

Wareham Zoning Board of Appeals
Wednesday, April 12, 2023 – 6:30 p.m.
Draft Minutes

Location: Wareham Multi-Service Center, 48 Marion Road, Wareham, MA, Room 320.

I. CALL MEETING TO ORDER

II. ROLL CALL

Present: Nazih Elkallassi, Jim Eacobacci, Richard Semple, Veronica DeBonise and Troy Larson

Absent: Mr. Morrison

III. PRELIMINARY BUSINESS

1. Approval of Meeting Minutes: 3/22/23

Mr. Semple made a motion to continue the minutes to April 26, 2023, and was seconded by Ms. DeBonise. The motion passed unanimously. This will give the board enough time for review.

2. 29-22 Joshua DeOlim – Special Permit – 2618 Cranberry Highway – Map 110, Lot 1051 – Discussion and Possible Vote: Applicant Withdraw, without prejudice.

Mr. Eacobacci stated this was an applicant withdrawal without prejudice.

Present before the Board: Attorney Perry was present for the applicant and said he can't get the final site plan review from the engineer, he said he's not satisfied and requested a withdrawal without prejudice.

Mr. Elkallassi stated he would request the withdrawal with prejudice as it's not understood what is happening at the location. He said that they have been under violation for more than a year.

Mr. Larson agreed.

Ms. DeBonise said she would like to see action by the Town to push the applicant to move forward legally; and if with prejudice, they can't move forward legally.

Attorney Perry said the kid bought the garage and thought he could run it as it was but didn't know he was doing it illegally.

Paul Turner, Building Commissioner was present. He said he has been cited for the last eight to nine years. Mr. Turner said he went out when he first started but was told to 'get off the property', as he was trespassing. He said the owner had no respect for the by-laws.

Mr. Eacobacci stated this was first in front of us, the son Joshua owns the property in front of them; and his father is the owner's lot near him. He said they need to make it clear who the complaint is against.

Attorney Perry said his client is doing work under his name.

Mr. Elkallassi said they should investigate a bit more. Mr. Semple stated he would like to approve with prejudice.

Mr. Eacobacci recommended a continuance to two weeks with the plans he has.

Christopher Conti spoke and said he was a direct abutter. He said that Mr. DeOlim was operational and has been since he bought it. He said the area is a mess and they have no regard to the laws. He said he would like to see the board withdraw without prejudice.

Motion to Continue: Mr. Eacobacci made a motion to continue for two weeks to April 26, 2023. There was no second. The motion did not go forward.

Ms. DeBonise asked what their choices are to help the applicant move forward. Mr. Turner said he would like to see it legitimately and issued a violation letter of the violations on the property.

Mr. Eacobacci said he thinks it's legitimate but needs to be done properly and would like to see the plans that are drawn, and the Town can work with them. He said it's an allowed use in the zone but needs a Special Permit.

Mr. Semple said regardless he is still doing business in the Town and kicking the can down the road. He said it's unfair and he's not being cooperative.

Mr. Larson said he feels the same way as Mr. Semple. He said there should be fines if he isn't in compliance.

Mr. Elkallassi said he doesn't believe that they can't get plans for nearly a year.

Motion to Continue: Ms. DeBonise made a motion to continue to April 26, 2023, and was seconded by Mr. Eacobacci. Per a roll call vote, the motion was denied, with only Ms. DeBonise and Mr. Eacobacci in favor of continuing.

Motion to Close: Mr. Elkallassi made a motion to close the public hearing which was seconded by Mr. Eacobacci. The motion passed unanimously. (5-0-0).

Motion to Deny: Mr. Elkallassi made a motion to deny 29-22 Special Permit and Site Plan Review and was seconded by Mr. Semple. Per Roll call vote, the motion passed, 4-1-0 with Mr. Eacobacci in denial of the motion.

3. 33-18 Ninety Six Realty, LLC – 0 Squirrel Island Rd – Map 74, Lot 1009-Discussion and Possible Vote: Remand Hearing

Present before the Board: Attorney Perry was present for the applicant. He said in 2018 he asked for an overturn of the Building Commissioner's denial and then it was denied by the ZBA. He said he refiled in 2019.

There was a discussion about whether this hearing was opened previously.

Ms. DeBonise said she contacted the Town and there was no paperwork.

Attorney Perry thought it was present as a continued public hearing.

Mr. Elkallassi said they needed to reapply.

Mr. Buckland was on via zoom, he said this is a discussion to be reconsidered before it goes to court on May 1, 2023; and it is not a remand hearing.

Attorney Perry said he thought they would resolve it before they went to court.

Ms. DeBonise said there was no paperwork attached to this hearing. Ms. DeBonise recused herself.

Mr. Semple said what they talked about a few months ago as it was not on the agenda, and it turned into a fiasco.

Attorney Perry said they came before the board for reconsideration, and it did become a fiasco. He said they agreed to come back in front of the board.

Mr. Elkallassi said there are four members and asked whether they wanted to continue the discussion or not with just a four-member Board this evening.

Attorney Perry said he is entitled to five members.

Mr. Eacobacci said on July 18, 2018, there was a denial written to the applicant signed by the then-building commissioner, David Rinquiniha. He said in August 2018, there was a letter from Attorney Perry with an application dated August 2, 2018, seeking a variance; and then in September 2018 there was a notice of public hearing read into the record with a plan; he said that is the only thing in the file at this time.

Mr. Elkallassi said he would prefer that their counsel, Mr. Bowen be present. He said he doesn't feel comfortable voting on anything with something under litigation.

Mr. Buckland said Mr. Bowen suggested that he wouldn't be needed as the Zoning Board of Appeals was familiar with the facts of the case.

Attorney Perry said he'd ask the judge to send the case back in front of the ZBA.

Mr. Elkallassi said they can't do anything tonight.

Attorney Perry said he's never had a five-member board for this application.

**4. 42-22 Francis Ellis Jr. _ Variance – 7 Mattos Avenue – Map 110, Lot 9B –
Discussion and Possible Vote: Request to Reconsider Denial**

Present before the Board: Attorney Morton was present for the applicant. Mr. Brad Bertolo and Mr. Ellis were present.

Attorney Morton asked for a motion to reconsider the denial so they could reapply. She said they can do a reconsider when there is new information. Ms. Morton said she spoke to one of the neighbors who didn't speak up. She said it was a single family, title five was there. They said the lot is approximately 11,000 sq feet and a house existed in 1920.

Mr. Bertolo handed out a few aerial maps of the property. He said there was a house in 2018 on the property.

Mr. Bertolo stated Mr. Ellis installed a septic permit in 2017 and plans were drawn for a single family. He said the house was razed in 2018 and then was shut down because of Covid. He said Mr. Rinquinha said that a wall should've been left up to keep it from hitting the two year no build.

The board agreed to reconsider reapplying.

Motion to reconsider: Mr. Eacobacci made a motion to reconsider and was seconded by Mr. Semple. The motion passed unanimously. (5-0-0)

5. 28-20 Harlan Morton – Special Permit – 66 West Blvd – Map 1, Lot 688-Discussion and Possible Vote: Request 1 year extension

Mr. Lockwood of Lockwood Architects was present for Harlan Morton Estates. He explained the Special Permit was granted in 2020 to construct an addition in the same position. He said per the shutdown of Covid, it became difficult to finish the project. He said two years has elapsed in December 2022.

Mr. Elkallassi said they would need to reapply and should've extended it before the two-year was up.

Mr. Elkallassi said he didn't think they could extend something that was up in December 2022.

Mr. Semple said they could resurrect it but legally perhaps they can't. Everyone agreed. Mr. Elkallassi stated they would need to reapply.

IV. CONTINUED PUBLIC HEARINGS:

1. 5-23 6 Chapel Lane, LLC – Comprehensive Permit/40B – 6 Chapel Lane – Map 43, Lot 1036, 1037A, 1039, 1040A & 1041A

Present before the Board: Owner of the project, Steven Beauchemin was present. Brian Grady from JC Engineering and Lynn Sweet, Consultant via Zoom was present.

Mrs. Sweet reviewed the project and what the two-unit homes would look like. She said they got approval from Wareham Trust and the Selectboard, who signed off on the application. She said

the PEL was submitted in August 2022.

Ms. Sweet explained where the property is located. They are proposing six units, served by public water and sewer. She said all six would be three-bedroom units. She explained the affordability of the units.

Mr. Grady reviewed the revised plans.

Mr. Elkallassi asked if this was a regular 40B.

Ms. Sweet said it starts at a different place. She said it went to DHCD first and they issue the public eligibility letter. She said all normal rules apply, it's the changing point that is different

(from Mass Housing). She said they contracted with Metro West Community Housing for management.

Mr. Elkallassi asked about the pricing per month.

Ms. Sweet said that Wareham is in the Boston market area. She said that utilities are self-pay.

Mr. Elkallassi asked if they had a Safe Harbor letter.

Mr. Buckland said they have the SHI saying they are under 10%.

Mr. Grady reviewed the plans. Ms. Sweet said she has issued a small waiver list. They agreed it is vinyl siding.

Ms. Sweet reviewed the waiver list. She said the first set of waivers is per comprehensive rules and regulations. She asked for zoning waivers in the MR30 district, asking for six homes to be built on the same lot.

Mr. Grady reviewed the frontage for other use, multi-use, they have 233.9 (250); meet side conforming. They meet building coverage, groundwater they comply and are on sewer and water. They are not in the flood zone.

Ms. Sweet said most of the waivers are because they are increasing the density on the lot. Per the landscape buffer, she said they have given a landscape plan but are not seeking waivers on it.

Mr. Cordeiro, the Town Engineer, was present. He reviewed the project from his perspective. He said they have improved the stormwater drainage calculations and just have a few issues left to discuss. He said the application was thorough. He said they are only asking for procedural waivers.

Mr. Elkallassi asked what the size of the bedrooms were.

The smaller ones were 10x10.

Ms. DeBonise said the houses of this applicant are nicely built.

Mr. Eacobacci stated one of the projects he did the neighbors weren't in favor but when it was done, they were very happy. He said he has a dozen or so letters in support of this project and about ninety-six people are in support of the project.

Mr. Semple said he liked the plans.

Mr. Elkallassi opened it up for public comment.

Joe Smith, 7 Chapel Lane said his concern was the friendly 40B development. He said he is concerned about the density. He said eighteen people live there now and they want to cram more people and houses on the lot. He said he had street safety concerns.

Cory Allen of 5 Chapel Lane stated he spoke to the owner and he answered all his questions. He said he was in favor of the project moving forward.

The applicant said there was nothing from the Fire Department as of yet. Mr. Elkallassi said he

would like them to consider stop signs and lights.

Mr. Beauchemin said he contacted the Town about the lights.

Mr. Eacobacci said they should encourage developments like this.

Motion to Continue: Mr. Semple made a motion to continue to April 26, 2023, and was seconded by Mr. Lawson. The motion passed unanimously. (5-0-0)

2. 8-23 Barber Investments LLC – Special Permit – 2286 Cranberry Hwy – Map 104, Lot 1029A

Assistant Town Planner, Mr. Dickerson was on via Zoom and stated he had been in contact with the applicant. He said they required a variance but came before them previously for a Special Permit instead. He said he had not heard from her to withdraw without prejudice.

Motion to close the Public Hearing: Mr. Eacobacci made a motion to close the public hearing for 8-23 Barber Investments which was seconded by Ms. DeBonise. The motion passed unanimously. (5-0-0).

Motion to Deny: Mr. Eacobacci made a motion to deny the Special Permit for 8-23 Barber Investments which was seconded by Mr. Larson. The motion passed unanimously. (5-0-0).

V. PUBLIC HEARINGS

1. 9-23 Chester and Debra Rusinoski – Special Permit – 11 Weaver St – Map 102, Lot 1005.B

Mr. Eacobacci read the advertisement for the record.

Present before the Board: Attorney Morton was present with Bill Madden from GAF Engineering.

Ms. Morton explained the project for a garage with an apartment above at the end of the driveway. Mr. Madden said he was going to build a garage and an apartment space above. He said the applicant would like to have an apartment for his daughters to live. He stated there were two principal dwellings on a lot and that's why they were present before the ZBA. He reviewed the by-laws. He said the garage would be considered the accessory structure with the space above it being residential use. Mr. Madden said he believes they have met the zoning by-law. He said they meet all requirements of front and side setbacks.

Mr. Eacobacci asked if the garage would get its own septic; Mr. Madden said it would.

Mr. Elkallassi said they are asking for a Special Permit to separate the two individual housing units.

No further questions from Board members. There was no public comment.

Motion to close: Mr. Eacobacci made a motion to close the public hearing and was seconded by Ms. DeBonise. The motion passed unanimously via roll call vote. (5-0-0).

Motion to approve: Mr. Eacobacci made a motion to approve 9-23, Special Permit 11 Weaver Street as presented and was seconded by Mr. Semple. The motion passed unanimously via roll

call vote. (5-0-0).

2. 10-23 David and Jody Gastfriend – Special Permit – 8 Beach Plum Lane – Map 28, Lot M7

Mr. Eacobacci read the advertisement for the record.

Present before the Board: Attorney Jillian Morton and Bill Madden, GAF Engineering

Attorney Morton explained the project, Special permit in the R60, razing the first-floor deck and adding a first-floor addition in the same footprint of the deck, and adding a second-floor deck above the addition. She said the applicants are looking at this for the long-term to live there. She said she provided abutters letters in support of the project.

Mr. Madden stated they went in front of the Conservation Commission and it was approved. He explained the current deck on the home. He said on the Westerly property line for the side setback is 20' and they have 10.5. He said they are not looking to get any closer to the sideline. He said they are complying with the by-law with an in-kind replacement of a two-story, ground-floor structure.

Ms. DeBonise said she thought it was a big change to go from one deck to the first floor and a deck on the second.

Mr. Semple and Mr. Eacobacci stated they were fine with it.

Mr. and Mrs. Gastfriend were present via Zoom and stated that the abutters were in favor of the project.

There was no other public comment.

Motion to close: Mr. Eacobacci made a Motion to close the public hearing which was seconded by Mr. Larson. The motion passed unanimously via roll call vote. (5-0-0).

Motion to approve: Mr. Eacobacci made a Motion to approve as a Special Permit, as it is not detrimental to the neighborhood with plans dated December 21, 2022, and was seconded by Mr. Semple. The motion passed with Ms. DeBonise abstaining. (4-0-1)

3. 11-23 Peter Koulouras, Trustee–Variance – 3127 Cranberry Highway – Map 8, Lot B

Mr. Eacobacci read the advertisement in for the record.

Present before the Board: Attorney Jillian Morton and Bill Madden (GAF Engineering)

Attorney Morton stated this application was to build a 30x40' Commercial Building. She explained they had a Form A created and now wanted to build a small commercial building with six parking spaces. She said they are short the frontage and lot area and they are looking for variances for approval. There is no building on the lot at this time. She said if nothing was built here it would be an empty parking lot. She said it's a small building in comparison and they have done thoughtful development. She said there is a curb cut on the property and wouldn't have to go for the curb cut.

Mr. Elkallassi asked if they'd be open to drainage and landscaping.

Mr. Eacobacci asked if this is going to be a separate all together from his other land.

Mr. Larson has no questions at this time.

Ms. Debonise asked about the Form A.

Mr. Semple was okay at this time.

Mr. Elkallassi said he wasn't opposed to be given a variance for parking. He said he would like to see a full site plan review.

Mr. Koulouras said that it was an extension of his business.

Mr. Eacobacci said he was in favor of the project. Mr. Elkallassi recommended perhaps the building should be in the back of the lot.

Ms. DeBonise said she would not be okay with a separate entity.

Mr. Koulouras said he would be okay with tying the two deeds together and having it as one property. He said he wouldn't mind doing a little landscaping to the plan and maybe a little more parking, drainage etc.

There was no public comment.

Ms. DeBonise asked what the intent of the building was. The applicant stated it was an extension of the business.

Motion to continue: Mr. Eacobacci made a motion to continue 11-23, 3127 Cranberry Highway to June 14, 2023 and was seconded by Ms. DeBonise. The motion passed unanimously via roll call vote. (5-0-0).

VI. OTHER BUSINESS

Mr. Semple asked about the building near the Herring Run. Mr. Elkallassi said there is a house being built that a single-family being built that it is by-right.

Mr. Semple asked about another piece of property and Mr. Eacobacci explained.

Mr. Eacobacci made a motion to adjourn which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0).

Date signed: 4-26-2023

Attest: James M. Eacobacci

James Eacobacci, Clerk
WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: _____

WAREHAM TOWN CLERK
2023 APR 27 AM 11:31