

## NOTICE OF DECISION OF THE WAREHAM ZONING BOARD OF APPEALS

Petition #18-16

Applicant: Admanfred, LLC

Owner: Same as applicant

Owner Address: 12 Wickham Road, Winchester, MA 01890

Subject Property Address: 165 Swifts Beach Road, Wareham, MA 02571

Subject Property Parcel ID: Assessors Map 50A – Lots 62A & 63A

Date of Public Hearing: May 11, 2016

Date of Notice: June 2, 2016

### Decision/Reason:

The Board voted to grant a Variance, to be in compliance with the plans filed with the Board, to construct two (2) residential apartments in the existing building for Petition #18-16 – Admanfred, LLC –Assessors Map 50A – Lots 62A & 63A – 165 Swifts Beach Road, Wareham, MA with the Board finding the following:

This matter originally came before the Board at 6:30 P.M. on May 11, 2016 in Room 320 of the Wareham Multi-Service Center and was continued to 6:30 P.M. on May 25, 2016 at the same location; at which time the Petitioner was heard on the Petitioner's request to grant dimensional Variances under Sections 321 & 621 of the Wareham Zoning Bylaws to convert a building previously used for commercial purposes into two (2) residential units at 165 Swifts Beach Road.

The requirements for a Variance have been met in that the lot is unique in shape. Although the lot is zoned residential, it has been used commercially for 90 years plus or minus. The property has been abandoned for approximately four years, hence the only permissible use for the property is residential. Section 321 of the Bylaws permit two-family dwellings in this zoning district (R30). In considering the documentation and presentation by the Petitioner's attorney, the Board finds that a hardship exists in that a denial may well render the lot useless leaving it detrimental to the neighborhood.

Allowing the two-family dwelling does not derogate from the interest or purpose of the Bylaw. The property is in a residential district where numerous two-family dwellings exist. The lot has both Town water and Town sewer. The Petitioner intends two (2) two-bedroom apartments which will not increase traffic or make any difference in the safety issues protected under the Bylaw nor will there be any effect on light and air, while aiding in supplying adequate housing. The project is without detriment to the public good for the reasons stated above.

Further, the granting of this Variance is subject to the following conditions:

### Conditions:

1. The two windows on the west side of the proposed parking garage will be eliminated.
2. No roof decks shall be permitted.
3. Gutters shall be installed on the west side of the building.
4. A fence, no greater than six (6) feet high shall be erected on the westerly side of the existing building.
5. Upon completion, an "As Built" plan is to be submitted to the Building Department with a copy provided to the Board of Appeals.
6. Any relief not expressly granted hereunder is hereby denied.
7. For this decision to become effective, a copy of said decision & notice thereof must be filed at the Plymouth County Registry of Deeds & must bear the certification of the Town Clerk that twenty (20) days have elapsed & no appeals have been filed, or that if such appeal has been filed, that it has been dismissed or denied. A certified copy of said recording must be thereafter filed with the Board of Appeals.
8. If substantial use or construction permitted by this Special Permit/Variance has not commenced within two years from the date of which a copy of this decision is filed with the Town Clerk, excluding the amount of time required for an appeal period to expire & the amount of time required to pursue & await the determination of any such appeal, then this Special Permit/Variance shall expire in so far as the foregoing statement is modified by Chapter 195 of the Acts of 1984. Any person exercising rights under a duly appealed Special Permit/Variance does so at the risk that a court may reverse the permit & any construction performed under the permit may be ordered undone.
9. Any person aggrieved by this decision of the Zoning Board of Appeals may file an appeal pursuant to the provisions of M.G.L. Chapter 40A, section 17 within twenty (20) days of the filing of this decision in the office of the Town Clerk. If no appeal is taken within the allotted time, the Clerk will so certify.

VOTE: Unanimous (5-0-0) By the Wareham Zoning Board of Appeals