

**BOARD OF ZONING APPEALS
RECORD OF MINUTES AND PROCEEDINGS
October 25, 2006**

The Board of Zoning Appeals of the Town of Weymouth held a public hearing on Wednesday, October 25, 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: Richard McLeod, Chairman
 Edward Foley, Vice-Chair
 Mary McElroy, Clerk
 Donald Holzworth
 Charles Golden
Staff: Rod Fuqua, Principal Planner
Recording Secretary: Janet Murray

BZA CASE # 2917 276-278 River Street (cont.)

Application of Ralph Dyer, et al for property at 276-278 River Street, also shown on the Weymouth Town Atlas Sheet 3, Block 1, Lots 5 & 6, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-51, Table 1 & 120-53 to move a two-family dwelling that is sited on the property lines of lots 5 and 6 so that it is entirely on lot 5 and convert the building to a single family and construct a new single family dwelling on lot 6.

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.

Attorney Galvin appeared before the Board with the applicants. Mr. Galvin stated that when they were previously before the Board, comments were made that resulted in a decision to continue. In the meantime, the applicant has met with the neighbors and a new plan has been developed. The change in the plan is to have the new house built closer to River Street.

There are several trees to the left of the property that would need to be taken down. This would open up the view to the river.

On the corner of Cliff Street and River Street, there is a structure being built that is much larger than what the Dyer's are proposing. The request is for a special permit for two buildable lots at 14,800 square feet, and 23,940 square feet; this is in keeping with the lot areas in the neighborhood.

Mr. McLeod stated that the Board had received a letter from Councilor Lacey in support of this application.

He also noted that Councilor Shanahan submitted a letter to the Board in support of this application.

Mr. Holzworth questioned if the issue of frontage has been addressed. Mr. Galvin stated that it is not required as this is a special permit request on the lot size which includes the frontage. Mr. Fuqua stated that 120-53 allows the Board to grant waivers. He stated that frontage for this size lot and in a subdivision of less than three lots, the required frontage is 40' and this is met.

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

Steve Patterson, 280 River Street, stated the he commends the Dyer's on their efforts in working with the neighbors. Mr. Patterson stated that he is still a bit concerned that in a few years lot 1 could be back to subdivided even further.

Nancy Moore echoed Mr. Patterson's concerns. She noted that neither Councilors Lacey nor Shanahan had spoken directly with the abutters.

Mercedes Mapa stated that she appreciated the Dyer's effort in reaching out to the neighbors; however, she noted that the loss of the trees is concerning to her.

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

A MOTION was made by Edward Foley to APPROVE the request for a SPECIAL PERMIT to move a two-family dwelling that is sited on the property lines of lots 5 and 6 so that it is entirely on lot 5 and convert the building to a single family and construct a new single family dwelling on lot 6 with the conditions:

- 1) The two-family dwelling becomes a one-family.
- 2) Decision based on plan dated 10/11/06 entitled "PLAN OF LAND IN WEYMOUTH, MA", drawn by Hoyt Land Surveying.
- 3) There will be no vehicular access from Canacum Street to the house proposed on parcel 1.

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 move a two-family dwelling that is sited on the property lines of lots 5 and 6 so that it is entirely on lot 5 and convert the building to a single family and construct a new single family dwelling on lot 6 with the conditions:

- 1) The two-family dwelling becomes a one-family.
- 2) Decision based on plan dated 10/11/06 entitled "PLAN OF LAND IN WEYMOUTH, MA", drawn by Hoyt Land Surveying.
- 3) There will be no vehicular access from Canacum Street to the house proposed on parcel 1.

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 # 2910 1546 Commercial Street (cont.)

Application of Helder Garcia for property at 1546 Commercial Street, also shown on the Weymouth Town Atlas Sheet 19, Block 253, Lot 35, located in a B-1 zoning district seeking a special permit and/or variance under 120-25 C for drive thru window service.

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. Henderson stated that the applicant has met with neighbors and the East Weymouth Neighborhood Association to discuss possible changes to the plan.

Mr. McLeod asked what the purpose of the steel gate is. Mr. James stated that this is to allow access to the dumpster. Mr. Garcia stated that he was willing to eliminate this because with the proposed changes to the drive-thru, there will be enough room for the truck to access the dumpster that way.

Mr. Henderson stated that there will be trash barrels both before and after the drive-thru.

Mr. Garcia noted that if imposed as a condition, this Dunkin Donuts could serve only Dunkin Donut products and would no longer serve Baskin Robbins products.

Mr. Holzworth noted that the only access available for walk-in traffic is through the parking lot and driveway. He noted that there is no sidewalk. He also questioned where the handicap ramp is located. He also questioned the ability of cars to exit the queue.

Mr. James noted that there is 18' from bottom of berm to bottom of berm.

Mr. Henderson stated that as for the handicap ramp, this is required by law; its omission was an oversight and it will be added to the plan.

It was suggested that all the parking spots along the drive-thru be made linear. Traffic information and a memo from Carlson Associates were faxed on 10/23/06. The town's traffic engineer reviewed the traffic information. He stated that this information does demonstrate that if there was to be a larger vehicle, there is enough room to navigate the drive-thru.

Mr. William Carlson, principal of Carlson Associates, stated that he did the original traffic study and the updated study this past February. He visited the site last Tuesday and Saturday. He noted that it is a hectic site. He noted that the advantage of a drive-thru at this site will make it less hectic.

Mrs. McElroy questioned the issue of parking on the street. She noted that the applicant has agreed that it does not object to the posting of no parking signs along Commercial Street. Mr. Fuqua stated that the town is looking at the on-street parking in light of the train station opening. Mr. Fuqua also stated that the Board can suggest that the applicant work with the Police Department to discuss a parking ban.

Mr. Henderson stated that the applicant is willing to support the parking ban by contributing to the signage. He noted that the applicant will work with the Neighborhood Association and the Police Department.

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

Councilor Kenneth DiFazio stated that he has not seen the new plan. He noted that he would ask the Board to continue the hearing to give him and the neighbors a chance to look at it. Councilor DiFazio stated that it has been suggested all along to prohibit parking along Commercial Street in preparation of the arrival of the train station. He noted that with the arrival of the Dunkin Donuts the on-street parking has already occurred.

Councilor DiFazio noted that the plans still show still parking spots located at the front of the building. He would like to see these spots reduced by another 2 or 3 spots.

The northerly access is an entrance and exit with the exit being a right turn only. Councilor DiFazio noted that cars heading north on Commercial Street will be allowed to take a left turn into the site.

Councilor DiFazio suggested to the Board to consider that things will be different in less than a year with the arrival of the train station.

Mr. McLeod stated that the Board does not have jurisdiction to direct the town as far as parking is concerned. Councilor DiFazio responded that then it must be considered that parking will continue on Commercial Street until the signs are installed.

Mrs. McElroy noted that there is a crossing for school children not too far from this location.

Dominic Galluzzo, President of the East Weymouth Neighborhood Association, distributed a memo to the Board.

Mr. Galluzzo stated that at an Association meeting in 2002 it was the impression of a lay person that there would not be a drive-thru based on the initial plans for the original building.

Mr. Holzworth stated that as an architect it is common in the business to build a dwelling and place the job in anticipation of applying for a special permit in the future.

Mr. Peter Farrell, 91 Hill Street, stated that the problem is a traffic issue now. Mr. Farrell noted that the area surrounding the Dunkin Donut area is residential. He suggested that the Board delay a decision until after the train arrives. He noted that his wife was involved in a traffic accident due to traffic clogging caused by a drive-thru.

Mr. Golden stated that his concern is that someone comes to the Dunkin Donuts and then leaves and goes to the train station. He noted that this increases traffic because there are several turns being made.

Amy Farrell, 91 Hill Street, expressed concern that the entrance/exit is directly across from Hill Street. She stated that she believes the decision should be delayed until after the train.

Millie Ficarra, 67 Grant Street, stated that her concern is that when cars are exiting, even if there is a no left turn sign, they will still make the turn.

Mr. McLeod asked Mr. Henderson if there was a way to force cars to turn right. Mr. Henderson stated that a curb cut could be added to force traffic to the right.

Mr. Robert Casimiro, 617 Broad Street, stated that he has previously submitted a report and pictures of the chaos that currently exists. He questioned the reasonableness of proceeding further without addressing the current problem. Traffic entering and exiting is the main issue. He also suggested that a decision be delayed until after the train's arrival.

Mr. Holzworth asked that Mr. Henderson gather information and statistics from the Hanson store's traffic and to obtain existing traffic counts on Commercial Street at peak times.

More information was requested from the applicant regarding previous litigation, proposed exit/entrance, handicap access, parking spots, steel gate, and striping of the drive-thru lanes. Information on traffic discussions at the town level and a review of the Dunkin Donuts plans with the MBTA plans were also requested.

Mr. Foley questioned if there were any police comments. Mr. Fuqua stated that he would seek information from the Police Department.

Mr. Fuqua stated that information should be submitted by 11/21/06.

A MOTION was made by Mr. Holzworth to CONTINUE the public hearing until December 6, 2006 and was seconded by Mr. McElroy and was UNANIMOUSLY VOTED.

THE HEARING WAS CONTINUED TO UNTIL DECEMBER 6, 2006.

BZA CASE # 2912 Seabury Street (cont.)

Application of Ryder Development for property at 6, 7, and 8 Seabury Street, also shown on the Weymouth Town Atlas Sheet 8, Block 115, Lots 6, 7, & 8, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-51, Table 1, and 120-53 to allow an exception for lot size to subdivide three (3) lots into two (2) lots with approximately 13,000 square feet each.

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 appeared before the Board with the applicant. After the last meeting, the applicant held a public meeting to discuss the proposal. This is an application to create two lots out of three lots. These lots would be less than 25,000 square feet, but would be larger than many of the existing lots in the neighborhood.

Mr. Galvin stated that there were concerns by residents on Call Road regarding the looping of the water main. Mr. Galvin noted that this looping will happen regardless of the status of this application for a special permit.

Mr. Galvin stated that there were concerns about drainage at Seabury Street and Green Street, which already exists.

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

Mike Vaughn, 8 Seabury Street, expressed concern about the emergency access to the new lots due to the slope of the property and the ability to build a driveway to keep the cars off the street. He recommended at least 15,000 square foot minimum for the lots.

Mr. Vaughn stated that there was a workman on his property under the guise of looking for water lines.

Mr. Ryder stated that the lots are landlocked. As to the lot size, they would be 13,000 square feet. He noted that he did not see an issue with building driveways. The 8% grade is according to the Planning Department.

Mr. Foley asked about the size of the surrounding lots. Mr. Galvin noted that the lots in the area are generally less than 10,000 square feet.

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

A MOTION was made by Edward Foley to APPROVE the request for a SPECIAL PERMIT to allow an exception for lot size to subdivide three (3) lots into two (2) lots with approximately 13,000 square feet each. 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 allow an exception for lot size to subdivide three (3) lots into two (2) lots with approximately 13,000 square feet each. 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 # 2918 17 Richards Road

Christopher Alexander for property at 17 Richards Road, also shown on the Weymouth Town Atlas Sheet 13, Block 180, Lot 9, 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 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 stated that he is applying for a variance to erect a farmer's porch. There is no front entrance to the dwelling. The proposal is to take the existing side porch and wrap it around the front with weather coverage. It will prevent moss growth and the hardship in entering the dwelling from the side. They are taking down the existing fireplace. The setback requirement is 18'. The request is to encroach into this setback by 3'.

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

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 not having a front entrance and the mildew and mold from the neighbor's trees, a MOTION was made by Mr. Foley 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:

Due to the hardship created by not having a front entrance and the mildew and mold from the neighbor's trees, 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.
- (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 # 2919 16 Alachua Road

Bernard H. and Joan P. Merton for property at 16 Alachua Road, also shown on the Weymouth Town Atlas Sheet 19, Block 257, Lot 14, located in an R-1 zoning district seeking a special

permit and/or variance under Chapter 120-53 and 120-119 to subdivide lot to convey portion to abutting neighbor.

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.

Attorney Frank Baldasini represented the applicant. Mr. Baldasini noted that the topography of the lot slopes down. Mr. Merton would like to convey this property to Mr. Lacoste.

Mr. Merton's lot would be 7700 square feet which is in keeping with the surrounding neighborhood. The lot to be conveyed would be 11,857. Mr. Lacoste's property is currently 51,000 square feet. The issue of frontage would prohibit further subdivision. Mr. Baldasini stated that the applicant would agree to a condition that would prohibit subdivision.

Mr. Golden asked if Mr. Lacoste has access to Commercial Street. Mr. Lacoste stated that the MBTA closed off his driveway to Commercial Street and he now has access to his property thru Okala Road.

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.

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

A MOTION was made by Edward Foley to APPROVE the request for a SPECIAL PERMIT to subdivide lot to convey portion to abutting neighbor with the condition that the area of Lot A cannot be included to meet the minimum lot area of any future subdivision of property owned by n/f James and Ailsa LaCoste shown on the Weymouth Town Atlas as Sheet 19, Block 257, Lot 26. 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 subdivide lot to convey portion to abutting neighbor with the condition that the area of Lot A cannot be included to meet the minimum lot area of any future subdivision of property owned by n/f James and Ailsa LaCoste shown on the Weymouth Town Atlas as Sheet 19, Block 257, Lot 26. 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 # 2920 121 Westminster Road

Archadeck on behalf of the owners, Tony and Pam Battaglino, for property at 121 Westminster Road, also shown on the Weymouth Town Atlas Sheet 30, Block 394, Lot 9, located in an R-1 zoning district seeking a special permit and/or variance under Chapter 120-40, 120-51 & Table 1 to expand an existing deck to wrap around to include front door.

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.

A representative from Archadeck appeared before the Board on behalf of the owners of the property, Tony and Pam Battaglino, and stated that the Battaglinos would like to rebuild the existing deck and connect it to the new deck to wrap around the house to include the front door which is located on the side. The house is located on the corner of Westminster Road and Birch Path. Birch Path is a paper street.

There is a deck to the rear of the house which extends into Birch Path. This is a pre-existing non-conforming. The front door of the house is on the triangular piece of the property to the northeast facing Birch Path.

The abutting property to the rear is part of Cavern Knoll Park. All lots that have frontage on Birch Path also have frontage on Westminster. The ledge outcroppings and topography would make development unlikely as it would be cost prohibitive.

The Board can issue the variance out to Birch Path if a hardship exists. The work within Birch Path would be under the jurisdiction of the Building Department. Any time there is a deck higher than 30” within a setback, the Building Department requires Board of Appeals approval.

Mr. Golden asked if there is a buildable lot on Birch Path. Mr. Fuqua stated that there is one lot. It was noted that the lot had been purchased by an abutter and added to that property.

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.

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

Due to the topography of the lot and the uniqueness of this application in that the placement of the entrance facing on Birch Path, a paper street, a MOTION was made by Edward Foley to APPROVE the request for a VARIANCE to expand an existing deck to wrap around to include front door with the condition that the Board's jurisdiction of issuing this variance goes only to the property line of Birch Path. 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:

Due to the topography of the lot and the uniqueness of this application in that the placement of the entrance facing on Birch Path, 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 to expand an existing deck to wrap around to include front door with the condition that the Board's jurisdiction of issuing this variance goes only to the property line of Birch Path. 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 # 2921 1177 Washington Street

Victor and Matta Rouhana for property at 1177 Washington Street, also shown on the Weymouth Town Atlas Sheet 35, Block 447, Lot 4, located in a HT zoning district seeking a special permit and/or variance under Chapter 120-22.7 & 120-40 to convert existing single family dwelling partially used as a business to a two family dwelling retaining the existing business usage. The applicant seeks the extension of a non-conforming use to erect the addition within the 10' sideline 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.

Mr. James Baldasini appeared before the Board with James Newton and the applicant requesting a special permit to convert the existing dwelling into two apartments and to maintain the existing business. The proposed addition and the existing building are within the 10' setback.

Mr. Baldasini stated that the abutters are the Elks parking lot and the Carrier Company which also has one residential dwelling.

The proposed addition is 1400 square feet. The floor area ratio of 25% is met.

Access to site is good and there is sufficient parking to meet zoning requirements.

Mr. Golden asked if the buildings would be attached. Mr. Baldasini stated that they would be attached but there is no access from one dwelling to the other.

Mr. Holzworth asked about the existing structure. Mr. Baldasini stated that the business and living areas in the existing structure will remain the same.

Mr. Foley questioned if the Police Department had a concern regarding parking. Mr. Fuqua stated that the Police concern is that there is no parking on Washington Street.

Mr. Foley asked how many clients are in the business at a time. The applicant stated that there is generally only one client at a time.

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

Under 120-22-7, the conversion of existing dwelling to four-family is permitted. The addition will maintain a straight line and is not further encroaching on the property line.

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 Edward Foley to APPROVE the request for a SPECIAL PERMIT to erect the addition within the 10' sideline 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 to erect the addition within the 10' sideline 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.

Mary McElroy, Clerk

Date