

**Town of Wareham  
Zoning Board of Appeals  
Minutes – October 12, 2022**

- I. **CALL MEETING TO ORDER:** opened the meeting at 6:30 pm.
- II. **ROLL CALL:** **Present:** Chairperson, Nazih Elkallassi, Clerk, James Eacobacci, Mr. Larson, Rick Semple, Veronica DeBonise, and Jacob Morrison (6:40 pm)

Planning Director, Ken Buckland was also in attendance.

Mr. Rowley was also in attendance.

III. **PRELIMINARY BUSINESS:**

1. **Approval of Meeting Minutes: 9/28/2022**

Mr. Eacobacci made a motion to accept the minutes as presented and was seconded by Mr. Semple. The motion passed unanimously. (5-0-0).

2. **2-21 Settler's Glen – 3128 B Cranberry Highway, Map 8, Lot 107C – Request for Insubstantial Change**

Mr. Elkallassi stated it came back from the attorney and requires a signature. Mr. Eacobacci explained it came back from the attorneys and needed a signature.

Mr. Eacobacci made a motion to allow Ms. DeBonise to review the Settler's Glen document and then Mr. Eacobacci will endorse it. The motion was seconded by Mr. Semple and was approved unanimously.

IV. **CONTINUED PUBLIC HEARINGS:**

1. **25-22 Villages 801 Main Street LLC – Comprehensive Permit, MLG Chap 40B – 801 Main Street – Assessors Map 88, Lot 1011A**

Annette Perkins was in attendance with Rick Tabacynski and John Scanlan.

Mr. Elkallassi stated they were going to discuss the final renovations with Mr. Rowley.

Stephanie Kiefer, standing in the shoes of Attorney Freeman this evening was attending via Zoom. She explained at the last hearing there were updated materials submitted and Mr. Rowley gave some points to review. She said there was an updated site plan, a building plan and a response from the designer of the street layout, and a proposed decision that Attorney Freeman had written.

Ms. Kiefer stated the stormwater calculations were written out by Rick Tabacynski. She spoke about the hammerhead they suggested, and they have provided that on the plans with adjustments. She said they lost one parking space in that area. The dumpster area as requested be fenced is also listed on the plans.

Mr. Rowley stated he reviewed the latest plans and his questions have been answered. He said the Atlantic Design letter identified all the issues and modifications he had requested. He said he sent a rough sketch for a change of the location of the dumpster to the Fire Department. They said they would be able to turn around.

Mr. Elkallassi opened it up to the board members.

Ms. DeBonise asked if they would be putting the parking space back on the plan.

Mr. Eacobacci stated he had no additional comments if Mr. Rowley was happy with the project and plans.

Mr. Rowley explained he put the dumpster back in the area and made a slight change to the parking area to re-add the third parking spot. He said as long as a truck could turn around in the back he was fine with it.

Mr. Eacobacci made a motion to close the public portion of the hearing which was seconded by Ms. DeBonise. The motion passed unanimously. (6-0-0).

Mr. Eacobacci made a motion to approve 25-22 Villages 801 Main Street LLC the plans that were submitted as of October 5, 2022, as presented; and seconded by Mr. Semple. The motion passed unanimously. (6-0-0).

Mr. Elkallassi stated he wanted to run the proposed agreement by Town Counsel before the board signing.

## **2. 26-22 Dos Amigos Realty, LLC – Variance – 12 Larch Street – Map 38, Lot 512**

Mr. Elkallasi stated there was a continuance from Ms. Morton.

Mr. Eacobacci made a motion to continue to November 9, 2022, per the applicant's request and was seconded by Mr. Semple. The motion passed unanimously. (6-0-0)

## **3. 28-22 Wareham PVI, LLC – Variance – 0 Route 25 – Map 115, Lot 1000**

Engineer, Sarah Ebaugh was present for Wareham PVI, LLC.; Attorney Ms. Betsy Mason was present. Attorney Ms. Mason stated they feel they have met the criteria for the setbacks not to reflect on them and they want to further discuss the setbacks they are proposing and demonstrate the various needs of the setbacks they have.

Ms. Mason stated they are proposing 10-25' along certain sections of the property and that they are not asking for 'no' setbacks. She stated they have been in front of the Planning Board on numerous occasions, but they cannot grant the 50' waiver for setbacks and that's why they are here.

Ms. Ebaugh went over the setbacks they are proposing. Ms. Ebaugh reviewed the setbacks around the property, what they are currently and what they are seeking.

Mr. Larson had no comments. Ms. DeBonise had no comments.

Mr. Eacobacci wanted to reiterate to approve a compromised plan and they've adjusted the plan to what they are proposing tonight.

Mr. Semple stated he took some time to read about solar panels and gave his opinion to the board regarding rainwater seeping off the panels into the ground and what could arise from that water into the soil. He stated he was concerned with the river that runs under the ground at this lot and what that might mean in the future for people. He suggested that someone oversee monitoring ground soil with water that runs off. He was also concerned about the decommissioning plan for the future of solar and what the cost of that would be to the Town.

Mr. Elkallassi said the Planning Board requires a decommissioning bond in case the panels are taken out in the future, and it wouldn't be up to the Town to provide the cost for that.

Mr. Eacobacci stated he thought it would be a wonderful thing if someone other than the owners of the panels would provide support to condition to monitor the water leakage into the soil grounds.

Ms. Ebaugh reiterated that the Planning Board has a decommissioning plan, and a ground study was presented to them as well. She started with their application they provided the Town with the groundwater report as well as the treatment for the groundwater.

MS. Debonise asked if this lot is in the area where the Town's watershed is currently. Mr. Semple stated their watershed is completely covered with solar panels as it stands currently.

Ms. Mason stated she thinks she would be able to try and figure out a 3<sup>rd</sup> party consultant/independent expertise to review if necessary.

Ms. Debonise stated that this project will most likely move forward with or without the Zoning Board, as it is in the hands of the Planning Board. She said she would compromise to work with the applicant if they were to rework the setbacks as well as add a monitoring condition

Attorney Mason stated when they first approached the Planning Board they came with industrial setbacks, and they went back and forth with them. She said they are interested in being good neighbors and working with the Town

Ms. Debonise said the zoning area the property is in is residential and some of those setbacks should apply.

Ms. Mason stated they disagreed with the wording of the zoning by-law on the setbacks and was then why they were asking for the variance, as they feel they meet the three-point criteria.

Mr. Elkallassi stated the Zoning Board should only be hearing the basis of the variance and anything else is not in their jurisdiction. He asked Ms. DeBonise if she'd be willing to bend on the setback if they included monitoring in their proposal.

Mr. Elkallassi also asked Mr. Semple the same question, as a reference Mr. Elkallassi stated that again the zoning board is listening to the variance request and all other concerns, although maybe validated are not up to the board to decide.

Mr. Semple stated that the property still has residential homes across the street or where the home could be, and he'd still want to see conditioning and monitoring wells.

A resident identified as Dominic from Onset stated that in the 1960s there were findings of lead paint running through the water and it is still something that is not perfected and exists.

Via Zoom, resident, George Effman stated he was in opposition to the project and explained that he felt the Attorney thought things with the project were not “her problem” but clearly would be the Town’s problem.

There were residents from Charge Pond Road who spoke in opposition.

A resident submitted twenty-two letters opposing the project, they will be filed with the file for the record.

A few more residents voiced their opposition.

Ms. Annie Hayes reviewed her opinion of the different contaminated problems that occur when solar panels are put up.

Via Zoom, Resident Barry Cosgrove spoke in opposition.

More than ten residents spoke in opposition to the project citing either they didn’t agree with the hardship presented or the

The owner of said property, Mr. David Fletcher stated that none of the people that are talking in opposition about his property. He said they live one to two miles down the road from him and are not abutters. He said that was untruth.

Mr. Eacobacci explained to the audience what abutters mean. A resident argued that all the abutters in attendance received a notification, so they had to be abutters.

Ms. Mason explained the residential abutters that are not abutting abutters. She explained where the land bordering the trees and amongst properties of Ma DOT, a cranberry bog, and the Town of Wareham land. She asked for a continuance.

Mr. Rowley stated there are some disagreements over what the zoning bylaw says. There is no sign that there are no abutting residents it is significant where the land is in the zoning district. He said to allow less than a 50’ setback is violating the boundary line.

Mr. Eacobacci made a motion to close the public hearing which was seconded by Mr. Larson. The motion passed unanimously.

Mr. Eacobacci made a motion to grant the variance as presented. On the question, Ms. DeBonise said the Planning Board is most likely going to move this project forward and she would see a compromise if monitoring took place if they decided to move forward. Mr. Elkallassi seconded the motion. (1-4-0). The motion was denied.

**4. 30-22 The Family Pantry – Damien’s Place Corp. – Site Plan Review – 242 Marion Road – Map 56, Lot 1000-B**

Ms. DeBonise made a motion to continue 30-22 The Family Pantry per the applicant’s request to November 9, 2022 and was seconded by Mr. Eacobacci. The motion passed unanimously.

**V. PUBLIC HEARINGS:**

**1. 33-22 Ronald Besse – Variance – 171 Marion Road – Map 60, Lot 1017B**

Mr. Eacobacci read the advertisement for the record.

Mr. Besse was present to speak about a screen-printing embroidery shop. He said that was the intent and secured a lease of Unit B for sale but needed more space and secured space for producing the property. He said the Town said was out of compliance with the MR30 district; even though the building was retail from the 1940s. He got business licensing etc. He said he was seeking a variance for light manufacturing. He said the hardship was the things he has done to the property already, electricity and such. He said he wishes the building department had notified him of the noncompliance back at that time.

Ms. DeBonise asked about the industrial zone.

Mr. Elkallassi explained not industrial, he said it was more of a strip mall.

Mr. Eacobacci said that he is doing something light industrial in the MR30 zoning district. He said he believes they are present for a use variance.

Kathleen Mullen was present and stated since he's been there you wouldn't even know he was there. She said he's very clean and doesn't make any noise. She said they are fantastic neighbors.

Mr. Eacobacci made a motion to close the public hearing which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0)

Mr. Eacobacci made a motion to grant the variance for the use of a screen printing/embroidery shop for 33-22 Ronald Besse, 171 Marion Road as presented and was seconded by Mr. Semple. The motion passed unanimously. (5-0-0)

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

Resident, Trisha Worths came to speak to the board. Ms. Worths is a Selectwoman but stated she was greeting the board as a citizen, not in her role capacity as a Selectwoman. Ms. Worths stated she wanted to recognize Mr. Semple about the water going into the soil from Solar projects. She said that previously being a Selectboard member she worked with solar projects. She said she has read many articles about different bacteria or droplets that are going into the water. She appreciated Mr. Semple's sediments.

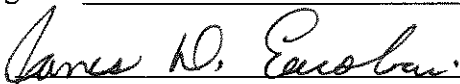
Mr. Eacobacci made a motion to adjourn the meeting which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0).

Respectfully,  
Patricia A Pacella

WAREHAM TOWN CLERK  
2022 NOV 7 PM3:59

Date signed: \_\_\_\_\_

Attest:



James Eacobacci, Clerk

WAREHAM ZONING BOARD OF APPEALS

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