

## **MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS**

**Date of Meeting: May 24, 2017**

### **I. CALL MEETING TO ORDER**

The meeting was called to order at 6:35 P.M.

### **II. ROLL CALL**

Members Present: Nazih Elkallassi, Chairman  
Jim Eacobacci, Clerk  
Wilma Engerman  
Karl Baptiste

Members Absent: Jan Kendrick  
Jake Morrison, Associate member  
Ernie Alden, Associate member

Also present: Charles Rowley, Town Review Engineer

### **I. PRELIMINARY BUSINESS**

#### **A. Approve meeting minutes: May 10, 2017.**

**MOTION: Mr. Eacobacci moved to approve the minutes of May 10, 2017 as presented. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

#### **B. Discussion: Modification request from Walmart re: proposed alterations.**

Present before the Board: Lisa Maydae, Petrillo Architects

The applicant is requesting a modification to the previously approved Walmart plans. The applicant is requesting additional parking to the side of the building and adding a canopy to the side of the building for the new grocery order pick-up. Mr. Eacobacci believes the applicant is requesting a minor modification.

The applicant would also like to install a sign. The Board members stated if the sign is in compliance, then they will not have to return before the Board, however, if the sign is not in compliance, they will need to apply for a Special Permit or a Variance. It was stated the Board will have the Town Review Engineer review the plans.

Mr. Rowley recommended modifying the terms of the Special Permit referencing the minor modification.

**MOTION: Mr. Eacobacci moved that the Board determined the modification request from Walmart to be a minor modification. Mr. Baptiste seconded.**

**VOTE: (3-1-0)**

## **II. PUBLIC HEARINGS**

- A. Petition #23-17 – Lisa Williams Cordeiro – 28 Old Glen Charlie Road (*Hearing not scheduled to be opened until June 14, 2017 – not to be handled at this meeting*)**

The hearing is not scheduled to be opened until June 14, 2017.

- B. Petition #43-16 – Christopher McIntosh – 22 High Dam Road – Reconsideration of decision**

Present before the Board: Leonard Bello, Attorney

The applicant is requesting a continuance until the next hearing since there is not a full Board present.

**MOTION: Mr. Eacobacci moved to continue the public hearing for Petition #43-16 – Christopher McIntosh – 22 High Dam Road to June 14, 2017. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

## **III. CONTINUED PUBLIC HEARINGS**

- A. Petition #17-17 – JNJ Holdings, LLC – 2371 Cranberry Highway**

**NOTE: Mr. Elkallassi excused himself as Chair for this project. Mr. Eacobacci sat as Chair Pro Tem for this hearing.**

**MOTION: Ms. Engerman moves to continue the public hearing for Petition #17-17 – JNJ Holdings, LLC – 2371 Cranberry Highway to the next meeting date, but not to continue the hearing further after that. No one seconded, thus the motion failed.**

**MOTION: Mr. Baptiste moves to continue the public hearing for Petition #17-17 – JNJ Holdings, LLC to June 14, 2017. Mr. Eacobacci seconded.**

**VOTE: (2-1-0)**

**NOTE: Mr. Elkallassi returned as Chair.**

- B. Petition #18-17 – CTG Properties, LLC – 3067 Cranberry Highway (*Applicant has requested a continuance to June, 14, 2017*).**

The applicant has requested a continuance to June 14, 2017.

**MOTION: Mr. Eacobacci moved to continue the public hearing for Petition #18-17 – CTG Properties, LLC – 3067 Cranberry Highway to June 14, 2017. Mr. Baptiste seconded.**

**VOTE: (3-1-0)**

- C. Petition #22-17 – John Spinale – 9 Oak Hill Road**

Present before the Board: Brad Bertollo, JC Engineering, Inc.  
John Spinale, Homeowner

Mr. Spinale stated he had a discussion with the abutters at the hearing and the abutters have a question re: zoning and they would appreciate if the question could be answered first.

Present before the Board: Sean McCaffrey, Abutter

Mr. McCaffrey reiterated that Section 1335, subsection C states "... should the Board conclude that the proposed change would substantially increase the nonconforming nature of the structure or lot, then the applicant will not be entitled to the issuance of a Special Permit". He feels that the interpretation of this section (increasing the house size of the lot) intensifies the non-conforming structure. He stated if the house will be no more than 28', then he is not grieved with the construction of the house.

The Board members stated this is a pre-existing lot and they do not feel the construction of the home is making the structure or the lot more non-conforming.

Present before the Board: Dave Talty, Abutter

Mr. Talty stated he understood the hearing was previously continued to seek counsel on the percent detriment of view and also so the Board could make a site visit.

Mr. Elkallassi explained that he did make a sight visit and he feels the construction of the house will not be a detriment to the neighbors. However, Town Counsel has not responded to the Board re: at what percentage of view loss should a project be denied. He concurs that the construction of the applicant's house will not be a detriment to the neighbors.

Mr. Talty argued that the Board should have received the opinion of Town Counsel re: the detriment of the project on his view. Mr. Eacobacci stated that Mr. Talty does not have a view easement and view is a consideration of approval or denial, but not a requirement.

Discussion ensued with the abutters & the Board re: if loss of view is a detriment or not.

Mr. McCaffrey asked that if the project is approved, the building height be made a part of the conditions of approval. Mr. Eacobacci stated all approvals reference the plans that were approved at the time in the conditions.

Discussion ensued.

Mr. Elkallassi stated if the project is approved, the height of the house could not be over 28', the siding must be cedar shingles or cedar impression vinyl, and the shed must be removed.

**MOTION: Mr. Eacobacci moved to close the public hearing for Petition #22-17 – John Spinale – 9 Oak Hill Road. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

**NOTE: Mr. Elkallassi explained the Board has 45 days to make their decision and they will make a decision within that time and inform the applicant and abutters of the decision.**

#### **IV. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS**

##### **A. Correspondence**

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

**B. Upcoming Hearings:**

<b>June 14, 2017</b>	<b>#23-17</b>	<b>Lisa Williams Cordeiro</b>	<b>28 Old Glen Charlie Road</b>
<b>June 14, 2017</b>	<b>#24-17</b>	<b>David Parker</b>	<b>105 Minot Avenue</b>
<b>June 14, 2017</b>	<b>#25-17</b>	<b>Paul Driscoll</b>	<b>63 Puritan Avenue</b>

- V.     NEW BUSINESS** (This time is reserved for topics that the Chairman did not reasonably anticipate.)

**III.   ADJOURNMENT**

**MOTION:**    **Mr. Eacobacci moved to adjourn the meeting. Mr. Baptiste seconded.**

**VOTE: Unanimous (4-0-0)**

Date signed: \_\_\_\_\_

Attest: \_\_\_\_\_

James Eacobacci, Clerk

WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: \_\_\_\_\_