

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
December 14, 2011**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, December 14, 2011 at 7:15 pm at the 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  
  Kemal Denizkurt, Clerk  
  Chuck Golden  
  Jonathan Moriarty  
  Robin Moroz, Alternate

Staff:                                   Robert Luongo, Economic Development Planner

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 #3149 – 116 Phillips Street, Public Hearing (cont.)**

Application of Paul 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.

A motion was made by Kemal Denizkurt to continue the matter for a month to give the applicant time to work with his mortgage company, and was seconded by Chuck Golden. Unanimously voted.

**BZA CASE #3152 – 75 Finnell Drive, Public Hearing**

Application of Weymouth Club, Inc. for property located at 75 Finnell Dr., also shown on the Weymouth Town Atlas as Sheet 36, Block 452, Lot 5, located in I-1 zoning district, seeking to add approximately 650 sq. ft. of office and conference space in an alcove at the south side of the building above the entrance to the mechanical room.

A motion was made by Kemal Denizkurt to continue the matter until the first meeting in March 2012, and was seconded by Chuck Golden. Unanimously voted.

### **BZA CASE #3153 – 55 Rosemont Road, Public Hearing**

Application of Lucinda Champagne for property located at 55 Rosemont Rd., also shown on the Weymouth Town Atlas as Sheet 6, Block 70, Lot 6, located in a R-1 zoning district, seeking to convert attic space to additional living area.

Members sitting:      Richard McLeod, Chairman  
                                 Edward Foley, Vice Chairman  
                                 Kemal Denizkurt, Clerk  
                                 Chuck Golden  
                                 Jonathan Moriarty

Chris Falco appeared before the Board on behalf of the applicant. The applicant seeks to convert attic space to living space without exceeding the original footprint. The space will include a bath as shown on the plan. The town issued a “stop work” order on the first day of construction for work begun without proper permits. The applicants were not aware of the procedures and abided by the stop order when it was issued. The conversion will result in a home with 3 bedrooms and 2 baths and the applicant has no intent to use the property as a multifamily. They are seeking more living space for their young family. No separate entry is in the plan.

Bob Luongo reported that the application was routed to the various departments and reviewed their comments, including the stop work order and the DPW’s recommendation the owner consider upgrading water and sewer service to accommodate the number of baths.

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

### **To vote on the of BZA Case No. 3153 to approve a Special Permit to convert attic space to additional living area:**

A motion was made by Edward Foley to approve the application for a Special Permit and was seconded by Jonathan Moriarty.

### **FINDINGS**

Further, the Board finds that:

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. The applicants are staying within the footprint.
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. Applicant may want to upgrade piping per comments from DPW/Water & Sewer.
5. The public convenience and welfare will be substantially served. The applicant was instructed to wait until proper permits are issued before beginning work.

**DECISION OF THE BOARD** - Due to the above findings, it was unanimously voted to approve the application for a Special Permit.

**BZA CASE #3154 – Lot 20 Wampum Street, Public Hearing**

Application of Donald J. Rafferty, Jr. for property located at Lot 20 Wampum St., also shown on the Weymouth Town Atlas as Sheet 48, Block 542, Lot 20, located in R-1 zoning district, seeking a Special Permit and/or Variance for minimum lot width and minimum lot size.

Members sitting:      Richard McLeod, Chairman  
                                 Edward Foley, Vice-Chairman  
                                 Kemal Denizkurt  
                                 Chuck Golden  
                                 Jonathan Moriarty

Attorney Gregory Galvin and applicant Donald J. Rafferty, Jr. appeared before the Board. The lot was subdivided in a planned subdivision off Forest Street. This lot was marked not buildable because it did not have sufficient frontage. At the time, Wampum Street was undeveloped. With the development, a number of similarly sized lots on Wampum received Board approval. There are currently 7 lots on Wampum of less than 25,000 sq. ft. or a 120 ft. buildable line. The lot is 23,5000 sq. ft. and just under 100 ft. wide and the applicant is requesting a special permit and variance. Surrounding developed lots are similarly undersized.

Attorney Galvin reported that he wrote to all of the neighbors, and some concerns were brought up:

1. Easement behind Forest Street- seeking to abandon the easement; it could be made a condition of approval. The applicant is willing to abandon the easement.
2. Heavy equipment brought in on via the easement damaged a neighbor's driveway. Applicant is willing to repair.
3. Asbestos was dumped on the land. DEP was notified and supervised abatement by a licensed removal company in 2006. It was totally abated. Attorney Galvin provided a copy of the report.

The neighbors are in support of this and want to see a house built. An undeveloped lot is a target to dumping. Attorney provided plans showing the lot sizes of surrounding property; most required BZA approval. Lots 8, 9, 24 are brand new homes; lot 22 is under construction; lot 23, 21 are brand new.

Bob Luongo reported that the application was routed to the various departments and reviewed their comments. Taxes on the property are not up to date. The applicant noted taxes were paid on 11/28 and will verify. The lot is taxed as a buildable lot and the applicant has been paying taxes on that basis for more than 13 years. The applicant filed for abatement once in those years.

A resident from 37 Wampum St., neighbor Keith Delvecchio and Councilor Ed Harrington all spoke in support of the application.

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

**To vote on the of BZA Case No. 3154 to approve a Special Permit and Variance for the minimum lot size:**

A motion was made by Edward Foley to approve the application for a Special Permit and was seconded by Chuck Golden.

**FINDINGS**

Further, the Board finds that:

1. The specific site is an appropriate location for such a use. The other lots in the development are of similar size.
2. The use involved will not be detrimental to the established or future character of the neighborhood or town. The neighbors and town councilor are in support.
3. There will be no nuisance or serious hazard to vehicles or pedestrians. Bagged asbestos dumped on the property in 2006 was abated by a certified company.
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.

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

**FINDINGS**

The Board finds that:

1. Owing to circumstances related to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise.
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. Applicant has shown financial hardship and has been paying buildable tax rates on the lot.

**DECISION OF THE BOARD** - Due to the above findings, it was unanimously voted to approve the application for a Special Permit and Variance, with the following conditions:

1. The applicant shall abandon the easement.
2. Damage to the neighbor's driveway at 100 Forest Street shall be made right.
3. No building permits shall be issued until confirmation taxes are up to date.

Submission: Exhibit #1 Asbestos Abatement Report from RED, LLC

**OTHER BUSINESS**

Bob Luongo provided copies of correspondence from Solicitor George Lane pertaining to the matter of Geary v. Drew on Case #3144 for the Board's information. No action is required at this time, although it may be remanded to the Board in the future.

**Minutes-November 16, 2011**

A motion was made by Chuck Golden to approve the minutes of November 16, 2011; Case #3150 and Case #3151, seconded by Jonathan Moriarty and was unanimously voted.

**Adjournment**

At 7:50 PM, there being no further business, a motion to adjourn the meeting was made by Edward Foley, seconded by Chuck Golden and unanimously voted.

Approved:

---

Kemal Denizkurt, Clerk

---

Date