

**Town of Wareham  
Zoning Board of Appeals  
Minutes – March 11, 2020**

- I. **CALL MEETING TO ORDER:** Chairperson, Nazih Elkallassi opened the meeting at 6:30 pm via Zoom.
- II. **ROLL CALL:** Present: Chairman, Nazih Elkallassi, Clerk, James Eacobacci, Mr. Jacob Morrison  
  
Absent:

Planning Director, Ken Buckland was also in attendance.

Town Consultant Engineer, Charles Rowley was also in attendance.

**III. PRELIMINARY BUSINESS:**

1. **Approve Minutes: February 26, 2020:** Mr. Eacobacci made a Motion to approve the minutes as he reviewed them and was seconded by Mr. Morrison. The Motion passed unanimously.

Mr. Elkallassi stated to the public that there were only four members present, however, everyone had the right to be in front of five board members. He said any agenda item applicant can request to be in front of a five-board member to continue if they want to.

2. **13-19 Nouria (former Maxi Gas) – Request for Site Plan Review for Minor Modifications – Map 108, Lot(s) #1, #2, #3, & #4 – 2416 Cranberry Highway, LLC**

Tom Heely of Nouria. Jim Bernandio, Engineer was present.

Mr. Heely explained why they were in front of the board. He said they purchased this Maxi Gas property, took the plan, and made a few minor modifications to the plans for what they are proposing versus what was originally approved in the plan.

Mr. Elkallassi asked if they have forwarded the updated plans to the Town Engineer to review.

Mr. Bernandio stated they have not to forward it to the engineer, as they believe it is minor change. He said they did forward the plans to the Fire Department and received back a letter of compliance with them.

Mr. Bernandio reviewed the plans. He said the building footprint modification to the square footage has increased to 5600 sq feet from 5300 sq feet that was previously approved. (282 increase of square footage). He said another fuel dispenser was added; five were approved and they want to add, making it six. He said the canopy has been shifted by 7' to the Cranberry Highway, for enhanced circulation in the front of the building. He said he red-lined the plans to show the modifications. He said they are compiling one additional parking spot for the increase of the square footage of the building.

Mr. Heely said they are moving the trash to the back of the building to get it out of sight. He explained the additional dispenser and the canopy being shifted.

Mr. Elkallassi stated that he felt the cape-looking building and the overall picture first approved is what they like best. He says he doesn't mind the increase in square footage but likes the look of the cape-looking building to stay. He said three of the members would need to be approved out of the four. He said adding a sixth dispenser is adding to more traffic. He would like the input of the Town Engineer as well. Mr. Elkallassi stated that he wanted to hear from the board if it is a minor or major modification.

Ms. DeBonise stated she also had concerns with the added pump station. She asked questions to the Chairperson as if it is determined minor or major modification. She stated she agreed that it was a minor modification.

Mr. Morrison stated he would like to hear from the Town Engineer consultant. He said if the fire department is satisfied, then he is okay.

Mr. Elkallassi stated three out of the four members agreed it was a minor modification.

Mr. Elkallassi stated the fire department looks at it as a safety impact that their trucks can get in/out, but they don't look at it for traffic concerns.

Mr. Rowley stated there are seven changes proposed and he said he would like the opportunity to review the plans by comparing both. He said he would be able to report back at the next meeting.

Ms. DeBonise shared her concerns that she did like the first building proposed but does think this building looks like the neighboring buildings. She said that she does want to review the traffic flow at other gas stations in the area.

Mr. Eacobacci stated he doesn't care what the design of the building looks like.

Mr. Morrison stated he had no other changes.

Mr. Bernardio stated he didn't mind coming back however, he thought minor modifications would like to see it worked out with staff and the engineer.

The Board discussed that the applicant should be required to come back for approval.

Mr. Eacobacci made a motion to continue until the March 25, 2020 meeting and was seconded by Ms. DeBonise. The motion passed unanimously.

### **3. 38-18 Sunrise Development – Minor Modification – 2382 Cranberry Highway, Map 108, Lot 1001C**

Christopher King, Atlantic Engineer for the applicant was present. Matt Williams, contractor of ASI was also present.



Mr. King stated this project was originally approved in 2018, GAF Engineer was the approved engineer with Sunrise Development as the applicant. He said that since that time, NorthAmerica has required the rights to purchase the property and the permits. In January, the building permit set of plans was started with the details of the design and received a building permit. He said one of the conditions originally was that they have a pre-construction meeting with the town engineer and open a 53 Account. He said when they met on site with Mr. Rowley, he noticed that the plan was not the GAF site plan design, so as a matter of procedure they should submit the plans of January 24<sup>th</sup> to the Zoning Board for a vote to approve as continuity of the permit and plans moving forward. He said on-site they were speaking about the designs specifically and the stormwater design system. He said the site would generate 10,000 cubic yards of what they had to dig out and replace with a sand-gravel mixture.

Mr. Elkallassi stated that Mr. King is going to be the engineer on record. Mr. King said yes.

Mr. King said the January 24<sup>th</sup> plan set was reviewed with you folks and Mr. Rowley did state these were based on the GIF design and approved accordingly.

He said they have a pretty good excess of material, in perspective over 700 dump trucks full. He said they would like to put the material somewhere else on site without impacting the site. He said they took the January 24<sup>th</sup> plans and have taken the excess cubic yardage and proposed to raise the top of the hill to balance the site, without impacting the site and/or taking off so much fill off site.

Mr. King said they are not expanding any footprint, he said they are taking one area of the site and increasing it to balance off the site.

Mr. Elkallassi asked what the elevation of the site was at the beginning.

Mr. King said it was approximately forty feet.

Mr. King said under the approved plan, the grade at the road is 77' and at the top of the hill would be 112.5-113'. He said 36' to the end. He said now they are proposing to raise about 2' at the hill. He said there are three basin drainages in the area, and they did not move; they were raised about 1' per the bottom.

Mr. Elkallassi said he was concerned not to disrupt the basin stormwater as the design was discussed a lot during the first hearing and the site plan was agreed upon. He said if that design was going to change, he wanted the previous engineer to discuss.

Ms. Debonise asked about where the solar panels would be. Mr. Elkallassi stated the drainage was more of the concern. She stated she had concerns regarding the screening and if that would be raised by 2'.

Mr. King said the raising would not change the existing fencing and/or screening. He said the adjustment would not change any of that.

Mr. Rowley stated he didn't see any difference in the same site plan. He said if the plan was substantially the same as prior then he would stand by his letter. He said he is not at all comfortable now as he wasn't prior. He said the fill is the question now and the fill going to the highest point of the property.

The Board agreed it was a minor modification that was taking place. Mr. Elkallassi stated he would like the applicant to discuss with Mr. Rowley the changes and come back.

Mr. King stated they want to work with Mr. Rowley.

Mr. Elkallassi asked for anyone in favor or against who wanted to speak.

Selectman Moniz was present and pointed out that sometimes not all abutters who don't live in Town may not get notified. He asked how much fill was taken off the property and the answer were none.

Mr. Eacobacci made a Motion that all conditions of the original permit are still in existence and that the minor modification presented tonight is not a substantial change per the plans as of March 5, 2020. The Motion was seconded by Mr. Morrison and passed unanimously.

**IV. PUBLIC HEARINGS:** None.

**V. CONTINUED PUBLIC HEARINGS:**

**1. 3-20 Lucky Goat Brewing, LLC – 379 Main Street – Special Permit and/or Variance**

Mr. Elkallassi reopened the continued public hearing.

Architect, Mr. Lockwood was also present for Lucky Goat Brewing, LLC. Caitlin Perry, Aaron Perry, and Ken Peabody.

Mr. Lockwood stated they presented the project and came away with granting the variance for the use; however additional information was needed from fire, water, and sewer. Mr. Lockwood stated they have modified the plan slightly. He said they took four seats out of the tavern to forty, to reduce the parking to eight spaces. He applied to Fire for review. He said they redid the patio. They have a water department letter dated today to comply. He said they have met with the Sewer Department and have a summary from them of the composition. He said they have a scheduled hearing on March 19, 2020, with the Sewer Department.

Mr. Elkallassi asked if they have spoken to the Planning Board regarding the parking spaces. He said the plans showed a date of September 2019, and they just came before this board last month.

Mr. Eacobacci stated for the record the Lucky Goat Brewing parking spaces would be against the building and the other spaces in the parking lot were that of the car lot. Mr. Eacobacci stated they didn't supply us with the September plans prior.

Mr. Buckland stated that the Planning Board saw the parking lot layout, not necessarily of Lucky Goat.

Ms. DeBonise clarified what was spoken about previously about the auto dealership and the permit for Lucky Goat Brewery.

Mr. Madden, the landlord was in attendance. He said he hadn't had the opportunity to see the plans, other than what was previously submitted to the Planning Board.



Mr. Elkallassi asked where the office of the auto lot building was.

Mr. Madden said the auto lot office is on the building across the lucky goat brewing building. He said the cars are not in front of Lucky Goat Brewing.

Ms. DeBonise said she just wanted it clear that these are two separate entities with different parking spaces.

The landlord expressed that the parking spaces were previously delineated between the fish market and the auto car lot.

Mr. Rowley stated he remembered that the spaces had been approved by Planning Board for the car lot, not specifically for the use of the old 'fish market.'

Mr. Elkallassi stated he didn't want things to be confused with the parking lot.

Mr. Peabody stated that he was confused about what was being asked of them regarding the engineer and parking spaces.

Mr. Elkallassi stated they did discuss the parking lot spaces. He said he is not comfortable granting something that neither the Planning nor the Engineer doesn't agree that was approved previously. He said they would just be asking the engineer to review the parking lot plans.

Mr. Eacobacci asked how long until they open to the public. Mr. Perry said approximately three months to get it ready. Mr. Eacobacci asked if they felt it was fair for them to have the Town engineer review parking. Mr. Perry said he did find that fair.

Mr. Elkallassi stated he wouldn't have approved the variance for the use as they did at the previous meeting if they weren't going to allow it. He said that the Town needs to have some sort of order to make sure that the parking lot is reviewed to be as close to the by-law.

Mr. Lockwood stated they need to get a building permit and that is contingent on approval from this board.

Mr. Elkallassi stated that interior work can be done, but if they didn't agree with the conditions then there could be a problem. Mr. Lockwood stated he knows they would be working at risk.

Mr. Eacobacci stated the property seemed big enough for them to be okay. He said he'd be okay with them getting their permit and moving forward with the interior at their own risk.

Mr. Madden stated there were a lot of open parking lots there were available in that area, whereas it is in the Village District. He said that he didn't think there was anything in the bylaw that specifically refers to exact parking in each seat on this particular site.

Mr. Eacobacci agreed that if the bylaw didn't specify parking on the use then it might be a valid point.

Mr. Buckland stated the bylaw did call for a 1:5 parking space for that use in that area.

Ms. DeBonise said that she just wants each area to be delineated for parking. She said if Planning Board has already approved the plan, then her confusion is what they need to approve.

Mr. Elkallassi stated that previously the applicant had given us the wrong plan, to begin with, however, the site plan from the planning board was approved in September 2019.

Mr. Buckland stated the planning board approved the site plan with no use in mind on this property.

Mr. Morrison stated he believed that they received the wrong plans to begin with and that's where the confusion started.

Mr. Rowley stated that a Special Permit site review was done by the Planning Board and there was no specific use given by them, as they didn't know what the use was going to be at that time. He reviewed that twelve parking spaces need to be dedicated to this use as he saw on the site plan. He questioned where the dedicated twelve parking spaces were identified.

Mr. Elkallassi stated that on Main Street they do believe that it is not detrimental to the neighbors.

Mr. Rowley stated that there is a Special Permit is for this particular site and he believes that Planning Board needs to modify that Permit for this particular use. He believed that the minor modification use and site plan needs to be clarified by the Planning Board.

Mr. Buckland stated the board is not changing the site plan. He said they could condition a use site plan for parking that is dedicated to the use and acceptable.

Mr. Elkallassi stated that he doesn't have a problem, but he doesn't want the Planning Board to come back and say they never granted the permit.

Mr. Buckland stated they are within their bound to approve the number of parking spaces to the number of seats. He said they could approve the number of eight parking spaces to forty seats.

Joseph Sauro was in attendance to be in favor of the project.

There were three additional residents who expressed they were in favor.

Mr. Eacobacci made a Motion to close the public hearing and was seconded by Mr. Morrison. The motion passed unanimously.

Mr. Buckland stated he didn't have a draft decision to be signed, but the board would go in the next 24 hours to find.

Mr. Eacobacci made a Motion that this is not detrimental to the neighborhood, as presented with the September 20, 2019, plan for seating of 40 seats, with parking spaces of eight. The Motion also included that the patio can be constructed at this time with no seats. He said the plans submitted based on Mr. Lockwood dated March 2020 with standard conditions and was seconded by Mr. Morrison. The motion passed unanimously. (4-0-0)

Mr. Eacobacci made a Motion to adjourn and was seconded by Mr. Morrison. The Motion passed unanimously.

Respectfully submitted,

Patricia A. Pacella  
Recording Secretary

Date signed: 7-27-2022

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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