

Wareham Zoning Board of Appeals
Wednesday, December 27, 2023 – 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 6:30 p.m.

II. ROLL CALL

Present: Chairperson, Nazih Elkallassi, Jim Eacobacci, Richard Semple, Troy Larson and Veronica DeBonise (arrived at 6:49 p.m. via Zoom)

Building Commissioner, Paul Turner was present.
Ken Buckland was present from the Planning Office via Zoom.
Town Counsel, Richard Bowen was also present via Zoom.

III. PRELIMINARY BUSINESS

1. Approval of Meeting Minutes: 12/13/2023

Mr. Eacobacci made a motion to approve the minutes as presented, which Mr. Semple seconded. The motion passed unanimously. (4-0-0)

IV. CONTINUED PUBLIC HEARINGS:

1. 39-23 Wareham Cranberry LLC – Use Variance – 3020 Cranberry Highway
(Request to continue to December 27, 2023)

Attorney Jillian Morton asked for a continuance to January 24, 2024, and explained that they have a new tenant.

Mr. Eacobacci made a motion to continue to January 24, 2024, which was seconded by Ms. DeBonise. The motion passed unanimously. (5-0-0). Ms. Morton said she would authorize the extension to February.

2. 45-23 Joshua DeOlim – Special Permit and Variance(s) – 2613 Cranberry Highway

Attorney Bob Perry was present with the applicant and from JC Engineering, Sam Iamele was also present. Attorney Perry stated they have changed their model of the business to be under nine vehicles.

Mr. Iamele reviewed the changes on the new plan. They are looking to eliminate one of the garage bays. Increasing the landscape buffer, 10' on the west side and 20' from the rear of the property to the residents in the back. Mr. Perry stated they wouldn't need a site plan review since they are reducing the number of cars to nine or under.

Mr. Eacobacci said he's satisfied with what the applicant wants to do at this time. Mr. Elkallassi asked Mr. Turner if there were any violations. Mr. Turner stated there were none at this property but at the father's property next door.

Mr. Conti, a direct abutter, was present to speak in opposition. He said he hadn't reviewed the new site plan and was confused with the application. He also stated the one-family home has been turned into a two-family and that's in violation.

Mr. Elkallassi asked for them to continue for another two weeks so that Mr. Turner can review the plans.

Mr. Turner said he cited the dad, Mr. Olim for illegal business on the property to the West side. Mr. Elkallassi asked for a certified lot letter to be submitted as the lot they are stating is not buildable.

Motion to continue: Mr. Eacobacci motioned to continue to January 10, 2024, which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0)

Attorney Perry agreed to a deadline extension to February 29, 2024.

3. 47-23 New Cingular Wireless – Special Permit – 25 Brown Street

Mr. Eacobacci made a motion to continue to January 10, 2024, which was seconded by Mr. Larson. The motion passed unanimously. (5-0-0)

4. 49-23 Kelsey McKenna & Jonathan Dallmeyer – Appeal – 504 Main Street

Attorney Jillian Morton asked for a continuance to January 10, 2024, as they are speaking to abutters and counsel.

Mr. Eacobacci made a motion to continue the application to January 10, 2024, which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0)

5. Discussion and possible vote – Rules & Regulations for SPR & Special Permit

Mr. Buckland explained what was added in the new instruction sheet for applicants as well as fees.

The board discussed waiting until the next meeting to further review and vote on its approval.

V. PUBLIC HEARINGS:

1. 12-23 SHM Onset Bay LLC., - Remand Request for Reconsideration – 18 Green Street

Mr. Eacobacci read the advertisement in for the record.

Attorney Steve Guard was present and stated the case is still ongoing. He reviewed the past vote for the boat heigh racks at 18 Green Street. He explained what happened when they went to court with the judge remanding the case back to this board.

Attorney Bowen explained what the issue is first the non-conformity, reducing it back-side setback was approved. He suggested they take another look at it.

Mr. Eacobacci said his position hasn't changed. He said that the applicant said they would only use the top level in the wintertime (at the height of 45' height).

A resident from 1 Maple Avenue, said there were a lot of neighbors that forwarded emails that couldn't be present because of the holiday week. He asked that the emails be part of the record.

Mr. Bowen suggested a motion to take administrative notice for emails so they will be part of the record. Mr. Eacobacci made that motion which was seconded by Mr. Semple. The motion passed unanimously. (4-0-0).

Rebecca Hemsley, a direct abutter was present and also asked for the emails to be read on the record. She read in her email in opposition to the project and the height of the boat storage. She asked for a feasibility study.

Mr. Elkallassi stated the only thing before them was the height of the racks.

Mr. Turner explained the East side racks with no height and setback issues; he said the West side racks are permitted. He explained that row #3 at 40' as well as the others at 33' per the ZBA decision. He explained the 45' height of the racks by right.

Mr. Larson said that what is in front of them seems like they have the right to have that height.

Ms. DeBonise said that what is brought before them is not in their purview. She said the neighbor had a lot of good points and asked if the Town engineer had reviewed them.

Jason Hayward was present as the Manager.

Mr. Elkallassi asked about the area and the fuel tanks at the property. Mr. Hayward said they were permitted. Mr. Elkallassi said he would review as he thinks they may need a site plan for the fuel tanks. He suggested the public hearing be kept open. He said they are only reviewing the boat racks.

Attorney Bowen confirmed that the racks are what's in front of them. He said regarding the tanks, a permit from the Selectboard and a statement filing with the Fire Department. He said he would recommend a review to the Fire Department. Mr. Elkallassi stated that he believes a site plan review is still needed.

Mr. Eacobacci called for a point of order to stick with what's in front of them which is the racks. He doesn't believe they should continue the public hearing portion.

Ms. DeBonise said she wouldn't be voting as she wasn't present when the attorneys spoke. Mr. Eacobacci made a motion to close the public hearing which was seconded by Mr. Semple. The motion passed with one abstaining (Ms. DeBonise) 4-0-1

Motion to approve: Mr. Eacobacci canceled the language to restrict to 33' as previously stated and have the applicant work within the bylaws as by right. The motion was seconded by Mr. Larson and passed 4-0-1.

Mr. Bowen left the meeting. (7:11p.m.)

2. 51-23 Karen DiMichele – Appeal of Building Inspector Notice of Violation – 43 South Blvd.

Mr. Eacobacci read the advertisement in for the record.

Attorney Jillian Morton was present for the applicant. She said they have owned the property for over sixty years; they are asking for an appeal from the building commissioners' violation. She explained the violation, mahogany poles to hold up curtains, when they are present at the home. The violation is for unpermitted structures. She said they are using the poles for privacy. She said the applicants are in litigation with their abutters. She reviewed what is happening at the home that is currently in litigation. She said the structures were first put up in 2022 and the structures were put up because of the on-going feud between abutters.

Mr. Semple stated he has driven by a few times and can see why the curtain and poles were erected. He said he would prefer that it play out in the court system.

Mr. Eacobacci said he would like to see a no action and refer it to the court system.

Mr. Elkallassi said he would like to uphold the commissioners.

Attorney Fleming was present representing the Lawrences. He said the violation was issued on November 30, 2023. He said this is a zoning violation only.

Attorney Morton said she was happy to submit for a variance.

Ms. Tramontozzi, of 49 W. Central Avenue was present. She spoke in opposition of the mahogany poles and curtains being in the yard.

Ms. Sheehan of 43 W. Central Avenue resident was present and stated the poles and curtains have been up for a year without a permit. She said they may be setting a precedent to allow anyone in Wareham to put up a curtain when they don't get along with their neighbors.

Mr. Eacobacci agreed there was a violation and he wouldn't be comfortable overturning the appeal. He said they would have to request a variance and proceed with that avenue.

Attorney Jillian Morton asked to withdraw, however, she then wanted to speak to her client. She asked for a continuance and will file for a variance.

Mr. Elkallassi said he'd like to see the applicant take the curtains down but keep the poles until the variance is filed.

Motion to continue: Mr. Eacobacci made a motion to continue the public hearing until such time that the applicant withdraws and files with a new application or returns on February 14, 2024, and that the tarps will not be used until the applicant returns which was seconded by Mr. Semple. The motion passed unanimously. (4-1-0) with Mr. Elkallassi in opposition.

3. 52-23 James & Cheryl Enos – Special Permit or a Variance – 41 Riverside Dr.

Mr. Eacobacci read the advertisement for the record.

James & Cheryl Enos were present. Mr. Enos explained they wanted to build a shed dormer, 36' one bedroom with a stairway with a stairway to the basement as well. He said the attic is structural and the footprint wouldn't get bigger. He said he'll go for a six-foot wall and cathedral ceiling. He shared a few letters from abutters that were in favor.

Board members thought it was not detrimental. There was no public comment.

Mr. Eacobacci made a motion to close the public hearing which was seconded by Mr. Larson. The motion passed unanimously. (5-0-0).

Motion to approve: Mr. Eacobacci made a motion to grant relief as a special permit as it is not detrimental with the standard conditions, which Mr. Semple seconded. The motion passed unanimously. (5-0-0).

4. 53-23 JBGC, Inc. – Special Permit and/or Variance – 26 Blissful Lane

Mr. Eacobacci read the advertisement for the record.

Steven H. of 26 Blissful Lane pulled a permit for the house and then the deck. He said they are looking to make the deck smaller for a second egress.

Board members thought it was not detrimental. Mr. Elkallassi said it was going to be less non-conforming.

There was no public comment.

Mr. Eacobacci made a motion to close the public hearing which Mr. Semple seconded. The motion passed unanimously. (5-0-0)

Motion to approve: Mr. Eacobacci made a motion to grant a Special Permit as it's not detrimental and grant the SP as presented on the plans. Mr. Semple seconded the motion and was passed unanimously. (5-0-0).

5. 54-23 Ezequiel Lacerda – Special Permit and SPR – 3090 Cranberry Hwy

Mr. Eacobacci read the advertisement in for the record.

Engineer, Brad Bertolo was present for the applicant along with Attorney Bob Perry, and applicant Mr. Sousa.

Mr. Elkallassi stated they went to the Planning Board to rectify the lines. Attorney Perry confirmed that they got approval from the Planning Board.

Mr. Bertolo reviewed the project as an existing building on a conforming lot and frontage. He said there is a minimum parking, per commissioner, 9.9 parking spaces, they rounded it to ten which triggered the site plan review. He said they are seeking it for a used car lot. He said they are looking to stripe the parking lot only. He said they are not proposing any change to the lot that is there.

Mr. Elkallassi said they need to open a 53G account for a site plan review for landscaping, lighting, etc. He said the Town engineer needs to review the site plan.

Mr. Bertolo stated they are asking for a waiver on that site plan review and are not sure why they need the 53G account.

Mr. Eacobacci reviewed why he understood what the 53G account was for. He said the Town's engineer needs to review the plan.

Motion to continue: Mr. Eacobacci made a motion to continue to January 24, 2024, which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0)

VI. ANY OTHER BUSINESS/DISCUSSIONS

VII. COMMENTS FROM BOARD MEMBERS

Mr. Elkallassi reviewed changes to the Sign By-laws. Discussion regarding the sign by-laws.

Mr. Eacobacci made a motion to adjourn which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0) at 9:15p.m.

Date signed: 1-10-2024

Attest: James W. Eacobacci

James Eacobacci, Clerk

WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: _____