

**BOARD OF ZONING APPEALS  
RECORD OF MINUTES AND PROCEEDINGS  
JULY 19, 2006**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, July 19, 2006, at 7:15pm 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:	Richard McLeod, Chairman Kemal Denizkurt Mary McElroy, Clerk Robert Galewski Charles Golden
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

**REORGANIZATION**

A MOTION was made and seconded to keep the current officers (Richard McLeod, Chairman; Edward Foley, Vice-Chairman; and Mary McElroy, Clerk) and was UNANIMOUSLY VOTED.

**BZA CASE #2907 52 Blackstone Road**

Application of Christopher Falco for property at 52 Blackstone Road, also shown on the Weymouth Town Atlas Sheet 7, Block 25, Lots 84, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 for an extension of existing two-family dwelling to construct a one story family room to the rear of the dwelling.

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.

William Falco appeared before the Board representing his son Christopher Falco. Mr. Falco is requesting a special permit to build an addition to the rear of the property. He noted that the property is non-conforming in that it is zoned single-family but is in fact a two-family as are many of the other homes in the area. The addition would be the same width as the house and would extend 12' from the dwelling. He noted that the side setbacks were 18 feet and 15 feet.

Mr. Galewski stated that a certified plot plan should be required. Mr. Fuqua stated that this particular addition has been put in. This addition has a valid building permit.

The special permit is to put a dividing wall between the two units. Mr. Fuqua stated that he had discussed this with Jeff Richards in the building department.

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 or 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 an extension of existing two-family dwelling to construct a one story family room to the rear of the dwelling 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 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 an extension of existing two-family dwelling to construct a one story family room to the rear of the dwelling 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 #2908 49 Hinston Road**

Application of Paul Walsh for property at 49 Hinston Road, also shown on the Weymouth Town Atlas Sheet 14, Block 164, Lot 25, located in an R-1 zoning district seeking a special permit and/or variance under 120-40 and 120-51 for an addition within setback.

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 house is non-conforming because of the side and rear yard setback. The property drops off to the back of the property. This addition will extend the house back and replace the deck with the addition.

This is a request for a special permit as the non-conformity already exists. The applicant is extending the non-conformity with the proposed addition. If the house had been conforming and an encroachment was being proposed, it would be a variance.

In order to avoid appearing before the Board, the applicant could put the addition on the side; however, to put the addition on the side would be a hardship because of the slope of the property.

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

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 Charles Golden to APPROVE the request for a SPECIAL PERMIT for an addition within setback. 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 an addition within setback.

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 #2906 1449 Main Street – Decision**

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 was informed that he would need four (4) votes in order to be approved. One of the members sitting this evening is not eligible to vote on this matter as he has not been present at previous meetings. Edward Foley was not able to be present this evening. The applicant stated that he would like to proceed with only four (4) members.

There was considerable discussion regarding the landscaping details and the number of parking spaces.

It was noted that two parking spaces have been removed to make way for additional landscaping.

Mr. Fuqua stated that the goal is to improve the streetscape as much as possible. In this case, if you take the two parking spaces (#1 and #20), near the street, and move them to the rear or side, it would abut residential property.

Since the last meeting, the applicant has agreed to preserve and/or enhance the existing landscape. This would also provide for a play space that is shielded from the street.

It was also noted that a detailed landscape plan will be a condition if this application is approved. Also, the plan would need to be reviewed in regards to its consistency with the streetscape plans for Route 18.

There was discussion as to whether this property would be subject to land taking with the future widening of the road by Massachusetts Highway Department (MHD). Mr. Fuqua stated that it is possible that this could occur but it is not certain at this time. He also noted that without the parking spots, there would be enough room.

Mr. Golden asked about the discrepancy in the land area. Mr. Fuqua stated that the area noted on the deed takes precedence and as such the discrepancy has been resolved.

A six foot stockade fence is proposed along the southern and western property line. Mr. Fuqua suggested that this be a condition of the application.

#### **SPECIAL PERMIT**

A MOTION was made by Mary McElroy to APPROVE the request for a SPECIAL PERMIT to remove a non-conforming structure and build a new structure for a day care and to maintain the contractor office, workshop and storage with the following conditions:

- 1) The play area will be located between the existing shrubs in front of the daycare and the new building.
- 2) The fence is shown on the plans as six foot stockade.
- 3) Parking spaces #1 and #20 on the plan be converted to landscaping.
- 4) A landscape plan is submitted and reviewed by the traffic engineer in conjunction with Rout 18 improvements as to maintain safe access and egress prior to occupancy.

The Board also 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 Kemal Denizkurt and was UNANIMOUSLY VOTED.

**VARIANCE**

Due to the shape of the lot, Kemal Denizkurt made a MOTION to APPROVE the request for a VARIANCE to reduce the number of parking spaces by two (2) for the public good in terms of the improvements that are occurring along Route 18 in regard to the overall look of the town and was seconded by Mary McElroy and UNANIMOUSLY VOTED.

**FINDINGS:**

The Board found that the SPECIAL PERMIT and, due to the shape of the lot, 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, it was UNANIMOUSLY VOTED to APPROVE the request for a SPECIAL PERMIT to remove a non-conforming structure and build a new structure for a day care and to maintain the contractor office, workshop and storage with the following conditions:

- 1) The play area will be located between the existing shrubs in front of the daycare and the new building.
- 2) The fence is shown on the plans as six foot stockade.
- 3) Parking spaces #1 and #20 on the plan be converted to landscaping.
- 4) A landscape plan is submitted and reviewed by the traffic engineer in conjunction with Rout 18 improvements as to maintain safe access and egress prior to occupancy.

And due to the shape of the lot a VARIANCE to reduce the number of parking spaces by two (2) for the public good in terms of the improvements that are occurring along Route 18 in regard to the overall look of the town.

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 – June 21, 2006, Case # 2905, 2906**

A MOTION was made and seconded to APPROVE the Minutes of June 21, 2006, Case # 2905 and 2906 and was UNANIMOUSLY VOTED.

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Mary McElroy, Clerk

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Date