

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: July 25, 2018

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
Karl Baptiste
Jan Kendrick
Jacob Morrison, Associate Member (voting for Wilma Engerman)

Also present: Ken Buckland, Town Planner
Charles Rowley, Town Review Engineer
David Riquinha, Building Commissioner
Paul Haverty, Attorney

I. PRELIMINARY BUSINESS

A. Approve meeting minutes: June 13, 2018, June 27, 2018

MOTION: Mr. Eacobacci moves to approve the minutes as presented. Ms. Kendrick seconds.

VOTE: (5-0-0)

B. #20-16 – Keith Amado – 312 Onset Avenue – Request for Extension

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

Mr. Grady states this was an approved Special Permit for a tear-down rebuild and would like to request an extension. Mr. Amado lives in California and has had some challenges in the reconstruction such as an asbestos abatement which is required before the demolition. Mr. Amado cannot obtain financing for the construction until the demolition is completed. Mr. Grady is requesting a two year extension.

MOTION: Mr. Baptiste moves to grant an extension for two years. No one seconds.

MOTION: Mr. Eacobacci moves to grant an extension for one year. Ms. Kendrick seconds.

VOTE: (4-1-0) Mr. Baptiste seconds

C. #39-17, 40-17, 41-17, 42-17 – BlueWave Solar – Charge Pond Road – Minor Modification

Present before the Board: Rich Riccio, BlueWave Solar
Lexi Barlow, BlueWave Solar

Mr. Riccio states they are looking for a minor modification for two facilities, Gibbs Brook, 39-17 and Pocasset River, 42-17. Mr. Riccio states they would like to substitute the surface retention area with a sub-surface infiltration system. The detention basins would be filled and the sub-surface system would be installed with grass on top. It has the same attenuation. There are no other proposed modifications to the site.

Mr. Rowley recommends that the slopes on site be protected in some way to prevent erosion. Mr. Riccio states the submitted plans to show silt fence in front of the systems to minimize the sediment that could infiltrate into the system. Mr. Rowley points two slopes that will require additional erosion and sediment. Mr. Riccio states there is erosion control in compliance with the SWPPP

Mr. Elkallassi recommends having a report by Charles Rowley by Wednesday October 10, 2018.

MOTION: Mr. Eacobacci moves to approve the minor modification as presented for ZBA Petition # 39-17 Gibbs Brook, LLC with the condition that Charles Rowley inspects the site and reports back to the Board by October 10, 2018, the slopes must be stabilized, and the modification must be recorded.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to approve the minor modification as presented for ZBA Petition # 42-17 Pocasset River, LLC with the condition that Charles Rowley inspects the site and reports back to the Board by October 10, 2018, the slopes must be stabilized, and the modification must be recorded.

VOTE: (5-0-0)

II. PUBLIC HEARINGS

A. #27-17 Donald McMullen -- 16 Wareham Avenue

Present before the Board: Donald McMullen

The applicant had filed an application to construct a garage on the site, however, there are multiple items being discussed in court and the applicant requests to withdraw without prejudice.

MOTION: Mr. Eacobacci moves to accept the withdrawal without prejudice. Ms. Kendrick seconds.

VOTE: (5-0-0)

B. #28-18 – Ramos Realty Trust – 300 Glen Charlie Road

Present before the Board: Arlene Mason
Gene

The applicant is requesting to construct an 816' living space addition and a rear deck addition. Gene states there is also a detached garage that will be constructed on the site, that the public notice did not advertise. Ms. Mason states that the garage was not on the application as they had applied for this previously and used the original application.

Mr. Buckland recommends that the application be re-advertised and amended.

Mr. Elkallassi recommends moving the construction in 20' from the side setback rather than 15.8'. Ms. Mason states that she has applied for the Variance due to the lack of setback. Mr. Elkallassi states he understands that, but that the setback should be 30'.

MOTION: Mr. Eacobacci moves to continue until August 22, 2018. Mr. Baptiste seconds.

VOTE: (5-0-0)

III. CONTINUED PUBLIC HEARINGS

A. #4-18 – Giancola Minot Properties – 72 Minot Avenue

Present before the Board: Leonard Bello, Attorney

Attorney Bello states that Mr. Giancola has requested a continuance in order to prepare the site plans. Attorney Bello states they will waive any time requirements of the Board.

MOTION: Mr. Eacobacci moves to continue the public hearing until August 8, 2018. Ms. Kendrick seconds.

VOTE: (4-1-0) Mr. Elkallassi abstains

B. #14-18 – Afif El Baba – 3070 Cranberry Highway

Mr. Elkallassi recuses himself from this hearing.

Present before the Board: Attorney Leonard Bello

Attorney Bello states the applicant had received a Special Permit for used auto sales with 25 cars. Attorney Bello states they are requesting to have 50 cars on the site instead of 25.

MOTION: Mr. Baptiste moves to grant the modification. Motion is seconded.

VOTE: (4-0-0)

C. #17-18 – RMRM Realty, LLC – 3035 Cranberry Highway

Present before the Board: Richard Serkey, Attorney
Jim Peterson
Tony Stella
Eric Brokmacher
Patricia Kells, Owner

Attorney Serkey states they are before the Board for proposed additional parking. When the applicant was last before the Board they were asked to present the Board with additional information. Attorney Serkey shows a picture looking south from Cranberry Highway where a berm was removed. The second picture looks north on the Water Wizz site exiting onto Cranberry Highway. The third picture looks east across the site from Water Wizz. The last picture looks north on the Water Wizz facility with the subject property located on the left. The berm that had separated the two lots has been removed. There have been surface area improvements over the previous footprint of the restaurant. There has been hay bales installed for vegetation that is proposed to be cleared. Pavement markers have been painted to direct

traffic and barrels have been placed on the site at a further attempt to direct traffic. Attorney Serkey has obtained a letter from the owner of the gas station that has rights to the easement stating he did not mind Water Wizz parking in the easement he owns. The letter is read into the record. Attorney Serkey states that the Board could make this a condition of the Site Plan that permission to that easement must remain in effect in order to park there. Mr. Rowley states he would feel better if the owner signed the letter. Ms. Kells states the owner stated he did not feel he needed to sign. Discussion ensues concerning the use of the easement.

Mr. Elkallassi asks the applicant what the hardship for the Variance is. Attorney Serkey states that the applicant cannot meet their parking requirements without attaining this site. Mr. Elkallassi states that does not constitute a hardship.

Ms. Kendrick states she does not feel this necessarily constitutes a change in use.

Mr. Rowley states he is concerned with the existing slope in the back of the site and the potential erosion control once the property is cleared. The Board states they would like a review from Mr. Rowley regarding the erosion control of the slopes.

MOTION: Mr. Eacobacci moves to continue the public hearing until August 8, 2018. Mr. Baptiste seconds.

VOTE: (5-0-0)

D. #2-18 – Dakota Partners – 3102 Cranberry Highway

Present before the Board: Peter Freeman, Attorney
Jim O'Brien, Dakota Partners
Don Rinaldi, Engineer BSC Group

Mr. Rinaldi presents in more detail the revised plans reflecting the proposed layout changed by Emmanuel Daskalakis of the Wareham Planning Board. Mr. Rinaldi states the site has five buildings, 150 units total. The buildings are closer to the center of the site and parking and driveways are on the exterior of the site. The recreational space is centered between the buildings. The Community Building footprint has changed but maintains the same number of square footage. The revised plan has a total of 264 parking spaces which equates to 1.7 spaces per unit. The utilities have moved slightly and are shown on the plan as well as the landscaping and stormwater management. The applicant is in conversations with OSD Group to come to an agreement.

Mr. Buckland recommends discussing amenities for the site such as a covered shuttle stop, laundry and storage facility amenities for renters, etc. Consider one building for seniors only, consider having a manager and a manager office on site, consider having an indoor gym, consider having an indoor playground, gardens for the open space, computer lab, café, lawn furniture in the open space, workout space in the open space, as well as gardens with water. Mr. Freeman states that they cannot have one building be seniors, it is not allowed under Fair Housing Laws on the state or federal level.

Mr. O'Brien states that the site does have four offices with a property manager, fitness center, storage, men and ladies room, community room, and lobby which exceeds criteria of state requirements.

Mr. O'Brien states he met with the Fire Department and the changes they requested are incorporated in the plans that were presented. Mr. O'Brien states they do prefer the softness of the outdoor common area and do not want to install a large amount of landscaping. Mr. Elkallassi asks to see the rendering of the

rear of the building. There are decks and different materials and facades. Mr. Rowley states you cannot get a good idea of the elevation view of the back of the building from the plans.

Mr. Elkallassi states he would like a final answer from Sean Osbourne at OSD consultants at the next hearing.

The Onset Fire Department has seen the revised plans and

Present before the Board: Lucille Dodson

Ms. Dodson states if cars are coming onto Redbrook Road from the development it will be very congested. Ms. Dodson states she feels there should not be a left hand turn onto Redbrook Road. Ms. Dodson is concerned about the children going back and forth to Seven Eleven. Ms. Dodson feels there should be a fence around the property.

Present before the Board: Debbie Edo

Ms. Edo states she feels there should be a fence high enough not to climb over. Ms. Edo is concerned with the traffic and parking. Having a bus stop is an issue.

Mr. O'Brien states that Dakota Partners cannot put a bus stop onto Cranberry Highway, that is something to address with MassDOT. Mr. Eacobacci recommends having a bus stop in the site. Mr. Rinaldi states typically public transportation does not like to drive on private property due to liability.

Mr. Baptiste states he is concerned with the kids waiting on Redbrook Road or Cranberry Highway waiting for the bus. Mr. Rinaldi states school buses are the purview of the school department.

Attorney Haverty has a very general decision that will require much more precise conditions added.

Present before the Board: Richard Hadley

Mr. Hadley is still concerned with traffic at the intersection of Redbrook Road and Cranberry Highway.

Present before the Board: Debbie Edo

Ms. Edo asks if a traffic counter can be installed for the area. Ms. Edo asks if the applicant has been in touch with MassDOT. Mr. Elkallassi states that the applicants dealing with MassDOT are outside of the purview of the Board. Ms. Edo asks about security and management for the site. Mr. O'Brien states there are FOB Security locks on all doors including the common building. There is a building manager on site daily as well as 24 hour service for anything that needs to be taken care of on site.

Mr. O'Brien states four items that require discussion at the next hearing.

MOTION: Mr. Eacobacci moves to continue the public hearing until August 8, 2018. Ms. Kendrick seconds.

VOTE: (5-0-0)

IV. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS

A. Correspondence

1. See correspondence sent via email and/or in packets.

B. Upcoming Hearings:

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|----------------------|--------|-------------------------|------------------------------------|-------------------------------|
| August 8, 2018, 2018 | #23-18 | Variance/Special Permit | Anthony Grosso | 1 Rae Avenue |
| August 8, 2018 | #19-16 | Minor Modification | Walmart | 2919 & 2427 Cranberry Highway |
| August 8, 2018 | #22-18 | Variance | Enterprise Rent-A-Car | 1 Express Drive |
| August 8, 2018 | #13-18 | Variance | Wareham Family Dental | 43 & 45 Sandwich Road |
| August 22, 2018 | #26-18 | Appeal | 18 Burgess Point Road Realty Trust | 18 Winship Avenue |

C. Decision Deadlines

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|--|--------|-------------------------|---------------------------|------------------------|
| Comprehensive Permit – 8/27/18 | #2-18 | Comprehensive Permit | Dakota Properties | 3102 Cranberry Highway |
| Site Plan Review – 7-24-18 | #4-18 | Site Plan Review | Giancola Minot Properties | 72 Minot Avenue |
| N/A | #14-18 | Major Modification | Afif El Baba | 3070 Cranberry Highway |
| Special Permit – 9/11/18; Variance – 9-21-18 | #17-18 | Special Permit/Variance | RMRM Realty, LLC | 3035 Cranberry Highway |

V. NEW BUSINESS (This time is reserved for topics that the Chairman did not reasonably anticipate.)

VI. ADJOURNMENT

MOTION: Mr. Eacobacci moves to adjourn. Ms. Kendrick seconds.

VOTE: (5-0-0)

Date signed: 8-8-2018

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

Date copy sent to Town Clerk: _____

RECEIVED

AUG 20 2018

TOWN OF WAREHAM
TOWN CLERK