

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: Wednesday, July 24, 2019

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
Jan Kendrick
Veronica Debonise
Walter Cruz, Associate
Robert Haskell, Associate

III. PRELIMINARY BUSINESS

A. Approve meeting minutes: July 10, 2019

MOTION: Mr. Eacobacci moves to approve the minutes from July 10, 2019. Mr. Cruz seconds.

VOTE: (5-0-0)

IV. PUBLIC HEARINGS

A. 29-16 Extension of Special Permit, Keith Amado – 312 Onset Ave.

Present before the Board: Bryan Grady, G.A.F Engineering Inc.

Mr. Grady is asking for an extension of the Special Permit for one year.

MOTION: Mr. Haskell moves to grant extension for one year. Mrs. Kendrick seconds.

VOTE: (5-0-0)

B. 29-11 – Request for reinstatement of Variance – Karan Johar – 189 Marion Road

Present before the Board: No one present before the board

Mr. Eacobacci reads into the record letter from Mr. Buckland, Town Planner, regarding reinstatement of the Variance that was previously approved instead of a public hearing. Mr. Elkallassi confirms that Variance has lapsed and applicants need to reapply.

MOTION: Mr. Eacobacci moves request for Applicant to reapply. Mr. Cruz seconds.

VOTE: (5-0-0)

V. CONTINUED PUBLIC HEARINGS

A. 33-18 – Ninety Six Realty, LLC – 191 Main Street, Suite 215

Present before the Board: Robert L. Perry

Due to insufficient members for required amount of votes, hearing will be moved to the next scheduled meeting on August 14th, 2019

MOTION: Motion to move public hearing for August 14, 2019. Mr. Haskell seconds.

VOTE: (5-0-0)

B. 26-19 – Cally & Denise Wolk – 15 Howard St.

Present before the Board: Denise Wolk, Owner

Ms. Wolk is requesting permission to install a 10'x14' shed in the front-side of her yard. Ms. Wolk states her property backs up to a salt water marsh and doesn't really have a backyard and her side yard is on a severe slanted slope. Ms. Debonise asks if Ms. Wolk has photos of the property and reviews it. Chairman Elkallassi believes Ms. Wolk has a hardship due to type of soil, and Ms. Kendrick agrees.

MOTION: Mr. Eacobacci moves to close public hearing. Walter seconds.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to grant variance as presented on plans dated 07/03/2019 with setbacks of 33' from street and 10' from neighbors. Ms. Debonise seconds.

VOTE: (5-0-0)

C. 27-19 – Dr. Brian Foote – 21 Sandwich Road

Present before the Board: Dr. Brian Foote, DMD

Dr. Brian Foote is seeking to convert an existing building previously used as a daycare into a dental office. He is not changing the site, just some cosmetic work in the inside and getting rid of the playground area. Prior to daycare business, it use to be an orthopedic office. The site is located in MR-30 and not as a CS district as stated which a medical facility should be allowed and the board agrees that a dental office is considered medical based on definition. Board overturns the Town Planners decision.

MOTION: Motion to close public hearing. Seconded.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to overturn the Town Planner's decision. It is an allowed use by right per use table in MR-30 Section 320. Variance not needed or necessary and it is allowed by right. Mr. Haskell seconds.

VOTE: (5-0-0)

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

Present before the Board: Derek & Kelly Barrasso, Owners
 Heather Walls
 Nicholas Lewis

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 garage was leased for the last 20 years as an auto repair service. Mr. Haskell states he went by the business and is impressed how clean the facility looks. Ms. Debonise also agrees with Mr. Haskell. Mr. Haskell asks where will the vehicles be kept, and Mr. Barrasso states the property is fenced and vehicles will be kept out of view.

Present before the Board: Chris Conte, 2614 Cranberry Hwy

Mr. Conte is upset and disagrees with the board's decision. He is adamant that the towing service is not part of vehicle service and is prepared to appeal the decision in the Land Court. 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. Ms. Hendrick confirms it is an allowed ancillary use to motor vehicle service. During research of case laws, town records and other business' in town, there is no indication that towing is not a part of motor vehicle service and for this reason Mr. Buckland did not reach for town counsel.

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

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to overturn the Building Commissioner's decision to deny, as it is a Use as-of-right by zoning. Ms. Kendrick seconds with comments.

- Building Commissioner's explanation is wrong with regards to this being a pre-existent, non-conforming use.
- This has been a use as-of-right as a motor vehicle facility.
- The adding of towing is simply adding an allowed ancillary component to motor vehicle service.
- Use has not been abandoned for any period longer than twenty-four (24) months. It has been disrupted for no more than six (6) months.

VOTE: (5-0-0)

VI. ANY OTHER BUSINESS/DISCUSSIONS

VII. STAFF REPORT

VIII. ADJOURNMENT

MOTION: Motion is made to adjourn. Seconded.

VOTE: (5-0-0)

Date signed: 8-14-2019

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

Date copy sent to Town Clerk: _____