

BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
April 5, 2006

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, April 5, 2006, at 7:00pm 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, Vice-Chair Mary McElroy, Clerk Donald Holzworth Robert Galewski Sandra Carle
Staff:	Roderick 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 #2893 116 Hill Street

Application of Thomas A. and Anne B. Glavin for property at 116 Hill Street, also shown on the Weymouth Town Atlas Sheet 19, Block 262, Lot 3, located in an R-1 zoning district seeking a special permit and/or variance under 120-51 and Table 1 for an addition within front setback area.

Mr. Glavin stated that he and his wife have eight children and are expecting their ninth. The house currently has two bedrooms and one bathroom. He stated that they had looked at several options as to where to place the addition. In doing so, he noted that it became apparent that no matter where they placed the addition there would be problems with encroachment on the setback because of the way the property line slopes.

Mr. Fuqua stated that the house is a conforming structure. The only nonconformity is the land area. The application shows a proposed addition on the southerly side facing Erville Lane at 12 feet and on the northerly side would 6.8 feet. The average distance of the house from Erville Lane is 15 feet. Erville lane is an unimproved road and has an inconsistent width along it.

Rod Fuqua stated the application was routed to various Town Departments and received favorable or no adverse comments.

The applicant submitted a detailed explanation that identified the hardship and why the particular parcel was designed with the addition the way it is. They have included floor plans to include expansion of the kitchen.

Therefore, to put the addition on the rear of the property would make the house long and narrow. The only other option would be to make it an L-shaped house on the north of the property but

when you look at the particular site there are two doors, one on Erville and one on Hill. To do this would cause disruption to access.

The applicant submitted a petition of neighbors who did not object to the project.

Mr. Foley noted that the disruption to the household would be significant as their have been considerable plumbing and electrical updates.

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 soil conditions, topography, and shape of the lot a MOTION was made by Robert Galewski to APPROVE the request for a SPECIAL PERMIT and VARIANCE for an addition within front 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 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 hardship created by the soil conditions, topography, and shape of the lot and the above findings, it was UNANIMOUSLY VOTED to APPROVE the

request for a VARIANCE for an addition within front 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 #2896 9 Colonial Road

Present:	Edward Foley, Vice-Chair Mary McElroy, Clerk Donald Holzworth Robert Galewski Sandra Carle
Staff:	Roderick 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.

Application of Robert Stackpole for property at 9 Colonial Road, also shown on the Weymouth Town Atlas Sheet 10, Block 129, Lot 3, located in an R-1 zoning district seeking a special permit and/or variance under 120-40 to demolish existing single family dwelling and rebuild a new single family dwelling.

Mr. Stackpole appeared before the Board. He stated that he has acquired this property from his father. He noted that the house is in deplorable condition. His initial intention was to rebuild the current house. However, once inside, he realized that the house is non-repairable.

Mr. Stackpole presented pictures to the Board for review.

Mr. Foley asked what the size of the new foundation was. Mr. Stackpole noted that it is 28x40.

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

- Conservation Commission requires a filing as this property is within 100' of the salt marsh. The plan does show approximately 70' to the marsh.
- Health Department noted that the existing house has a cess pool which must be decommissioned as per State code.
- Police Department had no issues.
- Fire Department had no objections.

- DPW
 - Water & Sewer Division is looking to have the service upgraded to 1" K copper.
 - Highway/C&M/DPW Director had no comments.
 - Engineering Division noted that the plans call for a 4" sewer line but 6" PVC is required. The plan will have to be amended. On the east side of the property line there is a drainage easement with a 12" pipe. DPW would like to be notified before any excavation is done.
- School Department has no special concerns.
- Tax Department noted that the taxes are up to date.

Mr. Fuqua stated that this is an extension/change of a nonconforming lot as it is less than 5000 square feet. Also the side and front setbacks are not met. He noted that the plans are quite thorough in locating the existing house.

Mr. Fuqua stated that the house is in an existing floodplain. This is noted for the record as building within the flood plain requires a special permit; however, this is covered as a change or alteration of the nonconformity. The requirements call for the top of the foundation to be one foot above the floodplain. In this case the top of the foundation is at 22' which is well above the flood plain. The elevation of the flood water is 17.83'. The first floor elevation would have to be at 19' or higher.

The proposal is for a modular house. The applicant needs to submit the foundation to the Building Department to show that it conforms for construction within the floodplain. This means that they would have to have louvers and breakaway walls in the foundation.

The new structure will be centered within the lot. But you end up with a 6' setback on one side and a 6.2' setback on the other side. One of the positive factors is that the existing house comes right out to the streetline. The new house is set back with a shaded area for a driveway which will provide off street parking. The site does not currently have off street parking.

Mr. Fuqua suggested the following conditions on the property, if the Board looks favorably on this application:

- (1) Sewer and water be built as per DPW specifications.
- (2) No excavation unless DPW is notified a minimum of 24 hours beforehand.
- (3) If any damage is done to the drain line, it is the applicant's responsibility to repair or replace the line.
- (4) Foundation is built as per construction within the floodplain.
- (5) The foundation or any basement provide no storage and/or no utilities such as heating tanks or utilities.
- (6) On site septic system is abandoned as per state regulations.
- (7) 1st floor is more than 1' above the floodplain.

Mr. Galewski asked how many bedrooms. The applicant stated that there would be 2-3 bedrooms. Mr. Galewski also asked if the applicant intended to live in the home. The applicant responded that he does.

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 Donald Holzworth to APPROVE the request for a SPECIAL PERMIT to demolish existing single family dwelling and rebuild a new single family dwelling with the following conditions:

- (1) Sewer and water be built as per DPW specifications.
- (2) No excavation unless DPW is notified a minimum of 24 hours beforehand.
- (3) If any damage is done to the drain line, it is the applicant's responsibility to repair or replace the line.
- (4) Foundation is built as per construction within the floodplain.
- (5) The foundation or any basement provide no storage and/or no utilities such as heating tanks or utilities
- (6) On site septic system is abandoned as per state regulations.
- (7) 1st floor is more than 18' above the floodplain.

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 to demolish existing single family dwelling and rebuild a new single family dwelling with the following conditions:

- (1) Sewer and water be built as per DPW specifications.
- (2) No excavation unless DPW is notified a minimum of 24 hours beforehand.
- (3) If any damage is done to the drain line, it is the applicant's responsibility to repair or replace the line.
- (4) Foundation is built as per construction within the floodplain.
- (5) The foundation or any basement provide no storage and/or no utilities such as heating tanks or utilities
- (6) On site septic system is abandoned as per state regulations.
- (7) 1st floor is more than 18' above the floodplain.

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 #2895 392 Middle Street

Present:	Edward Foley, Vice-Chair Mary McElroy, Clerk Donald Holzworth Robert Galewski Sandra Carle
Staff:	Roderick 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.

Application of Jason A. LeBlanc for property at 392 Middle Street, also shown on the Weymouth Town Atlas Sheet 26, Block 295, Lot 10, located in a B-2 zoning district seeking a special permit and/or variance under 120-27.C for extension or change by special permit to convert second floor into 1 bedroom apartment with no change to existing building size.

Mr. LeBlanc stated that he is looking to convert the single family home to a two family home.

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 Division noted that a new 1" Type K copper water service must be installed from the 12" main to 296 Middle Street and the existing service connecting 396 with 392 Middle Street must be cut and capped at each building. Mitigation fees will be due.
 - Highway/C&M Division/DPW Director had no comments.
 - Engineering Division had no comments.
- School Department had no special concerns.
- Tax Department noted that the taxes are up to date.

Mr. Galewski asked about drainage from the property. Mr. LeBlanc stated that Mr. Timothy Adams is a co-applicant. Mr. Adams stated that storm drains were put in and all drainage from the commercial building is drained into this drain. He stated that the parking is present, it has not been paved. He noted that it is useable but there has not been a need for it. He stated that there is parking for four vehicles for the residential property. He noted that no changes are being made to the footprint of the building.

Mr. Galewski stated that he noted drainage towards the neighbors. Mr. Adams stated that this has not been a problem.

Mr. Holzworth stated that a parking plan has not been submitted. He noted that one parking spot is required for every 200 square feet. The requirement would be 10 dedicated parking spaces. Mr. Adams noted that the garage no longer exists as it was destroyed in a storm last year.

Mrs. McElroy stated that the plans do not show the existing conditions. It was recommended that the applicant return with the necessary plans.

Mr. Fuqua stated that a special permit already exists on the property. He also stated that conditions placed at that time have not been fully met.

Mr. Fuqua noted that a smaller retail building was built rather than the larger building originally planned.

Mr. Foley stated that to pave the rear parking would create more drainage issues and a drainage plan has not been submitted.

Mr. Holzworth stated that the application needs to be brought back with clarifications of present conditions.

There was no public comment.

A MOTION was made to CLOSE the Public Hearing and was seconded and UNANIMOUSLY VOTED.

Mr. LeBlanc requested that the Board allow him to withdraw the application without prejudice.

Mr. Foley encouraged the applicants to work with staff in the Planning Department to determine what needs to be completed.

Mrs. Carle made a MOTION to allow the applicant to WITHDRAW WITHOUT PREJUDICE the application to convert second floor into 1 bedroom apartment with no change to existing building size and was seconded by Mary McElroy and PASSED on a 4-1 vote.

APPLICATION WITHDRAWN WITHOUT PREJUDICE

BZA CASE #2894 55 Fogg Road

Present:	Edward Foley, Vice-Chair Mary McElroy, Clerk Donald Holzworth Robert Galewski Sandra Carle
Staff:	Roderick 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.

Application of South Shore Hospital, Inc. for property at 55 Fogg Road, also shown on the Weymouth Town Atlas Sheet 45, Block 519, Lot 1, located in a MSD zoning district seeking a special permit and/or variance under 120-40 for an extension or change by special permit to increase nonconforming structure by approximately 1100 square feet of footprint. Application does not increase height of structure.

Attorney David Kelly represented the applicant. Mr. Robert Rodak, Project Management, South Shore Hospital and Mr. Jas Gandhi of JG Associates were also present. Mr. Kelly stated that the applicant would like to enclose an existing loading dock. This area is currently used for delivery and pick-up of laundry and will continue to be used as such. This area is not used by the public. It is used for laundry delivery and pick up. He noted that the increase in the footprint of the building would be 1100 square feet.

Mr. Fuqua stated that the nonconformity is created by the existing building's height. He noted that this is a minor change. If not for the height nonconformity, this change could be done through the site plan review process.

The exterior architecture will match the existing façade. The same type of lighting will be used. There will be change in the basic lighting conditions. The project has not been started. There will be no washing of laundry.

Mr. Fuqua asked if this changes the usage of the entrance. It was noted that there will be no change. There is no public entrance.

Rod Fuqua stated the application was routed to various Town Departments and received favorable or no adverse comments.

The estimated cost of the project is \$200,000.

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

Carol Kimball of 5 Elroy Road questioned where the addition is located. It will be on the Columbian Square side of the hospital.

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 for an extension or change by special permit to increase nonconforming structure by approximately 1100 square feet of footprint with the following conditions:

- (1) The enclosed area is only used for laundry services.
- (2) The existing façade and lighting are maintained.

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 Robert Galewski 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 an extension or change by special permit to increase nonconforming structure by approximately 1100 square feet of footprint conditions:

- (1) The enclosed area is only used for laundry services.
- (2) The existing façade and lighting are maintained.

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 #2897 90 & 96 Broad Street

Present:	Edward Foley, Vice-Chair Mary McElroy, Clerk Donald Holzworth Robert Galewski Sandra Carle
Staff:	Roderick 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**.

Application of Union Congregation Church Homes, Inc. for property at 90 & 96 Broad Street, also shown on the Weymouth Town Atlas Sheet 20, Block 269, Lots 21 & 22, located in a B-1 zoning district seeking a special permit and/or variance under 120-24.B for commercial parking space.

Mr. Crispin stated that the site presently has 11 spaces. With the demolition of the house, 29 spaces will be created. The new circulation pattern will allow for a 20 foot wide entrance and

egress. He stated that the existing foundation is 20x20 square feet. A dry well would be created in this location. This will be able to recharge up to a 10 year storm event. There is a short retaining wall in the rear. The dumpster area will be screened.

Mr. Galewski questioned what would be placed for landscaping. Mr. Crispin stated that the intention was to maintain a lawn. There is currently a tree in the front of the property. Mr. Galewski stated that landscaping would add to the site.

Mr. Holzworth asked how many units are in the existing building. Mr. Crispin stated that there are three units.

Mr. Crispin noted that there are commercial tenants on the first floor at Union Towers. He noted that there is an existing crosswalk at Broad Street.

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: Sergeant Concannon stated that no additional crosswalk should be requested.
- Fire Department had no comments.
- DPW
 - Water & Sewer Division noted that water service must be cut and capped at the main in Broad Street.
 - Highway/C&M Division/DPW Director had no comments.
 - Engineering Division noted that existing sidewalk must be replaced in kind, along with resetting any granite curbing during construction. Any surplus existing granite must be returned to the DPW yard. DPW must be notified 3 days prior to construction of the drain system in order to schedule inspection. Runoff and leaching calculations required. Mr. Fuqua noted that this is laid out in the plans.
- School Department had no special concerns.
- Tax Department noted that the taxes are up to date.

Mr. Fuqua questioned if there would be lighting spill off to the rear of the property. Mr. Crispin stated that he did not believe that there would be an issue. Mr. Fuqua asked for a detail sheet on the lights.

The property owner towards Washington Street called the Office of Planning and Community Development and expressed concern regarding lighting from cars as they are parking. Mr. Fuqua stated that he informed the resident that there would be a six foot stockade fence. The resident was satisfied with this.

Mr. Galewski asked if the applicant would rent out any of the spaces. Mr. Crispin stated that the spaces are strictly for Union Towers.

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 Robert Galewski to APPROVE the request for a SPECIAL PERMIT for commercial parking space with the following conditions:

- (1) A landscape plan is submitted to the Planning Department.
- (2) A lighting plan is submitted to the Planning Department.
- (3) No additional crosswalk to be requested.

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 commercial parking space with the following conditions:

- (1) A landscape plan is submitted to the Planning Department.
- (2) A lighting plan is submitted to the Planning Department.

- (3) No additional crosswalk to be requested.

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.

Mary McElroy, Clerk

Date