

**Town of Wareham
Zoning Board of Appeals Minutes
March 9, 2022**

- I. **CALL MEETING TO ORDER:** Chairman, Mr. Elkallassi opened the meeting at 6:32 p.m. via Zoom.
- II. **ROLL CALL:** Present: Chairman, Nazih Elkallassi, Clerk, James Eacobacci, Jacob Morrison, Richard Semple, Troy Larson, and Veronica DeBonise

Assistant Planning Director, Aaron Shaheen was also in attendance.

III. **PRELIMINARY BUSINESS:**

1. **Approval of Meeting Minutes – August 11, 2021, & August 25, 2021**

Mr. Eacobacci stated the minutes have been being sent to him for review. Mr. Eacobacci made a Motion to accept the minutes as presented and /or amended and was seconded by Mr. Semple. The Motion passed unanimously via roll call vote (5-0).

IV. **CONTINUED PUBLIC HEARINGS:**

V. **PUBLIC HEARINGS:**

1. **6-22 Lara Smith Flory – Special Permit/Use Variance – 27 Standish Avenue – Map 121, Lot 1576**

Mr. Shaheen read the advertisement for the record.

Ms. Flory was present via Zoom. Ms. Flory stated she has a four-bedroom dwelling at 27 Standish Avenue and wanted to request an in-home office as a consultant for computer-based work to be fully remote. She said there will be no signage.

Mr. Semple stated he went by the property and did notice quite a few cars in the driveway so just wanted to make sure there wasn't going to be additional traffic to the location.

Ms. Flory stated they had two adult children living at home each with a vehicle. She confirmed no clients would be at the home.

Mr. Eacobacci stated he had no concerns, as Mr. Lawson did not either.

Ms. DeBonise stated no additional employees? Ms. Lory stated that as correct, it would just be her.

Mr. Elkallassi stated he had no concerns. He opened it up to the public and there was no comment.

Mr. Ecobacci made a Motion to close the 6-22 Flory Public Hearing and was seconded by Ms. DeBonise. The Motion passed unanimously.

Mr. Ecobacci stated he looked up the lot and it was two small lots that came together for just over two thousand square feet.

Mr. Ecobacci made a Motion to grant the Special Permit for 6-22 Lara Smith Flory for a home office.

Ms. DeBonise stated she wanted to add the Special Condition that there would be no additional employees should the business require it in the future.

Mr. Elkallassi stated he wanted to add a few Special Conditions, first that the office was in paper theory only. He requested the following Special Conditions:

1. No additional Parking
2. No Signage
3. No New traffic, and No office to be built in the future.

Ms. Flory agreed with all conditions.

With the amendments to the Special Conditions, the board voted unanimously to grant the petition. (5-0-0).

2. 7-22 RJ Motto, Inc. – Site Plan Review/Variance – 21 Old Glen Charlie Road Map 110, Lot 1076

Mr. Shaheen read the advertisement for the record.

Mr. Elkallassi opened the public hearing for 7-22 RJ Motto, Inc.

Mr. Russell Motto was present and introduced Brad Bertolo, his engineer. He said he wanted to construct two duplexes in the back of an existing duplex currently rented. He said it was on for a Site Review and Special Permit.

Brad Bertolo was present. He said they wanted to construct two new duplexes at 21 Old Glen Charlie Road, he said this was at the end of the road near a cul-de-sac. He said the property currently has a duplex and a driveway with a parking area in the rear of the property (sandy and gravelly). He said it was a strict commercial zoning district. He said the lot has at least 250' frontage per the requirements. He said this was a conditions plan. He said the current home is

served by a gravel driveway and described the parking spaces. He said the current home has gas and has Town Water. He said is also serviced by septic systems. He said the area is already cleared for the new duplex, the remaining area is wooded and sloped to a small wetland, adjacent to Glen Charlie Road. He said they are looking to construct two more duplex structures. He said they are looking to construct 26x26 two structures, duplex structures; that will be serviced by a new driveway off of Old Glen Charlie Road. He said there will be a small paved apron and continue up the hill with four small parking areas. He said they are proposing underground septic systems for both structures per the Board of Health requirements. He explained the grading mimics what is there currently with finished grades about the same. He said visually the grading will be set lower than the abutters' property. He said this project is proposing twelve parking spaces (ten or more as combined this requires site plan review per the parking). He stated a new water line will be proposed and rework the existing gas line, natural gas for all six units. They are also proposing a new utility pole in this location. He said the only overhead utility is electric. He said they are proposing a clearing on the side of the house with a 3' retaining wall to have a level backyard. He said the proposed deck would be on the side on one and then back on the other.

Mr. Bertolo stated he does have a fire truck access path and a letter from the Fire Department has required a turn around the driveway for the fire apparatus.

Mr. Semple interjected to say he thought there were more issues with the Fire Department. Mr. Elkallassi stated they would get there, but to allow Mr. Bertolo to finish.

Mr. Bertolo stated it would be a 2-story, 3 bedroom each duplex. He said this is a concept plan of the layout.

Mr. Bertolo stated the other comments from the Fire Department are the same loading as catch basins, suitable for vehicular traffic. He said that the proposed use is not detrimental to the neighborhood as there are single-family dwellings and duplexes in the area. He said they are very close to Cranberry Highway, East Wareham; so it would benefit businesses in the neighborhood with four additional units.

He said one big benefit is proposing sub-service infiltration in this location. He stated they are going to be attending Conservation Commission.

Mr. Elkallhassi opened it up to the Board Members.

Ms. DeBonise said she would like Charlie to review the plans.

Mr. Ecobacci asked about utilities in the ground, and he asked about the existing duplex.

Mr. Bertolo stated he believes the leaching field can be driven over.

Mr. Ecobacci asked where the reserve for the existing two-family is.

Mr. Bertolo stated the reserve is in between the trenches and they will are not proposing any changes to that. He said if there are issues in the future there is plenty of room on the side of the property to rerouting the leaching field.

Mr. Elkallassi asked how he calculated the number to come up with six units.

Mr. Bertolo stated there was no number in the specifications other than the lot had to be at least 20,000 sq feet and he said he reviewed it with the Building Commissioner, Mr. Riquinha. And that he agreed with this project being a Special Permit and agrees with unit count as a whole.

Mr. Elkallassi stated he read the by-law and it reads 30,000 for the first 150 feet, with 250 feet frontage. He thought he understood that the bylaw's intention (because of a typographical error) occurred. He said it should read an 'additional' 20,000 sq feet, Per unit.

He said if you had 20,000 sq feet you could put unlimited dwellings, but if you want to put two you need to put 45,000 sq feet. Mr. Elkallassi stated that would be corrected at the next Town Meeting.

Mr. Semple stated he has some concerns about the grade of the property heading toward the left-hand side where the snow would be located and is it going to create unnecessary runoff to the neighbor.

Mr. Elkallassi stated if they go through with this it is going to have to go for peer review with Mr. Crowley anyways.

Mr. Larson asked why the underground can't be done for all units.

Mr. Elkallassi said it is up to the developer, there is nothing in the regulations.

Ms. DeBonise asked about the five-acre minimum for more than one dwelling unit and asked what the square footage of this lot was.

Mr. Elkallassi stated this project doesn't require the five acres. He said that if it meets the frontage and the square footage it meets. He says the bylaw is very vague and has a typographical error.

A discussion ensued regarding the 20,000 sq feet ruling.

Mr. Ecobacci said he didn't feel it was a bad project, but he thinks they just denied the same type of proposal.

Ms. DeBonise said she didn't think it was the same, she thought it was the use.

Mr. Elkallhassi stated they didn't have the frontage on the other project.

Mr. Elkallhassi asked for any public interest in favor of the petition, but there were no comments.

He then asked for anyone opposed to the project and a few people voiced their request to speak.

Russ Kriehn 24 Old Glen Charlie Road says he is a direct abutter and opposed to the project. He said the road is a very old road and he is concerned about the runoff. He said the drainage in the road is inadequate. He stated another concern is that the homeowner has been bringing and dropping off stumps in the last two years to the back of this property.

Mr. Elkallhassi stated that per the construction it is up to the engineer to do the study for the road and to do the soil review.

Shannon Kriehn also spoke and stated the only houses on this road that are multi-family homes are at the beginning of the road. She said there are more than twenty children that live on this road and the traffic that goes up to his homes may be catastrophic. She shared her concerns.

Nathan Juliano of Old Glen Charlie Road said he would like to see clarification on the 20,000 square feet issue. He said he doesn't think it's fit for the neighborhood. He said just because someone has the lot doesn't mean they have to shove so many houses on the lot.

Ms. Cheryl Shuber of Old Glen Charlie Road says her backyard is a direct abutter to the property in question. She said her privacy would be no more and when she bought her house she heard there were wetlands in the back of her property and not a buildable lot.

Mr. Elkallhassi stated he would like to hear from the board members. He said he would say this is a variance, not a Special Permit. He said the by-law intention is very clear. He said he would like to overturn the building commissioner's letter and have the applicant apply for a variance.

Dan Lunedei of 17 Glen Charlie Road was also on the call via Zoom. He said this wasn't personal against the landowner. He said he was pretty shocked to receive the abutter's notice and it's a small apartment complex to add more homes on that lot.

Mr. Bertolo, the engineer stated that the properties are in different zoning areas. He said Mr. Elkallhassi is comparing to smaller residential lots that don't have the frontage.

Mr. Elkallhassi referred to the Board members.

Ms. DeBonise said she thought Mr. Elkallhassi was correct regarding the typographical error and would like to get more information. The board members also agreed with the theory that the asterisk was missing.

Mr. Bertolo stated he has discussed with the Town Planner as well as the Building Commissioner and they both agreed that the by-law as written identifies as 20,000 square feet. He said that decision has already been made by the Building Commissioner. He said they are there for the 'use' and is asking for a Special Permit.

Mr. Elkallhassi said he is not willing to grant the Special Permit as is.

Mr. Ecobacci stated he does feel a continuance is in order and Mr. Charlie Rowley needs to review the plans.

Ms. DeBonise said the Special Permit is detrimental to the neighborhood and if our interpretation is so they can vote it down as a denial.

Mr. Elkallhassi stated he will not vote in favor of the Special Permit. He said 80,000 square feet is plenty for the property for the houses but he doesn't feel it should be under a Special Permit. He asked the board members if they would vote in favor or against continuing the Special Permit.

Mr. Semple stated he would vote against the Special Permit as well. Ms. DeBonise said she needed more time and their questions reviewed. Mr. Eacobacci stated he feels a continuance is in order.

Mr. Bertolo requested a two-week continuance to ask the Building Commissioner to clarify his letter.

Mr. Elkallhassi stated that the Building Commissioner is correct in his letter, however, the intention of the by-law is correct because of a grammatical error.

Mr. Semple stated he did walk the lot.

Mr. Eacobacci made a Motion to continue the hearing to March 23, 2022, and was seconded by Ms. DeBonise. The Motion passed unanimously via roll call vote (5-0-0).

VI. ANY OTHER BUSINESS/DISCUSSIONS:

Mr. Elkallhassi spoke about Settler's Glen. He said he can't testify against it because he voted for it. He said they need to contact Ken, the Town Planner to discuss testimony. Mr. Elkallhassi stated the case was appealed in Boston and now the chairman will ask what our case was to deny it. He said it was a denial, 4-1. He said if no one shows up for the hearing it will be dead in the water. Mr. Semple stated it would be the first week of April and he has notified them that he will attend.

Mr. Eacobacci asked about who voted at the hearing and what is said. Mr. Elkallhassi said that he needs to speak to the Town Planner.

In other business, Mr. Ecobacci gave a review of the Solar Bylaw and what the purpose was. He said that most of the bylaw is really to avoid the clear-cutting of trees. He said that there's not a lot of lands left in Wareham to clear cut.

Mr. Semple thought that Wareham is beautiful and should stay that way.

Discussion continued regarding the solar bylaw.

Mr. Semple made a Motion to adjourn and was seconded by Ms. DeBonise. The Motion passed unanimously via roll call vote. (5-0-0).

Respectively,

Patricia A. Pacella
Recording Secretary

Date signed: 7-13-2022

Attest: James D. Eacobacci
James Eacobacci, Clerk
WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: _____

WAREHAM TOWN CLERK
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