

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: September 14, 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
Karl Baptiste
Jan Kendrick
Jake Morrison, Associate member
Ernie Alden, Associate member

Member Absent: Wilma Engerman

I. PRELIMINARY BUSINESS

A. Re-organization of the ZBA

MOTION: Mr. Eacobacci moved the ZBA recommend to the Selectmen to remove Associate member Tim Lydon from the ZBA. Ms. Kendrick seconded.

(4-0-0)

B. Approve meeting minutes: August 10, 2016

MOTION: Mr. Eacobacci moved to approve the meeting minutes of August 10, 2016. Mr. Baptiste seconded.

VOTE (3-0-1)

C. Surety for 6 Beaver Creek Solar

Present before the Board: No one was present to represent the discussion..

It was stated that Beaver Creek were supposed to complete a surety and they have not yet been commissioned. It was also stated that Beaver Creek Road also needs to be completed.

II. PUBLIC HEARINGS

A. Petition #37-16 - Ed Lavelle – 18 Nanumett Street

Present before the Board: Ed Lavelle

Mr. Lavelle stated he is requesting a Variance to subdivide land into three (3) separate lots. He noted the personal hardship he has, but the Board concurred that the request does not meet the hardship requirements.

Based on the Building Commissioner's letter dated July 27, 2016, all three proposed lots will lack the required frontage and land space, however, they will be similar in size & shape to other lots in the neighborhood. The property is in an MR39 zone, so the request will require a Variance from Section 321 of the Zoning Bylaws.

MOTION: Mr. Eacobacci moved to close the public hearing for Petition #37-16 – Ed Lavelle – 18 Nanumett Street. Mr. Baptiste seconded.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moved to deny Petition #37-16 – Ed Lavelle – 18 Nanumett Street for a Variance to subdivide land into three (3) separate lots due to the fact that the Variance request did not meet the statute for a Variance under MA General Law 48, section 10. Mr. Alden seconded.

VOTE: (5-0-0)

III. CONTINUED PUBLIC HEARINGS

A. Petition #27-16 – Boone Ferri – 3127 Cranberry Highway

The applicant has requested a continuance.

MOTION: Mr. Eacobacci moved to continue the public hearing for Petition #27-16 – Boone Ferri – 3127 Cranberry Highway to November 9, 2016. Ms. Kendrick seconded.

VOTE: (5-0-0)

B. Petition #31-16 – Patricia Moncey – 41 Oak Street

Present before the Board:

The Board discussed the concerns of the petitioner. The petitioner still believes that the garage will be turned into a guest house. The petitioner is concerned with the noise and fire hazard of the heat pumps.

MOTION: Mr. Eacobacci moved to close the public hearing for Petition #31-16 – Patricia Moncey – 41 Oak Street. Mr. Baptiste seconded.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moved to deny the request to appeal the decision of the Building Inspector under MGL Chapter 40A, Section 6 & the Wareham Zoning Bylaws for Petition #31-16 – Patricia Moncey – 41 Oak Street. Mr. Morrison seconded.

VOTE: (5-0-0)

C. Petition #32-16 – Alternate Power & Energy – 418 County Road

Present before the Board: No one was present to represent the application

MOTION: Mr. Eacobacci moved to continue the public hearing for Petition #32-16 – Alternate Power & Energy to September 28, 2016. Ms. Kendrick seconded.

VOTE: (5-0-0)

D. Petition #33-16 – Douglas Bourgault d/b/a Cape & Islands Tire – 3057 Cranberry Highway

Present before the Board: Bill Madden, G.A.F. Engineering, Inc.

Mr. Madden explained the original building collapsed in a snow storm in 2014. The applicant is requesting to construct a smaller building. The original building met all setbacks. The new building exceeds lot coverage and building coverage, which is a pre-existing, non-conforming element of the site. The applicant is requesting a Special Permit to construct the new building.

Mr. Madden stated they cannot use the concrete pad due to cost. Brief discussion ensued re: the project.

MOTION: Mr. Eacobacci moved to close the public hearing on Petition #33-16 – Douglas Bourgault d/b/a Cape & Islands Tire – 3057 Cranberry Highway. Ms. Kendrick seconded.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moved & Ms. Kendrick seconded to grant a Special Permit for Petition #33-16 – Douglas Bourgault d/b/a Cape & Islands Tire – 3057 Cranberry Highway to reconstruct a pre-existing non-conforming structure that was destroyed and is to be rebuilt as a new commercial building in a similar yet somewhat smaller footprint as shown on plans dated July 13, 2016, & further, the Board finds the following:

- Pre-existing conditions on the site & within the district allow the building reconstruction as proposed.
- The convenience & safety of vehicular movement is accommodated.
- The character of the structures w/in the site & in relation to existing structures w/in the district is compatible.

- Compliance with all applicable sections of the Zoning Bylaw has been demonstrated.
- The proposal meets the standards for issuance of a Special Permit as proposed, and further, the following conditions apply:
- Standard conditions.
- The project to be built per revised plans prepared in accordance with these conditions.
- No pre-existing foundation is to remain outside the “footprint” of the new structure. The remains of the existing loading dock in the front of the building façade shall be reconstructed so it may not be used as a loading dock, & further, will not appear from the public street to be a loading dock.
- The stormwater management plan & calculations shall be submitted to the Town Engineer for review & approval prior to issuance of a building permit.
- The curb cut permit shall be secured prior to issuance of a Certificate of Occupancy. The project shall comply with all requirements necessary for obtaining road opening permits for driveways & utilities prior to issuance of a Certificate of Occupancy.

VOTE: (4-0-0)

E. Petition #35-16 – 260 County Road Solar, LLC – 260 County Road

Present before the Board: Richard Rheume, Prime Engineering

The Board & Mr. Rheume briefly reviewed the project.

It was stated the Health Inspector has recommended the Board make a condition that all stumps be ground before the installation of the solar panels.

MOTION: Mr. Eacobacci moved to close the public hearing for Petition #35-16 – 260 County Road Solar, LLC – 260 County Road. Ms. Kendrick seconded.

VOTE: (4-0-0)

MOTION: Mr. Eacobacci moved to grant a Special Permit for Petition #35-16 – 260 County Road Solar, LLC – 260 County Road to install a ground mounted photovoltaic solar array with findings & conditions outlined in a decision filed w/ the ZBA office. Ms. Kendrick seconded.

VOTE: (4-0-0)

IV. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS

A. Correspondence

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

B. Upcoming Hearings

September 28, 2016	Petition #38-16	Patricia Moncey	41 Oak Street
September 28, 2016	Petition #39-16	David & Carolyn Wescott	3-4 Tuckwood Place
September 28, 2016	Petition #40-16	Anthony & Bonnie Piazza	9 Hammond Street
September 28, 2016	Petition #41-16	Alternate Power and Energy	418 County Road

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. Ms. Kendrick seconded.

VOTE: (4-0-0)

Date signed: _____

Attest: _____

James Eacobacci, Clerk

WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: _____