

MINUTES OF MEETING OF WAREHAM PLANNING BOARD

Date of Meeting: February 26, 2018

I. CALL MEETING TO ORDER

The meeting was called to order at 7:00 P.M.

II. ROLL CALL

Members present: Mike Baptiste, Vice Chair
Marc Bianco
John Cronan, Clerk
Emmanuel Daskalakis

Also present: Ken Buckland, Town Planner
David Riquinha, Building Commissioner

Members absent: George Barrett

III. PRELIMINARY BUSINESS

A. Meeting Minutes:

- February 12, 2018

Mr. Bianco states he was present at the last hearing, just absent.

MOTION: Mr. Daskalakis moves to accept the minutes as edited. Mr. Bianco seconds.

VOTE: (3-0-1) Mr. Cronan abstains

IV. PUBLIC HEARINGS

A. Articles for Town Meeting Warrant:

1. Stretch Energy Code

Mr. Buckland states that the Stretch Code is part of the Green Communities Act. With the Green Communities Act there are 5 criteria to allow the Town to access money from the state. This is a significant program which is fairly simple in the process but fairly complex in the actual implementation. Mr. Buckland states they asked for the DOER to come in and give the Town a layout of the program and tonight they have Jim Berry from the Department of Energy Resources to discuss Green Communities and what adopting the Stretch Code means for the community

Present before the Board: Jim Berry

Mr. Berry states that in 2010 he was a member of the Board of Selectmen in Belchertown, MA when the Green Communities Act was passed and that being a Green Community means you have access to grants that only Green Communities have access to for energy efficiency such as money to replace old boilers in schools.

Mr. Berry states that he was asked to focus his discussion this evening on the Stretch Code. Mr. Berry states that as a Green Community a Town is given \$125,000.00 to start with and once the money is expended they may request more funds. Mr. Berry states there are 210 municipalities that have taken part in this program. Mr. Berry states there are 216 communities that have adopted the Stretch Code. Essentially the Stretch Code means that the next version of the Energy Code is voluntarily adopted earlier than is required. Mr. Berry states that one thing communities are concerned about is that this is new and experimental. Mr. Berry states this practice isn't experimental, this is a tried and true process and based on facts. Mr. Berry states some people are concerned that making a house too air tight could be unhealthy as well. Mr. Berry states that the building materials today allow the houses to be built air tight and still remain healthy. Mr. Berry states another concern is that people will be made to bring existing homes up to code. Mr. Berry states that is never going to be a requirement. The Stretch Code applies to new construction. Mr. Berry states that the Base Code is really not very far from the current Stretch Code. Mr. Berry shows an example house. The house already had a 65 HERS rating, but needed to be at a 55 rating to be counted on the Stretch Code. Mr. Berry states the total cost to get the house to a 55 HERS rating was \$2,000.00. Additions and renovations to existing homes and buildings are exempt.

Mr. Bianco asks if there are enough HERS raters to meet the demand if the Town adopts the Stretch Code. Mr. Berry believes there are enough raters to meet the demand. Mr. Daskalakis asks what type of training these raters have. Mr. Berry states the raters are trained and designated through a process. Each HERS rater must work for a HERS provider.

Mr. Bianco asks if the Town adopts this if it would have to apply to residential and commercial. Mr. Berry states it must apply to both. Mr. Bianco asks if 40B housing would have to comply. Mr. Berry stated that 40B projects would have to comply, they may not waive the stretch code. Mr. Bianco asks if this will add additional work for the Building Inspector. Mr. Berry states that this would not create additional work for the Building Inspector. Mr. Bianco asks if there will be a limit on the amount of grant money a town could receive. Mr. Berry states there will be caps on the amount of grants given.

A member of the audience asks where the funding comes from and how likely it is to last. Mr. Berry states that the funding comes from the Regional Greenhouse Gas Initiative that states anyone who produces electricity and sells it must submit a payment for what they are producing into the environment. The proceeds from the REGI program goes to the Mass Save program and also into the Green Communities program.

MOTION: Mr. Daskalakis moves to recommend favorable action to adopt the Stretch Code to Town Meeting. Mr. Cronan seconds.

VOTE: (4-0-0)

2. Drive-Thru Restaurants

Mr. Buckland states that regarding drive-thru's the Board had discussed not allowing drive-thru's on highways and main arterials. Mr. Buckland has created a map that shows all highways and main arterials. Mr. Buckland states he would like the Board to consider having highways and main arterial roads be considered part of the criteria where they would not have direct access onto those roads. Mr. Bianco wants to ensure that the narrative at town meeting ensures that it is made clear these roads are not being restricted, just requesting interior access to the drive-thru. Mr. Buckland states that will be made clear at town meeting.

3. Animal Kennels

Mr. Buckland states that the Board had already made their decision on animal kennels.

4. Unregistered Vehicle, Boat or Trailer

Mr. Buckland states that a lot of these articles were issues that the Building Commissioner faces commonly. The definition of Unregistered Vehicle, boat, or trailer is proposed to be changed to read as follows:

"No person or property owner shall have or allow more than one unregistered vehicle, Vessel, trailer or parts thereof, not garaged on any premises at any time unless so authorized in writing by the Board of Selectmen. In no event shall any such vehicle, vessel, trailer, or parts thereof be stored or located in the front yard of any premises within the town. A valid business certificate for sales of such equipment shall suffice as written permission from the Board of Selectmen."

Mr. Cronan asks how many you could have if they are registered. Mr. Baptiste states he believes the number is not limited if they are registered.

A member of the audience comes before the Board to speak. The gentleman states that not all boats are required to be registered by law. If a boat is under 13' or does not have a motor then it does not have to be registered and what is the requirement for that.

Present before the Board: David Riquinha

Mr. Riquinha states that any trailer needs to be registered. If the boat is on a trailer then the trailer must be registered.

Mr. Bianco asks if the language should be clarified to reflect that fact. Mr. Riquinha states it probably should be revised.

Mr. Buckland asks how the definition should be modified. Mr. Bianco asks if the definition will be changed to state vessels of size requiring registration.

MOTION: Mr. Cronan recommends favorable action for “Unregistered Vehicle, Boat, or Trailer” articles for the Special Town Meeting with the approved changes. Mr. Daskalakis seconds.

VOTE: (4-0-0)

5. Outdoor Storage

Mr. Buckland states they would like to change the definition of outdoor storage to read as follows:

“Outdoor storage which includes storage of construction, manufacturing, service wholesale equipment, materials, junk, or heavy motorized equipment of any type shall be completely enclosed by a solid fence or wall not less than eight feet nor more than ten feet in height. Fences or walls used for screening of such materials or junk shall be setback from the property lines equal to the required setback for the applicable zoning district.”

Mr. Baptiste states he would like more clarification from the Building Department. Mr. Cronan asks if any outdoor storage container can be anywhere on the property as long as it is outside of the setbacks.

MOTION: Mr. Cronan recommends favorable action for “Outdoor Storage” articles for the Special Town Meeting with the approved changes. Mr. Daskalakis seconds.

VOTE: (4-0-0)

6. Frontage

The definition of Frontage has been changed to read as follows:

“the property line dividing a lot from a street providing access to the lot measured from one side lot line to the other. In cases of corner lots, the total shall include the distance between both side lot lines and the radius measurement of the corner if applicable”

This article also includes the following proposed changes:

NON-CONFORMING BUILDING OR LOT A building or lot that does not conform to a dimensional regulation prescribed by this By-law for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings but which building or lot was in existence at the time the regulation became effective and was lawful at the time the building or lot was established.

NON-CONFORMING USE A use of a building or lot that does not conform to a use regulation prescribed by this By-law for the district in which it is located, but which was in existence at the time the use regulation became effective and was lawful at the time it was established.

OWNER A party or/ parties that possess the exclusive right to hold, use, benefit-from, enjoy, convey, transfer, and otherwise dispose of an asset or property.

LOT A parcel of land used or set aside and available for use as the site of one or more buildings and buildings accessory thereto or for any other definite purpose, in one ownership and not divided by a street, nor including any land within the limits of a public or private way upon which such lot abuts, even if the fee to such way is in the owner of the lot. As used herein, ownership shall mean either:

1. legal title in fee or
2. a tenancy under a written lease, the term of which is for a period of not less than 99 years of which term there are not less than 50 years remaining unexpired, at the time of issuance of any permit, building, special or otherwise, under and as provided by this Zoning By-law, or
3. any combination of paragraph a. and b. above.

Present before the Board: David Heard

Mr. Heard states that the definition of lot says that it does not include the right of way, which may be listed in the deed, as part of the owners' property. Mr. Heard states there will be a conflict between what the Registry of Deeds has versus what the town has. Mr. Heard asked why the town has a different definition. Mr. Buckland states on a building plan it does not make sense to include the access to the lot as it is not useable. Mr. Heard states the definition is to define the buildable area, which makes sense.

Mr. Bianco asks if this is defining a buildable lot area. Mr. Buckland states that buildable lot is defined elsewhere and this is strictly to determine the lot size.

MOTION: Mr. Cronan moves to recommend favorable action for the proposed article. Mr. Bianco seconds.

VOTE: (4-0-0)

7. Lawfully Existing Residential Lots

Mr. Buckland states this is changes to Article 6, Density and Dimensional Regulations. There are a number of tables that define the lot area requirements and setbacks for separate zoning districts. Mr. Buckland states one of the things that was needed was something that identified the allowances for undersized lots that were lawfully existing and what dimensional requirements they would have to meet. Mr. Buckland states they are finding that as you re-zone areas you create conflicts with the new zoning and setback requirements so it requires more projects to go before the Zoning Board of Appeals that may not be necessary if you have set standards for the smaller lots. The proposed changes will provide for lot area requirements, setback requirements, and FAR for the smaller lots so they meet the standard of lawfully existing instead of requiring a Zoning Board of Appeals permit.

8. Residential Districts

“Other Residential Use” in the table under MR-30 has been changed to 15,000 with a footnote denoting that it is “for each additional unit above 2”

MOTION: Mr. Daskalakis moves to recommend favorable action for Lawfully Existing Residential Lots and Residential Districts. Mr. Bianco seconds.

VOTE: (4-0-0)

9. Floor Area Ratio (F.A.R.)

Mr. Baptiste states he would just recommend in the proposed by-law article that after the title FAR add Floor Area Ratio in parenthesis so people understand what FAR is.

The definition of FAR has been changed to read as follows:

“The relationship between the total amount of usable floor area that a building has, or has been permitted for the building, and the total area of the lot on which the building stands. This ratio is determined by dividing the total, or gross, floor area of the building by the gross area of the lot.”

MOTION: Mr. Cronan moves to support favorable action. Mr. Bianco seconds.

B. 2-18 – Seth Tobey Realty Trust – 16 and 18 Seth F. Tobey Road – Site Plan Review/ Special Permit

Present before the Board: Robert Chamberlain
Richard O’Hearn, Professional Land Surveyor
Rick Hamlin, Contractor
Richard Johnson, Landscape Architect

Mr. Chamberlain states that the applicant is proposing a 7,200 s.f. retail building with the proposed tenant to be a liquor store in the Commercial Strip zoning district. This piece of property was re-zoned in the last few years.

Mr. Buckland states that the request of the Municipal Maintenance Department was that Seth F. Tobey Road not be opened again for sewer and water connections. Mr. Buckland asks if there are adequate connections on the site. Mr. O’Hearn states that he has spoken with the Water Department and they do have a connection on site. Mr. O’Hearn states the sewer on site is sufficient to handle what is on site as well.

Mr. Hamlin states that there is no road cutting required to access the water and sewer lines. They are proposing to put in a 2-inch line to the water main, which can be accessed without cutting the road.

Mr. Chamberlain states they could use directional boring if necessary, but they would not need to open the road.

Mr. Buckland asks if there is any response to the Fire Department letter. Mr. Chamberlain states that they noted there was no sprinkler noted, which was an error – they will be installing a sprinkler system, and which is why the applicant would like to add the 2-inch water line.

Mr. Baptiste asks if they are proposing one curb cut. Mr. Chamberlain states that is correct.

Mr. Bianco asks that at the curb cut you will turn out into single lane traffic. Mr. Chamberlain states that is correct. Mr. Bianco asks if this is the transfer license from Rosebrook. Mr. Chamberlain states that is correct. Mr. Bianco states that he is concerned with the amount of traffic on the road. Mr. Bianco asks if they would consider adding a second lane at the entrance, even though he is aware this would cut into their property. Mr. Chamberlain states that the only comment he could make to the volume of traffic is that they are anticipating the traffic that is coming to the site will be from traffic that is already in the area using the existing facilities. Mr. Bianco asked what the expected volume of customers is. Mr. Chamberlain states he does not have that number available. Mr. Bianco states the interruption in traffic on Tobey Road is the concern, regardless of where the traffic comes from. Mr. Chamberlain states that there are rules and regulations regarding traffic concerns and they have met the traffic and access regulation standards.

Mr. Baptiste asks the applicant if they have considered requesting access through Wareham Marketplace. Mr. Chamberlain states that had not been a consideration and they could not see why Wareham Marketplace would allow them to have access through their site and that is an entirely separate legal issue. Mr. Chamberlain states that they have two curb cuts over there currently.

Mr. Buckland asks if a traffic impact assessment was done on the property. Mr. O'Hearn states they didn't feel a traffic study was needed for this site. Mr. Cronan states that Walmart and Wareham Marketplace didn't think they needed a traffic study either. Mr. Chamberlain states that the town re-zoned that property for Commercial Strip, and that they had to have been aware of the implications and impacts of that re-zoning.

Mr. Buckland states that according to Article 15 for Site Plan Review it is indicated that a traffic study may be requested. Mr. Chamberlain states if that is the desire of the Board he could submit a traffic study for the site. Mr. Chamberlain states that due to their small size in comparison to the other development in the area he didn't realize that may be necessary.

Mr. Bianco states he feels a traffic study would be prudent for this site to ensure they are allowing safe development throughout the town.

Mr. Hamlin asks for clarification from Mr. Bianco asking if he is asking for a third turning lane on the road or if he is asking for an improved exit lane to allow for acceleration. Mr. Bianco states he believes if they could at least widen the road slightly, as a second right turn lane out of their property, it would allow for safer traffic movements. Mr. Bianco states that they need to

establish safe traffic routes on this road with each development or the situation will get out of hand,

Mr. Daskalakis states that ideally they should get the developers together to solve the traffic issue. Mr. Daskalakis states that the curb cuts on their site are too close together, they are only 30 feet apart. Mr. Chamberlain states the curb cuts are 85 feet apart. Mr. Daskalakis states he agrees that the traffic problem will only get worse and feels a traffic study is necessary. Mr. Daskalakis asks if Mr. Chamberlain has reached out to the other developers to resolve the traffic problem. Mr. Chamberlain stated they have not discussed this issue with the other developers.

Mr. Bianco recommends having enter and exit only curb cuts to direct the traffic more consistently. Mr. Bianco states he would like to discuss the building.

Mr. Bianco asks what size the liquor store in Rosebrook is. Mr. Chamberlain states around 3,000 square feet. Mr. Bianco states that the proposed building is half the size of the existing building in Rosebrook. Mr. Chamberlain states that is accurate.

Mr. Chamberlain states that the AC units will be on the roof of the building, or on a pad on the side of the property facing Wareham Crossing. Mr. O'Hearn asks if an accessory structure could be in the setback. Mr. Riquinha states that is currently up in the air but they have been allowing condensers in the setback.

Mr. Daskalakis asks what the exterior materials of the building will be. Mr. Chamberlain states they will be wood shingles and cut stone. The roof will be asphalt shingles. Mr. Daskalakis asks if the building is one story or two. Mr. Chamberlain states the building is one story. Mr. Daskalakis states he sees the mezzanine roof but cannot find access to the mezzanine on the plan. Mr. Chamberlain states that was an error and should have been removed. There is currently no mezzanine proposed. Mr. Bianco asks if all roof units will be screened. Mr. Chamberlain states all roof units will be screened. Mr. Bianco asks if there are 24 parking spaces for the site. Mr. Chamberlain states there are.

Mr. Bianco asks how many employees are typically operating the store. Mr. Chamberlain states there are 2-3 employees typically. Mr. Bianco asks how soon they would like to be open. Mr. Chamberlain states that they would like to open as soon as possible as they are under time constraints for the liquor license. Mr. Bianco asks what the construction period is. Mr. Chamberlain states they are hoping it is no more than 6 months. Mr. Hamlin states they would like to get their building permit as soon as possible in order to complete some necessary site work before the overall approval is granted.

Mr. Bianco states he feels the next step would be to work on a traffic study. Mr. Bianco states he would like to see a good faith effort to try and work with their neighbors to develop a better traffic outcome. Mr. Chamberlain asks if there is a chance that if the traffic study is completed that they would not have to approach their neighbors regarding the traffic issue. Mr. Chamberlain states he is willing to discuss this with Wareham Marketplace, but in his experience the developer with the upper hand is not going to want to cooperate with them. Mr. Bianco states he

feels that Liquor N' More has the upper hand. Mr. Chamberlain states this is an extremely complicated situation, but will put in a genuine effort.

Mr. Cronan states that he doesn't feel it is right to put this developer through a traffic study if Wareham Marketplace hasn't completed their traffic study for their site. Mr. Buckland asks if Mr. Cronan would like to initiate peer review. Mr. Cronan states he doesn't feel that is necessary, he just feels that it is unfair to hold them responsible for the traffic if Wareham Marketplace hasn't completed their traffic study yet.

Mr. Daskalakis recommends that the applicant have a common curb cut with Wareham Marketplace. Mr. Chamberlain states that their curb cut is already constructed.

Mr. Bianco states that this site by itself is not a large impact, but they need to look at the development on the road as a whole.

Mr. Baptiste states his recommendation is to get Mr. Rowley to review the project and reconvene on March 26, 2018 since March 12 is Special Town Meeting.

Mr. Chamberlain states, to be clear, that they are not seeking a traffic study at this time and will wait for the town review engineer. Mr. Daskalakis recommends sharing a curb cut with Wareham Marketplace, moving the building, and adding some landscaping. Mr. Chamberlain asks how having a shared curb cut would help. Mr. Cronan asks about moving one of their curb cuts to the end of the property. Mr. Chamberlain states that does complicate the development of the side due to the angle of the back line. Mr. Chamberlain states the turning radius is too tight and the parking requirements won't be able to be met. Mr. Chamberlain states the entrance could move toward JC Penny by 15 feet if that helps.

Mr. Daskalakis suggests asking Wareham Marketplace if they could enter and exit through their parking lot. Mr. Chamberlain states that would be a lot easier than asking them to move their curb cut, but would it satisfy the requirements of the Board. Mr. Riquinha states that would cause issues with Fire and EMS access.

Mr. Chamberlain asks Mr. Baptiste if they can continue with the clearing of the property. Mr. Baptiste states they may continue with the clearing of the site.

MOTION: Mr. Bianco moves to continue the public hearing until March 26, 2018. Mr. Cronan seconds.

VOTE: (4-0-0)

V. CONTINUED PUBLIC HEARINGS

A. Heidi Dobbins- Morse – Spring Avenue – Special Permit/Site Plan Review

The applicant has requested a continuance.

MOTION: Mr. Bianco moves to continue the public hearing for Spring Avenue until March 26, 2018. Mr. Cronan seconds.

VOTE: (4-0-0)

VI. REFERRALS

A. Woodland Cove – Dakota Properties 40B – referral to Zoning Board of Appeals

Mr. Buckland states they will hold a future meeting of the Board to obtain referrals for this project. Mr. Buckland states he will send out the 40B Handbook to the Planning Board.

VII. ANY OTHER BUSINESS/DISCUSSION

A. Pre-application Conference: Bay Pointe Modification with Additional Parcel; as per Zoning By-Laws, Article 590.3

Mr. Buckland states this is the standard process for the Conference Recreational district.

Present before the Board: Tim Fay

Mr. Fay states that they are before the Board to complete the approval of the Bay Pointe plan. They have an agreement with CEDA to acquisition the property and they are looking to incorporate this into the plan and complete the plan that was approved last fall with permanent relocation of the road. Mr. Fay states they are hoping to have a concept approval for an apartment building with 50 units and three additional duplex buildings on the road as well. Mr. Fay has drawings presented to the board that shows the proposed buildings. Mr. Fay states that they would like to install the four-story 50-unit market rate apartments on what is currently the CEDA property. Mr. Fay states that is a newly proposed road, coming off of the existing road that gives them the ability to provide adequate, new, paved, lit parking to the pavilion. As you move further down the road it is one lane each way with a landscaped median that takes you down to where the road turns to meet Cahoon Road. There will be a rotary installed to slow traffic down. Mr. Fay states this plan allows them to do four things: 1. Take ownership of their entrance and create a new entrance; 2. It allows them to properly provide support parking for the existing pavilion operations; 3. It allows them to provide market-rate apartments and provide the appropriate parking and landscaping for that; 4. And it allows them to provide new parking and clubhouse access for the golfing population.

Mr. Cronan asks if there is a new main parking lot for the club house. Mr. Fay states the existing building has reached its limit of usefulness and will be renovated and the parking is the big issue for the club house. Mr. Cronan asks if the two units on the left are the proposed apartments. Mr. Fay states that there will be three new units.

Mr. Cronan states the main road will stay essentially where it is but will be enhanced. Mr. Fay states that they actually are moving the road somewhat significantly. Mr. Cronan asks if the four-story building could be elongated and be made into three stories. Mr. Fay states that the building

will be approximately 48-50 with a zoning requirement of 56 feet, which keeps them below the zoning requirement. Mr. Fay states that to extend the building to make it three stories it infringes too much on the parking.

Mr. Cronan states his only concern is the houses around the 4-story building and asks if there will be any type of tree line. Mr. Fay states that area has mature pine trees that are approximately 40-45 feet high and will remain in place.

Mr. Daskalakis notes that the north arrow is missing on the plans. Mr. Fay states that it is, and that will be revised. Mr. Fay states there will be a common area space inside the apartment building and most units will be 2 units.

Mr. Daskalakis asks what the intervals of the contour lines are. Mr. Fay states that on the site as you pull in the high point is along the road up top, there is approximately a 25' grade change down to the site where the building is. Mr. Daskalakis is concerned the 50' building will be over the tree height and feels the shadow cast on the surrounding buildings should be studied. Mr. Fay states he will look into that. Mr. Fay states he feels the purpose of the meeting tonight is the concept of the plan.

Mr. Bianco asks what the increase in asphalt surface percentage from what is currently there to what is proposed. Mr. Fay states the pavement percentage in addition to the apartment building is comparable.

Mr. Bianco states he has spoken to abutters to discuss what the property is like during rain events and he recommends Mr. Fay speak with the neighbors. Mr. Fay states that he will speak with the abutters. Mr. Bianco asks what the anticipated demographic is for the apartment building. Mr. Fay states they are not age restricted, but they are geared toward empty nesters.

Mr. Baptiste asks if the current road will remain in place and be replaced later on. Mr. Fay states that is his intention.

MOTION: Mr. Cronan moves to accept this concept. Mr. Daskalakis seconds.

VOTE: (4-0-0)

B. Special Town Meeting, March 12, 2017 – Marijuana Article

VIII. NEW BUSINESS (This time is reserved for topics that the Chairman did not reasonably anticipate would be discussed)

IX. CORRESPONDENCE

A. See correspondence in packets.

IX. ADJOURNMENT

MOTION: Motion to adjourn. Mr. Cronan seconds.

VOTE: (4-0-0)

XII. DOCUMENTS

Date signed: _____

Attest:  _____
George Barrett, Chairman
WAREHAM PLANNING BOARD

Date copy sent to Town Clerk: _____

RECEIVED

APR 10 2018

TOWN OF WAREHAM
TOWN CLERK