

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: May 9, 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, Sr.
Jan Kendrick
Wilma Engerman
Jacob Morrison, associate member

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

III. PRELIMINARY BUSINESS

A. Approve meeting minutes: April 25, 2018

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

VOTE; (5-0-0)

B. Vote required for Petition #7-18 – Lenord Cubellis – 197 Onset Avenue

Mr. Elkallassi states there is an agreement for the temporary construction easement for the property. Mr. Elkallassi states based on this he votes to approve, and at the last hearing there was a vote of 3-0-1.

MOTION: Mr. Eacobacci moves to approve the Variance with standard conditions per the plans submitted with the application. Motion is seconded.

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

C. Request for Minor Modification 5-18 Linda & Tom Hannon

No one is present at this time.

Present before the Board: Bill Lockwood, Lockwood Architects

Mr. Lockwood requests a continuance.

MOTION: Mr. Eacobacci moves to continue the public hearing until May 23, 2018. Motion is seconded.

Present before the Board: Matt Smith, Bohler Engineering
J. Donegan, J. Donegan Company

Town Meeting had initially included the CS district to allow drive-thru's and inadvertently left that out. This project was the basis for the zoning change to allow drive-thru's. The Planning Board had removed all proposed districts but the Commercial General District.

Present before the Board: Alan Slavin

Mr. Slavin states he is disappointed, that it was never discussed that the zone changes for drive-thru's at Town Meeting were expressly for this property. Mr. Slavin states he requests very strongly that the Board approve the Variance, that the Planning Board removed the other zones without much discussion.

Present before the Board: Don Jepson

Mr. Jepson states he feels this matter should go to the taxpayers that voted at Town Meeting and not to the Board's consideration.

Mr. Buckland makes a statement regarding the request for the Variance for the drive-thru that a bank drive-thru is not a financially stable investment and that a food service drive-thru would be more reasonable use for the property.

Mr. Rowley states that the applicant would need to provide the customary information as to why this is unique and why it requires the relief of a Variance. Ms. Kendrick states she recalls a previous presentation in regards to the request for the Variance before the meeting was continued.

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

VOTE: (5-0-0)

MOTION: Mr. Eacobacci states that based on the testimony given by the Town Planner and Selectmen Alan Slavin he moves to grant the Use Variance. Mr. Baptiste seconds.

VOTE: (5-0-0)

C. #2-18 – Comprehensive Permit – Dakota Properties – 3102 Cranberry Highway

Present before the Board: Peter Freeman, Freeman Law Group
Dominique Rinaldi, Engineer
Jim O'Brien, Dakota Properties

Mr. Freeman states that Mr. Rinaldi has prepared a letter regarding parking, and statistics show they are well within the parking requirements. Mr. Freeman also has the list of affordable rental mix in the development. The affordable units are just over 60%. Colleen Medeiros had sent an e-mail on trip generation for commercial development. Information requests were made from the Onset Water and Fire

Ms. Hickey states that she does not see any issue with filling the assisted housing spaces. Ms. Hickey states she believes about 300 people requesting assisted housing are Wareham residents. Ms. Hickey says they turn away people every week.

Mr. Elkallassi asks if they could hold executive session regarding the number of units. Mr. Freeman states he doesn't feel executive session would be required for this meeting. Mr. Haverty states that he doesn't see a reason why the open meeting law would require an executive session.

Present before the Board: Jacqui Hickey, Executive Director, Wareham Housing Authority

Ms. Hickey states that the people in Wareham living in hotels are in dire need of affordable housing.

The units include heat and hot water, but air conditioning would be paid for by the renter.

Present before the Board: Alan Slavin, Selectmen

Selectman Slavin states that the applicant does not have approval from DOT at this time and ensure that MassDOT can handle the additional access. Mr. Slavin states this proposed project will also increase the number of children in the school, where the school cannot currently effectively provide sufficient space for the number of students it already has.

Mr. Haverty states that is not a reason to deny an application.

Ms. Kendrick asks what is the finding that doesn't allow school capacity to be a determining factor in project eligibility. Mr. Haverty states that towns are required to provide schools and education for the children of the residents of their communities.

Present before the Board: Peter Teitelbaum, Selectmen

Mr. Teitelbaum states the upcoming holiday weekend would be a prime opportunity to review and potentially update their traffic study.

Mr. Freeman states that the traffic study had been adjusted and the numbers were raised.

Ms. Kendrick recommends having a peer review done on the traffic study.

Present before the Board: Lisa Morales

Ms. Morales asks if the ZBA has the right to bind the Onset Water District to a comprehensive permit since the Onset Water District is not an entity of the Town of Wareham.

Mr. Elkallassi states in regards to 40B the Board does have the right.

Mr. Haverty states this was covered previously that water and sewer districts no matter how they are created and whether or not they act individually from the town or not the Zoning Board of Appeals is still the permit granting authority and they are allowed to make that decision.

Present before the Board: Debbie Edo

Ms. Edo states the increases in the traffic study will not be enough, that she was land locked for multiple days last year. Ms. Edo states she is incredibly concerned with pedestrian traffic and the ability for emergency services to access Red Brook Road currently.

Mr. O'Brien asks if he may have permission to begin working on a peer review for the traffic study. Mr. Elkallassi consents.

MOTION: Mr. Eacobacci moves to continue the public hearing until June 13, 2018. Ms. Kendrick seconds.

VOTE: (5-0-0)

VI. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS

A. Correspondence

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

B. Upcoming Hearings:

May 23, 2018	#46-17	Special Permit/Variance	Ramos Realty Trust	300 Glen Charlie Road
May 23, 2018	#13-18	Site Plan Review	Wareham Family Dental, Inc.	43 & 45 Sandwich Road
May 23, 2018	#14-18	Major Modifications	Afif El Baba	3070 Cranberry Highway
May 23, 2018	#15-18	Variance	Brock Tucy	276 Glen Charlie Road

C. Decision Deadlines

60 Days from Close of Public Hearing	#31-17	Site Plan Review	J. Donegan Company	2419 & 2427 Cranberry Highway and 4 Seth F. Tobey Road
Variance – April 20, 2018	#1-18	Variance	J Donegan Company	2419 & 2417 Cranberry Highway and 4 Seth F. Tobey Road
Comprehensive Permit – August 27, 2018	#2-18	Comprehensive Permit	Dakota Properties	3102 Cranberry Highway

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

VIII. ADJOURNMENT

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

VOTE: (5-0-0)