

**Town of Wareham
Zoning Board of Appeals
Minutes – June 8, 2022**

I. Call Meeting to Order: In the Chair, Mr. Elkallassi's absence, Clerk, James Eacobacci lead the meeting.

II. Roll Call: *Present:* James Eacobacci, Jacob Morrison, Veronica DeBonise, Richard Semple and Troy Larson

Absent: Nazih Elkallassi. Alan Slavin and Tricia Wurts (Associated Members)

III. Preliminary Business:

1. Reconsideration of Variance for Undersized Lot Buildable – 0 Squirrel Island Road

Mr. Eacobacci opened the reconsideration of this variance.

Ms. DeBonise recused herself as a direct abutter.

Mr. Eacobacci stated that this had come before them for a variance.

Attorney, Robert Perry was in attendance for the reconsideration. He stated the original sought was to overturn the building inspector and the alternative to grant the variance. Mr. Perry said it didn't pass the board's approval to be a buildable lot as well as there wasn't a unanimous vote against it either.

Mr. Eacobacci stated therefore the variance was a negative and has gone through the process to be challenged by the applicant and time for it to go to court, however the court usually sends it back. Mr. Eacobacci stated that Town Counsel has asked us to reconsider.

Attorney Perry stated this was four years since they first came to the Zoning Board. He offered a package to the board members. Attorney Perry reviewed the application when it first came to the board in 2018. Ultimately, he said they never got a hearing and the chair at that time, Mr. Elkallassi asked him to refile without filing fees, which he did. He insisted he came before the board at that time and he argued he wanted a five member board, which was his right. He said, however, Mr. Elkallassi and then new member, Ms. DeBonise both had to recuse themselves. He gave a partial presentation at that time.

Mr. Eacobacci stated this was a part of another lot that was cut in half by a road. He said it was undersized by a road.

Attorney Perry stated they went to a vote at that time with a four member vote and was ultimately denied. He said he went to Superior Court with the filing and the counsel agreed to bring it back to the Zoning Board; hence why he is back.

Attorney Perry handed out a road map of 1903 of Squirrel Island Road and described where the lot in question is located. He also gave a small copy of the plot of the land as well as a full copy of the plan that was in effect at the time. Mr. Perry gave an overview of the lot in question. He said there is nothing else to do with the lot other than to build a home on it.

Mr. Eacobacci asked if the board at this time had any question, as they did not at this time.

Mr. Eacobacci opened it up for public comment.

Erik, 15 Squirrel Island Road stated he was an abutter. He too handed the board members paperwork. Mr. ... said the lot does not meet the zoning regulations for the square footage as it is undersized. He said it was also denied in 2019 for that same reason. He said it was triangular-shaped lot. He said this would add to the added congestion as it is already highly congested. He said he was not in favor of a home being shoe-horned into this lot that is undersized.

As a resident and direct abutter, Veronica DeBonise spoke and said she agreed with her neighbor completely. Ms. DeBonise stated the lot is now being used as a solar field for a few homes in the back of this lot. She said there were electrical meters on the lot and she wouldn't know how that would work moving forward. She said the lot is currently in use. Ms. DeBonise said that the board should not be reviewing this again and allow the courts to take it back as the board has reviewed this in the past and denied it and there is no new material being presented here tonight.

Board member, Richard Semple stated he was having a hard time with it as Mr. Eacobacci stated that Town Counsel said they 'have to'. He said he wasn't here in 2019 and if the land is already being used by someone he doesn't know why they would be even voting on it again.

Attorney Perry asked to speak and stated he wanted to make it clear that the variance was not necessarily 'denied'. He said the only thing on the lot that relates to the solar field are telephone poles. He said the lot may cause a little congestion but not much more. Mr. Perry said it was a private road that the public has access to. He said it was no worse than any other lot on that road. He asked the board to reconsider.

Erik ...spoke again and stated that all the lots on Squirrel Island Road are all over 60,000 square feet. He said this lot is 31,000 square feet which is double undersized than the lots on that road.

Mr. Eacobacci stated his concern was how they could overturn their first decision.

Mr. Semple stated he needed more time to make a decision. Mr. Morrison said he was ready this evening for a decision. Mr. Larson said he would need more time as well.

Attorney Perry said he'd rather come back in July. Reviewing his schedule he said he would come back on the 22nd of June.

Mr. Semple made a motion to continue 0 Squirrel Road to June 22, 2022 and was seconded by Mr. Morrison. The motion passed unanimously.

2. Review & Response – Open Meeting Law Complaint

Mr. Buckland, Town Planner was in attendance. He explained the open meeting law complaint by Ms. Vicky she noticed there were meeting minutes, at least twelve meetings not available and that was her complaint. Mr. Buckland stated she was most concerned about January minutes. He said they need to respond to the complaint by producing the minutes with a deadline. He recommended doing the minutes within four weeks. He said the minutes go back to 2021 and then again this year. The board reviewed the outstanding minutes.

Mr. Eacobacci stated the response would be that they would try and get the January minutes done as soon as possible. Mr. Buckland suggested thirty days of completion.

Mr. Semple made a motion to get the January 26, 2021 minutes done first and try and address the other set of minutes in the next thirty days which was seconded by Mr. Morrison. The Motion passed unanimously.

3. 30-21 Pennrose, LLC – Request for Insubstantial Change of G.L. 40B Comp. Permit – Modifications of Subdivision – 4 Littleton Drive – Assessors Map 56, Lot 1

Mr. Eacobacci opened the 30-21 Pennrose, LLC hearing.

Mr. Kenney was in attendance with Mr. Pennrose via the Zoom platform asking for a modification of the subdivision at 4 Littleton Drive. He said they need to clear the title for the title insurance company for new development. He said it was an unbuilt subdivision of forty-seven lots. He said they would like to consolidate forty-three lots into one.

Mr. Eacobacci asked if there was no change to the plan that was voted on previously.

Mr. Buckland stated this is a comprehensive permit under 40B (affordable housing project) and that the Zoning Board was allowed to address the re-subdivision of the land.

Mr. Eacobacci turned to the board members and advised they need to just agree with what they were asking. He opened it up to the public and there was no comment.

Ms. DeBonise made a motion that this is an insubstantial change under 40B and agreed to the lots being merged into one per the applicant's request in this development. The Motion was seconded by Mr. Semple and voted on unanimously.

IV. Continued Public Hearings: None.

V. Public Hearings

1. 17-22 Eleete Development, LLC. – Special Permit – 108 High Street – Assessors Map 47, Lot 1023.A

Mr. Eacobacci opened the hearing for 17-22 Eleete Development LLC, Special Permit for 108 High Street, Assessors Map 47, Lot 1023.A.

Brian Grady, Engineer was present on behalf of Eleete Development. Mr. Grady stated this was a request for a Special Permit use for the creation of a duplex. It is two, a one-bedroom unit in the former office dental building. It's an existing structure. He stated it is located in a Village District. He said they meet the density zone requirement. He said it is a mixed-use district, which is the Village District. He said they believe it meets all the zoning requirements under the zoning bylaw.

Mr. Eacobacci stated this was a by-right use by a Special Permit per Section 320. He stated he didn't know why it was before them, as he didn't read in the by-laws.

Mr. Grady stated he thought it was on the use table in the footnote.

Mr. Eacobacci stated it was before them to vote on just the Special Permit to the existing back building from a dental office to a two, one-bedroom unit. He asked if there were any questions from the board and there were none.

Mr. Eacobacci asked for public comment at this time.

Lois Ladd of 100 High Street. She said there was already a duplex at the location. She said the property was cut in half and there were people already living in that area. Ms. Ladd stated she was concerned about the number of people coming into the High Street area and there already exists a lot of traffic in that area. She also had concerns about the original home in that area.

Mr. Eacobacci stated that he understood that the original home was going to remain as well as the dental office would be changed to the two, one-bedroom units.

Mr. Grady reviewed the parking spaces with Ms. Ladd with his existing plan layout.

Erik Rosenger, 113 High Street. Mr. Rosenger stated he had concerns about the duplex going into that dental office in that area. He said this project has been an issue from day one with clear-cutting and other things. He said one sewer line is being used for four homes.

Mr. Eacobacci stated that the Zoning board can only hear concerns about zoning; and that Mr. Rosenger should see the building department for any complaints and/or the sewer department to address those complaints or concerns.

Mr. Rosenger stated he was before them because the project has been a nuisance since day one. He said the duplex was going to be detrimental to the area because of parking.

Mr. Morrison asked if he was familiar with when the property was a dental office as it had much more traffic going in and out of the unit.

Mr. Eacobacci asked Mr. Rosenger to leave the room if he just wanted to argue.

Jennifer - 11 Church Avenue. Ms. Stated she received a letter that was told it was a second letter and to her, it was her first. She said she called into the office and was told it was a formality. Ms. ... shared her concerns as a previous speaker. She said the letter states it is a "storage building" that is being converted into a duplex. She said she doesn't understand how this can be converted into a duplex. She said she was confused by the communication taking place at tonight's meeting. She said she was concerned about how this project, in her opinion, was being pushed through without neighborhood input.

Mr. Morrison stated that the structure was not changing at all. The footprint was staying the same.

Ms Jennifer. Said it was a "shack". She said it was a one-story structure. She said she didn't believe the zoning regulations were being done correctly.

Mr. Eacobacci stated he would like to go on record to say that as much as someone likes or dislikes this project, this project has been built for the by-right use in this zone.

Someone in the audience yelled out and Mr. Eacobacci stated that he didn't want to be interrupted without the person being at the microphone.

Mr. Rosenger came back up to the speaker and stated that he thought that the Zoning Board was not doing their due diligence in this matter.

Mr. Morrison asked him to stop yelling at the board as the board members are all volunteers and trying to do what's best for the Town, however they do have zoning by-laws that they need to follow, and feel they are doing that.

Mr. Rosenger stated that he felt the board was not doing what they needed to do in this instance to support the neighbors in this particular neighborhood. He said that every phase of this project was moving forward without a permit being issued.

Mr. Eacobacci referred to page 57 of the Zoning by-laws, under WV-2, a minimum side rear setback is 10'.

Mr. Rosenger came back to the microphone and asked what the frontage was of this plan.

Mr. Eacobacci read again from the zoning by-laws, page 57 that the frontage in this zone is WV2 75' for the record.

Mr. Grady stated this project has gone through review and given the applicant more scrutiny by the Building Commissioner. He said it is in a Village District for higher density, so it does meet

the Zoning. He said they have been through to the water/sewer department and everything has been done by the letter of the law.

Mr. Semple made a Motion to close the hearing and was seconded by Mr. Morrison. The Motion passed unanimously.

Mr. Morrison made a Motion to approve this project, Special Permit on plans by GEF Engineering, plans dated March 7, 2022, application, 17-22 Eleete Development, LLC. Mr. Semple seconded the Motion. The Motion passed unanimously.

Mr. Eacobacci stated the motion passed positively and if anyone feels aggrieved by the decision they can appeal the decision within twenty days.

VI. Any other business/discussions:

VII. Comments from Board members:

Mr. Semple said he didn't understand why they had to take comments from the public in this matter. He said it's threatening behavior and he doesn't understand why they have to listen to someone like that.

Mr. Eacobacci stated that the gentleman was worse to him on a phone call previously and that there is an appeal process that they can take if they so wish. He said they do their best to follow the Zoning By-laws and rule to that only.

Mr. Semple stated everyone has the right to freedom of speech but other boards and committees need to follow the same.

Mr. Semple made a motion to adjourn and was seconded by Mr. Morrison. The motion passed unanimously.

The next scheduled meeting of the Zoning Board of Appeals is Wednesday, June 22, 2022.

Respectively,

Patricia A. Pacella
Recording Secretary

Date signed: 7-13-2022

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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