

Wareham Zoning Board of Appeals
Wednesday, February 28, 2024 – 6:30 p.m.
Minutes

Location: Wareham Multi-Service Center, 48 Marion Road, Wareham, MA, Room 320.

The following record pertains to a meeting held by the Zoning Board of Appeals at 6:30 PM local time. A video recording of this meeting is available for viewing. The record of the proceedings includes the videotape of the meeting, the resolutions passed, and any document presented during the course of the meeting.

I. CALL MEETING TO ORDER

Mr. Elkallassi called the meeting to order at 6:32 p.m.

II. ROLL CALL

Present: Chairperson, Nazih Elkallassi, Jim Eacobacci, Richard Semple, Troy Larson, and Veronica DeBonise

Building Commissioner, Paul Turner was present.

Sonia Raposa, Department Planning Board Assistant was present.

Planning Director, Ken Buckland was present.

Mr. Semple acknowledged that Mr. Buckland is retiring and wants to wish him well!

III. PRELIMINARY BUSINESS

1. Approval of Meeting Minutes: 02/14/24

Mr. Eacobacci made a motion to accept the minutes of 2/14/24 which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0)

2. 2-21 Settler's Glen LLC. 40B Project Request for Extension – 3128B Cranberry Highway

Attorney, Michael O'Shaugnessy of Middleboro stated this permit would retire in May 2024 and was asking for a three-year extension. Mr. Elkallassi asked why they were requesting three years. Mr. O'Shaugnessy stated they did have issues with the water department and the interest rates aren't that great to do this type of development. He also stated one of the directors of the LLC had passed in the fall.

Mr. Eacobacci made a motion to grant a one-year extension which was seconded by Mr. Larson. The motion passed unanimously. (5-0-0)

3. 17-22 Eleete Development LLC – Minor Modification Request – 108 High Street

Mr. Eacobacci recused himself as he had a conflict.

Mr. Eacobacci reviewed the plan, and they need more pavement than is there. He said they presented a plan with more pavement is there. He also said that he felt more pavement would be more detrimental than not paving, and adding the pavement to the grassy area would remain the same. Mr. Semple stated he did a site walk and also thought there was a lot of pavement. He said it seemed there was enough parking for what was going on.

Mr. Grady stated they submitted plans and proposed additional parking to the left of the new one-bedroom units. He stated in the front of the property there was only planned Parking to Garage and a circular drive in the front with additional parking was added.

Motion to approve: Mr. Larson motioned to grant the relief for the parking as requested which was seconded by Ms. DeBonise. The motion passed unanimously. (4-0-0)

4. 56-21 DB Delivery MA, LLC dba Doobie – Minor Modification of Special Permit Request – 4 Recovery Road

Erica Kennedy was present.

Mr. Turner stated he presented a letter this evening, as the applicant requested a change of use this morning. He explained in the letter that the applicant is requesting two separate deliveries in the Town of Wareham, under the same entity.

Mr. Buckland stated it was an extension of a delivery service as the bylaw doesn't distinguish between and not a separate one.

The board agreed and had no concerns.

Motion to approve: Mr. Eacobacci motioned to grant the relief as requested as a minor modification of the special permit which was seconded by Mr. Larson and passed unanimously. (5-0-0)

IV. CONTINUED PUBLIC HEARINGS:

1. 21-23 Angela McKeowen – Reconsideration of Application – 386 Main Street

Attorney Jillian Morton was present for the applicant. Ms. Morton reviewed the reconsideration of the application that was presented a month ago, which had two sustained. She said the determination may have been issued with the cease and desist. She said she believes the cease and desist has been lifted and it's a four-family home.

Mr. Eacobacci stated that the issue may be once denied as a two-year stand unless there is a major modification.

Ms. DeBonise stated she believed it was an access issue that Mr. Semple and Mr. Elkallassi made their vote against or abstained. Mr. Elkallassi stated the reason didn't matter, it had to be a major modification.

Ms. Morton stated that she didn't feel there was enough information to deny because of the access just because the attorney stated that. She said the vote or abstaining wasn't specific to what was being requested. Mr. Elkallassi said their decision had no bearing to reopen the case, he believed the project had to have a substantial modification. Ms. Morton read from the law regarding the "unfavorable decision"; case law in reconsideration, 170-Tremblay vs. Town of Tewksbury.¹

She said the issue for the abstain was for the road not for the deed, she said the deed is being worked on and is a change.

Ms. Morton stated she did resend a notification for the reconsideration of the application.

¹ Case law reconsideration, Site 170-Tremblay vs. Board of Appeals in Tewksbury

Attorney Jonathan Silverstein was on via Zoom. He said the board does not have the authority to grant this modification under these circumstances. He said the denial was filed with no specifications on the deed. He reviewed the statute. He also stated that the applicant had asked for a variance because of the topography, however, he didn't think it was a Topographical problem as all the homes in that area are higher on that side of the wall. He didn't think the case was a hardship either.

Ms. Morton asked that this goes to Attorney Bowan, the Town's attorney.

Mr. Eacobacci stated the board needs to ask the permission of the Selectboard to speak to Attorney Bowan regarding the matter.

Motion to continue: Mr. Eacobacci made a motion to continue until they can speak to Town Counsel and continue to March 13, 2024, and include an extension to March 28, 2024, for the board to make a decision. The motion was seconded by Mr. Semple and passed unanimously. (5-0-0)

2. 45-23 Joshua DeOlim – Special Permit and Variance(s) – 2613 Cranberry Hwy
Attorney Perry was present for the applicant. He explained that the last time they met, Mr. Conti stated the paperwork wasn't in order for a minor modification. Mr. Perry reviewed the application with the board. He said he filed for a minor modification to go from thirty-seven to nine cars.

Ms. DeBonise said she doesn't think it's a substantial change to lower the number of cars.

Mr. Eacobacci stated he felt that it may be a substantial change and Mr. Semple agreed. Mr. Elkallassi stated that he also feels this is a substantial change.

Attorney Perry said he filed the paperwork for a site plan review. Mr. Elkallassi stated that it might be better for them to get the opinion of the town attorney.

Mr. Conti, of 2614-2616 Cranberry Highway, a direct abutter was present. He stated he has brought this back before as a repetitive request. He said the board denied the permit and it shouldn't keep coming back.

Mr. Eacobacci confirmed what they were asking the Town attorney about. He said they are reviewing the 45-23 application.

Motion to continue: Mr. Eacobacci motioned to continue 45-23 Joshua DeOlim to March 13, 2024 which was seconded by Mr. Larson. The motion passed with Ms. DeBonise in opposition. (4-1-0)

1. PUBLIC HEARINGS:

1. 5-24 Walid Eldayba – Special Permit & Site Plan Review – 2544 and 2546 Cranberry Highway

Mr. Eacobacci read the legal advertisement for the record.

Attorney Jillian Morton was present along with Mr. Bill Madden of GAF Engineering. Ms. Morton reviewed the application with a little history. She stated they provided exterior and

interior plans. She said they will be doing sales and service, but no towing. Ms. Morton stated she has letters of support to hand in.²

Mr. Madden reviewed the parking on the site. They are seeking a nine-used car license. He stated they have appropriate handicapped parking spaces on the parcel. He said there are two wheelchair-accessible parking spaces near the building. He said the office is not separated for parking to determine the parking spaces. He stated there are twenty-six spaces available.

Mr. Turner reviewed that one bay area equals five parking spaces. He said they would need forty-four parking spaces. He explained the building code goes against each room in the building. Mr. Madden confirmed they have twenty-six.

Ms. Morton stated the town engineer account has been opened and they have not heard back as of yet, but they just opened that account the week before.

Mr. Semple stated they needed to review the overall picture. He said if they didn't need them identified as 'office' they should change the wording on the plan. He said he's reviewing the plan for, the first and second floors.

Mr. Coleman, the manager for the project stated there are twenty cars on the property currently. He said there is one office upstairs, but the other ones are used for storage. He said there is an 'office'/multipurpose room on the first floor.

Mr. Turner asked about the service area compared to the office area. He confirmed the square footage for service vs. office. He said that over 5,000 square feet require a sprinkler system per the building code. He said it goes by the plan that is presented.

Mr. Coleman stated that the 'service department' isn't all garage space, there is a waiting room as well as a storage area.

Mr. Elkallassi stated they need to change the labeling of the plans. He said they should wait for the response from the Town Engineer as well.

Ms. Morton stated the previous owner did not have a permit but was an inspection station only.

Ms. DeBonise asked if the operation would remain the same or add cars for sale as well.

Attorney Morton stated that towing and autobody had been previously applied by the previous owner. She said it's about the same minus the towing.

Mr. Madden asked what the expectations are for stormwater management. Mr. Elkallassi said he'd like to wait to hear from the town engineer.

Ms. DeBonise said she would like to do a site visit.

There was no public comment.

Motion to continue: Mr. Eacobacci motioned to continue to March 13, 2024, which was seconded by Mr. Semple and passed unanimously. (5-0-0)

² Letters of support for 5-24 Walid Eldayba

2. 6-24 TTR, LLC. – Special Permit & Variance – 3 Tow Road

Mr. Eacobacci read the legal advertisement in for the record.

Charles Morris, 13 Lakewood Drive, Dover, MA was present stating he purchased the property at 3 Town Road a year ago. He stated it was previously used as a repair garage and tow lot. He would like to change it to a general construction business. He said they'll use 1400 sq ft for office space and then the rest will be used for material storage, fabrication and equipment and repair of equipment(s) they own. He said the building commissioner identified this as a change of use.

Mr. Elkallassi explained the process with a site plan that is required, and it has to go out to the town engineer. He explained a 53G account needs to be opened and a full site plan is needed for landscaping, lighting, etc.

Mr. Eacobacci confirmed that there is a cease-and-desist on 3 Tow Road currently; as they were operating without a permit.

The board discussed what the change of use is going to be and to move forward.

There was no public comment.

Mr. Eacobacci made a motion to continue to March 13, 2024, which was seconded by Mr. Semple and passed unanimously. (5-0-0)

2. ANY OTHER BUSINESS/DISCUSSIONS

Ms. DeBonise asked why they decided to vote at the end. She said if there is not a unanimous vote then the applicant wouldn't know if they waited until the end of the meeting. Mr. Semple agreed that perhaps it's better housekeeping to do the vote at the end of the hearing.

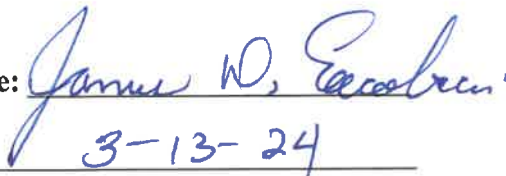
Mr. Eacobacci made a motion that the ZBA request the Selectboard to seek town counsel opinion on both 21-23, 386 Main Street and 45-23 for DeOlim, which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0)

Mr. Elkallassi stated they should review the bylaw for parking at garages. Mr. Eacobacci agreed they should do it in increments. He explained the first three require five cars, the next seven only two. Mr. Elkallassi recommended they review the bylaw for the office spaces as it relates to use/service in a garage. The board continued to discuss this and will revisit it in the future.

3. COMMENTS FROM BOARD MEMBERS

Mr. Eacobacci made a motion to adjourn, which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0)

Clerk's Signature:



Date:

3-13-24

WAREHAM TOWN CLERK
2024 MAR 20 PM2:53