

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

**Date of Meeting: April 28, 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  
David Riquinha, Building Commissioner

### **III. PRELIMINARY BUSINESS**

1. Approve meeting minutes: March 24, 2021

**MOTION: Mr. Eacobacci moves to approve the meeting minutes as presented dated March 24, 2021. Mr. Semple seconds.**

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

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

1. 2-21 TGCI EMNACA – Comprehensive Permit under MGL Chap 40B – Settler's Glen, 3128B Cranberry Highway – Map 8, Lot 1007C

Email received requesting continuance to May 12, 2021

**MOTION: Mr. Eacobacci moves to continue the hearing to May 12, 2021. Ms. Debonise seconds.**

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

2. 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. Daniel Georgianna states his son, David Gorgianna will speak on his behalf. David when they came before the before at the last meeting there were four (4) variances they were requesting. They have made some changes, and submitted the plans.

Mr. Eacobacci reiterated what the project was about for clarity. Ms. Debonise thinks the addition is bigger than the actual existing house, and she is still feeling the same as the last meeting. She is not opposed to the addition but would like to see them stay within the By-Laws.

Mr. Conti agrees with Ms. Debonise. Mr. Elkallassi states he hates to penalize the applicant because this by-law is about to change. Mr. Eacobacci has no objections and would vote in favor.

Present before the Board: Jennifer Hixon, 15 4<sup>th</sup> Street

Ms. Hixon states she still has not been able to view the plans and feels it will affect the privacy of her backyard.

Mr. Daniel Georgianna states he did drop off plans to Ms. Hixon and states her house is about the same height as the one he is proposing and he is not building to the maximum requirement.

Mr. Elkallassi did confirm that the houses around it are of the same height but would like for the members of the Board who did not have a chance to go by have a chance to go.

**MOTION: Mr. Eacobacci moves to continue the hearing to May 12, 2021. Ms. Debonise seconds.**

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

**3. 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, 70 Rose Point Avenue

Attorney Ishihara is before the Board representing the applicants, Mr. and Mrs. Heavy. She states since the last meeting, the Board wanted an opportunity to visit the site. She reiterates and refreshes the Boards memory in regards to the project. She mentions the applicants are proposing to build a single-family, two-bedroom home on an 8,000 sq. foot lot. with 100 feet of frontage.

Ms. Debonise did not have a chance to drive by but she is concerned about the combined lots and if it can be sold at a later point and Attorney Ishihara says that it can be.

Mr. Eacobacci was hoping to meet with Town Counsel prior to this meeting and was unable to. He is concerned. He would like to investigate the semantics of the lot.

**MOTION: Mr. Eacobacci moves to continue the public hearing to 5/12/2021. Mr. Conti seconds.**

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

**V. PUBLIC HEARINGS**

**1. 20-21 TJP Realty, LLC. – Variance – 16 Over Jordan Road - Map 20, Lot 1017/C**

Present before the Board:

Jilian Morton, Esq. 124 Main Street

Attorney Morton States she is representing the applicant, Mr. Thomas Parenteau of TJP Realty LLC. for a variance on their proposed new construction.

She mentions the applicants raised an existing one family structure on the property and this activated the mass merger doctrine and created a land merger with the adjacent parcel in common ownership.

Town Planner Ken Buckland shares the plan on with the Board.

Attorney Morton mentions that the lot was pre-existing, non-conforming but since the demolition of the existing structure, the applicants are now seeking relief to build a one family new construction on the smaller lot. She states that the lot has one for 4.45 feet of frontage and has approximately 27077.2 square feet. She mentions that there is an extreme hardship to the petitioner.

Attorney Morton mentions that the applicant is seeking to reduce the footprint and improve the property tremendously. To have the property be deemed unusable for development is surely not the intent of the zoning bylaw. Case law shows that the local zoning board does have the authority to break the merger of lots if it is applicable she adds. She emphasizes on the uniqueness of the lot as for the statutory requirements for the front yard setback variance. She states the topography of the land is an issue as well to as the homes being built here need to be put on stilts as they are in the FEMA flood zone. She continues to state the front yard setback as the commissioner said is 406 in a district where 60 feet is required. Miss Morton, states the reasoning for the setback is due to the proximity of the bills to the wetlands and protective conservation area.

Conversation ensued amongst the members.

Present before the Board:

DJ Wilson, 168 Great Neck Road

Mr. Wilson states he had several questions before the hearing but they a lot of them have been answered throughout the hearing but he is a little concerned that if the owner purposely left 14 up in order to build, two separate- 12 & 16 and tried to forth the aim of the merger doctrine.

Mr. Elkallassi states he truly believes it was a mistake.

Mr. Morrison does not have any issues with it. Mr. Semple feels it was a shame the applicants did not go through the right channels.

Mr. Riquinha confirms unfortunately the applicants were misguided.

Mr. Conti does not have any issues with it. Ms. Debonise is in agreement with it.

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

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

**MOTION: Mr. Eacobacci moves grant a Variance to build a structure as shown on the Plans with Standard Conditions and a Variance for setbacks. Ms. Debonise seconds.**

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

**2. 21-21 TJP Realty, LLC. – Variance – 12 Over Jordan Road - Map 20, Lot 1017/A**

Present before the Board:

Jilian Morton, Esq. 124 Main Street

Attorney Morton states once again, she is representing, the applicant, Mr. Thomas Parenteau of TJP Realty LLC. for a variance on their proposed new construction.. Similar situation with the merger issue. Looking at this lot, it has 150 feet of frontage and has approximately 42,688 ft.<sup>2</sup>. The board has the authority to grandparent on this project if they see it meets the requirements set out by the variance statute. Attorney Morton, states that this lot is certainly unique in its topography as well.

The land surrounded by wetlands and no touch conservation zones. Coastal properties are unique and certainly have their own challenges. Secondly there is an extreme hardship to the applicants here if the board deems these properties and buildable. The lot has been occupied by a single-family home since 1957. The old building was falling in disrepair and a hazard to the area. There are three lots with single-family homes from the 50s, which were in need of development and reconstruction. Attorney Morton, states that there would be a substantial hardship to her clients if these variances were not granted in the way that he would not be able to build on the sites that previously had single-family homes on them. The loss of the grandfathering through this doctrine would be extremely detrimental to her clients warranting the lots on buildable.

Mr. Elkallassi states, once again, similar matter but the applicant is looking for one Variance. The applicant was misguided. The hardship is the wetland.

Ms. Debonise states she has nothing to add, and the rest of the Board agrees. No one had any input.

No public input as well.

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

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

**MOTION: Mr. Eacobacci moves grant a Variance to build a structure as shown on the Plans with Standard Conditions and a Variance for setbacks. Ms. Debonise seconds.**

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

**3. 22-21 Beaulieu – Variance – 25 Cahoon Road – Map 8, Lot 1037/C**

Present before the Board:

Paul Beaulieu, Architect

Mr. Beaulieu introduces himself as the Architect and states the applicant has lived in town for 15 years. He mentions that he is looking to find a home to retire in.

He is proposing to add to this detached garage to create a buffer. He states that with the improvements to the parcel itself since he bought it, he had hoped to do the same with the garage. The existing garage is 21'-11" +/- in height where zoning requires 20'-0" Max. It is a pre-existing non-conforming structure. He mentions that he is conscious of the zoning property setbacks and do not wish to infringe upon that.

Mr. Beaulieu also emphasizes that he is conscious of the neighborhood and believes this is not detrimental to the existing surroundings. He has informed his neighbors ahead of time of the project intent and they have expressed support. He hopes the board understands the pre-existing conditions he inherited and will grant the relief needed to improve their property.

Mr. Elkallassi states he did drive by and confirms he saw the garage and is fine with it. Mr. Eacobacci states he looked over everything and thinks it is a great plan. Ms. Debonise has no problem with it. Mr. Semple and Mr. Morrison have no questions.

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

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

**MOTION: Mr. Eacobacci moves to grant a Variance with Standard Conditions. Mr. Semple seconds.**

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

**4. 23-21 BeachGrass Topicals – Special Permit – 3103 Cranberry Hwy. – Map 10, Lot 1003**

Present before the Board:

William Lockwood, Lockwood Architect

Jeanine Mackenzie, 35 Bayhead Shores Rd, Buzzards Bay

Mr. Lockwood represent Ms. Mackenzie, the applicant and states the space is currently empty and has not been used in several years. It is comprised of five rooms in a bathroom. Four of the rooms are connected and the fifth room is separated by a wall. There are four main doors for the

space. He states that beach grass is seeking approval for a Special Permit to build a commercial kitchen in the proposed unit to create a product manufacturing site. Mr. Lockwood states the updated space will also include a reception area, meeting office space, lockers, a break room, and an area for storage shipping and receiving. He proceeds to state that they will update and remodel the bathroom.

Mr. Lockwood shares the site plan.

They plan to install new flooring, windows, ceilings and ensure walls are smooth and easily cleanable. The space will be set up with a security system that meets state requirements. He adds that Beachgrass has hired a professional architect, a registered land surveyor, a commercial builder and a professional security company to ensure the success of the projects. This will also ensure beach grass conformed to all states and local codes as well as zoning bylaws.

Mr. Lockwood states Beachgrass is seeking approval to use the space for a marijuana establishment as a fully licensed product manufacture with the state of Massachusetts and plans to utilize the space to process cannabis and make cannabis infused products. She states they will follow all state and local zoning bylaws and regulations. The applicant confirms there will be no retail sales at this location and they will only sell to state license to marijuana dispensaries and state licensed retail stores. Mr. Lockwood mentions that with the change in used to manufacturing, that would dictate 1.5 spaces per employee and therefore, no expansion of parking will be required.

Mr. Elkallassi asks about a similar operation at this location and Mr. Lockwood states full disclosure that there is in fact another operation on a lower level.

Conversation ensued amongst the architect and board members regarding use.

The Board has no further questions.

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

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

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

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

**5. 24-21 Alisa Morse – Special Permit – 2 Sarabeth’s Lane – Map 114/D, Lot SB1**

Applicant did not appear before the Board.

Mr. Elkallassi states he knows Ms. Morse needs a business license and this is a simple process. Mr. Eacobacci would like to see if there is any public comment.

Present before the Board:

Charlene Nagel, 309 Charge Pond Rd

Ms Nagel states her backyard abuts Mr. Sergi's side house. She mentions she opposes this. She believes Mr. Sergi already has an office out of the house for his landscaping business. Ms. Nagel states she has had problems with Mr. Sergi since he has moved in between his trucks and his yard looking like a salvage yard. She also states he has five (5) storage containers in which he does not have any permits for.

Mr. Eacobacci states the application is for Alisa Morse and not for Mr. Sergi so he is in favor of continuing so he would like to give her the opportunity to speak.  
Mr. Conti would like to see a lease for the.

**MOTION: Mr. Eacobacci moves to continue the Public Hearing to May 12, 2021. Mr. Conti seconds.**

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

**VI. ANY OTHER BUSINESS/DISCUSSIONS**

**VII. ADJOURNMENT**

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

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

Date signed: 3-8-2022

Attest: \_\_\_\_\_  
James Eacobacci, Clerk  
WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: James D. Eacobacci