

**Town of Wareham
Zoning Board of Appeals
June 22, 2022**

The Board continued the meeting in Public Session, reconvening at 6:50 p.m.

Mr. Eacobacci reopened the public session and informed the public that Town Counsel, Richard Bowen was on a phone call as well as Town Planner, Ken Buckland.

Mr. Eacobacci explained the executive session was regarding a 40B of a minor modification on Settler's Glen. The board had denied the request and the applicants of Settler's Glen had filed an appeal. Mr. Eacobacci explained that in agreeing to drop the appeal, the ZBA and Settler's Glen had come to an agreement through a mediator. The agreement was that there would be twenty units, ten for re-sale and ten for as rentals.

Mr. Eacobacci made a Motion to accept the agreement from the Mediation in regards to a 40B – Settler's Glen, Red Brook Rd, Request for Insubstantial Change. Mr. Morrison seconded the Motion and it passed with one opposition. (Jacob Morrison opposed.) (5-1-0)

Attorney Richard Bowen explained to the public the process of said appeal as it went through to the Housing Appeals Committee, who are pro-developers. They stated that the ZBA could not deny Settler's Glen 40B as it wasn't a valid reason for denial. He explained the twenty units as well as the monies that would be deposited into the Affordable Housing Trust upon issuances of Certificates of Occupancy (\$15,000 in total). Attorney Bowen stated had they gone thru to the appeal process they would've lost and got nothing.

Mr. Buckland was in agreement.

Mr. Eacobacci asked for any public comment. There was none.

Mr. Eacobacci made a Motion to close the public portion of the Settler's plan and was seconded by Jacob Morrison. The motion passed unanimously. (5-0-0)

Attorney Bowen explained that the paperwork for the agreement would be reviewed by the applicant and Mr. Buckland and then reviewed by him.

Mr. Eacobacci made a Motion to approve the 40B-Settler's Glen insubstantial change from condominiums to rentals and find that the change is not substantial. The Motion was seconded by Ms. DeBonise and passed via roll call vote with one in opposition, Mr. Morrison. (5-1-0).

I. PRELIMINARY BUSINESS

1. 31-21 North Star Management – Extension of Time to Exercise Use of Variance

Attorney Conroy was present before the Board regarding this variance that was issued to his client on July 14, 2021. He said there was an appeal filed and before it went to court an agreement was made between the two parties.

Mr. Elkallassi stated this was the variance regarding the Car Wash property, which was the old Wareham Pharmacy.) Board members remembered which variance and property is referred to.

Mr. Conroy stated the appeal was dismissed and signed by both parties on April 13, 2022. Mr. Conroy stated he was here this evening to ask the board if they could request an extension of time to exercise the use of the variance. He requested the extension be given until April 13, 2023.

Mr. Elkallassi confirmed the appellant dropped the appeal. Attorney Conroy stated they did.

Mr. Eacobacci made a Motion to extend the variance of 31-21 North Star Management to April 13, 2023 and was seconded by Jacob Morrison. The Motion passed 4-1-0 with Mr. Elkallassi abstaining. (4-1-0).

II. CONTINUED PUBLIC HEARINGS:

1. 15-22 Betty Sanisidro – Special Permit – 58 Sandwich Road – Assessors Map 134, Lot F42

Mr. Elkallassi called the public hearing and asked who was present to speak on the matter.

The applicant was not present. No other party confirmed they were present to represent the applicant.

Mr. Elkallassi asked if anyone was in attendance in favor of this applicant. Noone replied.

From the Zoom platform, Page Pagan, of 54 Sandwich Road stated there was a 'for sale sign on the building of the property.

Mr. Eacobacci made a Motion to close the Public Hearing and was seconded by Mr. Temple. The Motion passed unanimously. (5-0-0)

Mr. Eacobacci made a Motion to deny the application without prejudice and was seconded by Richard Semple. The Motion passed unanimously with one abstain. (4-0-1, Mr. Elkallassi abstaining).

2. 16-22 2180 Boston Providence Tpke Associates – Site Plan Review/Variance – 4 Tow Road – Assessors Map 43, Lot 1069

Attorney Robert Perry was in attendance representing the Applicant. He stated he submitted a letter asking for a continuance to July 13, 2022.

Mr. Elkallassi explained this project was regarding the car wash behind the Fire department.

Mr. Elkallassi called for Public comment there was none.

Mr. Eacobacci made a Motion to continue 16-22 2180 Boston Providence Tpke Associates at the request of the applicant to July 13, 2022 and was seconded by Mr. Semple. The Motion passed unanimously. (5-0-0).

III. PUBLIC HEARINGS:

3. 18-22 Special Permit Tyrone & Jenna Cardoza of, 140 Minot Ave – Assessors Map 43, Lot 1069

Mr. Eacobacci read the advertisement for the record, for the property on 4 Onset Road requesting a Special Permit.

Mr. Elkallassi opened the Public Hearing and asked the applicants to explain what they wanted to do.

Ms. Jenna Cardoza explained the existing units at 140 Minot Ave. They have two commercial units on the first floor; two residential units (one bedroom each, that are rented) on the second floor; and attic space on the third floor. They were looking to turn the first floor of Commercial units into residential at one bedroom each; and convert the third floor into two, one-bedroom units as well.

Mr. Eacobacci asked if this is what they were originally permitted for when they built the building.

Mr. Cardoza stated they received four building permits originally, two for the first floor (the commercial units) and two for the one-bedroom, two units on the second floor. The third floor is not finished and is considered "attic space".

Mr. Cardoza said what they'd like to do is change first floor to two, one-bedroom units; and the third floor to two, one-bedroom units.

The Building Commissioner's letter was received back in March, by Mr. Riquinha who is no longer the Wareham Building Commissioner.

Mr. Eacobacci the asked if the building was sprinkled?

Ms. Cardoza said it was not, but they are aware the building needs to be sprinkled.

Mr. Elkallssi stated they are allowed by Special Permit but they need variances; as they don't meet the 250' frontage and/or lot square footage for the MR30 District, which this is.

Ms. Cardoza stated that JC Engineering provided a site plan.

Mr. Elkallassi reviewed the minimum requirements for the MR30 area. He stated 30,000 square feet was needed for additional units more than two in one dwelling. He said that they do not have a large lot at only 9,000 square feet, which is non-conforming.

Mr. Elkallassi further stated that they shouldn't be in front of them for a Special Permit, but for variances.

Mr. Elkallassi explained the variances needed. He stated as they wanted to change the first floor from Commercial to Residential, which needs a variance. They would also need to ask for a frontage variance and a lot size requirement variance.

Mr. Elkallassi opened it up to the board for comment.

Mr. Semple, Mr. Larson, and Mr. Morrison had no comment at this time.

Mr. Elkallassi asked if the commercial units were rented now, to which the Cardoza's stated no.

Ms. DeBonise stated she would want to hear about traffic if the two units on the first floor remained commercial.

Mr. Semple asked about their lot of land and the parking lot of the Fire Department. They reviewed the plans or lot lines.

Mr. Eacobacci stated he would prefer to see two residential units on the first floor.

Mr. Elkallassi stated they have to come back for variances. He said he would recommend they either get a lawyer to represent them or have someone from the engineering office come back with them to argue for you for the variances. He said they don't have the square footage on the lot to really have a unit or units on the third floor.

Mr. Cardoza stated that JC Engineering made sure that the plans reflected the parking spaces for the six units.

Mr. Elkallassi explained that with over ten parking spaces they need a complete site plan review including landscaping, drainage etc. He said it's a major site plan and what has been submitted by JC Engineering is not what is required.

Mr. Elkallassi explained that parking spaces are based on bedrooms, and one bedroom is equal to one and half parking spaces.

Mr. Cardoza asked if they return and proposed one bedroom per unit that would work.

Mr. Elkallassi recommended asking for the two commercial units to be residential, but not to ask for the third floor as he thinks they won't receive it. He said they just don't have enough square footage needed.

Mr. Eacobacci stated he was thinking out loud to help them understand what was needed. He said they might want to think about converting the first floor into one to two-bedroom one unit. He said the application they brought before them tonight is totally incorrect, as they are asking for a Special Permit and variances are needed. He said the good news is that they have heard the opinions and regulations of the Board members and have a better feeling of how they would vote for the project.

He said they need to think about and review their plans with the engineer, telling them exactly what they want to try and do, perhaps not do anything on the third floor.

Mr. Cardoza asked what the opinion of the board members were if they wanted to keep one bedroom, two units on the first floor. Three of the members said they had no opinion at this time, two members were in opposition.

Mr. Elkallassi stated they need to request variances for use, frontage and lot size and they need to offer three compelling arguments to be granted all the variances.

Ms. Cardoza said she had met with the Building Commissioner and he gave her the Special Permit paperwork, so she was just confused that he sent her down a wild goose chase.

Ms. DeBonise stated unfortunately there is a new Building Commissioner and she suggested they go speak to him and tell them they you attended tonight and what we suggested.

Assistant Town Plan, Ms. Baldwin suggested to the applicant that they call her directly and she will arrange a meeting with the Planning Director, herself, and the Building Commissioner so everyone is on the same page. Ms. Baldwin agreed that they ask for a continuance at this time.

Mr. Eacobacci made a Motion to continue 18-22 Tyrone & Jenna Cardoza – Special Permit, 140 Minot Ave to July 13, 2022 at the applicant's request and was seconded by Mr. Morrison. The Motion passed unanimously. (5-0-0).

IV. ANY OTHER BUSINESS/DISCUSSIONS:

In other business, Mr. Elkallassi asked what the open meeting filing was about as he was not in attendance when it was discussed. Mr. Eacobacci explained that someone had filed an open-meeting law complaint as to minutes that weren't done in a timely matter. Mr. Eacobacci explained that the Town has hired someone to do the minutes, Ms. Pacella and she will catch the ZBA Board minutes up to date, and going forward they will be done in a timely manner for review and acceptance by the board.

Also in other business, Ms. DeBonise said they in their packets they should be receiving the field cards from the Assessors office.

Ms. Baldwin stated that going forward she and Mr. Buckland will be putting out packets with staff reports on the cases before the Board. She will include the requested field cards, and photos of projects.

Mr. Elkallassi stated that the applicants should be told as well that engineers are definitely needed to file variances, and with special permits not always necessary (depending on the situation).

Mr. Eacobacci gave Ms. Baldwin a very old checklist that the ZBA had written up a few years ago and stated that maybe she could spruce that up for the applicants requirements.

Ms. DeBonise made a Motion to adjourn and was seconded by Mr. Morrison. The Motion passed unanimously at 7:46pm.

The next meeting is scheduled for Wednesday, July 13, 2022.

Respectively,

Patricia A. Pacella
Recording Secretary

Date signed: 7-13-2022

Attest: James D. Eacobacci
James Eacobacci, Clerk
WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: _____

WAREHAM TOWN CLERK
2022 JUL 14 PM 1:14