

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

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, November 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
 Chuck Golden
 Jonathan Moriarty
 Robin Moroz, Alternate
 Rob Stevens, Alternate

Not present: Edward Foley, Vice-Chairman
 Kemal Denizkurt, Clerk

Staff: James Clarke, Director, Planning & Development

Recording Secretary: Mary Barker

The Chairman called the hearing to order at 7:15 PM 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 #3148 –32 Driftway Road, Public Hearing

Application of Richard and Carol Murray for property located at 32 Driftway Rd., also shown on the Weymouth Town Atlas as Sheet 3, Block 2, Lot 8, located in R-1 zoning district, seeking to erect a farmer's porch within the front and side setback area.

Members sitting: Richard McLeod, Chairman
 Chuck Golden
 Jonathan Moriarty
 Robin Moroz, Alternate
 Rob Stevens, Alternate

Richard Murray appeared before the Board. The proposed porch will still allow for parking cars in front. The contractor, David St. Germaine also addressed the Board and answered questions on the size of the proposed porch. He reported that it will have a slightly smaller footprint than the existing and will be set back 3' to avoid fire rating.

Jim Clarke reported that the application was routed to the various departments and reviewed their comments. The Building Department requires that 121-51. Table 1 is added to the provisions of Zoning ordinance section of the application. The work proposed will require a filing with the Conservation Commission as it is within 100 ft. of wetland resource areas.

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

To vote on the of BZA Case No. 3148 to:

A motion was made by Chuck Golden to approve the application for a Variance and was seconded by Jonathan Moriarty.

FINDINGS

Further, the board finds that:

1. Owing to circumstances relating to the soil conditions, shape or topography of the land, a literal enforcement of the provisions would involve substantial hardship, financial or otherwise. The property is located on waterfront. and the shape of the lot leaves only one spot for the deck.
2. Relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance.
3. Application requires Conservation Commission notification.

DECISION OF THE BOARD - Due to the above findings, it was unanimously voted to approve the application for a variance to erect a farmer's porch within the front and side setback area.

SUBMISSIONS:

Exhibit #1- photograph provided by Jim Clarke showing neighborhood

Exhibit #2-letter in support from resident (M. McCafferty) at 28 Driftway Rd.

Exhibit #3-letter in support from resident (Wm. Sherman) at 36 Driftway Rd.

BZA CASE # 3149- 116 Phillips Street, Public Hearing

Application of Richard Keniston for property located at 116 Phillips St., also shown on the Weymouth Town Atlas as Sheet 16, Block 205, Lot 4, located in R-1 zoning district, seeking to subdivide Lot 4 and separate out Lot B, which is not a buildable lot, for mortgage purposes.

Members sitting: Richard McLeod, Chairman
 Chuck Golden
 Jonathan Moriarty
 Robin Moroz, Alternate
 Rob Stevens, Alternate

Mr. Keniston appeared before the Board on behalf of his mother, who resides at the property. The property acquired a small area from the property on 62 Granite Street, which has a lien, several years ago in a previous BZA case. The property at 116 Phillips is being remortgaged as a result of a divorce agreement. The applicant's options are to either have the lien released or subdivide the property. He is in negotiation with Chase Bank, which may be willing to execute a partial release for that portion of the property that was formerly a part of 62 Granite Street. The applicant is hopeful that the subdivision will not be necessary, but has completed the application process in the event the release isn't executed. There was a discussion with the Board regarding the property lines on the plan, the age of the mortgage on the property and whether title was taken after the mortgage. Jonathan Moriarty asked for certain documents to study. The Chairman noted it appears there was a recording error made when the portion of Granite Street was acquired by this property, or that the mortgagor was not notified of the transfer. There was a

brief discussion of the consequences to continuing the hearing, taking the matter under advisement, or taking action at this time. Jonathan Moriarty noted that he would like to see a chain of title before he is comfortable with recommending an action. He might recommend a confirmatory mortgage with adjustments of metes and bounds. Chairman McLeod suggested the best course would be the partial release. The memo from the Building Department was also discussed, noting the violation of Ch. 120, non-buildable lot size and the shed located within 3' of the lot line and the recommendation that the board take the matter under advisement anticipating the lender would resolve the issue. Jim Clarke also noted the department would prefer to take no action at this time for the same reason.

To vote on the of BZA Case No. 3149 to subdivide Lot 4 and separate out Lot B:

A motion was made by Jonathan Moriarty to continue the hearing until December 14, 2011, seconded by Chuck Golden and unanimously voted.

DECISION OF THE BOARD - Due to the above findings, it was unanimously voted to continue the hearing until December 14, 2011.

SUBMISSIONS:

Exhibit #1-deed dated 3/27/07

Exhibit #2- deed dated 3/31/95

Exhibit #3-Plot Plan dated 1/10/31

Exhibit #4-deed dated 12/1/06

Exhibit #5-new Plot Plan dated 9/4/51

Exhibit #6-letter from resident at 116 Phillips Street

Exhibit #7-letter from resident at 115 Phillips Street

Minutes-September 21, 2011, October 5, 2011

A motion was made by Chuck Golden to approve the minutes of October 5, 2011; Case #3147, Case #3012, and Case #3144, seconded by Jonathan Moriarty and was unanimously voted.

A motion was made by Chuck Golden to approve the minutes of September 21, 2011; Case #3144, Case #3147, and Case #2818, seconded by Jonathan Moriarty and was unanimously voted.

Adjournment

The next meeting of the Board of Zoning Appeals will be on November 16, 2011. The Board will hold a single meeting in December. After a brief discussion, the December meeting was tentatively scheduled for December 14, 2011. at 7:15 PM, there being no further business, a motion to adjourn the meeting was made by Chuck Golden, seconded by Jonathan Moriarty and was unanimously voted.

Respectfully submitted:

Richard McLeod, Chairman