

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
MARCH 8, 2005**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, October 5, 2005, at 7pm at McCulloch Building, Whipple Center Conference Room, 182 Green Street, Weymouth, MA for the purpose of passing on the applications of certain persons whose petitions were properly before the Board. Notice of the 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, Chairman Mary McElroy, Clerk Donald Holzworth Charles Golden Sandra Carle
Staff:	James Clarke, Planning Director Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

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 #2817R 337 Summer Street

Application of Scott Monkevicz for property at 337 Summer Street, also shown on the Weymouth Town Atlas Sheet 28, Block 358, Lot 4, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-56 (A) for waiver of frontage to construct single family residence.

Communication was received from John Spinale, attorney for the applicant. Mr. Spinale has requested, on behalf of his clients, to withdraw this application without prejudice. In his letter, Mr. Spinale stated that the current owner of the property and co-applicant, Benjamin Collins, has passed away.

Mr. Foley questioned the fact that this case is before the Board on a remand. Mr. Clarke did not believe that allowing the applicant to withdraw the petition without prejudice would put the Board in jeopardy. Mr. Clarke stated that he had discussed this with the Town's Solicitor, George Lane. He noted that there have been four (4) continuances. If the withdrawal is approved, a new public hearing will need to be advertised and abutters notified again.

Mary McElroy made a MOTION to CLOSE the Public Hearing and was seconded by Sandra Carle and UNANIMOUSLY VOTED.

A MOTION was made by Mary McElroy to APPROVE the request to WITHDRAW WITHOUT PREJUDICE and was seconded by Martin Joyce and UNANIMOUSLY VOTED.

PETITION WITHDRAWN WITHOUT PREJUDICE

BZA CASE #2877 740 Middle Street (cont.)

Application of G & V Subway, Inc. for property at 740 Middle Street, also shown on the Weymouth Town Atlas Sheets 29 & 30, Block 380, Lot 1, located in a B-1 zoning district seeking a special permit and/or variance under Chapter 120-64.3 to install a wall sign for interior sub-lease tenant.

Present:	Edward Foley, Vice-Chair Charles Golden Kemal Denizkurt Martin Joyce
Not Present:	Richard McLeod
Staff:	James Clarke, Director of Planning & Community Development Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

Chairman Richard McLeod was not able to be present this evening. The applicant was given the option of proceeding with only four (4) members, or continuing the hearing. The applicant chose to continue until all members were available.

A MOTION was made by Mary McElroy to CONTINUE the hearing until March 29, 2006 and was seconded by Martin Joyce and UNANIMOUSLY VOTED.

HEARING CONTINUED UNTIL MARCH 29, 2006

BZA CASE #2880 Performance Drive (cont.)

Application of Campanelli Companies for property at Performance Drive, also shown on the Weymouth Town Atlas Sheet 34, Block 433, Lots 3, 15, 17, located in an Planned Office Park (POP) zoning district seeking a special permit and/or variance under Chapter 120-74 (I), 120-57, & 120-62 for a variance from three-dimensional requirements related to minimum parking spaces, building height, and minimum front yard landscaping buffer for a proposed medical center/office building.

Present:	Edward Foley, Vice-Chair Mary McElroy, Clerk Charles Golden Donald Holzworth Martin Joyce
Staff:	James Clarke, Director of Planning & Community Development Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

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.

Jeff DeMarco appeared before the Board along with Mike Fabiano, Civil Engineer; Russ Dion, Project Executive; and Cathy Bachman, Counsel. Mr. DeMarco stated that the scope of the

project has not changed. He stated that he has had conversations and communications with Councilor Mathews and the neighbors on Woodside Path. He stated that discussions involved many topics such as the history of the neighborhood, wildlife, drainage, and ambulance use of the proposed facility.

Mr. DeMarco stated that the boom of a backhoe was raised to the height of the proposed building. This was intended to give the neighbors an idea of how high the building would be.

Mary McElroy questioned the drainage concerns. Mr. DeMarco stated that the Conservation Commission would be holding a meeting this evening to discuss these concerns. He did note that since the previous meeting, it has been discovered that there is a breach in the detention pond of the abutting property, which houses a nursing home. Mr. DeMarco stated that the nursing home has been contacted and that Campanelli Companies intend to work with them to ensure that this situation is corrected.

Mrs. McElroy asked for clarification as to a light at Middle and Libbey streets. Mr. DeMarco stated that there are land taking plans associated with traffic. Mr. Clarke clarified that there are plans for improvements at Middle, Washington, and Winter Streets that are not 100% complete. He stated that it will be the Town's recommendation that the applicant make a contribution toward the land taking plans as part of the action of the Board.

Mr. Foley questioned if using a backhoe was a good representation of the size of the building. Mr. DeMarco stated that in the past they have tried many different ways to get an object up as high as the building would be. He believes that a backhoe is a significant enough piece of equipment to be effective.

Mike Fabiano stated the applicant is seeking relief from three (3) regulations; parking, building height, and front setback. The parking would be 6 spaces per 1000 square feet instead of the required 10/1000 square feet; the height of the building would be 45' instead of the required 35' when a business zone abuts a residential zone.; and the front setback would be 9' instead of the required 40'. He stated that since the previous hearing, a supplemental packet of information has been submitted, which includes plans, test pits, and a project narrative, for review. Supplemental information has been submitted to Mr. Clarke for the Site Plan Review as well as information to the Conservation Commission.

He noted that the location is in a watershed protection overlay district and a groundwater protection overlay district. In this type of district it is advocated that you try to infiltrate and recharge as much groundwater as possible. The existing lot has boulders and ledge. As part of the recharge for this site, the detention facility will provide 100,000 cubic feet of storage below the outlet to the pond. This relates to a 50 year storm event.

Mr. Fabiano stated that they have incorporated all the watershed characteristics around the site that drain through the site and included them in the drainage calculations.

Mr. Clarke stated that Campanelli Companies has already, based on the Weymouth Woods application, made a contribution to the Town to assist us because of that particular project. We

are using this money to fund a functional design report for Libbey and Middle Street. The other end of Libbey at Pleasant Street, when litigation is completed for the Alexan project, is to be signalized as part of Alexan's conditions.

The area that has been getting the most concerns is the intersection at Middle Street, Washington, and Winter Street. Mr. Clarke stated that we would be recommending that Campanelli make a contribution to this project.

Mr. Clarke stated that for any storm (up to a 50 year storm) water is going to flow into the detention area and, if there is no water in the basin, will remain in the basin and recharge into the groundwater area for Whitman's Pond.

Mr. Foley asked for clarification on the test pit results. Mr. Fabiano stated that there were no problems with them.

Councilor Mathews stated that if the neighbors are ok with the project, he thinks that it is fine to deal with the drainage issues at the Conservation Commission meeting.

Mr. Holzworth asked for clarification on Hamilton Street, which is a paper street. DPW had noted that this street layout is not part of lot 3. Mr. Fuqua stated that this street is in the process of being abandoned by the Redevelopment Authority. He noted that this has no impact on this project.

Mr. Fuqua stated that there will be a Site Plan Review meeting on 3/15/06. This meeting will look at the layout, parking, circulation, lighting, and signage.

Mr. Joyce questioned if the reduction of the required number of parking spaces is allowed, would this set precedence for future projects. Mr. Fuqua stated that in this case the request is for a variance and a hardship needs to be shown. This site has ledge, boulders, and grade changes, as well as the request to move the development away from the residential neighborhood. These are site specific. Also, the Board would need to find that the project is not detrimental. They have submitted their parking review to show that the reduction in parking is not detrimental.

Mr. Foley questioned the applicant regarding the use of legal residents to work on the project.

Mr. DeMarco stated that Campanelli Companies employs sub-contractors, and it is their responsibility to comply with State and Federal laws. He stated that it is in the contract to reiterate this requirement. Mr. Foley spoke to an incident he had when Weymouth Woods was under construction.

The Chairman asked if the public had any comments, to which there was the following comment.

Mr. Robert Casimiro of 617 Broad Street stated that he is the Executive Director of the Massachusetts Coalition for Immigration Reform. He stated that to ensure that contractors hire legal residents, there are online system to verify a potential employee's immigration status. One of these systems is the Basic Pilot Program.

Mr. Casimiro questioned the height restriction variance. Mr. Clarke stated that in this zone, the height is by special permit up to 6 stories not to exceed 80 feet. There is a provision in the Bylaw when land abuts residential property, there is a 35 foot restriction.

Mr. Jim Richards stated that he is in favor of the project. He noted that the neighbors and abutters are pleased with the building being pushed further away from the property.

Mr. Paul Wilson of 33 Woodside Path stated he believed that the use of the backhoe was helpful.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

Due to the hardship created by the topography of the lot, the presence of a significant amount of ledge, boulders, and grade changes as noted on the plans submitted by the applicant, a MOTION was made by Mary McElroy to APPROVE the request for a VARIANCE from three-dimensional requirements related to minimum parking spaces, building height, and minimum front yard landscaping buffer for a proposed medical center/office building with the following conditions:

- (1) The applicant provide up to \$15,000 to the Town to be used for traffic mitigation plans at Winter/Middle/Washington Streets.
- (2) Provide a 3M Opticom Emitter to Weymouth Fire Department for traffic controls, Type 1.

The Board finds that, in its judgment; all of the following conditions are met:

- (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.
- (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.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Donald Holzworth and was UNANIMOUSLY VOTED.

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 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.
- (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.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings and the hardship created by the topography of the lot, the presence of a significant amount of ledge, boulders, and grade changes as noted on the plans submitted by the applicant, it was UNANIMOUSLY VOTED to APPROVE the request for a VARIANCE from three-dimensional requirements related to minimum parking spaces, building height, and minimum front yard landscaping buffer for a proposed medical center/office building with the following conditions:

- (1) The applicant provide up to \$15,000 to the Town to be used for traffic mitigation plans at Winter/Middle/Washington Streets.
- (2) Provide a 3M Opticom Emitter to Weymouth Fire Department for traffic controls, Type 1.

The Board finds that, in its judgment; all of the following conditions are met:

- (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.
- (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.
- (5) The public convenience and welfare will be substantially served.

BZA CASE #2881 17 Pecksuot Road (cont.)

Application of Patriot Properties Group, LLC for property at 17 Pecksuot Road, also shown on the Weymouth Town Atlas Sheet 4, Block 34, Lot 10, located in an R-1 zoning district seeking a special permit and/or variance under 120-40 to add a shed dormer to an existing family dwelling part of which lies within the setback area.

Present:	Edward Foley, Vice-Chair Mary McElroy, Clerk Charles Golden Donald Holzworth Martin Joyce
Staff:	James Clarke, Director of Planning & Community Development Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

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.

Mr. Frank Sondgeroth appeared before the Board. He stated that the dormer will raise the roofline by 5' on the north side but will not extend the footprint of the building. When the home was built, the front setback requirement was 15'. This requirement is now 18'. The addition will not further encroach on the setback.

Mr. Sondgeroth stated that the dwelling will undergo major rehabilitation and will remain a single family home.

Mr. Fuqua stated that this is a request for a special permit as it is a change or alteration to an existing non-conforming property.

Mr. Foley questioned if this house has been vacant since the vacate order. Mr. Sondgeroth stated that the property was filled with Mr. Coughlin's personal property, but he was not certain if he had been living there. Mr. Sondgeroth stated that the property has been secured and the locks re-keyed.

Mrs. McElroy stated that the property is in deplorable condition. She questioned if the property will be required to be cleaned up before issuance of any permits. Mr. Clarke stated that before a certificate of occupancy is issued, the site will be required to meet Health and Building Codes.

Mr. Fuqua stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission had no comment.
- Health Department noted that records classify this dwelling as currently unfit for human habitation.
- Police Department had no issues.
- Fire Department had no issues
- DPW (Water, Sewer, Highway, C&M, DPW Director, Engineering)
 - Water Division requested more information on the water line.
 - Sewer Division noted that mitigation fees may be due.
- School Department had no special concerns.
- Tax Department noted that the taxes are up-to-date.

The Chairman asked if the public had any comments, to which there was no reply.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

A MOTION was made by Mary McElroy to APPROVE the request for a SPECIAL PERMIT to add a shed dormer to an existing single family dwelling part of which lies within the setback area. The Board finds that, in its judgment; all of the following conditions are met:

- (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.

- (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.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Donald Holzworth and was UNANIMOUSLY VOTED.

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.
- (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.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT to add a shed dormer to an existing single family dwelling part of which lies within the setback area. The Board finds that, in its judgment; all of the following conditions are met:

- (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.
- (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.
- (5) The public convenience and welfare will be substantially served.

BZA CASE #2884 616 Main Street

Application of Steven Murray for property at 616 Main Street, also shown on the Weymouth Town Atlas Sheet 41, Block 462, Lot 16, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40, 120-51 and Table 1 to add an in-law use on second floor within side setback.

Present: Edward Foley, Vice-Chair
Mary McElroy, Clerk
Charles Golden
Donald Holzworth

Staff: Martin Joyce
James Clarke, Director of Planning & Community Development
Rod Fuqua, Principal Planner
Recording Secretary: Janet Murray

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.

Mr. Murray appeared before the Board. He stated that he would like to add a dormer to the rear of the building. He will not be increasing the footprint of the house. Also, the dormer will not be higher than the peak of the roofline.

This is a request to construct an in-law apartment. Mr. Foley asked the applicant if he had spoken to staff in the Building Department about the requirements for this type of apartment.

Mrs. McElroy reminded the applicant that in an in-law apartment, there can only be one entrance and exit. The applicant stated that there would only be one opening.

Rod Fuqua stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission had no comments.
- Building Department noted that the first and second floor door at stair would not be allowed to be installed. This allows for common living area. Also, an In-Law Covenant must be filed and registered prior to Certificate of Occupancy Issuance.
- Health Department had no objections.
- Police Department had no issues.
- Fire Department had no issues.
- DPW
 - Water Division noted that the applicant may want to upgrade service from 1" to 1 ½" for addition.
 - Sewer Division noted that water and sewer mitigation fees may be due.
 - Engineering noted that MA DPW DISK 950, identified just inside of state highway layout in front of this parcel, must be protected from disturbance during construction.
- School Department had no special concerns.
- Tax Department noted that \$.40 is due on 2nd quarter taxes.

The applicant asked for clarification on the highway disk. Mr. Fuqua stated that this is a highway marker/bound. The location of the disk should be verified prior to issuance of occupancy permit.

It was noted that the applicant needed to add an additional parking space for the In-Law unit.

The Chairman asked if the public had any comments, to which there was no reply.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

A MOTION was made by Mary McElroy to APPROVE the request for a SPECIAL PERMIT to add an in-law use on second floor within side setback with the following conditions:

- (1) An In-law Covenant is recorded.
- (2) Doors at top and bottom of stairs are not to be installed.
- (3) State highway disk to be protected with location verified prior to issuance of occupancy permit.
- (4) One additional parking spot created for a total of four.
- (5) A receipt is provided showing that the taxes are current.

The Board finds that, in its judgment; all of the following conditions are met:

- (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.
- (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.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Donald Holzworth and was UNANIMOUSLY VOTED.

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.
- (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.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT to add an in-law use on second floor within side setback with the following conditions

- (1) An In-law Covenant is recorded.
- (2) Doors at top and bottom of stairs are not to be installed.
- (3) State highway disk to be protected with location verified prior to issuance of occupancy permit.
- (4) One additional parking spot created for a total of four.
- (5) A receipt is provided showing that the taxes are current.

The Board finds that, in its judgment; all of the following conditions are met:

- (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.
- (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.
- (5) The public convenience and welfare will be substantially served.

BZA CASE #2889 160 Washington Street

Application of Paul Gratta for property at 160 Washington Street, also shown on the Weymouth Town Atlas Sheet 20, Block 269, Lot 3, located in a B-2 and R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 and 120-27 for extension or change of nonconforming use to convert a two family structure to a four family structure.

Present:	Edward Foley, Vice-Chair Mary McElroy, Clerk Charles Golden Donald Holzworth Kemal Denizkurt
Staff:	James Clarke, Director of Planning & Community Development Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

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.

The applicant stated that he has revised his parking plan layout. The Board received a copy of the layout. The entrance to Baker's Avenue will be sealed and the only entrance will be from Washington Street. Also, the parking spaces will be realigned from angle to right angle parking. The width of the spaces will be 11' wide to allow for vehicles to exit onto Washington Street.

The applicant stated that the dwelling is currently a two-family and he would like to convert it to a four-family. The units would be one bedroom rental apartments.

Mr. Clarke stated that he was pleased to see that Mr. Gratta intends to maintain the structural aspects of the building. He would like to see the applicant consult with the Planning Office for

architectural review. He also noted that the Mayor's vision for the future includes the encouragement of a mix of residential and business uses in the Village Center District.

Mr. Clarke stated that the applicant should discuss with the Planning Office the railing to be replaced. He also noted that the chain link fencing in the rear of the property is in disrepair and needs to be replaced.

Mr. Clarke asked Mr. Gratta if the access to the units will be internal or external. Mr. Gratta stated that there will be entrances to each unit from the outside. Mr. Gratta stated that there are two egresses from each unit.

Mr. Denizkurt asked for clarification on trash pick-up. Mr. Gratta stated that there will be a dumpster located on the parking space marked #11.

Mr. Fuqua stated that multi-family use is allowed in the B-2 zone. This request is for a special permit as it is a change/alteration of an existing nonconforming.

Rod Fuqua stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission had no comments.
- Health Department had no objections.
- Police Department had no issues.
- Fire Department had no issues.
- DPW (Water, Sewer, Engineering, Highway)
 - Water Division suggests upgrading the water service 1 ½" type K copper.
 - Sewer Division suggested that the 5"VC sewer lateral be replaced with 6" PVC from house to property line. Also, mitigation fees may be due.
 - Engineering division request drainage calculations. Also, runoff should be directed away from abutting properties.
- School Department had no special concerns
- Tax Department noted that there is \$9.64 due February 8, 2006.

The Chairman asked if the public had any comments, to which there was the following comment.

A letter was submitted by the resident of 148-156 Washington Street. Mr. Richard Laramée objects to the project but did not state a reason.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

A MOTION was made by Donald Holzworth to APPROVE the request for a SPECIAL PERMIT for extension or change of nonconforming use to convert a two family structure to a four family structure with the following conditions:

- (1) Baker's Avenue driveway is to be sealed off.

- (2) The parking plan is as per the design submitted this evening.
- (3) The railing replacement is reviewed by the Planning Office and is in keeping with the architectural design of the area.
- (4) The fencing in the rear to be replaced.
- (5) The dumpster is located on site #11 and is to be enclosed with a fence in keeping with the architectural design of the area.
- (6) Drainage calculations are provided to DPW.
- (7) A receipt is provided showing that the taxes are current.

The Board finds that, in its judgment; all of the following conditions are met:

- (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.
- (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.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mary McElroy and was UNANIMOUSLY VOTED.

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.
- (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.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT for extension or change of nonconforming use to convert a two family structure to a four family structure with the following conditions:

- (1) Baker's Avenue driveway is to be sealed off.
- (2) The parking plan is as per the design submitted this evening.
- (3) The railing replacement is reviewed by the Planning Office and is in keeping with the architectural design of the area.
- (4) The fencing in the rear to be replaced.

- (5) The dumpster is located on site #11 and is to be enclosed with a fence in keeping with the architectural design of the area.
- (6) Drainage calculations are provided to DPW.
- (7) A receipt is provided showing that the taxes are current.

The Board finds that, in its judgment; all of the following conditions are met:

- (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.
- (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.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mary McElroy and was UNANIMOUSLY VOTED.

BZA CASE #2891 480 Union Street

Application of Kevin MacKenzie for property at 480 Union Street, also shown on the Weymouth Town Atlas Sheet 55, Block 606, Lot 46, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-54 to install an above ground pool within the front and side yard setback with enclosed 6' stockade privacy fence.

Present:	Edward Foley, Vice-Chair Mary McElroy, Clerk Charles Golden Donald Holzworth Kemal Denizkurt
Staff:	James Clarke, Director of Planning & Community Development Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

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.

The applicant stated that he would like to install a 20' above ground swimming pool. He noted that his property was built to have frontage on French Street. This street has been abandoned.

In placing the pool, the applicant requires a variance as it will be located in the front yard. The applicant noted that the pool will be 75' from Union Street.

It was noted that the pump for the swimming pool must be placed 15' from the abutting property line.

Rod Fuqua stated the application was routed to various Town Departments and received the following comments:

- Conservation Commission had no comment.
- Health Department had no objections.
- Police Department had no issues.
- Fire Department had no issues.
- DPW (Water, Sewer, Engineering, Highway)
- School Department had no special concerns.
- Tax Department noted that the taxes are up-to-date.

The Chairman asked if the public had any comments, to which there was no reply.

A MOTION to close the public hearing was made and seconded, and was UNANIMOUSLY VOTED.

Due to the hardship created by the topography of the lot and the fact that the house was originally built to front onto French Street a MOTION was made by Kemal Denizkurt to APPROVE the request for a VARIANCE to install an above ground pool within the front and side yard setback with enclosed 6' stockade privacy fence. The Board finds that, in its judgment; all of the following conditions are met:

- (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.
- (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.
- (5) The public convenience and welfare will be substantially served.

The MOTION was seconded by Mary McElroy and was UNANIMOUSLY VOTED.

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 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.
- (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.
- (5) The public convenience and welfare will be substantially served.

DECISION OF THE BOARD:

The Board was familiar with the site and had the benefit of a plan. The majority of the members had viewed the site in question. Due to the above findings and to the hardship created by the topography of the lot and the fact that the house was originally built to front onto French Street, it was UNANIMOUSLY VOTED to APPROVE the request for a VARIANCE to install an above ground pool within the front and side yard setback with enclosed 6' stockade privacy fence. The Board finds that, in its judgment; all of the following conditions are met:

- (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.
- (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.
- (5) The public convenience and welfare will be substantially served.

MINUTES – 2/22/06

A MOTION was made and seconded to approve the MINUTES of February 22, 2006 and was UNANIMOUSLY VOTED.

Mary McElroy, Clerk

Date