

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: August 8, 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
Wilma Engerman

Also present: Ken Buckland, Town Planner
Charles Rowley, Town Review Engineer

I. PRELIMINARY BUSINESS

A. Approve meeting minutes: July 11, 2018, July 25, 2018

MOTION: Mr. Eacobacci moves to approve minutes from July 11, 2018 and July 25, 2018 as presented. Mr. Baptiste seconds.

VOTE: (5-0-0)

II. PUBLIC HEARINGS

A. #29-18 -- Vincent Perrone -- 27 Wildwood Avenue

Present before the Board: Bill Madden, G.A.F. Engineering, Inc.
Vincent Perrone

The applicant is seeking to remove and existing rear porch and replace it with a 12' x 23' addition. This property is a pre-existing, non-conforming lot. The lot does not currently meet all of the required setbacks. Lot coverage on the lot will be exceeded. The allowance in the district is 25%, the house is currently 25.9% but the addition will add to the non-conforming lot coverage.

Present before the Board: Loise Tottora

Ms. Tottora is an abutter to the property. Ms. Tottora states that previous abutters have asked her family if they could build on their lots and their family has said no. Ms. Tottora feels if the special permit or variance is granted that other neighbors will come forward and request to build on their properties. Ms. Tottora lives two streets down. The Board deliberates and concludes that this is not a substantial

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

(5-0-0)

MOTION: Mr. Eacobacci moves to consider this petition as a Special Permit. Ms. Kendrick seconds.

VOTE: (4-1-0) Ms. Engerman opposes

MOTION: Mr. Eacobacci moves to grant a Special Permit based on the findings that this is not a substantial increase to the property and it is not detrimental to the neighborhood. Mr. Baptiste seconds.

VOTE (4-1-0) Ms. Engerman opposes

III. CONTINUED PUBLIC HEARINGS

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

Present before the Board: Leonard Bello, Attorney

Ms. Bello states that this hearing was initially heard with Mr. Morrisson at the hearing, and wishes to continue the public hearing until Mr. Morrisson returns to the Board. Mr. Bello states the petitioner is available September 12, 2018.

MOTION: Mr. Eacobacci moves to continue the public hearing until September 12, 2018. Ms. Engerman seconds.

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

B. #13-18 –Wareham Family Dental – 43 & 45 Sandwich Road

Present before the Board: William Madden, G.A.F. Engineering, Inc.

Mr. Madden states after the last public hearing they removed the two small parking spaces that were in question, and still meet the parking space requirements. Mr. Madden discusses applicability under the landscaping requirement do not necessarily apply to this application. In regards to the sign, the owner would not mind using the existing sign post on the site. Mr. Elkallassi states he is not comfortable making a vote without seeing the architectural plans.

MOTION: Mr. Eacobacci moves to continue the public hearing until August 22, 2018 to obtain architectural drawings. Ms. Kendrick seconds.

VOTE: (5-0-0)

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

Present before the Board: Richard Serkey
Patricia Kells

Mr. Serkey states they would like to request a continuance due to inadvertent clearing performed in the 50' no activity zone on the property and the applicant must appear before the Conservation Commission. Mr. Serkey wished to return to the Board in four weeks, September 12, 2018.

MOTION: Mr. Eacobacci moves to continue the public hearing until September 12, 2018. Ms. Kendrick seconds.

VOTE: (5-0-0)

D. #19-18 – Walmart 0 2919 & 2427 Cranberry Highway

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

The applicant has requested a continuance.

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

VOTE: (5-0-0)

E. #22-18 – Enterprise Rent-A-Car -- 1 Express Drive

Present before the Board: Tim Schiffone
Thomas Scotsteiber
Amanda Dibiazio

Atty. General
Mr. Schiffone states that the applicant is seeking a Use Variance to hold a rental car business in a zone where it is not allowed. Mr. Schiffone presents case law for a Use Variance from the SJC regarding Boston Eddison Company vs. Boston Redevelopment discussing putting a commercial use in an industrial area in which the SJC discusses whether the non-conforming use would alter the essential character of an otherwise residential neighborhood and the SJC states the criteria for a Use Variance is general less restrictive.

Mr. Schiffone states in regards to shape, size or topography, the site has been developed, containing a natural buffer zone, that applies to a trucking company. The financial hardship to the applicant is that if they do not have the correct size trucks available for demand they will lose business. Mr. Elkallassi is concerned about the trucks parking in spaces that are too small for the trucks.

Mr. Schiffone asks for a continuance to resolve the parking issue.

MOTION: Mr. Eacobacci moves to continue the public hearing until August 22, 2018. Ms. Engerman seconds.

VOTE: (5-0-0)

F. #23-18 – Anthony Grosso – 1 Rae Avenue

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

The applicant is requesting a continuance.

MOTION: Mr. Eacobacci moves to continue the public hearing until September 12, 2018. Mr. Baptiste seconds.

VOTE: (5-0-0)

G. #2-18 -- Dakota Partners -- 3102 Cranberry Highway

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

Mr. Freeman states that the plans have been revised to reflect the requested layout of the site. The applicant has received Mr. Rowley's review letter and will respond to that by the next hearing. Mr. Freeman is hoping to discuss conditions of the decision and close the hearing at the next hearing. Mr. Freeman states there are some items from Mr. Rowley's review letter that they would be willing to comply with and some they would not be willing to comply with. There is a proposed bus cover with bench. Mr. Freeman has sent responses to Mr. Haverty's draft decision. Mr. Freeman recommends going over the conditions of the decision at the next hearing when Mr. Haverty is present.

Mr. Rowley reviews some general comments regarding the site. Mr. Rowley states there is essentially no place for amenities on the site. Mr. Rowley is concerned with the lack of visiting parking. The loading area is at the southeast area of the property for all of the buildings. Mr. Rowley is concerned that people will have to walk to the end of the site or delivery trucks will park in front of parking spaces. Mr. Rowley states there is no bus stop for the children waiting for the bus. Mr. Rowley feels it is important to provide some time of protection for the children from weather. Mr. Rowley is concerned with the lack of accommodations for handicapped residents. Mr. Rowley states that he feels the Fire Department needs to review the parking again due to concern of the fire trucks making the turns with cars in the parking spaces.

Mr. Freeman states there is no designated visitor parking, but there is additional parking on the site. There is an above average ITE figure. Regarding deliveries, Mr. Freeman feels they had made committed agreement to the solution for deliveries. Mr. Rinaldi states the delivery on the site are for the FedEx, UPS deliveries, that deliveries should not be delivering to the individual buildings. Mr. Freeman has a typical bus shelter shown for a bus stop.

Ms. Engerman asks if the applicant would consider having one building for seniors and handicapped and still meet fair housing laws. Mr. Freeman states it would still not meet fair housing laws, even if it were not a fair housing matter the Board cannot force the applicant to do this, and the applicant is not proposing this type of housing. Ms. Engerman discusses the school bus stop on the site. Mr. O'Brien states that the Board must reach out to the school department regarding this. Mr. Freeman states that it is typical that all departments in the town were notified at the beginning of the application process and were welcomed to comment with concerns and the applicant assumes that if this were a concern with the school department that they would have notified the Board. Mr. O'Brien states that of 140 units in one of their properties they have 23 children. Mr. Buckland states based on the existing 40B projects in town this project is estimated to have about 80 children if the demographics are similar with the existing properties. Mr. Elkallassi states he feels deliveries, dumpsters, and bus shelters for children are concerns he still has. Mr. Elkallassi feels the design of access to the community building should be reconsidered, he does not approve of the stone dust. The Board discusses having possible visitor and delivery hours on the site. Mr. Freeman states he would take that into consideration. Mr. O'Brien states that he feels there should be a condition in the decision about a bus shelter if the school department does not go through the complex to pick up children. Mr. Baptiste states he does not believe the bus will go through the site.

Mr. Elkallassi asks why the community building is not being built in Phase I. Mr. O'Brien states this was discussed previously, but there is not enough finances available to build the community building in Phase I, but they can construct the community green and the playground in Phase I.

Mr. Rowley states he has concerns with the lack of landscaping. There are four small trees in the front of each building, there are no flower beds, and very few trees to be re-vegetated after the clearing. Mr. Freeman states it is the decision of the applicant but they will propose more landscaping on the site.

Mr. Buckland reviews the memorandum with the Board. Item 1, that the motel will be demolished in Phase I is agreeable to the applicant. Item 2 that the project be completed within six years the applicant does not agree to. Mr. Freeman states this is due to legal regulations, which don't require or allow that, and knowing how tax credit works and not knowing when phases will be approved this requirement may not be able to be met. Mr. O'Brien states all of the building access is concrete and there is proposed to be concrete surrounding the community building, but would prefer the stone dust in the common green because it is a softer look and pavers are too expensive. Item 8 is a maintenance plan for the landscape and drainage plan to be completed with an easement and penalties, easement and penalties was not agreed on by the applicant.

Item 9 a landscape contractor must have a multi-year landscaping contract. The applicant does not agree with this condition. Mr. Freeman states they will review the landscape contract yearly, in lieu of a multi-year contract. Item 10 the applicant shall pay for water, sewer, curb cut, building, and all other local agencies. Mr. O'Brien states they added as published in department regulations or by-laws. Item 11 install a crosswalk at Red Brook Road with a signal, the applicant does not agree to that. Mr. Rinaldi states with the Cranberry Highway improvements they will be installing a crosswalk there and would have to ask MassDOT for permission to have a signalized crosswalk. The Board discusses leaving this an open-ended provision until they know more from MassDOT.

Item 12 was a bus shelter or some other shelter of that kind. Mr. O'Brien states they do not mind having one on the Redbrook Side rather than the Cranberry Highway side. Item 13 in each building each residential building shall provide storage units for renters and laundry facilities. The applicant does not agree to storage units but does agree to laundry facilities. Another item is to provide a manager and manager office, which will be included in the community building. Provide a community room, an indoor fitness room, a children's playroom, and workforce office space. The applicant agrees to those conditions except for the workforce office space, this will be shared with space in the community building if necessary. It was proposed to in the community room include a reading room, kitchen for demonstrations, computer lab, and cyber café. The applicant does not agree with those conditions. There are multiple rooms in the community building and this is too much micro managing and impractical, as well as may not be allowed by DHCD.

Mr. Rowley states he is disappointed that the walkways will not be paved, but would like a condition stating that the walkways will be maintained. Mr. Baptiste states he feels that the project will be maintained.

Present before the Board: Lucille Dodson

Ms. Dodson states in regards to the fence that there are going to be a large amount of children playing in this development and no playground on site will accommodate all the children. Ms. Dodson believes the kids will go into the woods. Ms. Dodson states the woods are preserved for protected water supply for Onset and needs to be protected and a fence that children cannot climb should be installed.

Present before the Board: Richard Hadley

Mr. Hadley reviews the peer review for Redbrook Road. Mr. Hadley points out that the intersection of Redbrook Road and Cranberry Highway are a concern.

MOTION: Mr. Eacobacci moves to continue until August 22, 2018. Motion is seconded.

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:

August 22, 2018	#26-18	Appeal	18 Burgess Point Road Realty Trust	18 Winship Avenue
August 22, 2018	#30-18	Special Permit	John Cooke, Jr.	10 Main Avenue
August 22, 2018	#31-18	Special Permit/Variance	Dennis Sullivan	1 Barnes Street

C. Decision Deadlines

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
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.

Date signed: 8-22-2018 VOTE: (5-0-0)

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

Date copy sent to Town Clerk: _____

RECEIVED

SEP 19 2018

TOWN OF WAREHAM
TOWN CLERK