The Law Offices of Bello & Morton, LLC

184 Main Street Wareham, Massachusetts 02571 · 508-681-2334

December 27, 2022

Zoning Board of Appeals of Wareham

Memorial Town Hall

54 Marion Road

Wareham, Ma 02571

***Re: Attorney Opinion Letter in Support of the Petition for 42-22 Francis Ellis. Jr. – Variance – 7 Mattos Avenue – Map 110, Lot 9B***

Dear Board:

I represent Mr. Francis Ellis for the above application to construct single family home on the property located at 7 Mattos Avenue here in Wareham.

The Lot is located in the Commercial General Zoning district which prohibits 1 family dwellings. When Mr. Ellis purchased the property in 2016 there were a number of issues including the structure being unsafe and uninhabitable, and a number of back taxes from the Estate he purchased it from.

In April 2017, Mr. Ellis went in front of this board in Petition #16-17 to construct a 2 family on the site. At that time the structure was still there- the Board did not find a hardship and denied the application for relief. Between that time, the Applicant has tried to work with the different building commissioners to propose a project for the site. Most recently, he was told he could remove the structure and clean up the site due to the hazards it posed.

**Ruling of the Building Commissioner:**

Mr. Turner denied the application for single family on the site under the following section: **Article 3: Use Regulations, 320 Table of Principle Use Regulations, Residential Uses, 1-Family.**

**Legal Analysis:**

We are seeking a Use Variance under:

**1471 USE VARIANCES: The Board of Appeals is specifically empowered to grant Variances from the restrictions imposed by this By-Law as to use.**

1. **Unique nature of the Lot:** This lot is unique it is located on a side street with all residential surrounding it- Mattos Ave is a small neighborhood with single family homes. The property did have a preexisting nonconforming structure there prior to the demolition. The Commercial General district of our Town hugs the highway and encompasses many properties that a non permitted use and residential. This property is particularly special in that it directly abutted by all residential.
2. **Hardship to the Petitioner if Literal Enforcement of the By-Laws:** If my client is denied the Variance he is seeking then, he will have a property which has been taxed a 1300 Developable vacant residential land with a value of approximately $74,600.The applicant will be forced to have to produce a project that is commercial and an allowed use in a neighborhood on a quiet street- the hardship will not only be for the applicant but the neighbors who would be in a situation where a business is right next to where they live.
3. **Desired relied should be granted without Substantial Detriment to the public good:** The property as stated before is on a street with all residential- this grant of variance would enhance their property values and promote the nature of the quiet street. The Plan proposed meets all setback requirements as under the minimum setbacks for commercial general residential use. So, this modest single family will fit into the nature of the property.
4. **No Derogation from the intent or purpose of such Ordinance or by-law:** The purpose of the By-Law is clearly laid out in Article 1 Section 130 of which includes “to preserve and increase amenities by the promulgation of regulations to fulfill said objectives”. Keeping in harmony with our town’s bylaws and the nature of the builder’s design and vision, this project would be of value to Wareham.

All things considered allowing this Variance would not be detrimental to the neighborhood and certainly would not derogate from the intent of the Zoning By Law.

Respectfully submitted,

By: Jilian A. Morton, Esq.