

WAREHAM ZONING BOARD OF APPEALS
Wednesday, November 9, 2022
6:30 P.M.

I. CALL MEETING TO ORDER

II. ROLL CALL:

Present: Nazih Elkallassi, Jim Eacobacci, Veronica DeBonise, Troy Larson, Richard Semple and Jake Morrison.

Absent: None.

Mr. Rowley was in attendance.

Mr. Buckland was present via Zoom.

III. PRELIMINARY BUSINESS:

1. **Approval of Minutes: 10/26/22**

Mr. Eacobacci stated he reviewed the minutes via email and made a motion to approve as presented. The motion was seconded by Mr. Semple and passed unanimously. (6-0-0)

2. **30-20 Pennrose – 4 Littleton Dr – Minor Modifications of Comprehensive Permit 40B/Littleton Village Development – Rescind previous subdivision**

Mr. Eacobacci stated they wanted to put a new subdivision ^{there} and it previously

Mr. Buckland stated it was a 40B and ZBA handles it. He said they need to sign it.

Mr. Eacobacci made a motion to eliminate the previous subdivision and endorse the new subdivision for 4 Littleton Drive, Littleton Village Development.

Mr. Semple asked for clarification of what they are doing.

Mr. Eacobacci explained it was a formality to sign the mylar. Mr. Elkallassi stated they were dismantling the lots and making it one big one.

The motion was seconded by Mr. Morrison and approved unanimously. (6-0-0)

IV. CONTINUED PUBLIC HEARINGS:

1. **26-22 Dos Amigos Realty, LLC – Variance -1 2 Larch Street – Map 38, Lot 512**

Returning to this tabled hearing, the board discussed. Mr. Semple stated they have been on a lot of meetings and haven't shown up. Ms. DeBonise said the deadline is past (October 29, 2022).

Mr. Eacobacci stated they have discussed this at past meetings but no representative have appeared before them or asked for a continuance.

The board members stated they did continue to this meeting, however without verification from the applicant. Mr. Eacobacci stated that they should just wait and see what happens.

Mr. Semple made a motion to deny 12 Larch Street, without prejudice and was seconded by Mr. Morrison. The motion passed with 3-2. (Mr. Elkallassi and Ms. Debonise abstained.)

Mr. Eacobacci asked questions regarding the constructive grant that might happen whereas they haven't made a decision. Mr. Semple stated he didn't know how the board could be at fault if they haven't shown up to any meeting since their first meeting. He said they have been on four agendas and have never showed up.

Ms. DeBonise said that at the last meeting they weren't even on the agenda and that's why the board didn't move forward with it. Ms. DeBonise asked Mr. Buckland if they actually can discuss if they are not on the agenda.

Mr. Buckland stated they couldn't discuss if it wasn't on the agenda. He said he thought they could extend to the next meeting date and ask them to appear again. He said if they don't show up the decision would be made to deny without prejudice. Mr. Buckland said that if they want to do work with Wareham they may want to come back for discussion anyway.

Attorney Jillian Morton arrived to the meeting at approximately 8:00 p.m. as the board was making this discussion.

Mr. Semple made a motion to rescind his prior motion and it was seconded by Mr. Morrison. The motion passed unanimously. (4-0-1).

Attorney Morton reviewed the plans for 12 Larch Street, a corner property, with frontage on both sides. She said they received the denial letter from the building commissioner and the board discussed the lots merging at that time. Ms. Morton said she did a title review of the property to see exactly what happened with the lots. She said there is a betterment recording on this property and recorded at the Registry of Deeds. Ms. Morton said she didn't know why the betterment would exist for sewer without the intention. She said there were some abutters concerns previously.

Ms. Morton stated that the lots are waiting to be sold for a single-family dwelling.

Mr. Eacobacci asked about the property lot, 514 and if that was combined with this lot at one point.

Ms. Morton said that was in fact true. She said there was a piece of the lot that was sold to the abutter in May. She explained what she believed the hardship was. She said the lot is undersized but has the frontage.

Ms. DeBonise said they had spoken about this previously that when this passed hands it was a non-buildable lot. She said the taxes on it is \$9,500. She said that there are taxes that are billed to lots that aren't necessary buildable. Ms. Morton asked if there would be a betterment on it and Mr. Eacobacci said he has heard of that.

Mr. Eacobacci said that his recollection of the first meeting was that this lot was shaved off a larger lot that would've been more conforming had it stayed the bigger lot. He said he believed they sold it off to a few different owners and perhaps all the lots should've been included to make it a

buildable lot. He remembers that it was all under one ownership and may have been conforming at that time. He said that now it's muddy waters. He did say that the lot size now is what the size of the lots are in that area, at one point.

Mr. Morrison said this is more than the first meeting and the neighbors have been there in the past. Ms. DeBonise said she recalls many neighbors being they're with objections but again may have not been present tonight as the meetings have been continued continuously.

Jennifer Loveall of 5 Hemlock Street. She said they live their year-round. She said that the betterment was done at least seven years ago. She said the betterment already owned it when they got the betterment. She said believes no one else is present because the homes surrounding the property are summer residents. Ms. Loveall said their opposition is because of more rentals in the neighborhood.

Mr. Eacobacci asked if this was a flood zone. Ms. Morton said the house would not be on stilts because it would be on the corner of the property, which is V zone, not a flood zone.

Mr. Eacobacci said that if he were to make a motion it would be

Ms. DeBonise said that previously before the board this was definitely not a buildable lot. She said it's been known and someone tried to do something previously to build and it wasn't granted. Ms. DeBonise said she believes that the lot is not buildable and that the owners knew that when they purchased it, she is not inclined to grant it. Ms. DeBonise said that she doesn't see this as a hardship.

Ms. Morton said the property owners would be entitled to build a three-car garage as an accessory building on the lot. Mr. Eacobacci stated that you can't build an accessory without a primary.

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

Mr. Semple stated that they need to hold off in making a decision until Conservation rules. Mr. Semple made a motion to continue this hearing until they hear from Conservation and conditions.

Mr. Rowley said by closing the public hearing they can't take any additional information.

Mr. Semple made a motion to rescind the motion and reopen the public hearing. Ms. DeBonise seconded the motion and it passed unanimously. (5-0-0).

Mr. Semple made a motion to wait for a decision of proposed conditions from the Conservation Board to make their decision. Ms. DeBonise said that she wants to review the deeds as it is not to her up to Conservation to make a decision for Zoning.

Mr. Semple said perhaps they should just continue.

Ms. Morton said she will send a request for an extension to the second meeting in January.

Ms. DeBonise made a motion to continue the hearing to January 25, 2023 based on the applicant to file for an extension to the deadline to February 14, 2023. Mr. Semple seconded the motion and it was passed unanimously. (5-0-0).

2. 30-22 The Family Pantry – Damien’s Place Corp. – Site Plan Review – 242 Marion Road – Map 56, Lot 1000-B

Mr. Madden was present from GAF Engineering, presenting Damien’s Place. He said previously they discussed the plans and the request for architectural plans. There was a comment about the lighting plan and had an issue of a 53G account and funding of that. He said they also wanted the denial letter from the Building Department. He said they have had a few peer reviews with Mr. Rowley. He said Mr. Rowley had a second letter on November 8, 2022 and they addressed those issues.

Mr. Madden reviewed revisions to the plans. He stated the clearing line is shown on the plans. He stated they changed some of the grading.

Board members had no further questions and thought it was a good project.

Mr. Elkallassi asked for public comment and there were none.

Mr. Rowley stated that he reviewed the plans and reviewed the comments. He said they don’t have a commitment to a sewer connection at this time; he said if they are forced to go to a septic system they would need to come back and verify the site plan where the raised garden is shown on the plans. He said it may make changes in that area and they would need to come back with the updated plans.

Mr. Madden said the cost to put in a Title V septic would not be cost efficient for this building. He said they are on their “pending” list for sewer. He said they are under the expectation that they will receive sewer.

Mr. Eacobacci asked if he would be okay with the condition “subject” to hook up to Town sewer. Mr. Madden had no problem with that.

Mr. Eacobacci made a motion to close the public hearing and was seconded by Mr. Semple. The motion passed unanimously. (6-0-0).

Mr. Eacobacci made a motion to accept the plans as presented, revised as of November 8, 2022, subject to a standard conditions and municipality sewerage. Mr. Elkallassi stated he would like to add a condition that the building can only be used as described, for food only. (Mr. Madden said he had no problem to the condition). The motion was seconded by Jake Morrison and passed unanimously. (6-0-0).

3. 35-22 Nazih B. Elkallassi – Variance/Special Permit & Site Plan Review – 434 Main Street – Map 61, Lot 1057 (Requested Continuance to December 28, 2022)

Mr. Elkallassi recused himself.

Mr. Eacobacci stated the applicant has asked for a continuance due to the conversations had at the last meeting.

Ms. DeBonise made a motion to continue 35-22 434 Main Street per the applicant’s request to December 28, 2022, and was seconded by Mr. Morrison. The motion passed unanimously. (4-0-1)

V. PUBLIC HEARINGS:

1. 36-22 William & Kathleen Provost – Special Permit and/or Variance – 18 Beach Street – Map 50, Lot 55

Mr. Eacobacci read the advertisement for the record.

Mr. and Mrs. Provost were present. Mr. Provost said they wanted to put a screen porch in the front of the house and a three screened porch in the back of the house. Mrs. Provost said there is no encroachment in the rear, they are bringing it in 10' and will meet zoning. She said they want to keep the front porch 8' out but will not meet the side setbacks of 2' on the side, it would be 1.8' from the neighbor.

Mr. Semple stated he went out and the Provost's explained to him they were trying to keep the front squared off to the rest of the house.

Mr. Eacobacci stated they were extending a non-conformity.

There were no questions from the board members.

Mr. Elkallassi stated they need a 2% variance on the F.A.R. He asked for public comment.

Resident, Rusty Shea, 91 Shore Avenue was present and wanted to review the plans to which he did. He said it looks beautiful and had no questions.

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

Mr. Elkallassi stated the letter of the building commissioner was sent after the fact.

Mr. Provost said a new letter was sent out on September 14, 2022.

Mr. Eacobacci made a motion to grant the 2% increase on the F.A.R. and was seconded by Mr. Morrison. The motion passed unanimously. (5-0-0).

Mr. Eacobacci made a review this as a Special Permit and was seconded by Mr. Semple. The motion passed unanimously. (5-0-0).

Mr. Eacobacci made a motion to approve the Special Permit as presented with plans dated September 7, 2022, for the architect; and the engineer stamp by Bruce Wilson on August 21, 2022 with standard conditions. The motion was seconded by Mr. Morrison and approved unanimously. (5-0-0).

VI. ANY OTHER BUSINESS/DISCUSSIONS:

1. 29-22 Joshua DeOlim – Meeting Scheduled for 11/23/2022 – Town Offices Closed

Mr. Eacobacci stated that Ms. Raposa has been in contact with the applicant. He explained at a previous meeting they scheduled to November 23, 2022, which was a closed town office night. He said the attorney is aware and will ask for a continuance/extend to December.

Mr. Elkallassi stated they did not receive a letter from the applicant to extend. He wondered what would happen if the let

Ms. DeBonise made a motion to extend 29-22 Joshua DeOlim to November 30, 2022, subjected to a letter from Joshua DeOlim's attorney to move to that date. Mr. Semple seconded the motion and passed unanimously. (5-0-0)

Ms. DeBonise stated she was modifying the motion to extend 29-22, Joshua DeOlim to November 30, 2022, and the deadline for filing will be December 14, 2022 and it was seconded by Mr. Semple. The motion passed unanimously. (5-0-0).

VII. COMMENTS FROM BOARD MEMBERS:

Russell Motta was present to become an associate member. He said he was previously on the Planning Board prior to moving but now came back to Wareham and wants to be an associate member on ZBA.

Mr. Elkallassi asked if the project Mr. Motta came before the board had any impact to the decision to sit on the board. Mr. Motta said that it did not, he said it was a lively meeting and he enjoyed it. He says he can certainly make the time to volunteer on the board.

Board members stated they spoke to him at a previous meeting. Everyone agreed to accept his application to the Zoning Board. (Mr. Elkallassi abstained). Mr. Eacobacci stated that they would give the Selectboard a favorable recommendation.

In other business, Ms. DeBonise asked if anyone looked at the deadlines and if any needed to be reviewed. She said she thinks the board should review at every meeting.

Mr. Semple made a motion to adjourn and was seconded by Mr. Morrison. The motion passed unanimously. (5-0-0).

Date signed: 11-30-2022

Attest:

James R. Eacobacci
James Eacobacci, Clerk

WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: _____

WAREHAM TOWN CLERK
2022 DEC 7 PM 12:19