

## **MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS**

**Date of Meeting: April 14, 2021**

### **I. CALL MEETING TO ORDER**

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

WAREHAM TOWN CLERK  
2021 APR 14 PM 6:30

### **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  
David Riquinha, Building Commissioner

### **III. PRELIMINARY BUSINESS**

#### **1. Approve meeting minutes: March 24, 2021**

Meeting Minutes to be reviewed at the next meeting due to some discrepancies.

#### **2. Vote on Wareham Planning Board Letter of Support – Littleton Drive**

Mr. Buckland reads the letter into the record. Mr. Elkallassi asks Mr. Buckland if this tax credit applies for all 40b projects and Mr. Buckland states it only applies to Littleton Dr.

**MOTION: Mr. Eacobacci moves to accept the letter and endorse as presented. Mr. Semple seconds.**

**VOTE: (5-0-0)**

#### **3. Derek Rogers – Variance – Waiver of Plan requirements for 9 Mallard Street – Map 133A, Lot 97**

Present before the Board: Derek Rogers, 9 Mallard Road

Mr. Rogers states he is before the Board to ask permission to use a hand drawn diagram for the location he will be locating the shed in his back yard.

Mr. Elkallassi states due to the location and all the room the applicant has, he does not see any issue proceeding without an engineer plan this. The Board agrees with Mr. Elkallassi, but Mr.

Eacobacci states so long there is not an abutter with any objections, he also does not see any issues.

**MOTION: Mr. Eacobacci moves to grant a waiver and to proceed for the next meeting. Ms. Debonise seconds.**

**VOTE: (5-0-0)**

#### **IV. CONTINUED PUBLIC HEARINGS**

##### **1. 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

Ms. Sweet states there are three additional items the team will be presenting to the Board. She mentions she will start with the new Site Plan in which she thinks and hopes addresses a lot of the issues and concerns around drainage and building placements. She adds, she also has new Building Plans, and Preliminary Landscape Plans to introduce to the Board.

Brian Grady from G.A.F. Engineering presents the Site Plan and shares his screen with the Board. He discusses all the major changes.

Ms. Sweet Shares the Landscape Plans with the Board. She also wanted to share the list of plants that will be used and then she moved on the Building Plans and shares the architectural drawings.

Present before the Board:

Mr. Scott Blagden

Mr. Scott Blagden s the architectural plans.

Conversation ensued in detail regarding the configuration of the buildings.

Mr. Rowley asks Mr. Scott Blagden, about the dimensions on the roof overhang of the buildings and Mr. Blagden states he does not have all the plans in front of him and cannot answer that now.

Ms. Sweet states this is all they wanted to present in tonight’s meeting and hope to have finals plans for next hearing.

**MOTION: Mr. Eacobacci moves to continue the hearing to April 28, 2021. Mr. Morrison seconds.**

**VOTE: (5-0-0)**

**2. 22-20 Frederick Mannix – Variance & Site Plan Review – 238 & 240 Sandwich Road – Map 133, Lot 1100A, & 1101A**

Present before the Board:

Jilian Morton, Esq., 184 Main Street  
Frederick Mannix,

Attorney Morton states the reason they are before the Board is for clarification regarding the use of this project in response to the Building Commissioners letter to the Board dated January 21, 2021 characterizing this project as multi-family residential building. She states both her and her client are of the strong opinion that this is a mischaracterization of the project.

She states that her client is seeking an Institutional Use for this project, which is allowed in the Commercial Strip zone per the By Laws.

Attorney Morton, states the fact that this area of town is zoned for institutional use including hospitals, intermediate care centers, and nursing homes. She also states, the mere fact that the specific words, assisted living facility, are not an hour code does not prohibit this use in the commercial strip district. She adds that her client's project from the very onset of his proposal was for an institutional use on this property not residential.

Attorney Morton reads sections of the By-laws in this regards. She adds the commercial strip district is intended to promote large-scale retail and service development in defined areas along cranberry Highway. The intent of the area designated by the town is for development such as the one her client is intending. She states she has reviewed the state building codes.

She then proceeds to discuss the state laws Regarding Use and Occupancy.

Overall, she mentions including the intent of the nature of Commercial Strip Zone, she states she is looking for some acknowledgement to the memorandum she has provided to the Board.

Conversation ensued amongst the members. Mr. Elkallassi suggests an Intermediate Care Center and reminds Attorney Morton, he understands it has been a long process for both her and the applicant but they have not submitted an application, they have only been before the Board for suggestions.

Building Commissioner, David Riquinha, explains the reasons behind his letter.

Conversation in detail regarding next steps in how to proceed with the Intermediate Care Center but first they have agreed to meet with the Building Commissioner for additional guidance.

**MOTION: Mr. Eacobacci moves to continue the hearing to April 28, 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 mentions since the last hearing, she is still doing the addition but she reduced the size because there was an issue with the set back so now with the new size, it falls within the requirements.

She also provides the documents to the Board showing hardship that she was unable to put the addition anywhere else because of the placement of septic.

Mr. Elkallassi states with the reduced size of the project, she does not need the Variance and she just needs to ask to withdraw the application.

**MOTION: Ms. Debonise moves to accept the withdrawal of the application without prejudice. Mr. Eacobacci seconds.**

**VOTE: (5-0-0)**

### **4. 8-21 K.B. Conlon – Special Permit and/or Variance – 78 West Boulevard – Map 1, Lot 744**

Present before the Board:

K.B. Conlon (Jaz), 78 West Boulevard

Jaz Conlon states she has been a resident of 78 West Blvd. since 2000.

She proceeds to say that the entrance to the basement in the back house is a trap door on the floor of the kitchen, and right in front of the main entrance to the house. Ms. Conlon has met with several contractors to review all her options available, inside and out she adds. Ms. Conlon is proposing a Bilco Classic Series Size B Bulkhead Basement Door on the backside of the building. This option is the shortest, least in length available. The measurement of the door is 51" x 64" x 22". The property line is 70 inches from the house. The proposed bulkhead is in the setback. She states she is seeking a special permit so she can eliminate the danger and hazard of the only present entrance to the basement.

Mr. Semple stated he went by the property and found that it appears it is being used as a means of egress to get in and out of and potentially used for parking.

Ms. Debonise is not particularly in favor due to how close it is to the abutting property and does not see the hardship and potentially some interior alterations can be made to accommodate better access.

Mr. Morrison does not see any issue with the project, and neither does Mr. Conti.

Present before the Board:

Denise Hixon, Onset -property owner

Thinks it is a dangerous situation where the bulkhead is right now in this house and would like to see the Board help Ms. Conlon with a solution.

Present before the Board:

Joe Cavallaro, Custom Bulkhead installer

Mr. Cavallaro States it is very possible to place one of his systems in that area a meet the setback requirements.

**MOTION: Mr. Eacobacci moves to close the Public Hearing. Ms. Debonise seconds.**

**VOTE: (5-0-0)**

**MOTION: Mr. Eacobacci moves to approve as presented and present an as-built after the foundation. Mr. Morrison seconds.**

**VOTE: (4-1-0) Ms. Debonise denies**

**V. PUBLIC HEARINGS**

**1. 13-21 Stephen Belcher – Special Permit and/or Variance – 15 Meade Street - Map 50-D, Lot 327**

Present before the Board:

Stephen Belcher, 15 Meade Street

Mr. Belcher states he is proposing to construct a new 28'-6" x 6" covered farmer's porch addition on the front of the existing home, which is also intended to add a second floor deck.

Mr. Eacobacci states he really has no questions and had a chance to look at this application prior to the meeting but would like to suggest that if there are no oppositions, for the Board to move to approve it.

Ms. Debonise asks for the hardship, and Mr. Belcher explained it in detail. Mr. Semple states he had a chance to go by earlier and even spoke to the homeowner. He has no concerns.

**MOTION: Mr. Eacobacci moves to close the Public Hearing. Mr. Conti seconds.**

**VOTE: (5-0-0)**

**MOTION: Mr. Eacobacci moves to find this non detrimental to the neighborhood and treat this as a Special Permit. Mr. Conti seconds.**

**VOTE: (5-0-0)**

**MOTION: Mr. Eacobacci moves approve a Special Permit with the plan as presented with Standard Conditions. Mr. Conti seconds.**

**VOTE: (5-0-0)**

## **2. 14-21 Leo's HarborLights Realty Trust, Lenord Cubellis, Trustee**

Present before the Board:

Len Cubellis, Applicant  
Robert Rogers, G.A.F. Engineering

Mr. Cubellis, initiates the introduction of the proposal. He states the application is being filed in response to a notice of violation letter issued by the building commissioner, David Riquinha, to permit an existing rear egress deck.

He adds that the property is located within the onset Village District. The building is a mixed used commercial restaurant. He states that he is requesting the board to grant relief to allow the wood deck for the upstairs egress to remain at the 5 foot setback to the rear property line. He mentions that the new deck and stairs were constructed in order to eliminate the hazard to the electric meters due to the location of the prior stairs along the side of the building. The requested 5 foot setback is only 2.9 feet closer to the property line than the existing deck. He mentioned that in his opinion this change is not substantially more detrimental to the neighborhood.

Mr. Bob Rogers shares the site plan.

The plan depicts a proposed 272 square-foot building addition at the southwest corner of the existing building. The location is currently occupied by decks. The building addition does not increase either building coverage or impervious surface. It also does not increase the non-conformity, which exists for the front yard setback.

Mr. Eacobacci does not see an issue. The rest of the Board also agrees. Noone has any questions and no public input.

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

**VOTE: (5-0-0)**

**MOTION: Mr. Eacobacci moves to treat it as a Special Permit and it is not detrimental to the neighborhood. Mr. Morrison seconds.**

**VOTE: (5-0-0)**

**MOTION: Mr. Eacobacci moves to grant a Special Permit with Standard Conditions. Mr. Sample seconds.**

**VOTE: (5-0-0)**

**3. 15-21 Rachel Solem c/o J.C. Engineering, Inc. – Variance – 9 Prospect Avenue – Map 1, Lot 70 & 80**

Present before the Board:

Brad Bertolo, J.C. Engineering  
Rachel Solem, 9 Prospect Avenue

Ms Solem mentions that she is proposing to raze the existing nonconforming accessory structure and re-construct a new conforming accessory structure including a new concrete foundation that will be in compliance with the property line setback requirements.

Mr. Bertolo shares the Site Plan on the screen.

He states as seen on the plan, the accessory structure will be increased in total height from 12.2 feet to 17.83 feet, which is less than the maximum allowed height of 20 feet. He adds that Ms. Solem also wants to increase the width of the accessory structure by 2 feet. This represents an increase in FAR on the property by 49 square feet. The proposed footprint will also be relocated by 1.4 feet away from the property line to meet the minimum lot setback requirements. The applicant would like to square off the existing wood deck by adding approximately 90 square feet to the footprint.

Mr. Bertolo mentions that as seen on the Plan, the location of the proposed deck expansion is in conformance with the zoning setback requirements. The expansion of the accessory structure and deck will increase the total building coverage by 139 square feet. Mr. Bertolo also says the existing FAR and building coverage are above the maximum allowed on this property, an increase in the FAR and Building Coverage will be an intensification of an existing non-conformity.

Mr. Elkallassi States it will need a Variance because it is an accessory structure but in his opinion it does meet the statutory requirements and there is visible hardships. Ms. Debonise agrees. Mr. Semple is confused and needed some clarification so Mr. Riquinha clarifies it for him. Mr. Morrison does not have any concerns. Mr. Conti does not have any questions.

Present before the Board:

Ms. Hartley, Pleasant Avenue

She states she has worked very hard to increase the value of her home and is concerned of losing her water view.

Present before the Board:

Elizabeth Perry, 10 Pleasant Avenue

Ms. Perry is also concerned with the moratorium with the sewage hookups and with this addition, is it going to cause an additional issue, and the parking.

Mr. Bertolo confirms this will not be a second dwelling.

Present before the Board:

Jose Gonsalves, 8 Pleasant Avenue

Mr. Gonsalves is concerned with parking, and Mr. Elkallassi states this will not affect parking.

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

**VOTE: (5-0-0)**

**MOTION: Mr. Eacobacci moves to grant a Variance as presented on the plan proposed by J.C. Engineering on 3-10-2021. Ms. Debonise seconds.**

**VOTE: (4-1-0) Mr. Morrison denies**

**4. 16-21 Wareham Historical Society c/o Angela Dunham - Variance – 124 Main Street – Map 47, Lot 118, BB**

Present before the Board:

Angela Dunham, 495 Main Street

Ms. Dunham introduces herself as the President of the Wareham Historical Society. She states they are looking to purchase the property from SouthCoast Hospitals so they own the property under the building. Mr. Elkallassi suggests the applicant to go to the Planning Board to create the lot line and then come back to grant the Variance. Ms. Debonise agrees but since the applicant has to come back anyway, she suggests granting with conditions. Mr. Semple has no questions. Mr. Eacobacci would like to grant with conditional approval.

The Building Commissioner states the Planning Board cannot endorse a plan or create a lot line without a Variance.

Present before the Board:

Robert Blair, Chair of Historical Society

Mr. Blair would like to offer his support for the variance request being made by the Wareham Historical Society. He states this is the most significant property in the Wareham Narrows Historic District and houses a substantial collection of 18<sup>th</sup> century artifacts, and period furniture. Captain John Kendrick was and continues to be one of Wareham's most illustrious residents and the Historical significance to the Town of Wareham cannot be overstated.

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

**VOTE: (5-0-0)**

**MOTION: Mr. Eacobacci moves to grant a conditional Variance pending Planning Board approval of ANR. Mr. Semple seconds.**

**VOTE: (5-0-0)**

**5. 17-21 Bonnie Smith – Special Permit – 53 Swifts Beach Road – Map 56, Lot B-2**

Present before the Board:

Bonnie Smith, 53 Swifts Beach Road

Mr. Morrison recuses himself from voting on this project.



Ms. Smith states she fosters dogs and she wants to start to be able to foster more for hospice only. She wants to be able to give them a good life while they have very little life left.

Ms. Smith says the most she has ever had is ten (10) in total and they are mainly small dogs at max 35 lbs. but usually in between 5 and 20 lbs. She is requesting a hobby kennel license.

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

**VOTE: (5-0-0)**

**MOTION: Mr. Eacobacci moves to grant a Special Permit limited to seven dogs extended to ten but no more than 35lbs. Ms. Debonise seconds.**

**VOTE: (5-0-0)**

**6. 18-21 Daniel Georgianna – Special Permit / Variance – 45 Longwood Avenue – Map 1, Lot 630**

Present before the Board: Daniel Georgianna, 45 Nakata Ave, Fairhaven, MA  
David Georgianna

Mr. Georgianna states that his son David Georgianna is the builder of this project and he will be presenting on his behalf.

David states his dad is proposing an addition off the rear of his current cottage. The existing cottage structure on the property will remain in its entirety to keep the look of the neighborhood. He also states the existing structure will be updated with new windows and insulation and all exterior walls and inside the crawlspace under the main floors. Mr. Georgiana says the existing cottage will be renovated on the exterior with new shingles and trim work to preserve the building and to keep the curb appeal of the old beach cottage. He says that his dad and mom are looking forward to spending their retirement in the beautiful Onset, Wareham area.

Mr. Georgiana mentions the new proposed addition will be built off the back of structure fully supported by helical foundation post so not to disturb the ground with major excavation, and cement. He also says that this new proposed space will have two bedrooms, a bath, deck area for the outside space fully covered with addition roofline. The second floor area will be covered with an enclosed porch, along with some much-needed storage. He mentions to the board that it will catch great light and still have privacy from the large houses around the area and not to encroach on any neighbor's property around them.

Mr. Ealkallassi states that it appears they are looking for three Variances and a Special Permit and asks about the hardships.

Conversation ensued. David explains the hardships.

Mr. Eacobacci drove the neighborhood does not think the request is unusual and would be willing to vote in favor. Mr. Conti does not see any issues although he asks some questions

regarding some of the building blocks. Mr. Semple appears to be okay with it as well. Ms. Debonise does not hear the hardship and has a hard time with all the Variances. She thinks as far as the impervious surface, they should try to go down or stay under the 50%, which would be one less variance request.

Present before the Board:

Jennifer Hixon, 15 4<sup>th</sup> Street

Ms. Hixon is at the rear of the building and is unhappy they cut down trees although they were in the applicant's property but this gave Ms. Hixon shade. She is opposed to this project but she just wants to make sure that they are 10' from her property.

Present before the Board:

Paul Killgoar, 12 5<sup>th</sup> Street

Mr. Killgoar feels that the house is too big for the lot and is opposed to the project.

Mr. Conti Board wants more time to see the Plans. Mr. Eacobacci is comfortable granting this evening but is also comfortable allowing the rest of the members to view the plans. Ms. Debonise is not in favor. Mr. Morrison would agree to approve but would like to also view the plans.

Mr. Elkallassi is asking the applicant to submit elevation plans.

**MOTION: Mr. Eacobacci moves to continue the public hearing to 4/28/2021. Mr. Morrison seconds.**

**VOTE: (5-0-0)**

**7. 19-21 Emily & John Heavy c/o Margaret Ishihara, Esq. – 43 Marine Avenue –  
Map 78-1, Lot(s) 75 & 76**

Present before the Board:

Margaret Ishihara, Esq., 2527 Cranberry Highway  
Emily & John Heavy, Applicants

Attorney Ishihara is before the Board representing the applicants, Mr. and Mrs. Heavy. Attorney Ishihara states the Heavy's want to construct a proposed two bedroom single family residence so that Emily Heavy's sister can move there in order for Emily to care for her sister who has many serious health issues and cannot drive.

Attorney Ishihara shares the Site Plan to discuss specifics regarding building specs.

The house is proposed to have one living level on an elevated foundation she says. Attorney Ishihara mentions the applicants propose to install a chair lift so that Emily's sister will be able to access the living level from the ground. Further, she states the residence already has frontage on an existing way, which is separate from the Heavy's existing house, and any traffic flow would be minimal. She also adds they meet the current setback requirements of the zoning by-laws so there would be minimal if any increase in congestion in the neighborhood. The proposed residence would be on municipal water and sewer, which addresses any environmental concerns.

She explains the Heavy's are on lots 50 & 51 and the proposed build will be on lots 75 & 76. Mr. Elkallassi states potentially there is some concerns with the merger theory of the lots. Mr. Eacobacci gives his input regarding the unbuildable lots and encourage the Board members to take a ride to Rose Point. He thinks it is a terrible rule.

Ms. Debonise would like to grant it, although she thinks it is a lousy situation. Mr. Morrison feels like they need to dig a little deeper on the situation.

**MOTION:** Mr. Eacobacci moves to continue the public hearing to 4/28/2021. Mr. Conti seconds.

**VOTE: (5-0-0)**

**8. ANY OTHER BUSINESS/DISCUSSIONS**

**9. EXECUTIVE SESSION**

**I. ADJOURNMENT**

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

**VOTE: (5-0-0)**

Date signed: 3-8-2022

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

Date copy sent to Town Clerk: \_\_\_\_\_