

## MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

**Date of Meeting: Wednesday, June 26, 2019**

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

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

### **II. ROLL CALL**

Members Present: Jim Eacobacci, Clerk  
Jan Kendrick  
Veronica Debonise  
Walter Cruz, Associate  
Robert Haskell, Associate

### **III. PRELIMINARY BUSINESS**

#### **A. Approve meeting minutes: June 12, 2019**

**MOTION: Mr. Haskell moves to approve the minutes of June 12, 2019. Mr. Cruz seconds.**

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

### **IV. PUBLIC HEARINGS**

#### **A. 23-19 – Gold Rush Property, LLC – 2 Depot Street**

Present before the Board: Len Bello, Bello & Bello

The applicant is proposing to replace two older, unoccupied mobile homes with two newer mobile homes at 2 Depot Street. This is Union Pond Place, and was purchased by the current owner at the end of 2018. The property purchase was listed as a 9-unit mobile home park. Two units, one condemned and the other falling apart, have been removed from the site and improvements were made to the site. The two units are not brand-new but newer. This application is not requesting to add any units, this will maintain the mobile home park as a 9-unit park as it was purchased. Due to the fact that these mobile homes were out of use for two years or more it requires a Special Permit.

Mr. Cruz is concerned with the setback of the proposed mobile homes, he cannot recall the code for mobile homes immediately. Attorney Bello states the engineered plan in the application shows the setback of the mobile homes and the proposed concrete pad is essentially the same size as the footprint of the mobile home.

**MOTION: Mr. Haskell moves to close the public hearing. Ms. Kendrick seconds.**

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

**MOTION: Ms. Kendrick moves to overturn Mr. Buckland's determination that a Special Permit is needed in order for the Building Department to issue a permit to pour concrete pad for replacement mobile homes. Mr. Cruz seconds.**

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

**B. 24-19 – Derek & Kelly Barrasso – 17 Charge Pond Road**

Present before the Board: Derek & Kelly Barrasso, Owners

The applicant is requesting to exchange a pre-existing non-conforming auto repair use with a new auto repair use that includes a towing service. The property has a 3-bay commercial garage. The garage was leased for the last 20 years as an auto repair service. The existing tenant had left and the new tenant will require a Special Permit for the additional use of towing. Mrs. Barrasso states their initial impression was that this would be a Special Permit application as auto repair is an allowed use in that zone, and the site has been utilized with this use for over 20 years. However, the Building Commissioner issued a letter stating this would be a Use Variance required.

The Board asks how many cars may be on site at one time. The mechanic who would utilize the permit answered there could be 4 to 15 cars on the site, however, the insurance companies or the owners pick up the cars relatively quickly. If they do not, there is a procedure in place that allows them to dispose of the cars, so cars will not be sitting on the lot for an extended period of time.

Mr. Eacobacci states he doesn't see how this application was required as a Use Variance

Present before the Board: Neil Ferrera  
Chris Conte

Mr. Ferrera states he does not have objections to small business or an existing auto repair shop, but he is concerned with the towing due to the existing conditions of existing towing companies in town. A concern is hearing the machinery working during late hours or the lot being kept in disarray. Mr. Ferrera states he did not receive a 10 day notice in the paper.

Mr. Conte states he is concerned with runoff from the site contaminating abutting properties.

Mr. Eacobacci states the notice was not properly given and the public hearing should be continued and notice should be re-issued.

Mr. Cruz states he was going to request a continuance at any rate.

**The hearing is re-noticed and continued until July 10, 2019.**

**V. CONTINUED PUBLIC HEARINGS**

**A. 20-19 – Coastal Cultivars – 0 Pattersons Brook Road**

Present before the Board: No one is present at this time

The applicant has requested a continuance until July 24, 2019

**MOTION:**

**VOTE: (**

**B. 16-19 – Cedar Village, Inc. – 7-9 Old Stage Coach Road**

Present before the Board: Len Bello, Bello & Bello

Brian Grady, G.A.F. Engineering. Inc.

Mr. Eacobacci states that petition 16-19 and 17-19 will be discussed at the same time, as it is discussing the exact same matter for each application, but will have a separate decision for each application.

Attorney Bello states that G.A.F. Engineering submitted the application with the Board, so it is not his usual submittal form. Mr. Bello states the issue before the Board is a simple issue. Mr. Bello states he does understand that there are people who would like to discuss issues surrounding this matter, but are not actually applied to this issue. Mr. Bello states that he will answer as many questions as he can in relation to any matter. Mr. Eacobacci states that he hopes that the Board can hear this matter without the emotion that is going to follow the application, and wants to keep discussion relevant.

Each of these properties has been permitted for two units. The applicant has been acting on the permits that have been issued. The permits that have been issued have one structure on each of the lots, the second structure has a foundation only permit that has been issued at this time. As originally permitted the structures on each separate lot are to be somehow connected to one another. The applicant is before the Board to request two principal dwellings on each lot, as is allowed by Special Permit in the Wareham Zoning By-Laws. Each lot contains enough frontage for two dwelling units. There are no mutli-family dwellings in this neighborhood.

Mr. Eacobacci asks for clarification that the existing structures and foundations have been constructed with permission and legally. Mr. Bello states that the right to build has already been established.

Mr. Bello states in the past with this Board, and other Boards he has been on, that it is not a matter of approving or denying a Special Permit, it is listed as allowed in the Zoning By-Law.

Ms. Debonise asks if the lots contain appropriate frontage and square feet to allow this use.

Mr. Grady states the lots contain the appropriate square footage and frontage for a multi-family dwelling. Each lot exceeds the dimensional requirements.

Mr. Haskell asks how long the connecting breezeway would be if it were a duplex. Mr. Grady states the breezeways would be 96 feet and over 200 feet on the second property.

Present before the Board: Heather Zine, 14 Old Stage Coach Road

Ms. Zine states that she doesn't feel the Town Hall has good logistics of this project and the Building Commissioner has directed her to discuss her concerns with the Zoning Board of Appeals. Ms. Zine states the lot was deemed unbuildable by a previous commissioner due to lack of frontage. Ms. Zine feels the road has been removed from the plan to provide frontage for the structure. Ms. Zine brings up issues not regarding this particular Board and is advised to seek personal council regarding her concerns. Ms. Zine asks if it was legal for the Chairman to put his own notice in the newspaper. Mr. Eacobacci states she should take that question up with an attorney.

Ms. Debonise asks if Ms. Zine was accurate in stating that the road on the plan was removed in order to obtain frontage for Lot NB-1-A, as it does not appear to be an issue with the second lot. Ms. Debonise is asking this question based on the Assessor's Map provided by Ms. Zine.

Mr. Grady states that the path or road shown on that plan is not designated as any acknowledged road by the Town, and is not a portion of Old Stage Coach Road.

Present before the Board: Cheryl Florindo

Ms. Florindo states she would reiterate what Ms. Zine said with the exception that she feels a breezeway between the houses would look absurd. Ms. Florindo states the building permit had previously been denied.

Present before the Board: Abutters name is unintelligible

The abutter states a lot of this conversation is based on Old Stage Coach Road, and that his family has a lot of history on the property, and shares his information of what he believes was Old Stage Coach Road. The abutter states he is concerned with the conservation of open property.

Present before the Board: Holly Harootunian, 22 North Boulevard

Ms. Harootunian feels that the legal ads are not easily understood and the Building Permits are not online. Ms. Harootunian states she wants the project to be denied and the foundations to be ripped up.

Present before the Board: Howard Smith, West Wareham

Mr. Smith states that there is confusion as to how the building permit was obtained and the project should be denied, but would prefer the breezeway not exist.

Present before the Board: Claire Smith, West Wareham resident

Ms. Smith states that she hopes the Board will deny this project because she does not want to see a 300' connection.

Present before the Board: Heather Zine, 14 Old Stage Coach Road

Ms. Zine asks if an applicant may construct a structure different than the plans submitted to the Building Department. Mr. Eacobacci states that is not what is before the Board at this time.

Mr. Cruz states that he is concerned with the risk associated with connecting the building, but is concerned that the initial permit set may be different than what is existing there today.

Mr. Bello states he believes that is not the matter before the Board. Mr. Bello states the Building Commissioner has already signed off on the building permits, and that is not the issue before the Board. The decision before the Board is only if the structures should be attached or not detached. Mr. Bello states the pathway in front of the property is not a road, and not the travelled road. The frontage is on Old Stage Coach Road, which is shown on an engineered plan. Mr. Bello states Assessor's Map say directly on them they are not accurate and should not be used for legal purposes as they are not surveyed plans.

**MOTION: Mr. Cruz moves to continue the public hearing. Ms. Haskell seconds.**

**VOTE: (2-3-0)**

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

**VOTE: (3-2-0) Mr. Haskell and Mr. Cruz vote against**

**MOTION: Ms. Kendrick moves to approve a Special Permit to allow two separate residential units to exist on one lot. Ms. Debonise seconds.**

**VOTE: (4-1-0) Mr. Haskell votes against**

**C. 17-19 – Cedar Village, Inc. – 8-10 Old Stage Coach Road**

Present before the Board: Len Bello, Bello & Bello  
Brian Grady, G.A.F. Engineering. Inc.

This item was addressed above in the discussion under 16-19 in these meeting minutes.

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

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

**MOTION: Ms. Kendrick moves to approve a Special Permit to allow two separate residential units to exist on one lot. Ms. Debonise seconds.**

**VOTE: (4-1-0) Mr. Haskell votes against**

**D. 18-19 – Onset Fire District – 4, 8, 10 Cranberry Highway**

Present before the Board: Johnathan Novak, Conceco Engineers  
Joe Sullivan, Daedelis Project  
Ted Galante, Galante Architecture Studios  
Pam Pike, Chairperson Onset Fire District  
Raymond Goodwin, Onset Fire District

Mr. Novak states that at the last hearing they hadn't been able to review the drainage from the project, but the applicant has submitted revised plans based on Mr. Rowley's review. Ms. Kendrick states she was not present at the opening of the public hearing, and believes due to the Mullen Rule she cannot vote on the hearing.

Mr. Novak states they didn't have any issues with the first four requests from Mr. Rowley. Mr. Rowley recommended the maintenance plan be included in part of the decision. There was a request for a detail for the curb cuts and how they would be constructed, which have been added to the plans, and have added additional rip rap. An area of concern was re-graded and an area drain was installed to prevent runoff into the trench. Comments were made regarding the inverse and trench drain, additional inverts were installed in the trench area.

Present before the Board: Mike Besse

Mr. Besse is concerned that the engineer did not have appropriate authority to apply for the Variance before the Board, that no permission was given by the Onset Fire Chief, and not by the committee.

Ms. Kendrick states that the members of the Committee are not present at the public hearing to object to this application.

Mr. Besse states that portions of this property was at one point either purchased or obtained by the Onset Water District to obtain protection for the wells. Mr. Besse also feels appropriate studies were not performed with NHESP.

Mr. Besse is concerned with the condition of the property and the potential for contamination to the wells. Mr. Besse believes that a new fire station is necessary, but should not be near the Wareham well field.

The applicant states an environmental review was performed for the site. The prudential committee did give the engineer permission to apply for this project. The applicant states they are not aware of any debris or unwanted material on the site.

Mr. Rowley discusses his concerns with the revisions. Mr. Rowley and the applicant have agreed on solutions to Mr. Rowley's concerns.

Let the record show that Ms. Kendrick left the public hearing.

The Board discusses some concerns with the site. Mr. Cruz is concerned that there should be bio-retention on the site in addition to drainage. Mr. Rowley states the existing soil is a permeable soil and water essentially doesn't collect on the surface. Mr. Eacobacci asks if they could accommodate the applicant by conditioning the decision in order to satisfy Mr. Cruz's concerns.

The applicant states when a bio-swale is installed it slows the water filtration, however, on this site, the water filtrates immediately into the ground. The water would likely sit on the site longer if a bio-swale were installed on the site. The applicant states they are willing to create a rain garden perhaps in lieu of a bio-swale. Mr. Cruz states he is not looking for bio-swale on the entire site, just a few areas on the site. The applicant states they could

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

**VOTE: (4-0-0)**

**MOTION:** Mr. Haskell moves to approve a Variance and Special Permit to construct the new Onset Fire District Headquarters with the condition that bio-retention swales be placed on the site in order to prevent contamination into the Water District wells. The revised information will be required to be submitted to the Wareham Zoning Department prior to July 10, 2019. Mr. Cruz seconds.

**VOTE: (4-0-0)**

## **VI. ANY OTHER BUSINESS/DISCUSSIONS**

### **A. Correspondence**

#### **Upcoming Hearings:**

<b>July 10, 2019</b>	<b>#33-18</b>	<b>Special Permit/Appeal</b>	<b>Ninety Six Realty LLC</b>	<b>Fearing Hill Road</b>
<b>August 28, 2019</b>	<b>#23-18</b>	<b>Special Permit/Site Plan Review</b>	<b>Anthony Grosso</b>	<b>1 Rae Avenue</b>

#### **Hearing Deadlines:**

<b>August 28, 2019</b>	<b>#23-18</b>	<b>Special Permit/Site Plan Review</b>	<b>Anthony Grosso</b>	<b>1 Rae Avenue</b>
<b>August 20, 2019</b>	<b>#16-19</b>	<b>Special Permit</b>	<b>Cedar Village Inc.</b>	<b>9 Old Stage Coach Road</b>

August 20, 2019	#17-19	Special Permit	Cedar Village Inc.	10 Old Stage Coach Road
August 20, 2019	#18-19	Special Permit/Site Plan Review/Variance	Onset Fire District	4, 8, 10, Cranberry Highway

**VII. STAFF REPORT**

**A. Zoning Amendments for Fall 2019 TM**

**VI. ADJOURNMENT**

**MOTION:** Motion is made and seconded to close the public hearing.

**VOTE:** (4-0-0)

Date signed: 7-10-2019

Attest: James R. Eacabacci  
James Eacabacci, Clerk  
WAREHAM ZONING BOARD OF APPEALS

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

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