

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: March 10, 2021

I. CALL MEETING TO ORDER

The meeting was called to order at 6:30 P.M.

II. ROLL CALL

Members Present: Nazih Elkallassi, Chairman
Jim Eacobacci, Clerk
Veronica Debonise, Member
Jacob Morrison, Member
Richard Semple, Associate Member
Christopher Conti, Associate Member

Kenneth Buckland, Town Planner
Charles Rowley, Independent Consultant Town Engineer

III. PRELIMINARY BUSINESS

- 1. Approve meeting minutes: February 24, 2021**

MOTION: Mr. Eacobacci moves to accept the meeting minutes dated February 24, 2021 as presented. Mr. Conti seconds.

VOTE: (5-0-0)

IV. PUBLIC HEARINGS

- 1. 5-21 Robert & Maryellen Stone – Special Permit and/or Variance – 12 Canedy Street – Map 78 Lot 2-130**

Present before the Board: David M. Davignon, P.E.
Robert & Maryellen Stone, 12 Canedy Street
Michael Silva, Architect

The project engineer introduces himself and states he is presenting the project in behalf of the applicants. He states the building commissioner has issued a letter of denial for the issuance of a building permit. The project requires a special permit for the proposed removal and reconstruction a 2 story replacement dwelling on the foundation.

He mentions the property is 7918 ft.² in size and is nearly completely developed with a cottage, shed, gravel driveway and pile supported timber pier with water access to the river. He adds that the house is serviced by municipal sewer and water and is located within various coastal wetland resource areas and for this reason they had to go in front of the conservation board and the project was approved on February 11, 2020.

He states the proposal is to utilize the existing foundation but integrate structural and flood zone improvements. The existing cottage first floor footprint will remain the same at 20.1' x 26.1' with the exception of a 1' x 5.5' bumped out for a gas fireplace. He mentions that a second floor will be added with a slightly smaller footprint. A two-story balcony will be constructed over the footprint of the existing bulkhead. In closing, he mentions the applicants believe that their proposal will not be detrimental to the neighborhood nor will result in any adverse effects to the town.

Mr. Semple states he drove by and asked the architect if there were any concerns with the foundation. Mr. Silva answered all concerns.

Conversation ensued. Plans were screen shared.

The Board likes the project.

No public comment in favor or against.

MOTION: Mr. Eacobacci moves to close the public hearing. Ms. Debonise seconds.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves as a Special Permit Ms. Debonise seconds.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to grant with standard conditions, as it is not detrimental to the neighborhood. Mr. Semple seconds.

VOTE: (5-0-0)

2. 6-21 Jacqui Nichols – Variance – 3A Maud Palmer Drive. – Map 84, Lot 5/A

Present before the Board:

Jacqui Nichols, 3A Maud Palmer Drive

The applicant mentions she is representing herself and she states she is applying for relief from zoning in order to locate a 12 x 16 garden shed in her front yard. She mentions that her hardship is that she does not have access to a back yard so therefore she is in front of the Board.

Ms. Nicholas mentions the property is a condex and each condominium unit has exclusive use of their yard as delineated on the site plan previously submitted. She mentions the shed's location is dictated by the existence of yard slope and stone wall locations. She shares the shed will be utilized for lawn and garden equipment storage.

Mr. Elkallassi states he personally drove by and he believes she in fact does have a hardship due to the shape of the yard.

Mr. Semple agrees. He asked how far did the shed sit from the road and Ms. Nichols states, 70'. Ms. Debonise did not have a chance to drive by but she does not like the location of where the applicant wants to put the shed. She would like it to sit closer to the side of the property and not so centered, closer to the driveway. Mr. Conti agrees.

Mr. Elkallassi suggested maybe turning the shed the long way, and Ms. Nichols stated she could not due to the opening. Ms. Nichols also states the side yard sits on a slope so unfortunately its location is the only place where she can place the shed. She shares some photos of the location to see if it helps Ms. Debonise.

Present before the Board: Andrew Dobbins, 6 Maud Palmer Drive

Mr. Dobbins is an abutter and he is concerned that the shed will be in his direct view where the applicant is thinking of placing it.

Ms. Nichols said the shed will match the house and there will be shrubs such as arborvitaes covering it.

Ms. Debonise would like a visit to the site. Mr. Conti agrees.

MOTION: Mr. Eacobacci moves to continue the Public Hearing to March 24, 2021. Mr. Conti seconds.

VOTE: (5-0-0)

V. CONTINUED PUBLIC HEARINGS

1. 36-20 Stephen A. Webby c/o Jilian Morton, Esq. – Variance – 5 Tyler Avenue- Map 15, Lot 1030

Present before the Board: Jilian Morton, Esq., 184 Main Street

Attorney Morton is starts with a screen share for a visual of the site. She reiterates the specifics of the project. Initially they were interested in a 3-family project, but after seeking comments from the Board, they have submitted revised plans for a 2-family. She mentions it is an undersized lot. There is no more information other than what has been discussed in the last few meetings and she is looking for a determination. She is wondering if not a two-family, if it is grand-fathered for a single family.

The Building Commissioner states worse case it would be protected for a single family if it were not approved for a two-family.

Mr. Eacobacci has some mixed emotions on this one.

Mr. Conti states that there is a huge difference in square footage being asked for the two-family. Ms. Debonise agrees. He thinks it is too much.

Attorney Morton is looking for a vote either way.

MOTION: Mr. Eacobacci moves to close the public hearing. Ms. Debonise seconds.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to deny as presented. Mr. Conti seconds.

VOTE: (2-3-0) Ms. Debonise, Mr. Semple and Mr. Conti denies

**2. 2-21 TGCI EMNACA – Comprehensive Permit under MGLnChap 40B –
Settler’s Glen, 3128B Cranberry Highway – Map 8, Lot 1007C**

Present before the Board:

Mark Bobrowski, Esq.
Lynne Sweet, LDS Consulting
Craig Mitchell, Architect

Mr. Bobrowski introduces himself as counsel for the applicant. Mr. Bobrowski states this is twenty unit for-sale project. Five units will be affordable and each home will have three parking spaces. He states he will have Ms. Sweet talk a bit more about the project.

Ms. Lynne introduces herself and states LDS is the development consultant to TGCI EMNACA, LLC., the Applicant. She states the Applicant applied to the Zoning Board of Appeals of the Town of Wareham, pursuant to M.G.L. Chapter 40B, Sections 20-23, as amended, for the issuance of a Comprehensive Permit authorizing the Applicant to develop 20 units of ownership homes and proceeds to share her screen.

Ms. Sweet runs through a presentation.

She mentions they have met with the Housing Trust and through the Town Planner, Ken Buckland, they have also met with a number of Department Heads.

She mentions today is a basic orientation and just to discuss where it they are in the process.

Conversation ensued.

Ms. Sweet states she thinks she will need at least one month to respond to the peer review comments.

MOTION: Mr. Eacobacci moves to continue the public hearing to April 14, 2021. Mr. Semple seconds.

VOTE: (5-0-0)

3. 3-21 Paula Ventura – Variance – 590 County Road – Mao 93, Lot A

Present before the Board:

Paula Ventura, 590 County Road

Ms. Ventura requested a continuance because there wasn't a quorum at the last minute, She states she is ready to describe her proposal. She mentions her proposal is to build a small addition to add living space to her current her as her son and his family will be moving into the house.

Ms. Ventura mentions she is flexible and is willing to work with the Town and would like some feedback. She adds that she understands that no oven would be allowed in any addition and she would like to make clear that none would be placed in the addition, other than a small kitchenette area. She states she is short of the required 15' from her neighbor's property line, she has spoken with them, and they are okay with this, a letter was provided to the Board.

Mr. Elkallassi states it is a difficult variance to be obtained in the zone Ms. Ventura is located. He gives her different options instead of a second dwelling. Mr. Semple also states he has given it a lot of thought and agrees with the Chairman. Mr. Conti reiterated the same feedback. Ms. Ventura states she is opened to different options.

Mr. Elkallassi suggests expanding instead of the addition of the second dwelling and in this case, she would not even need to come before the Board, he states the applicant would just need to meet the setback from the neighbor.

Mr. Eacobacci also states that the Board of Health may not approve the septic system for the addition so more details is needed. He also makes more suggestions as to what the applicant may do to avoid the variance.

Ms. Ventura will be submitting Architectural Plans.

MOTION: Mr. Semple moves to continue the public hearing to April 14, 2021. Mr. Eacobacci seconds.

VOTE: (5-0-0)

4. 4-21 Wareham Retail Management, LLC. – Special Permit/Variance – 1 Seth F. Tobey Road – Map 87, Lot 1

Present before the Board:

Lindsay Wilson, Counsel
Derek B. Redgate, PE Senior Project Manager
Brandon Schram, Alrig USA
Kathy McVayne – RE Manager for Chipotle

On behalf of the Applicant, Wareham Retail Management, LLC (Client), Highpoint Engineering Inc. is submitting the enclosed Application for Special Permit/Variance and Site Plan Modification relating to a new proposed drive-through. The project site consists of a 173,370 sf.

Attorney Wilson mentions that the applicant, is seeking a Special Permit/Variance for use as a restaurant with drive-through with associated modifications to the approved Site Plan. Mr. Wilson states this is a three building development that has been in construction for 2.5 years.

He mentioned that this has been before both the planning board on three different occasions and now this Board in connection with obtaining a drive-through variance for the Starbucks.

As far as the drive-through, or what Chipotle refers to ChipotLane, there isn't a order board with a drive-through window, this is solely related to picking up orders that were made online through their app or by phone. It will be strictly a pick-up window.

Attorney Wilson mentions that this application is solely with respect to adding this additional pick up window in connection with finishing off this development with the final building.

Mr. Redgate shares his screen for a short presentation for additional details of what the applicant is proposing.

Conversation ensued

Mr. Eacobacci believes this location is to be eligible for a drive-through window and believes the current by-law states you need to come off private property, which the applicant qualifies but is concerned with car stacking and he does not see any provisions on the plans. Ms. Mcvayne speaks to the operation regarding Mr. Eacobacci's concerns. She states there are no menu boards, no speakers, there will be no posing of money. She emphasizes there is no transactions through the window like a typical drive-through would have. Once an order is placed, the customer will pick up their meal at a certain time because they have already ordered it with the app to avoid a number of people that can order at a particular time so that there is not a back up to the window. She adds if their food is not ready, they will come back or they will pull into a parking space and wait for it to be done so the staff may bring it out or they will go back around. There has been a traffic study completed.

Mr. Eacobacci asks if the Special Permit is being granted to the property or the applicant and Mr. Elkallassi states it is being granted to the property.

His concerns is how to condition it so that it does not transfer to another business with order capabilities and it becomes an issue later on.

Mr. Elkallassi reminds the members that the applicant has to go back to Planning Board and what the Board is granting is strictly the drive-through access. Mr. Eacobacci states this answers his concerns. The rest of the Board agrees.

MOTION: Mr. Eacobacci moves to close the public hearing. Mr. Conti seconds.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to approve for a drive –up window as discussed with the conditions as discussed. Ms. Debonise seconds.

VOTE: (5-0-0)

VI. ANY OTHER BUSINESS/DISCUSSIONS

VII. EXECUTIVE SESSION

I. ADJOURNMENT

MOTION: Mr. Eacobacci moves to adjourn. Mr. Conti seconds.

VOTE: (5-0-0)

Date signed: 2-17-2022

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

Date copy sent to Town Clerk: _____

WAREHAM TOWN CLERK
2022 FEB 17 PM 12:41