

**Town of Wareham  
Zoning Board of Appeals Minutes  
May 25, 2022**

- I. **CALL MEETING TO ORDER:** Chairperson, Mr. Elkallassi opened the meeting at 6:30 p.m. at an in-person meeting and a hybrid meeting.
- II. **ROLL CALL: Present:** Chairperson, Mr. Elkallassi, Clerk, James Eacobacci, Richard Semple, Troy Larson, Mr. Morrison, and Veronica DeBonise (arrived at 6:33 pm)

Planning Director, Ken Buckland was also in attendance.

III. **PRELIMINARY BUSINESS:**

1. **Discussion and Possible Vote: 8-22 David Sergi – Site Plan Review/Variance 8 & 10 Charge Pond Road – Map 110, Lot(s) 1035, 1076**

The Board members reviewed the new set of plans. They reviewed the width change of the driveways as requested.

Mr. Eacobacci tabled this hearing to see if the applicant's representative would attend. Shortly after, Attorney Jillian Morton came into the hearing, so it was reopened. She stated an amended plan was submitted by the engineer with a cover letter. She said the curb radius at the entrance went from 15 to 20, and at the second entrance 20 to 30. She said they eliminated a parking spot. She said they'd like to keep as cape cod burm on the entrance.

Mr. Larson said he had no additional questions. Ms. Debonise was satisfied with the changes. There were no other concerns from board members.

Mr. Eacobacci made a Motion to accept the new plans as submitted and revised dated May 23, 2022 and was seconded by Mr. Semple. The Motion passed unanimously.

2. **Reappointment of Members – Jim Eacobacci & Troy Larson**

The members voted to reappointment to the Zoning Board, Jim Eacobacci with a voted (4-0). As well as Troy Larson with a vote, (4-0).

3. **Reconsideration of Variance for Undersized Lot as Buildable – 0 Squirrel Island Road**

Mr. Buckland stated that this was a reconsideration as it was given back to the board via Town Counsel before the applicant was going to file an appeal.

Mr. Elkallassi stated they did not act on it, not that they denied it. They did not act on it.

Attorney, Robert Perry was in attendance for the applicant. He said that he went to court about this situation about a month ago because the Board didn't act on it. He said he has an upcoming pre-trial appointment in August 2022; and that he and Town Counsel agreed in open court to remand the case back to the Zoning Board to see if they would vote on it or reconsider.

Mr. Eacobacci made a Motion to reconsider this applicant on June 8, 2022 and was seconded by Mr. Semple. The Motion passed unanimously. (4-0).

**4. For Vote or Determination: 56-21 Doobie – Special Permit – 4 Recovery Road – Assessors Map 108, Lot 1006/B – Marijuana Establishment – Request Modification to Special Permit – Hours of Operation**

Erica Kennedy and Justin Kennedy were present for the applicant. They are looking to extend their current hours. They currently have the hours until 9 pm for delivery and want to change that to midnight.

Mr. Elkallassi asked if they knew what time the state allowed the delivery hours. Ms. Kennedy stated the state allowed hours up until 9 pm unless you got permission from the town board.

Mr. Semple asked what the need was for the extended hours.

Ms. Kennedy stated that many of the deliveries are going to the Boston area and their delivery window would be able to extend the order window open and delivery hours; as well as generate extra money.

Mr. Larson said it seemed a little late.

Ms. Kennedy said they are allowed to deliver anywhere in the state of Massachusetts. She said they have a two-hour delivery window and it's restricting the time they can deliver. She said they are only delivery service.

Ms. DeBonise stated she thought midnight was a little late. She said she's thinking of other delivery services and usually, they stop at a certain time.

Mr. Elkallassi asked what the requirement was to be back at Recovery Road (the establishment) with the end of the delivery.

Ms. Kennedy said the delivery ends at the customer's door stop, so a 9:00pm last call delivery would be the last delivery can take place at the customer's door stop at 9:00pm. (not necessarily back to their Wareham location).

Ms. Kennedy stated they leave Wareham to get to Boston by 6:00pm.

Mr. Eacobacci stated that the demand sounds like it is outside of Wareham versus inside Wareham. He asked how they advertise, and Ms. Kennedy said it's web based at this time. He said he doesn't have an opinion either way but may be concerned as a neighbor.

Mr. Elkallassi stated the board can either state its major or minor change.

Mr. Eacobacci stated he would be okay with stating it's a minor change and would make a motion in that affect.

Ms. DeBonise asked about putting more drivers on to meet the demand of out-of-town orders.

Ms. Kennedy stated they do have a few drivers on and the business has a demand for state orders that the extended hours would help.

Ms. DeBonise said she just was concerned that the state allows the local board to make the decision when the deliveries could be anywhere in the state.

Mr. Elkallassi said that the board could decide it was a major change and request them to come back for a hearing so more information could be gathered.

Mr. Semple said he is for a small business but says he's a little leary, but he feels they wouldn't be coming to them if there wasn't a need for it.

Mr. Elkallassi asked if they could get something from the state that the local board can make this decision.

Ms. Kennedy said they are open to further discussions, perhaps to 11p.m.

Mr. Elkallassi stated the board has to first decide if its major or minor. Ms. DeBonise said she was of the opinion that it was a major change and would like to get more information. Mr. Larson agreed that he would like to see some regulations from the state on what the board is allowed to guide. Mr. Semple said he'd like to see what other companies and towns are allowing. Most Board members agreed it sounds more like a major concern.

Mr. Elkallassi suggested the applicants come back with their attorney for a public hearing.

Mr. Eacobacci made a Motion to come back for a Public Hearing as this constitutes as a major modification and was seconded by Mr. Larson. The vote was 3-1-1, with Ms. Debonise, Mr. Larson and Mr. Semple in favor of continuing for a public hearing as a major modification, Mr. Eacobacci voting against and Mr. Elkallassi abstaining.

Mr. Elkallassi gave the applicants the information that they have to apply for a hearing.



**5. Request for Insubstantial Change of G.L. 40B Comp Permit: 30-21 Pennrose, LLC. – Comprehensive Permit – 4 Littleton Drive – Assessors Map 56, Lot 1**

Mr. Buckland stated they are resubmitting plans for lot lines and right of ways. There was no one present when called for the hearing, so Mr. Elkallassi tabled until the end of the meeting for a second call.

**IV. CONTINUED PUBLIC HEARINGS:**

**1. For Discussion and Possible Vote: 11-22 Cindy Bulu – Special Permit – 4 13<sup>th</sup> Street – Map 1, Lot 341**

Ms. Bulu was present. She stated that at the previous meeting members of the board said they were going to go by and to her knowledge no one went by.

Mr. Elkallassi stated he and Mr. Semple did go by the property.

Ms. Bulu passed out a small packet of information.

Mr. Elkallassi pointed out something on his laptop to what was built new at the home. He said he did look at the property. He is aware there is violations for zoning and building code, but he didn't see any violations as far as the zoning. He said there was building code violations but has nothing to do with zoning and requested that they overturn the building letter. He said there is no zoning violation that he could verify.

Mr. Eacobacci said that it seems that there is no zoning violation and that is all they can act on.

Mr. Eacobacci made a Motion to close the Public Hearing and was seconded by Mr. Semple. The Motion passed unanimously. (5-0-0).

Mr. Eacobacci made a Motion to overturn the Building Commissioners decision that there was a zoning violation as per the findings they went to the home and noticed there was no violations in zoning in question. The Motion was seconded by Mr. Semple. The Motion passed unanimously. (5-0-0).

**2. 12-22 Enterprise Rent-A-Car Co. – Use Variance – 2196 Cranberry Hwy – Assessors Map 103, Lot 1000**

Attorney Ciaffon was present before the Board and Scott Faria, Engineer.

Mr. Elkallassi stated he liked that the applicant addressed concerns. Mr. Larson appreciated what they were proposing, he did drive by to review.

Attorney Ciaffon explained the landscaping would be updated, the sign would be illuminated. He said the front of the building would be the enterprise colors (an off yellow). He said the potholes will be repaired, seal coated and lined. He said there is curbing that needs to be repaired.

Mr. Elkallassi asked for any public comment, there was none.

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

Mr. Eacobacci made a Motion to grant the variance per MGL 40A, Section 10 for 12-22 Enterprise Rent-A-Car and was seconded by Mr. Semple. The Motion passed unanimously.

## **V. PUBLIC HEARINGS:**

### **1. 13-22 Jeffery Miller – Variance – 718 County Road – Assessors Map 95, Lot 1008**

Mr. Elkallassi opened the public hearing. Mr. Buckland read the advertisement in for the record.

Mr. Miller was present stating he wanted to build a 3-car garage 30x30 on a foundation that is already there in front of the house.

Mr. Elkallassi explained this was for a variance because the garage would be in the front yard. He said it would be a hardship because he can't put it in the backyard and there are wetlands in the back.

Mr. Elkallassi asked if there was any public comment. None.

Mr. Elkallassi stated this was a perfect example of a variance as it meets the requirements and the hardship. Ms. DeBonise agreed with the hardship, as all the members did.

Mr. Eacobacci made a Motion to close the public hearing and was seconded by Mr. Semple. The Motion passed unanimously. (5-0-0).

Mr. Eacobacci made a Motion to grant the variance for 13-22, Jeffery Miller as it does meet the statutory requirements of Chapter 40A, Section 10. The Motion was seconded by Mr. Temple, and passed unanimously. (5-0-0)

### **2. 14-22 Dana A. Ward – Special Permit – 39 Marine Avenue – Assessors Map 78- 1, Lot 73**

Mr. Elkallassi opened up the public hearing and Mr. Buckland read the advertisement in for the record.

Dana Ward was present. The owners of 39 Marine Avenue were also present.

Mr. Ward stated they have a two-story house and when they went to raise up the roof, the side setback is only 8'.

Mr. Eacobacci stated this was a pre-existing, non-confirming. Mr. Semple stated the neighbors were 4.5' and this address is 8'; so he can see that it doesn't appear to be detrimental.

Mr. Elkallassi asked for public comment.

Peter Sadisury asked what the project was going to be.

Mr. Ward said there is already a second floor there, they are taking the roof off and increasing the height. He said the peak will be 11' higher than now; under the statutory of 35' to approximately 24'. Mr. Ward stated it was a one story house with a 2 car garage underneath.

Mr. Ward said the second floor is already there just not built with walls, he said the roof was just built on the deck.

Mr. Semple asked why the measurements weren't on the plans.

Ms. DeBonise clarified that she believed a Special Permit and a variance was needed.

Mr. Sadisbury asked about the footprint staying the same. Mr. Ward confirmed yes.

Mr. Eacobacci made a Motion to close the public hearing; on the question, Ms. DeBonise asked what the hardship was for increasing the ratio. Mr. Ward stated the Building Commissioner didn't say they were increasing the ratio because the second area is already finished, they were just getting the height ratio. He didn't think they were increasing the square footage.

Mr. Ward explained the square footage is not increasing they are getting height increase. He said it's a cape.

Mr. Semple seconded the motion to close the public hearing and it was passed unanimously. (5-0-0)

Mr. Elkallassi stated based on the confusion, they'll deny the building commissioners ruling and go with the variance. All but Ms. Debonise agreed with Mr. Elkallassi. Mr. Buckland said he didn't agree as there was a half story there currently, and they are building a full story on the second floor.

Discussion ensued.

Mr. Eacobacci made a Motion to overturn the Building Commissioner's decision as the F.A.R. is complying and was seconded by Mr. Semple. The Motion passed 4-1-0 with Ms. Debonise in opposition.

Mr. Semple made a Motion to grant the variance and was seconded by Mr. Eacobacci. The Motion carried 4-1-0, with Ms. DeBonise in opposition.

Mr. Semple made a Motion that the setback is not detrimental and was seconded by Mr. Eacobacci. The motion passed unanimously, 5-0-0.

### **3. 15-22 Betty Sanisidro – Special Permit – 58 Sandwich Road – Assessors Map 134, Lot F42**

Ms. Sanisidro was present.



Mr. Buckland read the advertisement in for the record.

Mr. Elkallassi opened the public hearing.

Ms. Sanisidro stated she purchased 58 Sandwich Road in MR 30, she is looking to have a doggy daycare with no overnight or weekend daycare or boarding. She submitted a change of use permit that was denied. She said the animal kennel was allowed by Special Permit.

Mr. Sanisidro stated there was some confusion on what to clarify. She said they settled on 'kennels', however, there would be no overnight boarding or daycare. She said there is 15:1, fifteen dogs to one adult caring for the dog. She said the thought was to be more therapeutic with the dogs. She said they have already closed on the property and made improvements to the grounds and the building.

Mr. Semple asked where the business would take place.

Ms. Sanisidro said most would be outside but going back and forth, inside and out.

Mr. Semple said he said there are no plans that reflect what the outside shows how the property will be. Ms. Sanisidro stated that there is existing fencing, they are doing double fencing in the backyard. She said the primary mitigation is the adult to ratio.

Mr. Semple asked if forty dogs how many workers are there. Ms. Sansidro stated the ratio is 10-15 dogs with one adult.

Ms. Sansidro stated there are certain breeds that are not accepted into daycare per insurance requirements. She said there was an application process.

Mr. Elkallassi said they have to give a number on the Special Permit for the dogs. Ms. Sansidro stated maybe 50 dogs. Mr. Elkallassi stated that seemed like a lot of dogs for barking.

Ms. Sandisdro stated the building is 1100 square feet. She said the size of the animals depend on how many can be in the building.

Mr. Elkallassi stated he would have to have a condition they would have to have a dogwalker with them.

Mr. Sandisdro explained how she forsee the plan, however it's not in the plan to have that many dogwalkers. She said the animals would go out in groups with one adult. She said its an enrichment program for the animals, slides, activities, etc.

Mr. Semple stated they need more clarification.

She explained there are different groups of the animals per the age, play, etc.

Mr. Semple stated he would like to see more clarity. He said they are looking at a blank piece of property with a building on it. He would like to see more of a design plan. He said he needs to see physically what the exterior plan looks like.

Mr. Elkallassi opened it up to the board members.

Ms. DeBonise said she had a list of questions and felt they need to compile their questions for the applicant. One question she had was the hours, as she thought the 6am was too early, and the 9pm was too late.

Mr. Larson agreed with others as he needed more information.

Mr. Elkallassi stated they needed an exact number of dogs. He explained that a Special Permit can not be granted if its detrimental to the neighbors.

Mr. Elkallassi opened it up to the public for comment. No one came forward to speak in favor of the project.

Ms. Ellis of Sandwich Road explained the building is not soundproof at all. She said it was her stepson who sold the building to the applicant. She explained the chain-link fence that is on the property currently. She had concerns of being the rear neighbor and her family outside with the dogs barking near her property.

Mr. Dennis, of 66 Sandwich Road. He said he has been in the home for 74 years. He said the 911, the ambulance building is right next door, and he is concerned about the animals barking with every siren going on when the ambulance leaves.

A resident from 64 Sandwich Road stated there are a lot of medical people that leave in the area and says he goes to bed early and wakes up early.

Ms. Carla Texeira stated that she wants to just agree with the ambulance going by and the dogs barking with that noise. She doesn't know how adults will keep the dogs from barking.

Ms. Sanisidro stated that the hours of pickup were from 4-7pm.

A few other neighbors also shared their concern for the noise and number of dogs.

Ms. Sanisidro stated that they purchased the property and spent a lot of time in Town Hall.

Mr. Elkallassi made a recommendation to have Ms. Sanisidro return to the board.

Ms. Sanisidro stated she believes per the hearing she wouldn't be profitable, and she has to rethink the plan and if she wants to move forward.

Ms. Eacobacci made a Motion to continue 15-22 Betty Sanisidro to June 22, 2022 and was seconded by Mr. Semple. The Motion passed unanimously. (5-0-0).



### **3. 16-22 2180 Boston Providence Tpke Associates – Site Plan Review/Variance – 4 Toll Road**

Mr. Buckland read the advertisement in for the record.

Mr. Elkallassi opened the public hearing.

Attorney Robert Perry was present on behalf of the Car Wash applicants. He said they want to put a car wash at the site and probably needs one or two variances. He said they have a strange shaped lot.

Luke DiStefano, Engineer was present via zoom for the applicant. He said this is behind the gasoline facility on the other side of Cranberry Highway. He is looking to redevelop a 5,000 sq foot tunnel drive thru car wash. He explained the project having twenty vacuum spots. He explained how the vehicle would enter into the site. He explained storm water management proposal that was included in the plan. He said there is a setback issue on the Eastern side of the site, 10.6' from the property line; and then lack of a 10' buffer landscaping line in the back of the property. He said the site is just under 60,000 sq feet.

Attorney Robert Perry stated it was a strange shaped lot. He approached the board to explain the lot shape.

Mr. Eacobacci asked if it was an extension of Nouria, but Attorney Perry said it was a separate business.

Mr. Elkallassi stated they will need two variances as the back of the property is industrial.

Attorney Perry said it was a peculiar shaped property and is the reason why they are asking for the variances as it is a hardship.

Mr. Elkallassi opened it up to the board members.

Ms. DeBonise said she liked the project. She said she'd like to hear from others and a good location. She would like to hear from abutters as well.

Mr. Eacobacci stated he too would like to hear from abutters. Mr. Semple had no questions at this time. Mr. Larson stated he was all set with plan.

Mr. Elkallassi stated they needed a site plan review. He said it needs to go to Fire Department, Police and other boards for their review.

Mr. Buckland asked for the dimensions for the entry/exit lanes. Mr. DiStefano said they start at 10', and go up to 16' and then back down to 10'.

Mr. DiStefano said they are just shy of the 10' in a particular area.

Mr. Elkallassi asked how much landscape buffer they have. Mr. DiStefano said they are at 5' and need 10' in the SW Corner of the lot.

Mickey Higgins stated he was the land owner. He said there was no plans when they built the gas station for the car wash.

The Board discussed the landscaping buffer on the plans.

Mr. Elkallassi opened it up for public comment. There was none.

Mr. Semple said he was going to abstain as he was not comfortable with the variances at this time.

After much discussion about the variances, the applicant asked for the board to vote on the variance and have them return for the Special Permit.

Mr. Eacobacci made a Motion to close the Public Hearing regarding the variances. Mr. Morrison seconded by Motion and it was passed unanimously.

Mr. Eacobacci made a Motion to grant relief for the two landscape variance buffer presented on plans, March 27, 2022 for 5' in front and the rear setback variance and was seconded by Ms. DeBonise. The Motion passed unanimously, 4-0-1; with Mr. Semple abstaining.

Mr. Elkallassi stated the Special Permit for the use needs to be continued. He said the 53g account needs to be opened right away.

Mr. Eacobacci made a motion to continue 16-2, 4 Toll Road to June 22, 2022 per the applicants' request and was seconded by Mr. Larson. The motion passed unanimously. (5-0-0).

#### **6. ANY OTHER BUSINESS/DISCUSSIONS:**

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

Respectively,

Patricia A. Pacella  
Recording Secretary

Date signed: 7-13-2022

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

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

WAREHAM TOWN CLERK  
2022 JUL 14 PM 1:13