utilities are upgraded as necessary.
6. The public welfare and convenience will be substantially served based on 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 with the following conditions:

1. Care shall be taken to surrounding properties during tree removal and construction.
2. Building Department shall have jurisdictional oversight.

#### **BZA CASE #3116 – Decision, 141 Broad Street**

Application of RCL Realty Trust of 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 the property so that the commercial business is on a separate lot from the multi-family dwelling.

Members sitting:      Edward Foley, Vice-Chairman  
                                 Kemal Denizkurt  
                                 Francis Kenneally  
                                 Chuck Golden

Not present:            Richard McLeod, Chairman

Attorney Gregory Galvin with offices at 775 Pleasant Street, and representing RCL Realty Trust appeared before the board. Graham Catlin of Goulston & Storrs was also present on behalf of the abutting Welch properties. The public hearing has been closed. Attorney Galvin noted there have been negotiations between RCL and Welch properties, and an agreement has been drafted with six conditions.

Rod noted that the board will consider a variance; the lot conforms to the zoning but subdividing will not meet dimensional requirements. There are two distinct hardships; financial and insurance liability under the current use category. FAR has been reviewed and it does meet the criteria.

**To vote on the of BZA Case No. 3116 – to approve to subdivide the lot into two lots**

**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. The applicant has demonstrated a financial and insurance liability hardship exists.

A motion was made by Francis Kenneally, seconded by Chuck Golden to approve the application to subdivide the property as per plans and application submitted:

1. Sufficient financial and insurance liability has been demonstrated.
2. The specific site is an appropriate location for such a use.
3. There will be no detriment to the established or future character of the neighborhood or town; all structures conform to density.
4. There will be no nuisance or serious hazard to vehicles or pedestrians with access existing.
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use based on the plans submitted.
6. The public welfare and convenience will be substantially served based on the above conditions.
7. The “draft” Agreement of conditions dated March 16, 2011 is considered the final list of conditions.

**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 conditions:

1. Parking and trash receptacle locations shall be located and maintained as shown on the plan entitled “Plot Plan #135 Broad Street, Weymouth, MA” dated October 6, 2009, unless the Building Inspector approves a modification.
2. For all parking spaces for which a parked vehicle could face toward 125 Broad Street or 9 Vine Street, the applicant shall install adequate fencing or landscaping, to the extent such fencing or landscaping does not presently exist (abutter acknowledges responsibility to reinstall fence along common drive at 125 Broad Street), of such height and/or density to minimize the impact of vehicle lighting, noise, and emissions to abutting properties.
3. A sign shall be promptly placed and maintained on the Broad Street façade of the commercial property at 141 Broad Street stating that the drive is for private residential use and all deliveries and customers are to use the Vine Street entrance. The applicant shall use best efforts to enforce such restrictions on the use of the drive.
4. A commercial grade sign shall be promptly prepared and installed by the applicant that notes the two driveways and that snow shall be directed away from the center of the drive. Said sign shall be installed between the driveways in a location mutually agreed on by the applicant and abutter.
5. The owner(s) of 135 Broad Street shall at all times keep the 135/141 Broad Street driveway free from debris and in good repair.

6. The applicant acknowledges that the 125 Broad Street Driveway serves as a Fire Lane for fire truck access to the Colonial Nursing Home facility. The owner(s) of 135 Broad Street shall ensure that owners or tenants of 135 Broad Street or their guests, do not park on, or in any way obstruct, the 125 Broad Street driveway.

The above conditions shall be continuing obligations of the Applicant and shall be in force prior to the issuance of any Certificate of Occupancy for the property.

Submitted: Exhibit A- Agreement List dated 3/16/11.

### **Minutes**

#### **Meeting of March 2, 2011 Case # 3121, 3123 and 3124**

A motion was made by Francis Kenneally, seconded by Chuck Golden to approve the minutes of the March 2, 2011 meeting and was unanimously voted.

### **Other Business**

Rod Fuqua requested that the members review the draft Rules and Regulations and bring comments to the next meeting to have a review completed before a public hearing is held in May.

At 8:10 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:

---

Edward Foley, Vice Chairman

---

Date