

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: January 10, 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
Karl Baptiste, Sr.
Jan Kendrick
Wilma Engerman
Jacob Morrison, Associate Member

Also present: Ken Buckland
Charles Rowley
David Riquinha, Building Commissioner

I. PRELIMINARY BUSINESS

A. Approve meeting minutes: December 13, 2017 & December 27, 2017

MOTION: Ms. Engerman moves to accept the minutes for December 13, 2017 and December 27, 2017. Mr. Eacobacci seconds.

VOTE: (5-0-0)

II. PUBLIC HEARINGS

A. 1-18 – J Donegan Company – 2419 & 2417 Cranberry Highway and Seth F. Tobey Road

Present before the Board: Matt Smith, Bohler Engineering
J. Donegan, J. Donegan Company

Mr. Smith states that the Aldi's and Auto Zone on the current site have opened and they were hoping to begin the rest of the construction by the spring. Mr. Smith states they have submitted a request for a drive-thru restaurant. They are proposing a 2,400 s.f. Wendy's when previously they had proposed a 4,000 s.f. bank. There are 24 parking space for Wendy's. The plan is otherwise identical to what was originally proposed. There is one other change on the plan, where they had requested an expansion for one of the buildings on site and they will not be expanding that building. Mr. Smith states that the parcel is very unusually shaped. Although it is over an acre in size, there are pieces of Tobey Road that front on it via easement. The driveway on the property cannot be placed anywhere else due to Walmart and they are not proposing another driveway on site to access Wendy's Restaurant.

Mr. Buckland states that the Planning Board had discussed this on Monday night and felt that the traffic impact should be studied again.

The members of the Board do not have any comments at this time. Mr. Elkallassi states he feels that this would create a large amount of traffic. Mr. Smith states that he feels the shape of the lot is beneficial to handling the traffic the restaurant would produce.

Mr. Buckland asks how many cars the drive-thru could hold. Mr. Smith says it depends on how you measure but typically is could hold 9 in the cue.

Mr. Elkallassi asks if Mr. Rowley had a chance to review the plans. Mr. Buckland states Mr. Rowley has not looked at the plans yet.

Present before the Board: Marc Bianco, Planning Board member

Mr. Bianco states that he can only speak for himself, but he feels that the Planning Board is looking at the entire development of Tobey Road and the amount of infrastructure in the area. Mr. Bianco states a large concern is to prevent this area of Tobey Road to reflect Cranberry Highway, which has a multitude of drive-thru's that add dangerous traffic patterns. Mr. Bianco is concerned that traffic could at some points be crossing five lanes of traffic.

Present before the Board: Alan Slavin, Selectman

Mr. Slavin states that if this drive-thru is approved it may cause some disruption in Town as other drive-thru requests have been denied.

Mr. Elkallassi states that this is a unique shaped lot, but he does not feel this is the appropriate site for a drive-thru.

Mr. Slavin states that the general public in the area is also strongly against drive-thru's.

Mr. Smith states that the prior property owner was very involved with the site and donated property to allow this intersection to line up with Tow Road and that the traffic there is handled very well. The intersection was designed to handle the peak flows that happen within the summer months. The applicant had also put in a dedicated right-turn lane to get into the site.

Mr. Elkallassi asks how Ms. Engerman feels about the project. Ms. Engerman states that she feels this will produce a lot more traffic going out to Tobey Road and Cranberry Highway. Mr. Elkallassi asks Mr. Eacobacci's opinion. Mr. Eacobacci states he would like their decision to reflect the needs of the community. Mr. Eacobacci states he is in favor of the drive-thru, but he does feel there is a need for a traffic light at the entrance of Walmart. Mr. Elkallassi asks Mr. Morrison his opinion, Mr. Morrison says he has no comment at this time. Ms. Kendrick states she has no comment at this time. Mr. Baptiste asks if there is already a structure at the entrance to Walmart for traffic lights. Mr. Smith states that was considered, but DOT said they could not put another traffic light on Tobey Road.

Mr. Elkallassi asks how long it would take the applicant to have a traffic study. Mr. Smith stated they could have a traffic study completed within the next two weeks.

Mr. Buckland states he recommends that the applicant come back with findings to support the granting of a Use Variance,

MOTION: Mr. Eacobacci moves to continue the public hearing until January 24, 2017. Mr. Baptiste seconds.

VOTE: (5-0-0)

III. CONTINUED PUBLIC HEARINGS

A. 31-17 – J Donegan Company - 2419 & 2417 Cranberry Highway and Seth F. Tobey Road

Present before the Board: Matt Smith, Bohler Engineering
J. Donegan, J. Donegan Company

Mr. Smith states that they have had a site plan amendment in which they have been continuing in order to figure out where the property was going. Mr. Smith is asking for a continuance until February 14, 2018.

MOTION: Mr. Eacobacci moves to continue the public hearing until February 14, 2018. Mr. Baptiste seconds.

VOTE: (5-0-0)

B. 50-17 – John & Jacquelyn Burroughs – 6 Priscilla Avenue

Present before the Board: John Burroughs, 2 Priscilla Avenue
Frank Westgate, Land Surveyor

Mr. Westgate states that he understands the concern of the last hearing was the height of the building from Plymouth Avenue; the total building height will be 20' and will be 10' above the pavement on Plymouth Avenue. Mr. Elkallassi states there was an abutter concerned with the building obstructing the view of the property. Mr. Riquinha states that view can be a consideration of the Board.

Mr. Elkallassi asked why the building is so high. Mr. Westgate states that the placement of the septic system is what determines the height of the house. The septic system must be raised, and so must the foundation.

Mr. Elkallassi states he feels the building could be lowered to not obscure the neighbors view. Mr. Westgate states that the designer had designed the house and septic that way and had stated the needed the height for frost separation.

Mr. Burroughs states that the neighbor did not have a view of the lake until he cleared trees from the property.

Present before the Board: John & Liz Manuel, 312 Plymouth Avenue

Mr. Manuel states that he has a view of the lake from his property.

Mr. Westgate asked if the Board could vote and decide without prejudice.

Mr. Elkallassi states that the board could make a finding without prejudice if the Board denies the project. Mr. Elkallassi asks the Board their opinion. Ms. Engerman states she doesn't feel that the view is obstructed. Ms. Kendrick states she would be in favor of approving the Special Permit. Mr. Baptiste states that he doesn't believe the view is obstructed. Mr. Eacobacci states that he is not in favor of protecting the view of properties if it is not in their deed.

MOTION: Mr. Eacobacci moves to close the public hearing. Mr. Baptiste seconds.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves that the project is a Special Permit as there is no substantial increase in the nonconformity and this would not result in something that was detrimental to the neighborhood. Mr. Baptiste seconds.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to grant the Special Permit with standard conditions to be constructed to the plan by Sandy Keese dated 10-16-2017 and also the plan by J. Rogers dated 6-3-17. Motion is seconded.

VOTE: (4-0-1) Mr. Elkallassi abstains

IV. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS

A. Correspondence

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

B. Upcoming Hearings:

January 24, 2018	#45-17	Special Permit/Variance	Richard McBrine	55 West Central Avenue
January 24, 2018	#46-17	Special Permit/Variance	Ramos Realty Trust	300 Glen Charlie Road

C. Decision Deadlines

60 Days from Close of Public Hearing	#31-17	Site Plan Review	J. Donegan Company	2419 & 2427 Cranberry Highway and 4 Seth F. Tobey Road
Special Permit – March 13, 2018 Variance – March 23, 2018	#45-17	Special Permit/Variance	Richard McBrine	55 West Central Avenue
Special Permit – March 13, 2018 Variance – March 23, 2018	#46-17	Special Permit/Variance	Ramos Realty Trust	300 Glen Charlie Road
Special Permit – March 13, 2018 Variance – March 23, 2018	#50-17	Special Permit/Variance	John & Jacquelyn Burroughs	6 Priscilla Avenue
Variance – April 20, 2018	#1-18	Variance	J Donegan Company	2419 & 2417 Cranberry Highway and 4 Seth F. Tobey Road

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

VI. ADJOURNMENT

MOTION: Mr. Eacobacci moves to adjourn. Mr. Baptiste seconds.

VOTE: (5-0-0)

Date signed: 1-24-2018

Attest: James D. Eacobacci
James Eacobacci, Clerk
WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: _____

RECEIVED

JAN 31 2018

COUNTY OF WYOMING
TOLSON, J. R.