

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
September 19, 2007**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, September 19, 2007, at 7:00pm at McCullough 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 Mary McElroy, Clerk Kemal Denizkurt Francis Kenneally
Not Present:	Edward Foley
Staff:	Rod Fuqua, Principal Planner
Recording Secretary:	Janet Murray

BZA CASE #2964 124 Pond Street (cont.)

Application of Leonard Bicknell, owner of Alvin Hollis and Company, Inc. for property at 124 Pond Street, also shown on the Weymouth Town Atlas Sheets 49 & 53, Block 553, Lot 1, located in an R-1 & B-2 zoning district seeking special permit and/or variance under Chapter 120-40 to subdivide an existing dwelling from a commercial property to create a separate lot for the dwelling and further to replace the building with a new dwelling

A MOTION was made and seconded to continue Case # 2964 124 Pond Street to October 3, 2007 and was UNANIMOUSLY VOTED. No testimony was taken.

BZA CASE #2978 Hingham, Victoria & Wainwright Avenues

Application of Stephen Gosselin, Inc. for property at Hingham, Victoria, Wainwright Avenues, also shown on the Weymouth Town Atlas Sheet 55, Block 611, Lots 47, 56, 58, 59, 61, 62, 63 & 76, located in a R-1 zoning district seeking a special permit and/or variance under Chapter 120-51 & Table 1 & 120-59 to allow the applicant to combine portions of 8 lots and create two (2) new buildable lots each with frontage of 40 feet.

A MOTION was made and seconded to continue Case # 2978 for Hingham, Victoria and Wainwright Avenue to October 3, 2007 and was UNANIMOUSLY VOTED. No testimony was taken.

BZA CASE #2980 12 DF Haviland Lane

Application of Metri R. Metri for property at 12 DF Haviland Lane, also shown on the Weymouth Town Atlas Sheet 20, Block 282, Lot 31, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40 for extension or change of nonconforming use by changing of lot lines of two existing lots.

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 MINUTES – September 19, 2007

The applicant was informed that there were only 4 members present. The applicant was given the choice to proceed with only 4 members or to continue until the next meeting with the understanding that they would need a unanimous vote to be approved. The applicants chose to proceed with only 4 members.

Mr. Frank Baldassini appeared before the Board with the applicant. The two lots were subdivided before the zoning change from industrial to residential. This was constructively approved with subdivision control not required. As a result of the plans being approved prior to the zoning change these lots have a three year freeze for industrial use. Mr. Metri originally purchased for industrial use but would like to change to residential use.

The way that the lots are configured at this time lot 2 does not have much of a backyard. The lot lines would be configured to single family house lots. The special permit would allow lot line to be reconfigured to equal out the lots to give the existing lot a backyard. There would be off street parking on each lot.

Mr. Baldasini noted that lot 1 is 13,059 square feet and will become 6,700 square feet and lot 2 is 7,600 square feet and will become 13,000 square feet. The dwelling on the new lot will be better located on the site to provide for a backyard.

Mr. Denizkurt noted that the attached sheet reference to lots 31 A and 31 B but the plan references lots 31 C and 31 D. Mr. Metri stated that 31A is what the current subdivision is. Mr. Baldasini stated that when a new subdivision is done, the lots will be labeled Lots C and D.

Mr. Denizkurt asked about site plans for the proposed dwelling and the distance from the foundation to the property lines. Mr. Metri stated that the plan for the proposed house conforms to current zoning requirements. Setback requirements are 18 feet from the street and 10 feet on either side.

There is not a request for a variance to encroach on lot lines.

Mr. Kenneally asked about commercial use. Mr. Baldassini stated that the applicant does not intend to use this property commercially/industrial. The residential lots on DF Haviland Lane are larger but the lots along King Avenue are about the same size.

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 the following comment.

William Herlihy stated that his property abuts the applicant's property. He advised the Board that he has is seeking new counsel. He may challenge the zoning change and/or sue the Mayor and the town under the Civil Rights Acts.

BZA MINUTES – September 19, 2007

Eddie MacDonald stated the he lives in the neighborhood. He stated that he would like clarification on the zoning requirements such as 125 feet frontage, 25,000 square foot lot size, and setbacks. Did the town supersede the town's zoning by making this a residential lot? He also asked about the setbacks. Is it a buildable lot regardless of zoning?

Mr. McLeod stated that the Building Department will determine if the lot is buildable. He noted that the applicant is submitting plans to change the lot lines. Mr. Fuqua stated that when this subdivision was approved there was no lot area requirement, therefore the lot is grandfathered. He also noted that residential dwellings are allowed in the I-2 zoning district. When a lot exists when a zoning change happens, the lot is grandfathered in.

Mr. MacDonald stated that the subdivision approval not required was approved by default. Mr. Baldasini stated that the application was constructively approved before the Planning Board. The Planning Board did not vote on the approval and after 21 days without action the plan was recorded by the Town Clerk. Mr. Fuqua confirmed this.

Mr. McLeod stated that this application is a request for a lot line change only.

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

A MOTION was made by Francis Kenneally to APPROVE the request for a SPECIAL PERMIT to for extension or change of nonconforming use by changing of lot lines of two existing lots. 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 Mrs. 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 by changing of lot lines of two existing lots. 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 #2977 80, 86, 90 Forest Street

Application of Paul Mackintire for property at 80, 86, 90 Forest Street, also shown on the Weymouth Town Atlas Sheet 48, Block 542 Lots 11, 12 & 13, located in a R-1 zoning district seeking a special permit and/or variance under Chapter 120-53 to join 3 abutting parcels to create one building lot that is undersized with frontage on Wampum Street.

A MOTION was made and seconded to continue Case # 2977 for 80, 86, 90 Forest Street to October 3, 2007 and was UNANIMOUSLY VOTED. No testimony was taken.

BZA CASE #2979 86 Lake Street

Application of George Cardillo for property at 86 Lake Street, also shown on the Weymouth Town Atlas Sheet 22, Block 298, Lot 6, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40, 120-51 & Table 1 to allow the conversion of a porch into an addition. Extension will maintain existing front and side lines.

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 there were only 4 members present. The applicant was given the choice to proceed with only 4 members or to continue until the next meeting with the understanding that they would need a unanimous vote to be approved. The applicants chose to proceed with only 4 members.

The applicant appeared before the Board. He stated that his house is on the corner of Lake Street and Lakeside Ave. He stated that he is looking for a special permit to extend his porch. The house will not encroach further than the existing house structure. The porch cannot be extended in any other location due to the lot shape.

Mr. Denizkurt asked how close the extension on the Lakeside Avenue side will be. Ms. Cardillo noted that it is 12 feet. It will be closer to the street but not further than the existing house structure.

BZA MINUTES – September 19, 2007

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

Mr. Fuqua stated that this is a special permit, extension or change of a non-conforming as the house is closer than 18 feet from the street. This application is a request to square off the front of the house with the line and is not making any additional encroachment towards Lakeside Avenue.

Mr. Fuqua stated that the change will not change any of the existing parking on the lot.

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 Mrs. McElroy to APPROVE the request for a SPECIAL PERMIT to allow the conversion of a porch into an addition. Extension will maintain existing front and side lines.

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.

BZA MINUTES – September 19, 2007

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 allow the conversion of a porch into an addition. Extension will maintain existing front and side lines.

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 #2981 25 Rockway Avenue

Application Rockway Associates, LLC for property at 25 Rockway Avenue, also shown on the Weymouth Town Atlas Sheet 37, Block 465, Lots 24 & 27, located in a R-4 zoning district seeking a special permit and/or variance under Chapter 120-74.I & 120-117. The applicant requests zoning relief in the form of a dimensional variance with respect to required parking spaces for use as a medical office building and to extend the time period for a special permit approval of Case # 2856.

A MOTION was made and seconded to continue Case # 2981 for 25 Rockway Avenue to October 3, 2007 and was UNANIMOUSLY VOTED. No testimony was taken.

BZA Minutes – September 5, 2007, Case # 2962, 2965, 2975 & 2976

A MOTION was made and seconded to approve the Minutes of September 5, 2007, Case # 2962, 2965, 2975 and 2976 and was UNANIMOUSLY VOTED.

Adjournment

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

Mary McElroy, Clerk

Date