

MINUTES OF MEETING OF WAREHAM ZONING BOARD

Date of Meeting: February 22, 2023

I. CALL MEETING TO ORDER

The meeting was called to order at 6:30 P.M.

II. ROLL CALL

Members present: Nazih Elkallassi, Chairman (via Zoom)
Jim Eacobacci, Acting Chairman this evening.
Veronica DeBonise
Troy Larson
Jacob Morrison (via Zoom)
Richard Semple

Also present: Kenneth Buckland, Town Planner

III. PRELIMINARY BUSINESS

A. Meeting Minutes – February 8, 2023

MOTION: Mr. Semple moves to approve the minutes for February 8, 2023. Mr. Larson seconded. Passed unanimously. (6-0-0)

B. Discussion and Possible Vote: Insignificant Modification of Littleton Drive Comprehension Permit

Developer, Rio Sacchetti, with Pemrose was on via Zoom. Mr. Sacchetti reviewed two clarifications with the 40B Comp Permit on site. One clarification is the parking spaces, lenders want the parking spaces to be separated between the senior and the family housing. The other clarification of the 40B restrictions and the restrictions of tax credits from the state. He said the lenders would like clarifications of what tax credits/restrictions are with which project element.

No comments from the board at this time.

Mr. Semple made a motion to approve the insignificant modifications of Littleton Drive Comp Permit as requested and was seconded by Mr. Morrison. The motion passed unanimously. (6-0-0)

IV. CONTINUED PUBLIC HEARINGS

A. 35-22 Nazih B. Elkallassi – Variance/Special Permit & Site Plan Review – 434 Main Street – Map 61 Lot 1057

Present before the Board: Mr. Elkallassi recused himself from Zoom.

Brian Grady was present for Mr. Elkallassi. Mr. Grady reviewed the formal plans for 434 Main Street. He said he had a review letter for the site consultant. Mr. Grady stated the modification was from nine units to eight units.

Mr. Grady said they may still need to submit the landscaping plan and driving access. He says nothing else had changed from the draft plan other than this plan has more detail.

Mr. Eacobacci stated the new peer reviewer for the Town would have to review the plans and the letter from Mr. Rowley and the responses.

Mr. Grady reviewed his responses to Mr. Rowley's letter.

Mr. Buckland suggested sending the plans and the response letter to the new Town Engineer.

Ms. DeBonise asked why the easement is separated as a separate lot.

Mr. Grady explained the lot goes to the rear part of the property. He said this current project shows a water main in the easement that serves the three structures in the back. He explained the reason for the easement. He said they could improve without the easement but the numbers would be a bit higher.

Ms. DeBonise said that she didn't understand why it was a separate lot.

Ms. DeBonise said she is somewhat comfortable with the project; she was concerned that one of the lots were short and that's why the easement was placed where it is.

Mr. Grady said that all the lots meet the area lot size and frontage, but they needed to add the easement for the rear of the property for the water main.

Mr. Buckland stated that the Board has reviewed quite a bit of plans and engineer reports that they can decide not to go to the current Town Engineer.

All board members agreed.

Ms. DeBonise wanted clarification if the lots conformed with or without the easement. Mr. Grady confirmed they are closer to conforming with the easement.

MOTION: Mr. Larson made a motion to close the public hearing which was seconded by Mr. Morrison. The motion passed unanimously. (6-0-0)

MOTION: Mr. Morrison made a motion to approve as presented with the adjustments and responses to the peer review from Mr. Rowley. The landscaping plan and updated plans have to be submitted to the office and the building permit cannot be issued until all paperwork is complete. The motion passed unanimously. (6-0-0)

B. 2-23 Lynelle Butterfield – Appeal – 12 Great Neck Road – Map 17, Lot 1008

Mr. Eacobacci gave a review of the last meeting's hearing. He reviewed the use schedule. He said there is no veterinary hospital, which was why the Special Permit was issued. He explained that two years has lapsed for the Special Permit for the Veterinary Hospital and no such building exists at this site. He advised that pigs are not allowed in this district.

He said that the Building Commissioner was 100% correct in his violation. He explained the only way to have animals in those districts is either with a kennel with a Special Permit and/or a Veterinarian Hospital with a Special Permit.

Attorney Craig Hartwell was present. He said the violation was issued because of the veterinarian hospital.

Mr. Eacobacci said there is a violation but there is no Special Permit.

Mr. Hartwell said that his violation is conditioned to a 'veterinarian hospital' so that must mean it does exist. He asked what changed within two weeks.

Mr. Morrison, via zoom, stated that he felt Mr. Eacobacci was going hard on these people without them being able to tell his story.

Attorney Dan Walsh asked that Mr. Morrison recuse himself as he is a party to a lawsuit that is taking place in the next three weeks.

Mr. Morrison stated that case had nothing to do with this case. He said he would recuse himself, however, may speak as a Wareham Resident.

Mr. Elkallassi agreed that Mr. Morrison should recuse himself and that he could absolutely comment as a resident if he wanted to.

Mr. Morrison recused himself. Mr. Larson will be voting in as the associate member.

Building Commissioner and Zoning Enforcer, Mr. Paul Turner, was present and reviewed his violations on the property. He reviewed why he felt the applicant was in violation of the stated Special Permit. He says he has tried to work with them, but they are violating the permit. He said that there are unpermitted sheds on the property as well. He said that to his knowledge there is no veterinarian hospital on the property. Mr. Turner said he reviews their Facebook pages and there are many more animals than three animals (as the Special permit) originally stated. Mr. Turner believed that this is an animal rescue mission shelter for animals.

Mr. Elkallassi said it is not an agricultural parcel unless they can show a 61a Certificate.

Attorney Dan Walsh, representing Jo Cooney abutter of the property. He said as of today the Special Permit doesn't exist per today's by-laws. Attorney Walsh read the law from the mass.gov laws on the definition of Agriculture. Mr. Walsh presented two pictures to the board

and read the regulations of the Board of Health regarding waste as well as presented a one-page document from the Facebook page of the applicant, sharing they are bringing in more animals. He said the Special Permit outlined only three (3) animals, and they exceed that number tremendously.

Mr. Hartwell stated he would like to ask for a site visit to the board and then would ask for a continuance. Mr. Hartwell gave his cell number for members to call him directly to get on the property for a site review.

Ms. DeBonise asked what the expectation is of this board, as we are not an enforcing authority.

Mr. Eacobacci reviewed what the violations were from the Building Commissioner/Zoning Enforcer and now the applicant with the attorney is looking to overturn the enforcing officer, that is where the Zoning Board comes in.

Mr. Hartwell stated there are findings that are being requested as well. He explained to them as to grant the appeal of the Building Commissioner's 3rd Notice of Violation, dated November 21, 2022, including all previous and related Notices: (2) Make a finding that the keeping of animals is an Agricultural Use which is an allowed use in per current bylaws in the R30 District; (3) and that the 10x16 structure on the property with the three animals is considered the veterinarian building.

Mr. Eacobacci reviewed the findings.

Mr. Hartwell said there is some confusion of 'agricultural use' or what is used by right.

Mr. Eacobacci spoke to the applicant into the room and stated that no one believes there is harm being done at the property, but that the Town has by-laws that have to be followed.

Mr. Semple made a motion to continue to March 8, 2023 and was seconded by Ms. DeBonise. The motion passed with Ms. DeBonise abstaining. (5-0-1).

V. PUBLIC HEARINGS:

A. 4-23 True Storage, LLC – Site Plan Review – 2400-2402 Cranberry Highway – Map 108, Lot 1002B1, 1002B2, 1002D

Mr. Eacobacci read the advertisement in for the record.

Mr. Eacobacci advised this has been continued until March 22, 2023. All in favor. (6-0-0)

A. 5-23 6 Chapel Lane, LLC – Comprehensive Permit/40B – 6 Chapel Lane – Map 43, Lot 1036, 1037A, 1039, 1040A, & 1041A

Mr. Eacobacci read the advertisement in for the record.

Mr. Eacobacci advised has been continued until March 22, 2023. All in favor. (6-0-0)

**B. 6-23 Dorothy Pipher – Special Permit – 40R Chippewa Drive – Map 7, Lot 130
(asked for a continuance to March 8, 2023) –**

Mr. Eacobacci read the advertisement in for the record.

Mr. Eacobacci advised this was a request to continue to March 8, 2023. All in favor. (6-0-0)

B. ANY OTHER BUSINESS/DISCUSSION

A. Possible discussion regarding Zoning Articles for Spring Town Meeting

A quick review of what the Board had requested from the Planning Board and was acknowledged that the Planning Board agreed to put the bylaw forward.

Ms. DeBonise asked about the wording in the by-laws that need to be cleaned up for clarity. She gave reference to a couple of by-laws that need clarity. She will make note of them.

Mr. Semple made a motion to adjourn and was seconded by Ms. DeBonise. The motion passed unanimously at 8:45 p.m. (5-0-0).

Date signed: 3-8-2023

Attest: James R Eacobacci

James Eacobacci, Clerk

WARHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: _____

WARHAM TOWN CLERK
2023 MAR 13 PM 4:43