

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: June 14, 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
Jan Kendrick
Jake Morrison, Associate member

Members Absent: Ernie Alden, Associate member

Also present: Kenneth Buckland, Town Planner

III. PRELIMINARY BUSINESS

A. Approve meeting minutes: May 24, 2017.

MOTION: Mr. Eacobacci moved to approve the meeting minutes of May 24, 2017. Ms. Engerman seconded.

VOTE: Unanimous (5-0-0)

B. 307 Main Street – Ossama Mohamed – Plan Waiver

Present before the Board: Attorney Leonard Bello

Mr. Bello explained that Mr. Mohammed is requesting the requirement of the Site Plan be waived until the hearing itself, at which point the applicant will provide a plan at the request of the Board. He stated this application applies to the use, therefore a Site Plan is not required.

Brief discussion ensued.

MOTION: Mr. Eacobacci moved to grant a waiver re: the Site Plan with the Board reserving the right to request a plan at a later date for Ossama Mohamed. Ms. Kendrick seconded.

VOTE: Unanimous (5-0-0)

C. Discussion: Modification request relative to Petition #30-16 – Thomas Forend – 19 Riverside Drive

Present before the Board: - Bill Lockwood, Lockwood Architects

Mr. Lockwood stated this project was previously approved. He is applying for a minor modification. He explained the applicant would like to continue the deck along the side of the building in lieu of stopping it short.

Brief discussion ensued re: if this is a minor or major modification request.

MOTION: Mr. Eacobacci moved the Board consider this request for Petition #30-16 – Thomas Forend – 19 Riverside Drive as a major modification and request that this be re-advertised as such. Mr. Baptiste seconded.

VOTE: Unanimous (5-0-0)

D. Discussion re: decision for Petition #22-17 – John Spinale – 9 Oak Hill Road

It was stated this petition was previously heard and the Board has convened to make a decision on the project. Discussion ensued.

MOTION: Mr. Eacobacci moved & Ms. Engerman seconded to grant a Special Permit to raze and re-construct a single-family dwelling for Petition #22-17 – John A. Spinale, Jr. – 9 Oak Hill Road finding the proposal will not substantially increase the non-conforming nature of the lot, and will in fact, not change the non-conformity in any way, further, it is also determined that the alteration of the conforming structure on a non-conforming lot is not more detrimental to the neighborhood because the structure is a single-family residential structure in keeping with the neighborhood and the height is limited to less than the zoning district allows, and further, to ensure the height is limited, the Board conditions the approval with the following conditions:

- Standard conditions apply.
- Construct per plan dated 3/16/16 by Architecture by SPB.
- Construct per site plan dated 3/2/17 by JC Engineering, Inc.
- Height of structure not to exceed 28'.
- Shed to be removed.
- Siding to be Hardy plank, cedar, or vinyl cedar impression.

VOTE: (4-1-0)

IV. PUBLIC HEARINGS

A. Petition #23-17 – Lisa Williams Cordeiro – 28 Old Glen Charlie Road

Present before the Board: Attorney Leonard Bello
Lisa Williams Cordeiro

Attorney Bello explained the petitioner is seeking to demolish an existing foundation and construct a new single-family home. The lot in question contains 10,395 s.f. In 1970 there was a house moved onto the lot. In 1975/76 the house burned down. The zoning in the district changed in the time period between the house being moved and the house burning down. The zoning requirements initially required the lot contain only 10,000s.f. The lot is currently in an MR-30 zone, requiring more square footage. The building is non-conforming; however, the Bylaw states that a house can be re-built if destroyed by fire through a Special Permit as long as the building is not a larger footprint or closer to the road as well as other criteria.

Attorney Bello explained re-building the house would be more desirable to the neighborhood. The previous footprint was encroaching onto Glen Charlie Road with a 0' front setback. The current proposed structure would be set back 10'. The house would be closer to the right lot, which is a state owned unbuildable lot. Should a Variance be required, the shape and topography meet the requirements of a hardship.

Mr. Elkallassi stated a full size plan stamped by an engineer and an architectural plan is required.

MOTION: Mr. Eacobacci moved to continue the public hearing for Petition #23-17 – Lisa Williams Cordeiro – 28 Old Glen Charlie Road to June 28, 2017. Ms. Kendrick seconded.

VOTE: Unanimous (5-0-0)

B. Petition #24-17 – David Parker – 105 Minot Avenue

Present before the Board: David Parker, Preservation of Affordable Housing

Mr. Parker explained he is requesting a Variance to remove and replace two existing signs located at 105 Minot Avenue. There was previously a landscape island in the entrance; however, due to repeated damage from snow plows in the winter, the center median has been removed.

Brief discussion ensued.

MOTION: Mr. Eacobacci moved to close the public hearing for Petition #24-17 – David Parker. Ms. Kendrick seconded.

VOTE: Unanimous (5-0-0)

MOTION: Mr. Eacobacci moved & Ms. Kendrick seconded to grant a Variance to remove and replace two (2) existing signs for Petition #24-17 – David Parker – 105 Minot Avenue finding that Section 1125 of the Zoning Bylaws allows a Variance to the Sign Bylaws, and further, the Board finds that strict application of the zoning would create undue hardship for public notification of the property and buildings thereon. The locations of the existing signs have proven acceptable and in the public interest, so replacement of the signs is granted, further, the size and location of the replacement signs shall be as submitted and the following conditions apply:

- **Standard conditions apply.**

VOTE: Unanimous (5-0-0)

C. Petition #25-17 – Paul Driscoll – 63 Puritan Avenue

Present before the Board: Paul Driscoll

Mr. Driscoll stated he is requesting a Special Permit/Variance to construct a wrap-around deck. He stated he would like to construct a porch that is 12' in front and goes around the house 6'. This does not encroach on side setbacks, but does go over the front setback by 4'.

Mr. Elkallassi stated he did not have an opportunity to drive by the property and he would like to continue the hearing to see the site.

MOTION: Mr. Eacobacci moved to continue the public hearing for Petition #25-17 – Paul Driscoll – 63 Puritan Avenue to June 28, 2017. Ms. Kendrick seconded.

VOTE: Unanimous (5-0-0)

V. CONTINUED PUBLIC HEARINGS

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

Present before the Board: Attorney Leonard Bello

NOTE: Mr. Elkallassi recused himself from this hearing. Mr. Eacobacci will act as Chair and Mr. Morrison will vote instead of Mr. Elkallassi.

Attorney Bello explained this is a reconsideration of a Special Permit for a detached garage which is proposed to be 42'x26'. When this lot was created, there was a 20,000 s.f. requirement. The lot was purchased as a grandfathered lot. When the property was purchased, there was an indication of a potential garage on the lot. The applicant could have constructed the garage at the time. The setbacks of this zone are unreasonable for the lot size. The applicant presented the 2012 plan that shows a proposed garage that was never built. Mr. Eacobacci asked if the Board could obtain a copy of the 2012 plan for reference.

Brief discussion ensued.

MOTION: Ms. Kendrick moved to close the public hearing for Petition #43-16 (B) – Christopher McIntosh – 22 High Dam Road. Mr. Baptiste seconded.

VOTE: (4-1-0)

Ms. Engerman is opposed

MOTION: Mr. Baptiste moved & Ms. Kendrick seconded to grant a Special Permit to construct a garage for Petition #43-16 (B) – Christopher McIntosh – 22 High Dam Road finding the project will not be a detriment to the neighborhood, there is not a significant increase in non-conformity and further, said Special Permit is subject to the following conditions:

- Standard conditions apply.

VOTE: (4-1-0)

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

Present before the Board: Brian Grady, G.A.F. Engineering, Inc.
Andrea McKnight

NOTE: Mr. Elkallassi recused himself from this hearing. Mr. Eacobacci will act as Chair and Mr. Morrison will vote instead of Mr. Elkallassi.

This matter is a continuation. Ms. McKnight asked if they could address the Variance concerning the landscape buffer first. There was no objection from the Board.

Ms. McKnight noted all the lots in the area are different shapes and sizes. There is an existing slab on site that had a 24'x36' addition. The applicant is proposing to remove the addition on site and return the slab to 48'x96'. The existing concrete slab will then add an additional 54'. This cuts into the required landscape buffer. The lot itself is coarse sand and gravel. Turning the building would not be feasible as it would encroach on the wetland setback.

Ms. McKnight stated if there were a buffer between industrial and industrial or commercial to commercial it would require a 10' buffer; however, it's industrial to commercial, so a 20' buffer is required where the applicant has only 13'.

Mr. Rowley stated the layout of the building could be jogged in order to avoid the landscape Variance. Ms. McKnight feels this would create the loss of a car bay.

Mr. Eacobacci asked if this is something which could be discussed with the petitioner as he feels he would be sympathetic if it would impact the business, but if it wouldn't have a negative impact on business, he feels this would be the most favorable option.

Mr. Grady stated this site was previously a car dealership in the 1950's. He explained this project would be an improvement to the site and the neighborhood. The space is proposed to hold 104 cars on the lot. There will be a rear car storage area for 40 cars on a temporary basis. There will be room for ten (10) cars in the service bay and the remainder of the cars out front for display. The cars will be bought from dealer auction, serviced on site (including detailing). The turnaround is expected to be up to a week. The petitioner does not anticipate having that many cars on the lot, but that is the number they are going to request from the Selectmen. There will be 19 employee parking spaces on site. A drainage report has been submitted. Mr. Grady has responded to Mr. Rowley's review letter.

Ms. Engerman stated there is no information re: the requirements to wash the cars on the lot. She would like to know where the cars will be washed. Mr. Eacobacci stated Mr. Elkallassi could return to the room to answer questions as the applicant.

Mr. Eacobacci would like to see an elevation of the building.

NOTE: Mr. Elkallassi returned to the room as the petitioner to answer questions.

Ms. Engerman asked Mr. Elkallassi if he intends on washing cars in the front and rear of the building. Mr. Elkallassi stated the cars in the rear lot will be cars that are not ready for sale. These cars will not be washed and will not be shown to potential buyers.

Ms. Engerman expressed concern re: if the cars will be washed every day. Mr. Elkallassi stated the cars will not be washed every day. Ms. Engerman feels the water usage should be included as should the size of the septic. Mr. Elkallassi stated the Board of Health will determine the size of the septic tank. Mr. Grady stated the water from car washing will not go into the septic tank. The water will go through the drainage on site.

Ms. Engerman asked if the area where the cars will be parked will be paved. Mr. Elkallassi stated the area will be paved.

Mr. Elkallassi asked if the proposed addition will interrupt the last two proposed bays if the addition were jogged forward. He asked how many feet the addition would be pushed forward. Mr. Eacobacci stated approx. seven feet. Mr. Grady stated it would be more likely ten feet.

Mr. Rowley stated there is a landscaping concern he feels the Board should address. If this is considered a new project, it requires a landscape plan. Mr. Grady stated the landscape plan was prepared by a landscape architect and will be stamped.

The Board discussed the landscape Variance and they feel the encroachment is minor and the Variance could be granted.

Mr. Rowley stated he does not feel there is adequate hardship related to the lot to grant the Variance.

Ms. McKnight asked if the hearing could be continued to allow the applicant time to address the concerns of the Board.

MOTION: Ms. Kendrick moved to continue the public hearing for Petition #17-17 – JNJ Holdings, LLC – 2371 Cranberry Highway to June 28, 2017. Mr. Baptiste seconded.

VOTE: Unanimous (4-0-0)

NOTE: Mr. Elkallassi returned to the table as Chair.

C. Petition #18-17 – CTG Properties, LLC – 3067 Cranberry Highway (*Applicant has requested a withdrawal of the petition without prejudice*).

MOTION: Mr. Eacobacci moved to withdraw the application for Petition #18-17 – CTG Properties, LLC – 3067 Cranberry Highway without prejudice per the request of the petitioner. Ms. Kendrick 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.

NOTE: Present before the Board: Mike Giancola, 72 Minot Avenue

Mr. Giancola stated he has moved his sign and striped the parking spaces. He is requesting a Variance for the parking. There was an area that was to be landscaped and it was paved instead so a Variance is requested for that as well.

Mr. Eacobacci is not sure this required a Variance initially.

Mr. Elkallassi stated the Board will go through each line item and decide if it can be waived or must be addressed.

At the previous hearing the Board decided to waive the curb stops at the rear of the property. The line striping was done and came up seven (7) spaces short. This is something the Board must discuss. The area around the utility pole was shown to be loamed and seeded, but it was paved. This was not addressed at the previous hearing and needs to be addressed now. The signs and sagging around the drainage have been addressed. The planting is holding.

There is an extra handicapped parking space in the rear of the building. The Board asked that spot can be eliminated in the back and moved to the front of the building due to the spacing back to his lot, not just to the pavement.

MOTION: Mr. Eacobacci moved to grant waivers for the seven (7) parking spaces, waive the requirement of a new site plan, and accept the paved area in the rear of the building with the condition that the handicapped parking space be moved. Mr. Baptiste seconded.

VOTE: (4-1-0)

B. Upcoming Hearings:

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: _____

Attest: _____

James Eacobacci, Clerk

WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: _____