

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: March 22, 2017

I. CALL MEETING TO ORDER

The meeting was called to order at 6:45 P.M.

II. ROLL CALL

Members Present: Nazih Elkallassi, Chairman
Jim Eacobacci, Clerk
Jan Kendrick
Wilma Engerman
Karl Baptiste
Jake Morrison, Associate member

Members Absent: Ernie Alden

Also present: Kenneth Buckland, Director of Planning
David Riquinha, Building Commissioner

I. PRELIMINARY BUSINESS

A. Approve meeting minutes: February 8, 2017.

MOTION: Mr. Eacobacci moved to approve the minutes of February 8, 2017. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

B. Discussion: Petition #26-16 – 16 Squirrel Island Road Bond.

Present before the Board: Joe Shanahan, Clean Energy Collective

Mr. Shanahan stated he is before the Board to present a surety in the amount of \$70,300.00. Mr. Elkallassi believes these funds will be sufficient for the project.

MOTION: Mr. Eacobacci moved the Board approve the surety in the amount of \$70,300.00 from the Clean Energy Collective in conformance with the Special Permit conditions. Ms. Kendrick seconded.

VOTE: Unanimous (5-0-0)

C. Discussion: M. Giancola – 72 Minot Avenue.

Present before the Board: Mike Giancola
Bill Madden, G.A.F. Engineering, Inc.

Mr. Giancola stated he is before the Board for his one-year review on his project at 72 Minot Avenue.

The Board reviewed the site inspection letter from Charles Rowley, Town Engineer. Mr. Rowley noted concerns re: construction, such as paving in the rear of the property, encroaching on abutting property, wheel stops along the property line and the rear of the building. Also, settlement has occurred around the stormwater retention system. Drainage is not shown on the plan. The striping has not yet been completed. The sidewalk in the southwest corner of the building and the landscaping is not as it is shown on the plans. The sign is not where it is shown on the plans. The fencing has not been constructed as originally proposed. The wooded area adjacent to the easterly entrance has been re-graded. Conditions 15 and 16 of the Special Permit appear to be met. Condition 17 appears to have not been met. Condition 18 refers to the inspection schedule, which was not met as additionally recommended. Deviations from the plan need to be approved by the Board and the deviations from the plan need to be recorded in the file.

Mr. Elkallassi stated if Mr. Giancola wishes to have the Board approve the changes, then that would require a separate public hearing if it is found to be a major modification.

Mr. Giancola referenced Mr. Rowley's letter re: the wheel stops on the property. He stated the settlement around the drainage will be fixed and the striping will be completed, however, he stated striping is not required for all of the parking shown on the plan.

Mr. Giancola addressed the sidewalk issue. He stated a handicapped sidewalk was installed instead of the sidewalk shown on the plan. He agrees he will need to move the sign. He addressed Condition 10 re: a fence and a sliding gate, which have been removed not per the plan.

Mr. Elkallassi feels not finishing the striping would require a public hearing. Mr. Giancola stated he will complete the striping.

Mr. Giancola asked if he can be relieved of supplying the Town with a performance bond. Mr. Elkallassi believes the Board could grant 60-90 days to complete the work on the site. Mr. Giancola stated he is asking the Board for a waiver from installing the curb stops at the rear of the parking lot. Mr. Elkallassi asked the Board if they wanted to take a vote on the curb stops and the sidewalk. The Board concurred that they will discuss this matter again on June 28, 2017 to review the remaining work.

MOTION: Ms. Kendrick moved to approve the minor modifications with respect to allowing the sidewalk to remain as a handicapped accessible sidewalk, to allow the removal of the fence, and agree to not require the performance bond if the remaining work is completed within 90 days. Mr. Eacobacci seconded.

VOTE: Unanimous (5-0-0)

MOTION: Ms. Kendrick moved to not require the curb stops for 72 Minot Avenue. Mr. Eacobacci seconds.

VOTE: (4-1-0)

II. PUBLIC HEARINGS

A. Petition #11-17 – Karen Welch – 2667A Cranberry Highway

Present before the Board: Karen & James Welch

Ms. Welch explained she wishes to run a dog daycare Monday-Friday with a fenced in yard at this property. Based on a letter from the Director of Inspectional Services dated January 10, 2017, the Wareham Zoning Bylaws states that animal kennels (for more than three dogs) in the CS zoning district with less than five acres of land require a Special Permit from the ZBA.

Mr. Eacobacci noted the public hearing notice states the property is located on Lot 2 and the plan shows the property on Lot 1. Brief discussion ensued.

Mr. Riquinha stated he had requested the applicant move the fence to the opposite side of the right-of-way.

Mr. Elkallassi stated relative to the lot number discrepancy, re-advertising of the hearing will be needed. He noted the application fee will be waived, but the applicant will have to pay for the re-advertising fee for the re-advertisement.

MOTION: Mr. Eacobacci moved to continue the public hearing for Petition #11-17 – Karen Welch – 2667A Cranberry Highway to the first date available after the re-advertisement. Ms. Kendrick seconded.

VOTE: Unanimous (5-0-0)

B. Petition #12-17 – Kyle Brenner – 15 Bush Street

Present before the Board: Kyle Brenner
John Spink, Engineer

The applicant is seeking to raze an existing structure and re-construct a new structure in the same footprint. Mr. Brenner stated he is looking to use the existing foundation to construct a new single family home. Based on a letter from the Director of Inspectional Services dated February 8, 2017, the proposal includes construction of a new addition on an existing foundation as well as enlargement of the existing structure. Because the existing structure does not conform to current setback requirements, the applicant must request relief in the form of a Special Permit or in the alternative, a Variance if the ZBA finds the proposal to be more detrimental to the neighborhood in any way.

Mr. Elkallassi asked if there will be an extension. Mr. Brenner explained there was a cap on the original foundation that was not used and they would like to use that part of the foundation as well. He added he would also like to construct a farmer's porch.

Brief discussion ensued.

MOTION: Mr. Eacobacci moved to close the public hearing for Petition #12-17 – Kyle Brenner – 15 Bush Street. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

MOTION: Ms. Kendrick moved & Mr. Baptiste seconded to grant a Special Permit for Petition #12-17 – Kyle Brenner – 15 Bush Street finding the project does not substantially increase any non-conformity and is not substantially detrimental to the neighborhood, and further, the following conditions apply:

- The rocks are to remain where they are.

- Standard conditions apply.

VOTE: (4-1-0)
Ms. Engerman opposed

NOTE: Mr. Baptiste departed the meeting at 7:34 PM.

III. CONTINUED PUBLIC HEARINGS

A. Petition #09-17 – Peter & Terri Gordon – 3 Crooked River Road

Present before the Board:

Mr. Elkallassi stated the public hearing was previously continued to procure engineered plans. He stated for the record, Mr. Morrison sat on the previous hearing and may vote for Mr. Baptiste who has departed the meeting.

Ms. Engerman stated the proposed kitchen must be removed if the in-law passes away. Mr. Buckland stated this can be imposed with a deed restriction.

Brief discussion ensued.

MOTION: Ms. Kendrick moved to close the public hearing for Petition #09-17 – Peter & Terri Gordon – 3 Crooked River Road. Mr. Eacobacci seconded.

VOTE: (5-0-0)

NOTE: It was stated Town Counsel will draft a decision that the Board will sign. Mr. Elkallassi stated the hardship is the shape & topography of the lot and that it would not allow for an accessory apartment, so an in-law apartment is appropriate; the project is not detrimental to the neighborhood; and a literal enforcement of the By-Law will be a substantial hardship on the applicant.

MOTION: Ms. Kendrick moved to grant a Variance with a deed restriction as drafted by Town Counsel for Petition #09-17 – Peter & Terri Gordon – 3 Crooked River Road. Mr. Eacobacci seconded.

VOTE: (4-1-0)

IV. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS

A. Correspondence

1. See correspondence sent via email and/or in packets.

B. Upcoming Hearings:

April 12, 2017	#13-17	Joseph Freehling & Cynthia Gustofon	17 11 th Street
April 12, 2017	#14-17	Peter Ellis	22 Scheffler Drive
April 12, 2017	#15-17	Jacqueline Lukk	152 Lake Avenue
April 12, 2017	#16-17	Francis Ellis	7 Mattos Avenue

- V. **NEW BUSINESS** (This time is reserved for topics that the Chairman did not reasonably anticipate.)

III. **ADJOURNMENT**

MOTION: Mr. Eacobacci moved to adjourn the meeting. Ms. Kendrick seconded.

VOTE: Unanimous (5-0-0)

Date signed: _____

Attest: _____

James Eacobacci, Clerk

WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: _____