

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
June 15, 2011**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, June 15, 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  
                                  Chuck Golden  
                                  Robin Moroz

Staff:                         Roderick M. Fuqua, Principal Planner  
                                  Robert Luongo, Economic Development 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 #3138 - Public Hearing, 102 Weyham Road**

Application of Joseph and Kathleen Geary for property located at 102 Weyham Road, also shown on the Weymouth Town Atlas as Sheet 8, Block 111, Lot 29, located in a R-1 zoning district, seeking a special permit and /or variance for a deck in the rear of a single family dwelling part of which lies within the rear yard and side yard setback.

Members sitting:       Richard McLeod  
                              Edward Foley, Vice Chairman  
                              Kemal Denizkurt  
                              Chuck Golden  
                              Robin Moroz

Applicants Joseph and Kathleen Geary requested to withdraw the application without prejudice. The work has been permitted by the Building Department on June 14, 2011. Rod Fuqua reported that the petition before the BZA was for relief for a deck on the back within the side yard setback. The work was done without a proper permit. After the violation was noted, the applicants applied for relief. Permit received from the Building Department to construct a handicap ramp which is exempt from ordinance. Rod Fuqua noted that there is no action for the Board to take with the issuance of the building permit.

There was a brief discussion. Vice Chairman Foley asked about the deck size. Chairman McLeod asked why a deck was built that was not on the original plan. The applicant responded that his contractor was responsible and that he was led to believe the contractor got approval from the Building Department. He plans to build the ramp at some point in the future to make the deck handicapped accessible for a family member and will petition the town properly beforehand.

Chairman McLeod noted it is becoming too frequent that applicants seek relief after the fact. He also noted that the abutters can file an appeal to the Building Department within twenty days of the permit and recommend they do so. Vice Chairman Foley admonished the applicant; he was aware he was not allowed to do the work without a permit.

A motion was made by Edward Foley, seconded by Chuck Golden to take no action on the application, and was unanimously voted.

There was a follow up discussion with the board on procedural issues regarding this matter. Vice Chairman Foley noted that because the Board does not have enforcement powers, it is inhibited in these situations.

### **BZA CASE #3139 - Public Hearing, 91 Fort Point Road**

Application of David and Carol Brown for property located at 91 Fort Point Road, also shown on the Weymouth Town Atlas as Sheet 2, Block 7, Lot 9, located in R-1 zoning district, seeking a special permit and /or variance to rebuild a water damaged dwelling and to expand the second story forward toward the street line over the existing porch.

Members sitting:      Richard McLeod  
                                 Edward Foley, Vice Chairman  
                                 Kemal Denizkurt  
                                 Chuck Golden  
                                 Robin Moroz

Applicants David and Carol Brown appeared before the Board. They requested that they be allowed while repairing water damage to expand the second floor forward over an existing porch. It will not exceed the current footprint.

Rod Fuqua reported that the application was routed to the various town departments and noted their comments. There is an outstanding water bill due. Carol Brown noted that bill was an overcharge due to a broken pipe, and is in the process of being adjusted by David Tower, Water Department Superintendent. The application is for a Special Permit, to extend or change an existing nonconformity. A motion was made by Vice Chairman Foley to close the public hearing, seconded by Chuck Golden and unanimously voted.

### **To vote on the of BZA Case No. 3139 - to rebuild a water damaged dwelling and to expand the second story forward toward the street line over the existing porch**

A motion was made by Vice Chairman Foley, seconded by Chuck Golden to grant the Special Permit as per plans and application submitted.

### 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.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town. It will improve the look and value of the property.
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. Staff is addressing the outstanding water bill. The applicants are advised to get the adjusted bill and pay it.
5. 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 Special Permit to rebuild a water damaged dwelling and to expand the second story forward toward the street line over the existing porch.

Submission: Letters from neighbors in support of the petition

### **BZA CASE #3125 – Discussion and/or Decision, 875 Washington Street**

Application of Hayle Corp. for property located at 875 Washington Street, also shown on the Weymouth Town Atlas as Sheet 30, Block 380, Lot 11, located in HT zoning district, seeking a special permit and /or variance for automobile storage and sales.

Members sitting:     Richard McLeod  
                              Edward Foley, Vice Chairman  
                              Kemal Denizkurt  
                              Robin Moroz

Member absent:       Jonathan Moriarty

Rod Fuqua noted that in the absence of Jonathan Moriarty, action will require unanimous vote or table to a future meeting. He reviewed the comments and potential conditions recommended by the Board pertaining to the following:

- Parking is restricted to the pavement shown on the plan drawn by Peter G. Hoyte dated 5/27/11
- Parking and storage of vehicles will be prohibited along Lane Avenue, the rear of building, or beyond edge of pavement.
- The area behind the building front on Washington Street between the parking area and Lane Avenue shall remain free of any parked or stored vehicles to allow clear and unrestricted access/egress
- Raised, molded bituminous curbing/ not Cape Cod berm, 4-6” standard height shall be installed along the edge of the pavement

- Snow removal- no snow pushed beyond bituminous curbing
- Landscaping of NW corner evenly across the front, to match the existing landscaped area to the east of the Washington Street curb cut.
- Storage restricted to new vehicles
- No loading/unloading from vehicle carrier on premises
- Vehicle carrier not allowed on site, nor parked or stored on or by the site
- No test drives on or from site
- Traffic from Lane Ave- not to add to traffic on Washington Street
- Hours of operation restricted to between 8 AM and 8 PM Monday through Sunday
- Stockade fencing will be installed along the rear, within 5-8 ft. from the edge of pavement and designed to impede any litter beyond to the wetland area
- Existing fencing on site to be repaired or replaced as necessary
- If lighting used from existing lighting pole, it will be directed downward
- Any trash will be stored inside of the building
- There will be no sales office on the site
- Plans required before building permits issued
- No additional signage is allowed

**To vote on the of BZA Case No. 3125 to store automobiles**

A motion was made by Vice Chairman Foley, seconded by Chuck Golden to grant the Special Permit as per plans and application submitted with the conditions as read by Rod Fuqua.

**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.
2. There will be no detriment to the established or future character of the neighborhood or town. The Board has determined a list of conditions.
3. There will be no nuisance or serious hazard to vehicles or pedestrians. Vehicles will be taken off site only by employees.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. A list of conditions follows.
5. The public welfare and convenience will be substantially served. This is the only remaining new car dealership in Weymouth. The business is good for the town, and approval will incorporate all conditions set forth in the memo dated April 14, 2011.

**DECISION OF THE BOARD** - Due to the above findings, it was unanimously voted to approve the request for a Special Permit for the storage of automobiles with the listed conditions.

Submission: Memo from Roderick Fuqua to the Board of Zoning Appeals dated June 15, 2011.  
Memo dated April 14, 2011 outlining Conditions.

## **Other Business**

### **BZA Rules and Regulations – Discussion and/or Vote**

Rod Fuqua reported that Peer Review section is the only thing that's been added since the last discussion. Peer reviews will be paid for by the applicants. Although not frequently used, having it and a scope of services may streamline the Board's decision process.

Vice Chairman Foley again noted that the Board does not have enforcement power and noted that the building inspectors need to have conditions enforced more rigorously. Chairman McLeod noted that the only thing the Board can do is to deny any future petitions by those applicants who knowingly violate. Specifically, the Knight property violation was discussed. Robert Luongo asked if the Board is within its rights to inspect a property. Rod Fuqua responded that they are.

A motion was made by Francis Kenneally to approve the draft Rules and Regulations of the Board of Zoning Appeals, seconded by Vice Chairman Foley and unanimously voted.

Francis Kenneally tendered his resignation to the Board and thanked the other members and the administration.

### **Minutes**

A motion to approve the minutes of the June 1, 2011 meeting, Case #3110, #3135, and #3136 and #3137 was made by Vice Chairman Foley, seconded by Chuck Golden and unanimously approved.

### **Adjournment**

Rod Fuqua reported to the committee that this would be his last meeting before his retirement. He thanked the members for their support, and presented Robert Luongo as the new administrative adjunct to the committee.

At 8:05PM, there being no further business, a motion was made by Edward Foley to adjourn the meeting, seconded by Chuck Golden and unanimously voted.

Approved:

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Kemal Denizkurt, Clerk

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Date