

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

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, November 3, 2010 at 7:10 pm at McCulloch Building, Room 12, 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  
                                  Kemal Denizkurt  
                                  Chuck Golden  
                                  Francis Kenneally

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 #3103 - Public Hearing, 141 Broad Street**

Application of RCL Realty LLC 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 a special permit or variance under Chapter 120-53 to subdivide the property so that the commercial business is on a separate lot from the multi-family dwelling. The minimum lot size in the zone is 15,000 square feet.

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

Rod Fuqua reported that the applicant has requested to withdraw the application without prejudice, with the intent to re-file after zoning questions are settled and negotiation with the abutter completed. A motion was made by Chuck Golden to allow withdrawal of the request without prejudice, seconded by Edward Foley and unanimously voted.

**BZA CASE #3111 - Public Hearing, 555 North Street**

Application of Leo Melanson for property located at 555 North Street, also shown on the Weymouth Town Atlas as Sheet 13, Block 157, Lot 15, located in B-2 zoning district, seeking a special permit or variance under Chapter 120-27.C. to add a second building on a property with

one residential dwelling. A two family dwelling exists and the application is for a total of three units in two buildings.

Members sitting:     Richard McLeod  
                             Edward Foley, Vice-chairman  
                             Kemal Denizkurt  
                             Chuck Golden  
                             Francis Kenneally

A motion was made by Edward Foley to open the public hearing and waive the reading of the legal advertisement, seconded by Chuck Golden and unanimously voted.

Mr. Melanson appeared before the Board. He is requesting to raze an existing garage and rebuild with a 30 x 40 ft. building; garage on first floor and 1 bedroom apartment on the second floor. There is also a two family building on the property. The size of the lot is 15,472 sq. ft. The water and sewer will tap off from the two-family with a separate main on North Street. The plot plan was reviewed. The property backs within 3 ft. of the Greenbush line with no setback. Parking is accessed from Church Street.

Rod Fuqua noted the plan was routed to the various town departments and comments were reviewed. Police noted the parking may not be adequate for the plan; however it was followed up by the traffic engineer and determined to be adequate. FAR (floor area ratio) was attached to the plan and is within requirements. Water & Sewer made its recommendations on water and sewer lines and connections. DPW requires flowable fill and patchwork on North Street.

A MOTION to close the public hearing was made by Edward Foley, seconded by Chuck Golden and unanimously voted.

**To vote on the of BZA Case No. to allow a special permit to add a second story building on a property with one residential dwelling:**

A motion was made by Edward Foley, seconded by Francis Kenneally to approve the application for a special permit under 120-27.C.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 application has met the criteria in zoning under Chapter 120-22D.
2. The specific site is an appropriate location for such a use, zoned as B-2.
3. The use involved will not be detrimental to the established or future character of the neighborhood or town, where it is developed residentially.
4. There will be no nuisance or serious hazard to vehicles or pedestrians. The applicant will work out parking to avoid vehicles backing out onto Church Street.

5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use as required by DPW.
6. The public 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 add a second building on a property with one residential dwelling for a total of three units in two buildings with the following conditions.

1. Water and sewer mitigation fees will apply.
2. Sewer lateral to be 6" PVC SDR 35 and the 5" sewer service will be replaced with 6" PVC SDR 35, from the property line to the house. All utility trenches will require flowable fill and infrared treatment of the asphalt patch on North Street.
3. All utilities will be by design and specifications of DPW.

**BZA CASE #3112 - Public Hearing, 25 Main Street**

Application of Amy Lynch for property located at 25 Main Street, also shown on the Weymouth Town Atlas as Sheet 29, Block 327, Lot 24, located in B-1 zoning district, seeking a special permit or variance under Chapter 120-64.3(B)(C) to: (1) install a 4 ft. x 10 ft. interchangeable sign; (2) install a 7 ft. x 7 ft. freestanding back lit sign including installation of 2 ft. x 2 ft. sign back lit; and (3) approval to allow 3 freestanding signs on one lot.

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

A motion was made by Edward Foley to open the public hearing and waive the reading of the legal advertisement, seconded by Chuck Golden and unanimously voted.

Amy Lynch and Bob Christofoli of Signature Design appeared before the Board on behalf of Ricky Smith. Application involves three signs. Sign 2 was covered under a variance approved in 1967. It was removed by GM and will be replaced by a sign of similar size and at the same height as the original. The request is for a variance to re-erect the second sign with a reader board measuring 4 ft. x 10 ft. and 30 ft. high. Rod recommended the board consider the vote in three parts. Two of the signs will be replaced with same sized signs. The purpose of the reader board sign is to advertise the change in business to Weymouth Auto Mall and Carquest dealer. The business is no longer GM branded. The zoning for interchangeable character signs was reviewed. Current zoning allows a reader board of no greater than 10.5 sq.ft. total and the board has not granted a variance to any business in town seeking to exceed. The applicant has not met the hardship requirement in order to approve a variance. The hardship must be related either to the shape or topography of the lot. Chairman McLeod noted that if the board were to approve it would set a precedent for other businesses in town.

Mr. Christofoli thought he was misled by the inspectors about what he needed to do to get approval. Chairman McLeod noted that the burden is on the applicant to understand the zoning and recommended he speak with the business owner and consult an attorney; the board cannot grant a hardship without proof of one existing as relates to the shape or topography of the lot. He recommended the applicant then come back to the board with a reconfiguration of the request.

There was a brief discussion as to whether the application can be amended. Chairman McLeod recommended the applicant meet with the Planning Department staff for direction.

The applicant requested a continuation to the 12/1 meeting as not all members will be present at the next scheduled meeting and a vote for favorable action would therefore have to be unanimous.

A MOTION to continue the public hearing to the December 1, 2010 meeting was made by Edward Foley, seconded by Chuck Golden and unanimously voted. **(Note: The continued meeting was changed to December 8, 2010.)**

### **BZA CASE #3113 - Public Hearing, 20 Lake Shore Drive**

Application of Philip Schneider, S & C Construction, for property located at 20 Lake Shore Drive, also shown on the Weymouth Town Atlas as Sheet 26, Block 342, Lot 6, located in R-1 zoning district, seeking a special permit or variance under Chapter 120-51 & Table to enclose deck and cover front entry.

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

A motion was made by Edward Foley to open the public hearing and waive the reading of the legal advertisement, seconded by Chuck Golden and unanimously voted.

Mr. Schneider appeared before the Board with the homeowner, Sheila Fraser. The original house on the property was torn down and new construction with a 10 ft. x 13 ft. screened porch and 10 ft. x 3 ft. portico has been built as per the permit application submitted. Once the inspector came out to review, it was determined that the permit did not include the porch or portico, although both were shown on the original plans submitted to the town. The permit was approved for a building of 1730 sq. ft.; the house is 1600 sq. ft. and the porch/portico is 130 sq. ft. It has already been built and removal would prove a financial hardship to the owner.

Rod Fuqua noted the application has been routed to the various town departments, and did note that the taxes are in arrears. Ms. Fraser reported that she was unaware that the tax bill had been issued because it was still in the prior owner's name. Once she learned of the outstanding bills, she went to the town and paid the two quarters to bring it current. Edward Foley asked if she had the receipts for the tax payments. Ms. Fraser responded that she didn't have it with her, but would email it to the Planning Department. Rod Fuqua also noted that at the time the application

was originally submitted, it should have been flagged to come before the Board. The porch and portico were not built in willful disregard and it would prove a hardship if she was required to remove it. Francis Kenneally confirmed with the applicant that taxes due were not the responsibility the previous owner.

A MOTION to close the public hearing was made by Edward Foley, seconded by Francis Kenneally and unanimously voted.

**To vote on the of BZA Case No. 3113 to allow a variance to enclose deck and front entry:**

A motion was made by Edward Foley, seconded by Francis Kenneally to grant the variance for the screen porch and portico as per plans and application submitted.

**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.

1. The application has made an effort under 120-51 for a lot with an increase of no more than 2%
2. There would be a severe hardship if the applicant were required to comply with the ordinance.
3. The applicant will supply proof that the FY10 taxes have been paid.

**DECISION OF THE BOARD** - Due to the above findings, it was unanimously voted to approve the request for a variance for the screen porch and portico as per plans and application submitted.

**Minutes**

A motion was made by Edward Foley to accept the minutes of the October 20, 2010 meeting, Case #3110, seconded by Francis Kenneally and unanimously voted.

**Adjournment**

At 8:25 pm, there being no further business, a motion was made by Edward Foley to adjourn the meeting, seconded by Francis Kenneally and was unanimously voted.

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Francis Kenneally, Clerk

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Date