

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: December 28, 2016

I. CALL MEETING TO ORDER

The meeting was called to order at 6:30 P.M.

II. ROLL CALL

Members Present: Nazih Elkallassi, Chairman
James Eacobacci, Clerk
Wilma Engerman
Karl Baptiste
Jan Kendrick
Jake Morrison, Associate Member
Ernie Alden, Associate Member

III. PRELIMINARY BUSINESS

A. Approve meeting minutes of July 27, 2016.

MOTION: Mr. Eacobacci moved to approve the meeting minutes of July 27, 2016. Ms. Kendrick seconded.

VOTE: Unanimous (5-0-0)

B. Discussion: Petition #06-15 – Clean Energy Collective, LLC – 127R Marion Road.

Present before the Board: Joe Shanahan, Clean Energy Collective

Mr. Shanahan explained that when the solar facility project was approved in July of 2015, there was a condition that the builder would post a decommissioning bond. Clean Energy Collective had bought the permit from Renewable Generation MA, LLC and Clean Energy Collective has established a cash escrow. Clean Energy Collective is asking if the Board would consider allowing a bond in lieu of the escrow account and if the bond amount could be reviewed every five years and not every 24 months.

Brief discussion ensued.

MOTION: Mr. Eacobacci moved to accept the bond issued by Harford Insurance, return back to Clean Energy Collective \$70,300.00, request the bond be evidenced annually, that the amount of the bond be reviewed every five years in lieu vs. every two years, and that Mr. Buckland, Town Planner review with Town Counsel to see if Selectmen approval is required and if it is recommended that this be presented to the Selectmen for approval. Mr. Baptiste seconded.

VOTE: (4-0-1)
Mr. Baptiste abstained

IV. PUBLIC HEARINGS

A. #38-16 – Patricia Moncey – 41 Oak Street

The public hearing notice was read into the record.

The applicant has requested a continuance to January 25, 2017.

MOTION: Mr. Eacobacci moved to continue the public hearing for #38-16- Patricia Moncey – 41 Oak Street January 25, 2017. Ms. Engerman seconded.

VOTE: Unanimous (5-0-0)

B. #46-16 – Planet Fitness – 2991 Cranberry Highway

Present before the Board: Jeff _____, Viewpoint Sign and Awning

The public hearing notice was read into the record.

The applicant is requesting a Variance to install a wall sign at 2991 Cranberry Highway (the new site for Planet Fitness). The Variance is for a wall sign that is larger than the By-Law allows. The By-law allows 75 sq. ft. and the proposed sign is 160 sq. ft.

Based on the letter dated November 15, 2016 from the Director of Inspectional Services states that the proposed signage does not conform to the following sections of the Bylaw:

- Article 11, Section 1138, Wall and Roof Signs – 75 sq. ft. of wall sign is allowed.
- Article 11, Section 1125, Variances – Project proposes 54% increase in allowable sign area.

Brief discussion ensued.

MOTION: Mr. Eacobacci moved to close the public hearing for Petition #46-16 – Planet Fitness – 2991 Cranberry Highway. Mr. Alden seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Eacobacci moved to grant a Variance for Petition #46-16 – Planet Fitness – 2991 Cranberry Highway to install a wall sign w/ the Board finding the following:

- Said request meets the statutes for a Variance.
- Said request is not a detriment to the neighborhood.

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

- Sign to be erected per plan dated November 10, 2016 submitted by Viewpoint Sign & Awning entitled “Planet Fitness.”
- Standard conditions.

VOTE: Unanimous (5-0-0)

C. #47-16 – Lynn Manning – 110 Parkwood Drive

The public hearing notice was read into the record.

Present before the Board: Lynn Manning, Owner
 Brian Grady, G.A.F. Engineering, Inc.

Mr. Grady explained the applicant is requesting a Special Permit to construct an addition and make modifications to an existing dwelling. The lot is not conforming. The existing dwelling is 9.3 feet from the street line and 3.9 feet from the rear property line. The bulkhead is 4.5 feet from the property line, but will be removed in the new project. The proposed addition is 26'x29' and will be 10.8 feet from the street line and 7.5 feet from the rear property line.

Based on the letter dated August 15, 2016 from the Building Commissioner, due to the fact that adding a structure on a non-conforming lot & not coming any closer to the existing lot lines, a Special Permit is required under Section 1335.

Brief discussion ensued.

MOTION: Mr. Eacobacci moved to close the public hearing for Petition #47-16 – Lynn Manning – 110 Parkwood Drive. Mr. Alden seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Eacobacci moved & Mr. Baptiste seconded to grant a Special Permit for Petition #47-16 – Lynn Manning – 110 Parkwood Drive to construct an addition & make modifications to the existing dwelling w/ the following conditions:

- To be constructed per plan dated November 18, 2016 by G.A.F. Engineering, Inc.
- Standard conditions.

VOTE: (4-1-0)
Ms. Engerman opposed

D. #48-16 – John Parchesky – 17 Onset Avenue

The public hearing notice was read into the record.

Present before the Board: Joyce Hastings, GLM Engineering

Ms. Hastings explained the applicant is requesting a Special Permit to demolish the exist house and construct a new single family dwelling. The lot does not meet the current requirements for square footage in the existing zone. The square footage requirements are 30,000 square feet and the lot contains 27,228 square feet.

Based on the letter dated November 14, 2016 from the Director of Inspectional Services, the proposed project meets all zoning requirements w/ the exception of required lot area. Thus, a Special Permit is required.

Brief discussion ensued.

MOTION: Mr. Eacobacci moved to close the public hearing for Petition #48-16 – John Parchesky – 17 Onset Avenue. Mr. Alden seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Eacobacci moved & Mr. Morrison seconded to grant a Special Permit for Petition #48-16 John Parchesky – 17 Onset Avenue to demolish an existing house & construct a new single family dwelling w/ the following conditions:

- To be constructed per plan dated November 16, 2016 by GLM Engineering, Inc.
- Standard conditions.

VOTE: Unanimous (5-0-0)

E. #49-16 – Ussef Enterprises, LLC – 2888 Cranberry Highway

The public hearing notice was read into the record.

Present before the Board: Attorney Len Bello

Mr. Elkallassi excused himself from this hearing and Mr. Alden will be voting. The applicant is requesting a Special Permit seeking to convert the existing car wash to a used sales car lot. The lot is in the appropriate zone, has adequate lot coverage, and good access from Cranberry Highway. Although there is a used car sales lot across the highway, Mr. Bello stated that drivers prefer not to cross the four lanes of Cranberry Highway and they feel it is beneficial to have a car lot on this side of the road.

Discussion ensued.

MOTION: Mr. Eacobacci moves to close the public hearing for Petition #49-16 – Ussef Enterprises, LLC – 2888 Cranberry Highway. Mr. Alden seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Eacobacci moved & Mr. Alden seconded to grant a Special Permit for Petition #49-16 – Ussef Enterprises, LLC – 2888 Cranberry Highway with the following conditions:

- To be converted per plan dated October 20, 2016 by CEG, P.C.
- No excess lighting to shine into the roadway or roadway traffic.

VOTE: (4-1-0)

Ms. Engerman opposed

V. CONTINUED PUBLIC HEARINGS

A. #44-16 – Steven Seidel & Adria Steinberg – 3 Acorn Street

Present before the Board: No one was present at this time.

The applicant has requested a continuance.

MOTION: Mr. Eacobacci moved to continue the public hearing for Petition #44-16 – Steven Seidel & Adria Steinberg – 3 Acorn Street to January 25, 2017. Ms. Kendrick seconded.

VOTE: Unanimous (5-0-0)

B. #45-16 – Lenord Cubellis – 197 Onset Avenue

Present before the Board: Bill Madden, G.A.F. Engineering, Inc.
Jaime Souza
Attorney Larry McGrath, Attorney for Ms. Lyons
Ms. Lyons, Abutter

At the last public hearing, an abutter had presented a decree stating that no building should be built to obstruct her view of the water, at which point the hearing was continued in order to further review the decree.

Attorney McGrath stated Ms. Lyons does have a right to her view of the water. There have been two Supreme Judicial Court rulings stating the owners of Lot 206 are entitled to their view. Mr. Madden illustrated a viewpoint that the lot may not contain an obstruction of the water view is not Mr. Cubellis' lot, but another lot. Mr. Elkallassi stated the matter should go to Town Counsel since the decree is too legally involved for the Board to make a ruling on it. Mr. Buckland feels the Board should vote on the Variance and bring the issue of the decree to Town Counsel.

The Board decided not to vote on the Variance, send the issue to Town Counsel, & continue the public hearing.

MOTION: Mr. Eacobacci moved to continue the public hearing for Petition #45-16 – Lenord Cubellis – 197 Onset Avenue to January 25, 2017. Mr. Alden seconded.

VOTE: Unanimous (5-0-0)

VI. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS

A. Correspondence

1. See correspondence sent via email and/or in packets.

B. Upcoming Hearings:

January 11, 2017	#1-17	Patrick Sheehan c/o 30 Pine Tree, LLC	30 Pine Tree Drive
January 11, 2017	#2-17	Philip Sheridan, Trustee c/o Kenneth Michaels	104 Pinchurst Drive
January 11, 2017	#3-17	Joe Gomes c/o John DeFaria	24 Shangri-La Boulevard
January 11, 2017	#4-17	Sandra A. Assad, Trustee	5, 7, and 9 Elm Street
January 11, 2017	#5-17	ERR Realty Trust c/o New England Coastal Contractors, LLC	9 Stockton Shortcut

January 11, 2017	#6-17	Afif El Baba	3070 Cranberry Highway
January 11, 2017	#7-17	Blaise Scioli c/o G.A.F. Engineering, Inc.	7 Groveland Street

VII. NEW BUSINESS (This time is reserved for topics that the Chairman did not reasonably anticipate.

VIII. ADJOURNMENT

MOTION: Mr. Eacobacci moved to adjourn the meeting. Ms. Kendrick seconded.

VOTE: Unanimous (5-0-0)

Date signed: 2-8-2017

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

Date copy sent to Town Clerk: 2/14/17