

**TOWN OF WAREHAM
NOTICE OF DECISION OF THE WAREHAM ZONING BOARD OF APPEALS**

Petition #17-16

Applicant: Canton Masonry, Inc., c/o Carmine Crugnale

Representative: Attorney Michael Medeiros

Owner: Canton Masonry, Inc.

Owner Address: 135 Page Street, Suite 5, Stoughton, MA 02072

Subject Property Address: 2298 Cranberry Highway, Wareham, MA 02571

Subject Property Parcel ID: Assessors Map 104 – Lot 1033

Zoning District: MR-30

Date of Public Hearing: May 11, 2016 (Date of continued hearing: May 25, 2016)

Date of Notice: June 6, 2016

The Petitioner was seeking a Variance to construct a two-family dwelling (duplex) on the premises which has 157' of frontage and contains 102,378 square feet.

ATTENDANCE

PRESENT: Nazih Elkallassi, ZBA Chairman
James Eacobacci, ZBA
Karl Baptiste, ZBA
Jan Kendrick, ZBA
Wilma Engerman, ZBA

ALSO PRESENT: Attorney Michael Medeiros
Carmine Crugnale, Petitioner
John Romanelli, Land Surveyor

DECISION

It was the unanimous decision of the Zoning Board of Appeals to **GRANT** the requested Variance to allow the Petitioner to construct a two-family dwelling on the subject location in accordance with plans submitted.

The Board determined the following:

1. Locus property at 2298 Cranberry Highway is identified as Map 104, Lot 1033 and is located in a MR-30 District. To construct a two-family dwelling in an MR-30 District, the lot must contain a minimum of 45,000 square feet and must have 200 feet of frontage.
2. Canton Masonry, Inc. owns Lot 1033 at 2298 Cranberry Highway.
3. Petitioner seeks to construct a two-family dwelling on the premises which is identified as Map 104, Lot 1033.

4. The requested Variance meets statutory requirements for granting a Variance pursuant to Massachusetts General Laws c.40A,§10.

STATUTORY VARIANCE REQUIREMENTS:

1. There are circumstances related to soils, shape and topography that especially affect the subject property that do not generally affect the zoning district in which the structure or land is located.

The property at 2298 Cranberry Highway (Map 104, Lot 1033) contains approximately 2.35 acres and is of an irregular shape. There presently exists a single-family dwelling and three additional accessory buildings located upon the property. It is unique in relation to other lots in the area. There is an easement to New Bedford Gas & Edison Light Co. towards the rear of the property and a large portion of the property is within the 150' buffer zone from a cranberry bog. The irregular shape of the property affects the owner's ability to meet the frontage requirements of current zoning.

2. A literal enforcement of the provisions of the by-law would involve substantial hardship, financial or otherwise, to the petitioner.

The irregular shape of the lot, the existence of a high voltage power line easement, and the 150' buffer area from the cranberry bog create a substantial hardship for the owner in its ability to develop the property.

3. Desirable relief may be granted without detriment to the public good.

The construction of a duplex would not create a substantial detriment to the public good. The duplex as proposed has been designed to be compatible with the surrounding buildings in the neighborhood.

4. The Variance will not nullify or substantially derogate from the intent or purpose of the by-law.

The granting of the variance would not derogate from the intent or purpose of the by-law given that the property is of a significant size and the proposed duplex will have adequate frontage to construct a driveway with sufficient parking for prospective tenants and provide safe accessibility to Cranberry Highway.

CONDITIONS

**THE BOARD'S APPROVAL SHALL BE SPECIFICALLY
CONDITIONED UPON COMPLIANCE WITH THE FOLLOWING:**

1. Petitioner to secure all of the necessary permits and approvals from all applicable boards and agencies.
2. The Petitioner to record the Variance at the Plymouth County Registry of Deeds in the appropriate time frame and to provide a copy of the recorded Variance to the office of the Zoning Board of Appeals.
3. There shall be no additional dwelling constructed upon the premises. This condition does not restrict the Petitioner or any successor in interest from obtaining future permits for the construction of a garage or shed.
4. Grading and driveway shall pitch away from the highway into the Petitioner's property.

Notice of Appellate Rights

No Variance, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city or town clerk that twenty (20) days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

The owner or applicant shall pay the fee for recording or registering.

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A, and shall be filed within twenty (20) days after the date of filing of this Decision in the office of the Town Clerk.

If the rights authorized by a Variance are not exercised within one year of the date of grant of such Variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such two year period. If the permit granting authority does not grant such extension within thirty days of the date of application therefore, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of Massachusetts General Laws Chapter 40A, §10.

Copies of the minutes of this hearing are available upon request at the office of the Zoning Board of Appeals.

VOTE: Unanimous (5-0-0)