

Wareham Zoning Board of Appeals  
Wednesday, May 24, 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**

Clerk, Mr. Eacobacci called the meeting to order at 6:30p.m. and advised he would be serving as Chair with Mr. Elkallassi on via Zoom.

**II. ROLL CALL**

**Present:** Nazih Elkallassi (via Zoom), Jim Eacobacci, Richard Semple, Veronica DeBonise, Troy Larson and Jake Morrison.

**Absent:** None

Assistant Town Planner, Jonathan Dickinson was also present.

**III. PRELIMINARY BUSINESS**

**1. Approval of Meeting Minutes: 5/10/23**

**Motion to Approve:** Ms. DeBonise advised the change from “Wareham Conservation Commission to ZBA”. Mr. Semple made a motion to accept the minutes with the amendment which was seconded by Ms. DeBonise. The motion passed unanimously. (6-0-0).

**2. 20-22 Rhonda Finnerman – 18 Ocean Avenue – Map 1, Lot 124-B – Request a one (1) year extension to the Variance**

Anthi Frangiadis, of Anthi Frangiadis Associates was on via zoom, representing Ms. Finnerman requested a one-year extension from July 13, 2022.

Mr. Elkallassi made a recommendation for a six-month extension. Mr. Eacobacci agreed.

There was no comment from the public.

**Motion to Extend Variance:** Mr. Elkallassi made a motion to extend the variance for a six-month period from July 13, 2023, and was seconded by Mr. Semple. The motion passed with one abstention. (4-0-1)

WAREHAM TOWN CLERK  
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#### **IV. CONTINUED PUBLIC HEARINGS:**

##### **1. 12-123 SHM Onset Bay, LLC (F/K/A BODM, Inc.) – Special Permit – 18 Green St – Map 3, Lot 1014**

Mr. Eacobacci opened the Public Hearing. He asked how many people in the room felt they should've been notified, and they weren't.

Assistant Planning Director, Mr. Dickinson explained what happened with the notice of abutters and he did resend out notification of the continued meeting. He stated the list was verified by the Assessors' office and is accurate. He explained that the parcels around the property are separate, and the abutters list is sent from 18 Green Street, where the project is happening.

The applicant stated they did send out additional letters as well.

Attorney Steven Guard read from the Zoning By-law 40A, Section 11 regarding the 300' abutter to abutter who need to be notified. He said they held a public meeting and seven people attended. He explained what the non-conformity is and identified those issues in his May 3<sup>rd</sup> letter to Chairperson Elkallassi as well as Building Commissioner, Mr. Turner.

Ms. DeBonise stated she felt it was indeed a variance. She stated it was currently 6' in height and they were asking for an increase in height, therefore she felt it was an extension of a non-conformity. She explained that she believes it is her interpretation that this requires a variance.

Attorney Guard explained his position according to case law and the statute.

Mr. Eacobacci stated that the board and the Commissioner has received numerous letters from abutters. He addressed the height of the racks to 40', with zoning in that district being 45'. Discussion on what the height would be with a boat on top of the 40' rack.

General Manager, John Boone explained that he would not be in opposition to removing the top boats from the top rack in the winter.

Building Commissioner, Mr. Turner stated he felt the 45' height is to the height of the structure and then put something on top of that.

Ms. DeBonise asked how many boats would be stored at the racks.

Attorney Guard stated they wouldn't be anticipating newer boats on the racks, but reconfiguring those on the ground.

Discussion on the overflow of vehicle traffic on the property.

##### **Abutters and/or Residents who appeared before the board:**

Rebecca Hemsley, of 12 Green Street, identified herself as a direct abutter. Ms. Hemsley shared concerns about the stacking of boats only in the '3 months' as referenced. She also read from a prepared document.

Tim Bigelow, of Prospect Street, an abutter of Safe Marina. Mr. Bigelow shared his concerns about the height of the racks. Mr. Bigelow also read from a statement he had prepared and forwarded to the Zoning Board.

Jim Moresey, 28 Maple Street asked if there was a variance for the racks back in 1973 and asked if there was any bearing to the current Special Permit.

Mr. Eacobacci referred Mr. Moresey to inquire at the Town Hall. He said there is a statute of limitations of ten years as well.

Mr. Semple asked about their business hours. The applicant replied 7:30 am to 7:30 pm and it was a seven-day business.

Louise, representing Tammy of Maple Street referenced Chapter 40, Section 11 which the Attorney had previously referenced. She felt that the abutters list should encompass the whole property located at 18 Green Street, and not just a 'lot' of it. Ms. Louise stated not all abutters were notified regarding this project. She asked the Board to review the abutter notification. She stated that she felt it was not grandfathered.

Assistant Town Planner, Mr. Dickinson stated he reviewed the GIS system in Wareham, and stated the property is definitely different plots of land and not one parcel as was described.

Ms. Louise continued with a picture of the height for four racks and the residential neighborhood that surrounds the property; as ethically it is more detrimental, in her opinion to the neighborhood.

William, 17 Maple Street was before the board and asked about the paper road. He had concerns that this project may be a bodily injury to the Town, with the boats stacked high.

Abutter, Frank Petroli of 1 Maple Avenue, stated he reviewed the paper street at Town Hall and that he confirmed it was a Town-owned Street. Being in construction, he said that the boat racks would have to be tied down a certain way and have certain footings, per the manufacturer.

Carolyn M., of 26 Maple Street shared concerns about the traffic that occurs on the road, especially with small children in the neighborhood.

Mike O. shared his concerns about traffic and asked for more signs to be put up. He said that the improvements made to the marina were much needed and he appreciates it.

Mr. Elkallassi suggested the neighbors go to the Road Commission. He stated that abutters would need to review the deed if they have an interest in the road. He also stated that the dirt needs to be addressed with Conservation and that the signs need to be a certain size. Mr. Elkallassi said that manufacturer specs need to be considered for the boat racks.

Mr. Morrison made a motion to close the public hearing which was seconded by Mr. Larson.

Mr. Elkallassi suggested that the board needs to have more discussions before the public hearing is closed. He said they should review the no parking signs in the area.

Mr. Semple stated he spoke to the Highway Department, and they were not interested in 'signage' in Town and he believes that when it comes to signage, it is not a Zoning Board of Appeals issue.

Attorney Guard said they would be happy to investigate the ability to put up signs in the area as necessary.

William, 17 Maple Street came back up to express there are a lot of cars that come and go from the marina: not just into the marina.

Rebecca H. came back up to ask for an impact study to be done for traffic and vehicles in the area.

Louise, representing Tammy Y, 30 Maple Street stated that the request for the abutters states was listed as "18 Green Street"; one lot not necessarily the whole property.

Ms. DeBonise said she was still confused on the 'whole property' and not advising all abutters.

Mr. Eacobacci explained that the Assessor's office was notified and worked with the Zoning Department, who agreed that the correct Assessor's list was certified and to the correct abutters.

Ms. DeBonise said her comment was made for the Board, she said she is not saying that the applicant did anything in error; however, that the Town needs to review this that all abutters to any property as a whole, should be notified.

Ms. DeBonise expressed her opinion that she didn't think the applicant was conforming to the bylaws with the height of the racks and she would not be voting in favor of the project.

Referring back to the motion to close the public hearing, Mr. Eacobacci asked if the applicant wanted to say anything further.

Attorney Guard stated he thought that they made a good presentation addressing the issues of the neighbors. He said that if they are unwilling to address the by-law and fit into it, and think that is the only prevue of the board. He referred to their project and how it fits into the by-law.

Mr. Boone spoke as well and stated that they have gone to the current boards and avenues as they needed to move this project forward.

Frank Petrolo, 1 Maple Avenue came back up and asked again about the abutter list.

Referring back to the motion on the floor to close, the public hearing has been closed with all in favor. (5-0-0).

Mr. Elkallassi asked the Board members if they want to act upon this applicant as a Variance and/or Special Permit.

Board discussed a variance and/or Special Permit. Mr. Elkallassi stated that he believed it may be a defective application.

Ms. DeBonise read from the by-law, number four, 'altered or extended' (1360, with 4 conditions) and stated she believed they are increasing the structure.

Mr. Turner stated he thought that the height didn't matter, and he believed they need to move forward as a Special Permit.

Ms. DeBonise said anything under 45' just can't be put anywhere. She said they are increasing the size of something that is non-conforming.

Mr. Morrison left the room. Mr. Elkallassi stated he was not a voting member on this project and they could move forward without him.

**Motion to identify as a Special Permit:** Mr. Semple made a motion that this was a Special Permit and was seconded by Mr. Larson. Mr. Larson – yes, Ms. Debonise – no, Mr. Semple – yes; Mr. Elkallassi – yes, Mr. Eacobacci – yes. Motion passed 4-1-0.

Ms. DeBonise said that if the board believes they are going to move forward to approval but would like to see a few conditions, with the neighbor's points being part of the conditions.

Mr. Eacobacci reviewed exactly what the board would be voting on, new racks and voting whether or not they should exist. Mr. Elkallassi said they are voting on the height allowing them at 40' only. He said if the board felt it is detrimental than they should vote accordingly.

Attorney Guard explained that the Board needed to vote according to the application received before them.

**Motion to approve:** Mr. Semple made a motion to approve the plans as presented to move the racks from 6' to 16' to the property line as presented. Mr. Eacobacci made a condition, subject to the racks not being used on the top layer between November 1 through April 1<sup>st</sup>. Mr. Semple said he is torn with the condition, as it should be all or nothing. He said he heard from the applicant that they are willing to work with the neighbors to not use it during a certain time.

The board discussed restricting the height of the rack. Ms. DeBonise suggested that she would like to restrict the height as it is, which is 33'. Mr. Semple and Mr. Eacobacci stated they would not agree with that height. Mr. Elkallassi said he would agree with Ms. DeBonise on the height.

No second on Mr. Semple's motion, it does not pass.

**Motion to approve with a lesser height:** Ms. DeBonise made a motion to grant the height at 33' and that the racks to be moved from the existing six-foot to sixteen-foot setback with the racks to stay at 33' height. The Motion was seconded by Mr. Elkallassi.

Via roll call vote, Mr. Larson (yes); Ms. DeBonise (yes); Mr. Semple (abstain); Mr. Elkallassi (yes); and Mr. Eacobacci (yes.). The motion passed (4-0-1).

**V. NEW PUBLIC HEARINGS**

**1. 16-23 Jeffrey M. Shaw – Special Permit – 11 Bridgeview Lane – Map 5, Lot(s) 1012 & 1013**

Robert D, on behalf of the homeowners, Mr. & Mrs. Jeffrey Shaw. He explained the project, that houses two dwellings on the lot, built in 1920 & 1925 respectively. He stated the property lies partially within AE14 and AE1. He explained they were proposing to maintain the 1.2' setback and pull the .5 setback in from the Northern side. He stated the floor-to-area ratio would remain the same.

Ms. DeBonise asked what the distance is between the existing cottage and the house.

Mr. D stated he believed it was a 6-7' feet difference in between.

Ms. DeBonise asked about the fence on the property, Mr. D. stated it was of the neighbor.

Mr. D stated the number of bedrooms and baths would not change. He reiterated they are just going higher to take it out of the flood zone.

**Motion to close the Public Hearing:** Mr. Larson made a motion to close the public hearing which was seconded by Mr. Semple. The motion passed unanimously. (5-0-0).

**Motion to approve:** Mr. Semple made a motion to approve the plans as presented and was seconded by Mr. Elkallassi. The motion passed with Ms. DeBonise abstaining. (5-0-1).

**VI. ANY OTHER BUSINESS/DISCUSSIONS**

**VII. COMMENTS FROM BOARD MEMBERS**

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

Date signed: 6-14-2023

Attest: James D. Eacobacci

James Eacobacci, Clerk

WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: \_\_\_\_\_

WAREHAM TOWN CLERK  
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