

MINUTES OF MEETING OF WAREHAM PLANNING BOARD

Date of Meeting: September 24, 2018

I. CALL MEETING TO ORDER

The meeting was called to order at 7:00 P.M.

II. ROLL CALL

Members present: George Barrett, Chairman
Mike Baptiste, Vice Chair
Emmanuel Daskalakis
Mike King
Marc Bianco

Also present: Kenneth Buckland, Town Planner
Charles Rowley, Town Engineer

III. PRELIMINARY BUSINESS

A. Meeting Minutes – September 10, 2018

MOTION: Mr. Baptiste moves to accept the minutes from September 10, 2018.

Mr. Daskalakis states he would like a note added in the minutes that he would like the definition height to be more reflective of the 9th edition of the state building code.

Mr. King seconds the minutes as revised.

VOTE: (5-0-0)

B. ANR – Edward Kinsman – Endorse Form A Clerk Form

Mr. Barrett signs the form.

C. ANR – Kate Benton – Endorse Form A Clerk Form

Mr. Barrett signs the form.

D. Agawam Mill Pond Public Access Boat Launch Facility - 2844 Cranberry Highway – Request to Re-instate Special Permit

Present before the Board: Tony Stella, MA Office of Fishing and Boating Access

Mr. Stella states they are before the Board requesting an extension of a Site Plan Approval that was approved in September of 2013. Mr. Stella states the boat ramp is located at 2844 Cranberry Highway and is over an acre. There are invasive vines and shrub plants on the site. They are asking to install a formal boat ramp and parking area. This was filed with and approved by the Planning Board in 2013. Because the permitting process with Chapter 91 and ACOE took so long the funding for the project was no longer available. The applicant states if they were required to perform the Site Plan Approval process again they would lose their funding if it were not completed by June 30, 2019. Mr. Barrett states that he doesn't believe this is in the purview of the Planning Board and they are waiting to hear from Town Counsel. Mr. Buckland will reach out to Mr. Stella as soon as he hears from Town Counsel.

E. Bay Pointe – Partial release of Tripartite agreement

Present before the Board: Chris Reynolds

Mr. Reynolds states that tree clearing and stump clearing on the site has taken place. Mr. Reynolds states that there are downed trees on the site that the applicant could use on the golf course, so the trees remain on site, which is a discrepancy of Mr. Rowley's because the trees are not chipped yet. Mr. Rowley recommends only 50% of what they are requesting to be released should actually be released.

MOTION: Mr. Daskalakis moves to act in accordance with Mr. Rowley's recommendation to release \$2115.00 for erosion control and to release \$10,000 for clearing of trees.

IV. PUBLIC HEARINGS

A. Winship, LLC – 20 Burgess Point Road

Present before the Board: William Clemmey, Winship, LLC

Mr. Clemmey states they had requested an RDA from the Conservation Commission to clear their lot, which was approved. The applicant went back to the Conservation Commission to request stump grinding on the site, which was also granted. Fall of last year the applicant was approached by the Building Commissioner, David Riquinha, who told him clearing 50,000 s.f. or more required a Special Permit from the Planning Board. Mr. Clemmey states the stumps are a hazard at the moment. They are requesting to clear the lot to see what they would like to do with the property.

Mr. Buckland states they have a letter from the Conservation Commission. Mr. Buckland wants to point out that the only area that was under the purview of the Conservation Commission was the Coastal Flood Area and Bordering Vegetated Wetland, the rest of the land does not come under the purview of the Conservation Commission.

Present before the Board: Bruce Marcell, 36 Burgess Pointe Road

Mr. Marcell states he feels the stumping needs to be done on the project. He has been driving by the property for over a year and it looks terrible. Mr. Marcell states Mr. Clemmey builds nice houses and supports the project.

Present before the Board: Ron Enos

Mr. Enos states that he does not have concerns with the property, he just wants to property to conform to the performance standards. Mr. Enos states the tree removal was done illegal and not in accordance with Article 12 and the site is in disarray. Mr. Enos states he is in agreement that the stumps should be removed to restore the visual aspects of the site. Mr. Enos recommends replacing the 60' buffer along Burgess Point Road and restoring the 20' buffer on Winship Avenue. Mr. Enos also states in 1217.1 the Board may order a survey done of the property to understand what species was removed from the property so the Board can understand the size and type of plants that were there so the plants that were there can be replaced. Mr. Enos is also concerned with runoff into the roads and feels there should be runoff and dust control on the site. Mr. Enos also states that trees on the property came down onto the road during a storm causing residents to lose power for five days. Mr. Enos would like to have an engineer go out to the site to have this performed correctly.

Mr. William Clemmey states that he agrees with Mr. Enos, that when they apply for a Site Plan that all of that work will be done. There is erosion control on the site currently. Mr. William Clemmey states that the RDA was for clearing the trees, and the second RDA was for stump removal.

Mr. Enos states that at the Conservation Commission hearing Mr. Clemmey was told that all the Conservation Commission could do was delineate wetlands and that they had to go before the Planning Board in order to receive permission for clearing.

Present before the Board: Carl Clemmey, 28 Winship Avenue

Mr. Carl Clemmey states that this property is private property on a private road and abutters live a quarter of a mile away from this property.

Mr. Bianco asks how far out the applicant is from a site plan review. Mr. Clemmey states that he hasn't decided when they will apply for Site Plan Review because they have not decided on a use for the property yet. Mr. Bianco states that timeline matters slightly as far as the restoration is concerned. Mr. Bianco is concerned with the erosion on the site.

Mr. Enos states the property slopes to both sides of the property and is concerned the water will flow into the road. Mr. Daskalakis states he has been looking at the topographic survey and it looks as though the water flows to the middle of the site and asks where in the roadway Mr. Enos is concerned with water. Mr. Enos states at the intersection of the road the property pitches toward the road.

Mr. William Clemmey states that the property does not have watershed toward the roadway, the water comes down to property on the other side across Winship Avenue. Mr. Enos recommends the Board go to the site to see the runoff themselves.

Mr. Rowley states if the siltation is in place then it would seem that the RDA has been satisfied, but as far as land clearing it seems there is a lot of information the Board is lacking currently. Mr. Rowley states that the applicant shall submit a response from the MA Historic Commission regarding the potential for historic and archeological resources on the site. There is nothing on the plan that shows what the proposed contours are intended to be. Mr. Rowley recommends not to grant an approval until the required information under the by-law has been submitted.

Mr. William Clemmey states they do not plan on doing any grading on the site other than removing the stumps and filling holes when they arise. Mr. William Clemmey states they had a surveyor come to the site to survey the site and show them where to place the silt fence on the site.

Mr. Marcell states he feels it is a good idea for the Board to go down and look at the site. Mr. Marcell believes there is a mound of dirt that was plowed by Eversource, but otherwise the site looks relatively flat. Mr. Marcel states he has removed trees at his property and had never been asked to have an engineer on his property to state what types of trees need to be replaced.

Mr. King asks if the applicant is bringing in material to fill in the holes for the stumps. Mr. William Clemmey states they are hoping to utilize the dirt on the site to fill the holes. Mr. King states that would, in fact, change the topography of the site. Mr. William Clemmey states they could bring material in to fill the holes on the site.

Mr. Daskalakis states he feels that removing the stumps and filling the holes would be in the interest of safety, and asks Mr. Rowley if that would trump any of the requirements for site clearing. Mr. Rowley is still concerned with the report from the Historic Commission.

Mr. Barrett states if this were a subdivision plan the Board would be looking for larger buffers between the site and the neighbors and a landscape plan. Mr. William Clemmey states that is reasonable.

Mr. Barrett states he would like the applicant to return to the Board with a plan of buffers they intend to install on the site. Mr. Carl Clemmey states he was not aware he had to go before the Planning Board, they are just trying to clear the stumps from the property.

Mr. Barrett states if they had come to the Board initially, they would have had to produce more information that what the Board is requesting now. Mr. Carl Clemmey states he is asking the Chairman to recuse himself from the Planning Board as Chairman for this case because he is on three other Boards with Mr. Enos. Mr. Barrett states it is a small town and everybody knows each other.

Mr. William Clemmey asks about the required landscape plan, he states he could create a minimal landscape plan or an elaborate landscape plan, and would like some direction as to what

the landscape plan would be required to be. Mr. Clemmey states if they do construct houses on the lot he is unaware of where the potential houses and driveways might be, and he is being limited in developing his own land. Mr. Buckland states attachment five specifies the landscape buffers he is intending.

Mr. Barrett states the applicant shows a large piece of land buffered from the road, which seems where they would put a driveway. Mr. William Clemmey states that is not the case, they would prefer a driveway on Winship Avenue. Mr. William Clemmey states once they are before the Board with a Site Plan he will provide the landscaping.

Mr. William Clemmey states that he would like to hear the opinion of the rest of the Board.

Mr. Daskalakis states that several of the Board members are not familiar with the history in which the request is being based on. Mr. Daskalakis asks if the applicant would consider obtaining the Historic Commission letter. Mr. William Clemmey states he would consider that. Mr. Daskalakis asks if the applicant would also consider presenting potential proposals for the use of the lot. Mr. William Clemmey states that they wanted to have the site cleared before determining the use for the property.

Mr. Baptiste states it would be easy to just state all of the requirements in the by-law need to be met, and the hearing should be continued.

MOTION: Mr. Baptiste moves to require the applicant to apply with everything in the regulations at Ken Buckland's discretion and to continue the public hearing until December 10, 2018. Mr. King seconds.

VOTE: (5-0-0)

Present before the Board: David Heard, Great Neck Road

Mr. Heard asks if these same requirements are imposed on everyone who comes in to clear over 50,000 s.f. Mr. Buckland states these are the requirements everyone has to meet when require that amount of square footage.

Mr. William Clemmey asks if the solar companies have to meet these requirements. Mr. Buckland states they are a public utility.

B. Zoning Articles for Fall Town Meeting

- **Under Article 5, Amend Section 530: Unregistered Vehicle, and add new Section 535: Outdoor Storage**

Mr. Barrett states this section essentially adds boats and trailers to be included in the list of unregistered vehicles that can or cannot be on the property. Currently under the by-law there is not allowed to be more than one unregistered vehicle on your property and it cannot be in your front yard.

Present before the Board: David Heard, Great Neck Road

Mr. Heard states in the replacement article in the second line the word “camper” is left out, and was not sure if that was intentional or not.

Mr. Heard also states that the by-law says unregistered car or vessel. Mr. Heard is concerned with the word vessel because there are a number of kayaks in their yards and is concerned with zoning enforcement for items such as that. Mr. Barrett states there has been discussion to add language to discuss other vessels such as kayaks.

Present before the Board: Jim Moniz, Cranberry Highway

Mr. Moniz states there should be some definitions defining a vessel. In addition, he sees they are discussing blight. The state general law covers a lot of detail regarding blight and is wondering if they could just adopt the state general law and their conditions.

Mr. Barrett states these are suggestions from the Building Commissioner based on a lot of the violations dealt with in that department. Mr. Barrett states he believes camper will fall under either motor vehicle or trailer.

Mr. Rowley asks Claire Smith, Town Moderator, if striking out the word “camper” would invalidate the article. Ms. Smith states that striking the word, depending on how it is phrased, they are lessening the article, which is allowed.

Mr. Bianco asks if people will be going before the Board of Selectmen to have front yard storage? Mr. Barrett responds that or register the item.

Mr. Bianco believes they should strike the word “camper”. Mr. Barrett states to add the definition for vehicles or vessels to be exempt would need to be done as an amendment.

Present before the Board: Dave Walden, District 3

Mr. Walden states this has been a pet peeve of his for a long time. Mr. Walden states he is more concerned with the enforcement. Mr. Walden states he feels the suggestion is excellent, he just hopes this is enforced.

Present before the Board: Claire Smith

Ms. Smith asks if there is a by-law that allows Board of Selectmen to authorize people to have unregistered vehicles in there yard. Mr. Barrett states if someone has a used car dealership or something of the like the Selectmen could authorize licenses to sell unregistered cars. Ms. Smith asks if an individual, not a business, asks to have an unregistered vehicle or vessel in their front yard, where would the Selectmen have the authority to do that. Mr. Barrett states Town Counsel could help with that question.

Mr. Daskalakis states he feels it is a good idea to add the definitions of vehicles and vessels for this by-law.

Mr. Barrett states the second part of this part is to add Section 535 the restriction of outdoor storage.

Mr. Rowley is still concerned with people that have businesses that require outdoor storage, such as construction, not being differentiated in the proposed by-law.

Present before the Board: David Heard, Great Neck Road

Mr. Heard states he agrees with Mr. Rowley's concern. What if people are building a home, do all materials need to be stored behind a fence. Mr. Heard also states he has not found in the by-law the setbacks for fences or walls, as mentioned in the by-law. Mr. Heard recommends that Town Counsel review these before Town Meeting to avoid difficulties or lawsuit.

Mr. Daskalakis states the way the article is written is problematic. Mr. Barrett also states the fence could be worse than the junk.

Present before the Board: Jim Moniz

Mr. Meniz states he feels the Board should require businesses to keep materials neat and visually appealing as well as residents. Either this should apply to all.

Mr. Heard recommends the Board consider this article for further study.

Mr. Bianco states he would rather submit this to Town Meeting and have the public give their input.

Ms. Smith reminds the Board that if a motion is denied at Town Meeting it could be before Town Meeting for two years.

Mr. Rowley asks Ms. Smith if the Board could move to approve one amendment and strike another amendment under the same article.

Mr. Barrett states it is his opinion it may be better to suspend this now rather than request further study and not come back for two years.

MOTION: Mr. Daskalakis moves to move both Article 530 and 535 for further study until Spring Town Meeting.

VOTE: (5-0-0)

- **Under Article 6, Amend Table 621: Residential Districts, add Tables in 628: Dimensional Standards for Existing Small Lots, and amend Table 625: Accessory Buildings**

Mr. Buckland states this article also has two parts, the first is for accessory buildings and the second is for small lots. Residential districts are defined only as “residential” in this table. The purpose for this is to relieve some of the Board of Appeals applications that are required by many residents. This discourages people to apply for permits and build things legally. Mr. Daskalakis is worried that without changing the definition of building height this proposed by-law is forcing the creation of flat pitched roofs.

Mr. Heard states that he did have a comment about building height in residential districts, such as a barn would likely be more than 20’ in height. Mr. Heard is also concerned with the average alignment of up to five dwelling on either side abutting a lot regarding building setbacks. Mr. Heard states the phrasing “up to five” could create controversy. Mr. Buckland states that was in the case that there may not be five houses beside the proposed building.

Present before the Board: Deborah Hood, Parkwood Drive

Ms. Hood states she has a letter of case law regarding a project that may get caught in the matrix, especially regarding the FAR. Ms. Hood states the setbacks are fine but the FAR is interesting. Ms. Hood states she has been working on building a residential development in Parkwood Beach. Ms. Hood is concerned that the lot coverage would be superseded by the FAR. With the FAR provision it allows for such a small addition it doesn’t make the project viable. Ms. Hood is wondering why we are doing an FAR at all, and only two towns in Southeaster MA have an FAR and it is far less restrictive FAR. Ms. Hood would like to see more study on this, more input from the architectural community.

Mr. Buckland states the FAR has existed in the by-law for a number of years, but is not commonplace in a town this size. Mr. Buckland states the percentages in there are based on actual percentages in the neighborhood, which the Building Commissioner went out in the field to study. Ms. Hood states she could not find an FAR in the existing by-law. Mr. Buckland states in Article 16 there is the definition of FAR. Ms. Hood states she feels this change would cause more cases to require a Special Permit, not the other way around.

Mr. Moniz states he agrees with the FAR, that it is not a linear relationship. At some point the lot coverage becomes much less under the FAR than from the 25% building coverage. A home that has 5,000 s.f. could have a larger home than a house that has 5,001 s.f.

Mr. Buckland recommends looking at the FAR and trying to find what type of additional FAR would be appropriate for these small neighborhoods. Mr. Rowley agrees that the FAR seems out of proportion. Mr. Bianco states if you go by the max lot sizes of each zoning district then the FAR makes more sense.

Mr. Bianco asks if they can present 625 and withhold 628. Mr. Daskalakis states he would like to hold off on 625 as well due to the building height. Mr. Barrett states they can add the definition of building height as an amendment.

MOTION: Mr. Daskalakis moves to recommend favorable action for Article 625 with the amendment of the definition of building height and recommend Article 628 for further study. Mr. Baptiste seconds.

Mr. Buckland makes a suggestion to reconsider raising the FAR to reduce the impact of the FAR for lot coverage. There is discussion that 25% FAR for a 15,000 s.f. lot is too high. Mr. Bianco states he feels the Building Commissioner should present this at Town Meeting so he can answer any questions. Mr. Rowley states if this is broken down per square footage these are not large houses, the lot coverage seems a lot, but the houses will not be very large, as this calculates floor coverage of both floors.

Present before the Board: David Heard

Mr. Heard states each lot has a minimum or maximum lot coverage so you can't build from lot line to lot line. The number of square feet inside a home is completely irrelevant to the sight of the home as you pass by it which he feels will lead to odd size designs and recommends that the Board vote this for further study.

VOTE: (5-0-0)

- Discussion and vote on recommendation of Zoning Articles

V. CONTINUED PUBLIC HEARINGS

A. Wareham MA 2, LLC – 33 Blackmore Pond Road

The applicant has requested a continuance until November 12, 2018.

MOTION: Mr. Bianco moves to continue the hearing until November 12, 2018. Mr. Baptiste seconds.

VOTE: (5-0-0)

VI. REFERRALS

VII. ANY OTHER BUSINESS/DISCUSSION

A. David Andrade - Long Neck Road – Finding by the Board

Present before the Board: David Andrade

Mr. Andrade is looking for relief from a roadway that was never recorded and the residents have issues with front setbacks. Mr. Barrett recommends submitting a second plan showing the actual right of way. At one point this road was proposed as a 50' easement, which was never recorded. Mr. Rowley asks if Mr. Andrade knows what the documentation on record with the Town Clerk is. Mr. Andrade does not know what the documentation states. Mr. Rowley states that they will

not know what course of action needs to be taken. Mr. Rowley states they may need Town Counsel to review this. If it was never recorded at the Registry of Deeds it may not be valid at all. Mr. Rowley states then the course of action would be to submit a Form A plan showing the road layout as it is and record that plan. Mr. Rowley states they will have this documentation reviewed by Town Counsel.

B. Process to finalize Master Plan

Mr. Buckland states the Master Plan is in rough draft right now and wants to know what role the Planning Board wants to have in the process. There is a public process for redrafting. Mr. Barrett states since there is not a committee it will fall to the Planning Board.

C. Walmart Traffic Study

Mr. Barrett asks if the Board has read over the traffic study. Mr. Buckland states the study is incomplete as it does not state what the traffic impact is. Mr. Buckland states MEPA has issues with what they are submitting for requirements and the Town has not received the correct information. Mr. Buckland recommends a letter of enforcement from the Town or from the MEPA office. Mr. Rowley states that in the initial traffic report had included the outparcel, the report does not reflect that. Impacts at key intersections are not included in the report.

VIII. NEW BUSINESS (This time is reserved for topics that the Chairman did not reasonably anticipate would be discussed)

IX. CORRESPONDENCE

- A. Invitation to Bay Pointe
- B. Invitation to Stonepath Malt for ribbon cutting

X. ADJOURNMENT

MOTION: Mr. Baptiste moves to adjourn. Mr. King seconds.

VOTE: (5-0-0)

X. DOCUMENTS

Date signed: 10/15/18 5-0-0

Attest: George Barrett

George Barrett, Chairman
WAREHAM PLANNING BOARD

Date copy sent to Town Clerk: _____

RECEIVED
1020am
OCT 16 2018

TOWN OF WAREHAM
TOWN CLERK