

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: October 10, 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
Jacob Morrison, Associate Member

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

I. PRELIMINARY BUSINESS

A. Approve meeting minutes: September 26, 2018

MOTION: Mr. Eacobacci moves to accept the minutes of September 26, 2018. Ms. Engerman seconds.

VOTE; (5-0-0)

II. PUBLIC HEARINGS

A. #35-18 – JNJ Holdings – 2371 Cranberry Highway

Mr. Elkallassi recuses himself from this hearing. Mr. Morrison will vote in his place.

The applicant is seeking to construct a new building for a used car dealership in lieu of adding to an existing building. This application was previously approved with the proposal of adding to an existing building.

Present before the Board: Len Bello

Mr. Bello states in August 2017 this was approved as a Site Plan Review. The structure of the proposed building was not structurally sound enough to utilize and a new building is being proposed. The previously existing building was within the 20' setback and they had received a variance from the requirements of the Zoning By-Law. Mr. Bello states in designing the new building, it was removed from the 20' setback and a parking area has been placed there. Mr. Bello states the applicant is requesting the exact same conditions, with the only change being the change of the layout of the plan with the new proposed structure shown. The new proposed building is larger than the previously proposed building.

Mr. Bello states this is not a request for a new Special Permit, it is a request for a major modification. Mr. Eacobacci feels this modification makes the project more conforming.

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

VOTE: (5-0-0)

MOTION: Mr. Baptiste moves to approve the revised plan with all of the previous conditions remaining the same. Ms. Engerman seconds.

VOTE: (5-0-0)

B. #36-18 – Michael Saraiva – 15 South Boulevard

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

Jenna Laffey states she did not receive a public notice. Mr. Elkallassi states that there is a green card for her address in the folder.

Present before the Board: Kathleen Smith

Mrs. Smith states her brother is the trustee of the property for 6th street realty trust and she is at the hearing to represent his concerns. Mr. Elkallassi states they are continuing the public hearing until October 24th and cannot discuss it at this time.

MOTION: Mr. Eacobacci moves to continue until October 24, 2018. Ms. Engerman seconds.

VOTE: (5-0-0)

C. #37-18 – T. Bear, Inc. – 3103 Cranberry Highway

Mr. Elkallassi recuses himself from this hearing. Mr. Morrison will vote in his place.

Present before the Board: Len Bello
Brian Cusik, T. Bear, Inc.

Mr. Bello is here on behalf of T. Bear, Inc. who is proposing to establish a marijuana manufacturing business. The applicant is an agreement to rent property from the Fine Brothers on Cranberry Highway. The buildings are already a strip mall. T. Bear, Inc. is looking to rent two of the basement units for approximately 8,000 s.f. The building will manufacture edible marijuana products. This will not be open to the public, they will not be selling to the public, they will be wholesaling to companies. T. Bear has entered into the Host Community Agreement with the Town.

Present before the Board: Diana Piscatelli

Ms. Piscatelli is concerned with the odor produced from the manufacturing and its potential to impact the value of her home.

Mr. Cusik state the odor produced is minimal, but there are carbon filters installed to remove any scents which may have been emitted. Mr. Cusik states since they are not a grower they do not produce as much odor.

Present before the Board: Don Jepson, Precinct 3

Mr. Jepson would like to know what kind of processing is being done in the facility.

Mr. Cusik states that this is a cold ethanol extraction which means there is a food grade ethanol used to wash the product and produces an oil product that is used.

Mr. Jepson is concerned with the potential of explosions.

Mr. Cusik states this is a low pressure system, but is still processed within an explosion proof room.

Mr. Jepson asks if there is a record of experience from this company.

Mr. Cusik states this is their first marijuana production business but has a lot of experience with meeting regulatory requirements, they do have experts in the industry that have been producing similar products.

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

VOTE: (5-0-0)

MOTION: Ms. Kendrick moves to approve the Special Permit as presented. Mr. Morrison seconds.

VOTE: (4-1-0)

III. CONTINUED PUBLIC HEARINGS

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

Present before the Board: Richard Serkey
Tony Stella

Mr. Serkey states at the last hearing he felt the debate was whether or not the Board was able to grant relief to the applicant. This is not a case in which a parking lot is constructed to serve a new use, rather this use has been existing and the parking lot has come after the existing use. The parking lot did have a previous use on the site as a restaurant, which has been demolished. There is no new use other than parking itself. Mr. Serkey feels there are three options the Board could select from. The first being to overturn the Building Commissioner's decision, that no Site Plan is required because there is no use on the property. Mr. Serkey states the Board could also consider granting a Variance from the Site Plan Approval requirement because of the unique circumstances. Mr. Serkey states the third alternative would be to grant a Site Plan Approval with Variances from the requirements.

Mr. Eacobacci states he made several visits to the site during open season and has read the Building Commissioner's decision and does feel there should be a Site Plan for the site. Ms. Kendrick states she feels this is not a situation that falls under the circumstances of Site Plan Review. Mr. Baptiste state he agrees with Ms. Kendrick, that this project does not require Site Plan Review. Mr. Elkallassi feels safety is a large issue, such as the curb cut from the highway, there are 350 spaces required for the site that are not being made. Mr. Elkallassi states this must comply somehow with the parking requirements. Mr. Elkallassi states if he did vote for the use it would be expressly for the parking lot use and not based on the use for Water Wizz.

Mr. Stella states that there have been modifications made to the site based on previous hearings.

Mr. Elkallassi is concerned that there are no crosswalks or designated areas for kids to walk from the parking lot over to Water Wizz. Mr. Elkallassi states there are too many entrances and exits and he feels it is unsafe. Mr. Elkallassi states he would be willing to grant waivers for the site but he would like to see a Site Plan Review.

Mr. Baptiste is concerned that if they have design for the parking lot it will change when the construction is done on Cranberry Highway.

Mr. Elkallassi is concerned with the speed of the cars in the area, people cutting through the parking lot from the gas station, and access on and off of Cranberry Highway.

Mr. Serkey requests a continuance to 4 weeks to speak with his client. Mr. Eacobacci states he will not be available in November, and one of the Board members will no longer be sitting on the Board at that time.

Mr. Serkey requests the first hearing in December.

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

VOTE: (5-0-0)

B. #33-18 – Ninety Six, LLC – Fearing Hill Road

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

MOTION: Mr. Eacobacci moves to continue the public hearing until October 24, 2018. Ms. Kendrick seconds.

VOTE: (5-0-0)

IV. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS

A. #38-17 – Erasmo & Lisa Mitrano – 54 Pleasant Street

The applicant is requesting to change the name on the Special Permit to reflect the name of the trust as well.

MOTION: Mr. Buckland moves to revise the name of the applicant from Erasmo and Lisa Mitrano to Erasma and Lisa Mitrano Trustees of Mitrano Realty Trust with all conditions remaining the same. Mr. Eacobacci seconds.

VOTE: (5-0-0)

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

Mr. Buckland states the Board has until November 5, 2018 to sign the decision.

Mr. Haverty has gone through the conditions of the draft decision.

The Board begins reviewing the draft decision.

Present before the Board: Kevin Smith, representative from Peter Freeman's office

Mr. Smith is concerned that the Board is not reviewing the same version as Peter Freeman had sent out a version dated for October. Mr. Smith submits to the Board Mr. Freeman's version. Mr. Buckland is going to incorporate Mr. Rowley's comments into the decision from Mr. Freeman.

The Board continues to go through the draft decision, specifically noting the changes that have been made. No outstanding changes have been made or disagreed upon.

Brief discussion ensues regarding certain waivers.

MOTION: Mr. Eacobacci moves to continue until October 24, 2018. Ms. Kendrick seconds.

VOTE: (5-0-0)

C. Correspondence

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

D. Upcoming Hearings:

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|------------------|--------|---------------------------------|----------------------|------------------------|
| October 24, 2018 | #38-18 | Special Permit/Site Plan Review | Sunraise Development | 2382 Cranberry Highway |
| October 24, 2018 | #39-18 | Variance | Sign Design | 3066 Cranberry Highway |

E. Decision Deadlines

| | | | | |
|--|--------|---------------------------------|------------------------|-----------------------------|
| November 5, 2018 | #2-18 | Comprehensive Permit | Dakota Properties | 3102 Cranberry Highway |
| Special Permit – 1-15-19; Variance – 1-25-19 | #17-18 | Special Permit/Variance | RMRM Realty, LLC | 3035 Cranberry Highway |
| January 15, 2019 | #23-18 | Special Permit/Site Plan Review | Anthony Grosso | 1 Rae Avenue |
| November 30, 2018 | #33-18 | Variance/Appeal | Ninety Six Realty, LLC | Parcel A, Fearing Hill Road |

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

Mr. Rowley moves to release the security bond for 418 County Road as the project is complete.

MOTION: Mr. Eacobacci moves to release the security for 418 County Road. Mr. Baptiste seconds.

VOTE: (5-0-0)

VI. ADJOURNMENT

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

Date signed: 10 24-2015 **VOTE: (5-0-0)**

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

Date copy sent to Town Clerk: _____

RECEIVED

OCT 29 2018

TOWN OF WAREHAM
TOWN CLERK