

**Town of Wareham
Zoning Board of Appeals
Minutes – May 27, 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 Walter Cruz and Veronica DeBonise.

Absent:

Planning Director, Ken Buckland was also in attendance.

Town Consultant Engineer, Charles Rowley was also in attendance.

III. PRELIMINARY BUSINESS:

1. **Discussion and possible vote regarding the use of electronic signatures on permits:** Mr. Eacobacci made a motion to accept electronic signatures on permits and was seconded by Mr. Morrison. The Motion passed unanimously via zoom.

2. **Notice of Project Change – Woodland Cove Apartments Comprehensive Permit – Dakota**
Attorney Peter Freeman was present to present the changes for the project into Phases. He said the club /community house would be built now. He stated there was a few waivers for dimensional waivers; lot coverage for lots 2 and 3 slightly over 65%.

Dominic, Civil Engineer was present. He explained lots 2 and 3 have gotten smaller.

Mr. Freeman spoke about previous waivers.

Mr. Elkallassi explained what the project changes were now to what he understood. He asked how the lots were smaller, why they need

Mr. Dominick explained the revised plan they submitted in March. He showed the phases via the plan. He stated they plan to build the road to Red Brook Road. He said they are proposing to build the land in Phase one, and phase one got bigger; phase two hasn't changed, but the lot area got smaller, so the lot coverage got larger.

Mr. Elkallassi confirmed the matter is the change on paper only. He opened it up to the board members for comment.

Mr. Eacobacci confirmed not much has changed except on paper and the lot lines. Mr. Eacobacci asked about the number of units that were approved, he thought it was 150.

Mr. Freeman agreed it was 150. Mr. Morrison had no questions.

Mr. Elkallassi opened it up for public comment.

Mr. Eacobacci made a Motion to grant as presented except for the 150 from 170 and was seconded by Mr. Morrison. The Motion passed via roll call unanimously.

Mr. Eacobacci made a Motion to endorse the new plans with lot lines and was seconded by Mr. Morrison. The motion passed unanimously via roll call.

3. 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. Engineer, Jim Bernandio, was also present.

Mr. Heely explained why they were in front of the board.

Mr. Bernardino 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. Mr. Eacobacci stated he preferred the five pumps. Ms. DeBonise stated she liked the five pumps better for accessibility and flow. Mr. Cruz agreed.

The traffic engineer was present and stated the fire trucks were able to get around the site without issues. She said the off-site area proposed would help with the traffic in that area. She said they did the study with the six pumps as well as the bigger building.

Mr. Healey explained the proposal of the six pumps; he stated they operate about 137 stations around Massachusetts. He explained why the proposal to accommodate more users.

Mr. Cruz asked what happens when the fuel is delivered and if that's going to be an issue.

Mr. Bernardino stated the horizontal spacing is changing to add the sixth dispenser; the vertical part of the building hasn't changed, it actually enhances the space.

Mr. Eacobacci made a motion to accept as presented and was seconded by Mr. Morrison. The motion passed unanimously via roll call vote. (5-0-0)

IV. PUBLIC HEARINGS:

A. 6-20: Higgins, 38 Winship Ave – Special Permit/Variance

Mr. Buckland read the public hearing into the record.

Attorney Jillian Morgan was present representing the applicant. She explained the project as the property is ocean front and has a unique shape and topography to the lot. She stated they are asking for the garage to be built separately, as it can't be in the back because of the ocean. Attorney Morgan stated both abutters are in favor of where the garage is going and supplied letters. She said they are asking for a variance to be built in the front yard.

Mr. Elkallassi stated this was the perfect hardship of the property as this is ocean's front and per the uniqueness of the lot and topography, this meets the hardship of why a variance is issued.

Mr. Eacobacci stated he had no questions, as he has seen the property. There were no further questions.

Mr. Elkaallassi asked for any public comment, there were none.

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

Mr. Eacobacci made a motion to grant the variance as requested and was seconded by Ms. DeBonise. The motion passed unanimously via roll call vote. (5-0-0).

B. 7-20: King, 12 Little Harbor Road – Variance

Mr. Buckland read the advertisement in for the record to build a garage with an in-law apartment above.

Sam ... of JC Engineering was presenting the case. Mr. Elkallassi stated he was recusing himself. Sam explained that this was to raze the existing garage and reconstruct a garage with second story with an in-law apartment. He said the owner has owned the property for many years and was hoping to give the home to his daughter, with the in-law apartment so he can maintain living there.

Mr. Eacobacci stated he reviewed the file and did a site visit.

The engineer stated the new garage would be in the same footprint.

Mr. Morrison had no questions.

Ms. DeBonise asked a question regarding in the future if the property were to sell, would they be able to rent it.

Mr. Eacobacci stated they could recommend a recording dwelling

Mr. Buckland stated they could put a restriction on the variance to restrict in the future.

Mr. Elkallassi stated the restriction should be no gas or electric meter for the separate in-law apartment.

Mr. Eacobacci asked for public comment there were none.

Mr. Morrison made a motion to approve as presented. Ms. DeBonise said she would not second

Ms. DeBonise made a motion to approve with the condition of no sale in the future as a 2-family and also there be no separate gas/electric meter for the in-law. Mr. Morrison second the motion. The motion passed unanimously via roll call vote. (4-0-0).

C. 8-20: Churchill, 2850 Cranberry Highway – Special Permit

Mr. Buckland read the advertisement in for the record. He said they are looking to construct a 2-family dwelling on a non-conforming lot.

Sam, the engineer advised the applicant stated they are looking to construct a 2-family on a nonconforming lot.

Mr. Eacobacci stated that to build the 2-family they would need 45,000 sq feet lot and they currently have 30,000. He stated they are shy of lot coverage. Mr. Eacobacci asked a question about the front entrance, as it was confusing on the application.

Mr. Sam clarified the front door entrance as designed on site plan.

Ms. DeBonise asked how the use could be non-conforming if it was an empty lot.

Mr. Eacobacci stated the non-conformity is the lot coverage.

Ms. DeBonise stated she wanted clarification as it should be a variance, not a Special Permit.

Mr. Buckland stated they would have to readvertise to properly advertise as a variance and not a special permit.

Mr. Eacobacci asked if everyone agreed they would need to table this and come back to as a variance.

Mr. Elkallassi stated the applicant needs to withdraw the application and bring it back as a variance. The engineer stated he understood.

Mr. Buckland stated it would be a Special Permit for the use and a variance for the lot size.

D. 9-20: Ellis, 9 Old Glen Charlie Road – Special Permit/Variance

Mr. Buckland read the advertisement in for the record.

Mr. Rogers was present on behalf of the applicant. Mr. Ellis stated he is trying to add a house to the existing garage at the property.

Mr. Rogers stated it is in the commercial strip zone, with the garage built in 2008. He said a family dwelling is allowed in the area. He said frontage is deficient for about 20 square feet and the lot is deficient by 10,000 sq feet. He said by allowing the allowance the board would be bringing the use into conformity by adding a principal use, which is the single-family dwelling. He said the garage presently is not a business.

Mr. Elkallassi asked if it was a grandfathered lot that allowed in 2008 just the garage to be built.

Mr. Rogers stated there was a garage on the property and it was rebuilt in 2008.

Mr. Ellis explained the original garage was falling and on the property line. He said he acquired the property and tore down the original and rebuilt the garage to someday attach a house to the garage. He said he's looking to build a house there and it's not a commercial garage currently.

Mr. Eacobacci asked a question of the layout of the property and to make sure he understood it. He said he had no issues.

Mr. Morrison stated he had no issues.

Ms. DeBonise asked if this would be an existing non-conforming.

Mr. Elkallassi stated he is not a fan of making an unbuildable lot buildable. He said this is a unique property because it's in the commercial strip and it's a garage.

Mr. Cruz said he didn't have a problem as all the setbacks are present.

Mr. Elkallassi asked if there were any public comment, there was none.

Ms. DeBonise asked Mr. Ellis when the old garage was built. Mr. Ellis said the old garage was at least 100 years old.

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

Ms. DeBonise asked about if the property were to resell in the future what someone would need to do to use it commercially. Mr. Buckland stated the special permit would need to be modified.

Mr. Rogers said a single dwelling is an actual use in the commercial zone. He said it is only they are seeking dimensional requirements.

Mr. Eacobacci asked the engineer about the non-conforming dimensional requirements as a two-lot property. He asked if this was going on town sewerage. He asked about how many feet the lot has to be per bedroom. Mr. Elkallassi stated that would be a Board of Health issue.

Mr. Rogers said no, it would be going on private.

Mr. Eacobacci made a motion to grant the variance for the dimensional requirements as presented and was seconded by Mr. Morrison. The motion passed unanimously. 5-0-0.

E. 10-20: Cosgrove, 49 Blackmore Pond Circle – Special Permit/Variance

Mr. Buckland read the advertisement in for the record. He said they wanted to extend the non-conforming unit.

Engineer, Richard Rheume was present for the applicant. He stated there is an existing house, R60 zoning with 60,000 sq feet minimal. He said the lot is 18,469 currently. The setback is 60' and 44' currently with a deck and 30' setback. He said there is an existing shed in front yard with 25' setback. He said they'd like to move the shed back, remove the deck in front of the existing dwelling; so the dwelling would be 40' setback. And proposing to add a garage on the right side (North Side) and building an addition to the left side of the building. He said the two additions would be setback as current. He said they need to extend the non-conforming use.

Mr. Elkallassi explained what the board was looking to review as a Special Permit and/or Variance.

Mr. Elkallassi asked for public comment.

Attorney Jillian Morgan was present representing one of the abutters, Mr. and Mrs. Tremblay. She said they are against the proposal. She said they believe it would be a variance. She said she submitted this is a dirt road and offered pictures of the wetness of the road. She said the application as she understood it was to raze the existing cottage and build upon a new dwelling. She said it is not in nature of the neighborhood.

Mr. Elkallassi explained the non-detrimental as Special Permit and/or variance. He said they take five houses in the neighborhood and average them out and the home should look like that average. He said it's harder to provide a hardship when the house changes. He said he hasn't gone by the home as of yet but would like to table to do a site visit.

Mr. Eacobacci stated he too would like a site visit as well as Mr. Morrison.

Attorney Morgan presented pictures via zoom screen share. She shared photos of the subject property as well as frequent flooding issues of the road.

Mr. Elkallassi stated that the road and flooding issue would not be an issue of the board.

Attorney Morgan stated that Mr. Cosgrove owns other properties on the road and their fear is he would rebuild other properties on the road.

Mr. Cosgrove was present via zoom. He said there is no flooding issue, as the photo shows a puddle. He said that his existing home would be smaller than the houses that have been rebuilt on the road. He said they are trying to upgrade as the entire area has been built up. Mr. Cosgrove stated the abutter has a two story and would be able to see the water.

Mr. Elkallassi stated if its detrimental they would treat as a variance and if not, a special permit.

Mr. Eacobacci asked Attorney Morgan has a deeded view of record. Attorney Morgan said they do not have a deeded view of record, only an easement.

Ms. DeBonise agreed she would like to take a lot and she would like to see the other lots/dwellings in the area. Mr. Buckland stated he would get the information from the assessor's office.

Ms. DeBonise made a motion to continue to June 10, 2020, and was seconded by Mr. Morrison. The motion passed unanimously via roll call vote.

V. CONTINUED PUBLIC HEARINGS:

49-19: 3067 Cranberry Highway, LLC – 3067 Cranberry Hwy – Special Permit/Variance/Site Plan

Mr. Buckland stated the applicant would like to continue to June 10, 2020.

Mr. Eacobacci made a motion to continue 49-19, 3067 Cranberry Hwy to continue to June 10, 2020 and was seconded by Ms. DeBonise. The motion passed unanimously. 5-0-0.

VI. ANY OTHER BUSINESS/DISCUSSIONS

A. Notice to Appeal Building Permits – 2695 Cranberry Highway – Hayes

Mr. Elkallassi stated this is the property near the building Shenanigans.

Mr. Buckland stated a letter was written and he read it in for the record. He read the letter was asking for an appeal of building permits that were issued to a property that was non-conforming.

Mr. Elkallassi asked Mr. Buckland to reach out to them and they need to ask for a formal application to appeal with a Public Hearing.

In other business, Mr. Buckland asked if they'd like anything special to the format of the meetings. Ms. DeBonise said she would like the assessor's records to be part of the application for review.

Mr. Eacobacci made a motion to adjourn and was seconded by Mr. Morrison. The motion passed unanimously via roll call vote.

Respectfully,
Patricia A Pacella

Date signed: 9-14-2022

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

Date copy sent to Town Clerk: _____

WAREHAM TOWN CLERK
2022 SEP 27 PM4:51