

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
April 18, 2007**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, April 18, 2007, at 7:00pm at McCulloch Building, Whipple Center conference Room, 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 Charles Golden Martin Joyce
Not Present:	Mary McElroy Richard McLeod
Staff:	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 #2931 Off Tirrell Street and Aster Circle

Application of Ryder Development Corporation for property at Off Tirrell Street and Aster Circle, also shown on the Weymouth Town Atlas Sheet 28, Block 361, Lots 1 and 2, Sheet 32, Blocks 410, 423, 424, Lots 9, 15, 40, 44, 47, 49, 50, 51, 53, and 54, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-12.1, 120-38.3(d)(3) & 120-63 for a Special Permit for Planned Unit Development for 48 condominium housing units and Special Permit for development within the floodplain zones A & C.

Mr. Foley stated that the applicant has requested a continuance. The hearing was continued to June 6, 2007.

A MOTION was made by Mr. Golden to CONTINUE the public hearing until June 6, 2007 and was seconded by Mr. Joyce and was UNANIMOUSLY VOTED.

HEARING CONTINUED UNTIL JUNE 6, 2007

BZA CASE #2934 398 Broad Street (cont.)

Present:	Edward Foley, Vice-Chair Frances Kenneally
Not Present:	Richard, McLeod Mary McElroy Donald Holzworth
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

Application of Gerard Devine for property at 398 Broad Street, also shown on the Weymouth Town Atlas Sheet 21, Block 232, Lot 8, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-53 to subdivide one lot into two lots with Lot 8A having approx. 16,500 sq. ft. & Lot 8B having approx. 16,500 sq. ft.

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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. Fuqua gave background information regarding this case. He noted that the applicant has requested to withdraw the application. He noted that Mrs. McElroy will be unavailable for a period of time.

Mr. Golden asked if it has been re-published. Mr. Fuqua stated that it was.

A MOTION was made to allow the applicant to WITHDRAW the application was made by Mr. Golden and seconded by Mr. Kenneally and UNANIMOUSLY VOTED.

APPLICATION WITHDRAWN

BZA CASE #2934A 398 Broad Street

Present:	Edward Foley, Vice-Chair Charles Golden Francis Kenneally Martin Joyce Kemal Denizkurt
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

Application of Gerard Devine for property at 398 Broad Street, also shown on the Weymouth Town Atlas Sheet 21, Block 232, Lot 8, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-53 to subdivide one lot into two lots with Lot 8A having approximately 16,500 square feet and Lot 8B having approximately 16,500 square feet.

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. Galvin, attorney, represented the applicant. Mr. Galvin submitted a copy of map sheet 21 to each Board member.

Mr. Galvin noted that this application seeks to subdivide the lot that Mr. Devine owns to create two house lots in the R-1 zone. He noted that this is an appropriate use in the R-1 zone. He stated that map sheet 21 shows that lots in the area are of similar size to the proposed two lots. He noted that the two proposed lots would each be approximately 16,500 square feet.

Mr. Galvin noted that the resident at 406 Broad Street was concerned regarding drainage. He stated that the applicant's engineer has designed a drainage trench and system to direct water away from the abutter's property. He noted that the applicant has moved boulders back onto his property.

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

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- Conservation Commission noted that this property is outside its jurisdiction.
- Health Department had no objections.
- Police Department had no issues.
- Fire Department had no issues.
- DPW (Water, Sewer, Engineering, Highway)
 - Engineering noted that there is a pool existing on proposed Lot 8B.
 - Engineering noted that there the plan needs to be revised to show the bearing line of degrees, minutes, and seconds.
- School Department had not special concerns.
- Tax Department noted that taxes are up to date.

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

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

A MOTION was made by Mr. Kenneally to APPROVE the request for a SPECIAL PERMIT to subdivide one lot into two lots with Lot 8A having approximately 16,500 square feet and Lot 8B having approximately 16,500 square feet with the following conditions:

- 1) Plan dated 3/19/07 is revised to include lot line bearings in degrees, minutes, and seconds.
- 2) The swimming pool is removed.

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 Mr. Denizkurt 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.

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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 subdivide one lot into two lots with Lot 8A having approximately 16,500 square feet and Lot 8B having approximately 16,500 square feet with the following conditions:

- 1) Plan dated 3/19/07 is revised to include lot line bearings in degrees, minutes, and seconds.
- 2) The swimming pool is removed.

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 #2948 65 Rosemont Road

Present:	Edward Foley, Vice-Chair Charles Golden Francis Kenneally Kemal Denizkurt Martin Joyce
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

Application of Michele Canavan for property at 65 Rosemont Road, also shown on the Weymouth Town Atlas Sheet 6, Block 70, Lot 7, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 for a rear addition to replace an existing deck, part of which lies within the setback area.

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. Fuqua noted that the applicant was not present this evening.

The house is non-conforming. The addition would not encroach on the non-conformity. The addition would be built over an existing deck.

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

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

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

A MOTION was made by Mr. Denizkurt to APPROVE the request for a SPECIAL PERMIT for a rear addition to replace an existing deck, part of which lies within the setback area with the condition that a certified plot plan be submitted. 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 Mr. Kenneally 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 a rear addition to replace an existing deck, part of which lies within the setback area with the condition that a certified plot plan be submitted. 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 # 2940 90-100 Main Street (modification)

Present: Edward Foley, Vice-Chair
Charles Golden
Francis Kenneally
Kemal Denizkurt

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Staff: Martin Joyce
Rod Fuqua, Principal Planner
Recording Secretary: Janet Murray

Application of Robert M. Cohen, Esq. for McDonalds Corporation for property at 90-100 Main Street, also shown on the Weymouth Town Atlas Sheet 29, Block 329, Lot 22, located in a B-2 zoning district seeking a special permit and/or variance under Chapter 120-25B, 120-25C, and 120-64.3A for special permit for drive-through service or windows and variance for relief from wall sign requirements.

Mr. Fuqua stated that this application was approved on March 7, 2007. He stated that the dimensions for the play area need to be revised. The applicant would like to adjust the plans accordingly as referenced by memo dated April 6, 2007 to Town of Weymouth, attn: Rod Fuqua, Planner from Matthew D. Brook, Bohler Engineering, P.C. and plans entitled: "McDonald's", latest revision dated April 6, 2007, drawn by Bohler Engineering, P.C. Mr. Fuqua stated that the change would result in the relocation of parking spaces and the loss of four spaces. He stated that the site will still be in compliance with the parking requirements. The changes will not change the seating, circulation, traffic, or drainage and is in keeping with the spirit and intent of Special Permit Case # 2940.

Mr. Fuqua stated that he was looking for the Board to decide if this is a field modification or if the change requires a new application and hearing.

A MOTION was made by Mr. Denizkurt to ACCEPT the request as a field modification and was seconded by Mr. Kenneally and UNANIMOUSLY VOTED adjust the plans accordingly as referenced by memo dated April 6, 2007 to Town of Weymouth, attn: Rod Fuqua, Planner from Matthew D. Brook, Bohler Engineering, P.C. and plans entitled: "McDonald's", latest revision dated April 6, 2007, drawn by Bohler Engineering, P.C. The changes will not change the seating, circulation, traffic, or drainage and is in keeping with the spirit and intent of Special Permit Case # 2940.

MINUTES – 4/5/07 – Case # 2936, 2944, 2946, 2947, 2949, 2950, and 2951

A MOTION was made and seconded to APPROVE the Minutes of April 5, 2007 – Case # 2936, 2944, 2946, 2947, 2949, 2950 and 2951.

ADJOURNMENT

A MOTION was made and seconded to adjourn the meeting at 8:00 P.M. and was UNANIMOUSLY VOTED.

Charles Golden

Date