

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
OCTOBER 19, 2005**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, October 19, 2005, 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: Richard McLeod, Chairman
 Mary McElroy, Clerk
 Kemal Denizkurt
 Donald Holzworth
 Charles Golden

Staff: Rod Fuqua, Principal Planner

Recording Secretary: Janet Murray

BZA CASE # 2871 46 Revere Road

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 George J. Elder for property at 46 Revere Road, also shown on the Weymouth Town Atlas Sheet 26, Block 345, Lot 3, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40, 120-51 & Table 1 for an addition within setback area.

The applicant stated that he is before the Board to request a variance. He stated that when the contractor set the foundation, there was an apparent misunderstanding regarding where to set the foundation. The plans always showed a farmer's porch. The lot is located in a bend in the road.

Mr. Fuqua stated that this appears to be an honest mistake.

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

- Building Department noted that there is a plot plan dated 1/20/05 which shows new construction that complies with setbacks. A plan approved by the Fire Dept. on 4/27/05 shows a modification to include a farmer's porch. House was constructed with a change in the garage alignment. Plan submitted with application shows house as constructed.
- Conservation Commission approved the house and garage under an orders of condition issued March 17, 2005 (DEP File #81-948). Construction of the farmer's porch on the front of the house should not pose impacts to Whitman's Pond. However plans should be provided to the Conservation Commission for their review and approval, since this is a proposed change to an existing Orders of Condition and is located within the 100 foot buffer zone to Whitman's Pond.
- Health Department had no objections.

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- Police Department had no issues.
- Fire Department had no concerns.
- DPW (Water, Sewer, Engineering, Highway) had no comment.
- School Department had no special concerns.
- Tax Department noted that there are outstanding taxes.

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 shape, slope, and ledge, a MOTION was made by Richard McLeod to APPROVE the request for a VARIANCE for an addition within 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 above findings, it was UNANIMOUSLY VOTED to APPROVE the request for a VARIANCE for an addition within 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.

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- (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 # 2870 159 Bridge Street

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 Kelly's Landing for property at 159 Bridge Street, also shown on the Weymouth Town Atlas Sheet 6, Block 71, Lots 1, 2, and 3 located in a B-2 zoning district seeking a special permit and/or variance under Chapter 120-40 & 120-74 for an extension or change by special permit to add an outdoor seating area with ten (10) additional seats, and minimum required parking spaces.

The applicant submitted a letter dated 10/12/05 stating their decision to request to withdraw this application without prejudice.

A MOTION was made by Mary McElroy to allow the applicant to WITHDRAW WITHOUT PREJUDICE the application for a special permit and/or variance to add an outdoor seating area with ten (10) additional seats, and minimum required parking spaces, and was seconded by Donald Holzworth and UNANIMOUSLY VOTED.

PETITION WITHDRAWN WITHOUT PREJUDICE.

MINUTES - 10/5/05

A motion was made and seconded to approve the Minutes of October 5, 2005 and was UNANIMOUSLY VOTED.

Mary McElroy, Clerk

Date