

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: June 13, 2018

I. CALL MEETING TO ORDER

The meeting was called to order at 6:30 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, Town Planner
Charles Rowley, Town Review Engineer
David Riquinha, Building Commissioner

I. PRELIMINARY BUSINESS

A. Approve meeting minutes: May 9, 2018, May 23, 2018

Minutes will be approved at the next hearing

II. PUBLIC HEARINGS

A. #16-18 – Kevin Hines – 16 Spectacle Pond Terrace

Present before the Board: Kevin Hines

The applicant is requesting to construct a new 7'x9.3' front entry addition to an existing residential dwelling to replace an old open air entrance way. The proposed addition does not meet setback requirements of that zone.

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

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to approve the project as a Special Permit due to its non-detrimental nature to the neighborhood. Mr. Baptiste seconds.

VOTE: (5-0-0)

B. #17-18 – RMRM Realty Trust, 3035 Cranberry Highway

Present before the Board: Tony Stella
Jim Peterson, Alpha Survey Group

Eric Bromarcle, Water Wizz
Patricia Kells, RMRM, LLC
Richard Serkey, Esquire

The applicant is requesting to create a parking lot on a newly vacant parcel on Cranberry Highway. Mr. Stella states they have a plan proposed for additional parking for Water Wizz. The parcel is a 1.57 acre parcel. 3,800 s.f. of the lot are paved. The middle portion of the parcel is a gravel surface and the rear 7,000 s.f. is vegetated wetland. The proposal is to use this lot as additional parking for Water Wizz next door. The applicant is proposing not to change the features of the property due to the 50' no activity zone imposed from Conservation. The existing surface conditions are proposed to remain unchanged.

Mr. Serkey states the parcel was the previous Hong Kong restaurant. Mr. Serkey states part of this petition is an appeal, as the Building Commissioner has stated the project requires Site Plan Review, and Mr. Serkey states that Mr. Serkey does not feel that Site Plan Review is required as it meets the required number of parking spaces that prompt Site Plan Review. Mr. Serkey also states the berm between the parcels should be removed so access between the parcels can be made without going onto Cranberry Highway.

Mr. Elkallassi is asking if the applicant would be willing to fence off the property and create a curb cut. Mr. Elkallassi states he is concerned about the safety of the traffic between the two parcels. Mr. Eacobacci states he feels a Site Plan Review would be beneficial for the site.

Mr. Rowley states that in respect to the surface of the parking lot remaining in its existing condition it is not suitable as it is now. Mr. Rowley states the curb openings into the parcel are confusing and the entrances are both on easements. Mr. Rowley states he feels there is a level of detail still required on the site concerning runoff and other matters to make the site safe. Mr. Rowley is concerned about blocking the easement by blocking or moving a curb cut.

Mr. Elkallassi states he would like to see a site plan for both the parking lot and existing water park. Mr. Serkey disagrees. Ms. Engerman agrees with Mr. Elkallassi that there should be a site plan of the entire property.

Mr. Rowley states the easement to the gas station needs to be preserved to the area stated in the land court plan. Mr. Rowley feels there needs to be a type of buffer preventing people from accessing the parking lot through the two existing curb cuts, that access can be through Water Wizz only. Mr. Rowley states he feels that the pavement needs to be determined suitable or not. The pavement is broken where the old restaurant was, he feels the surface needs to be replaced. Mr. Rowley states they need details of how they treat the area subject to Conservation approval to see how the slope, trees, topsoil, etc. of the site are being treated. Mr. Elkallassi states he would also like the plan to be run by the Fire Department.

Mr. Elkallassi requests that the applicant return with a Site Plan. Mr. Serkey requests a continuance to three meetings from now. Mr. Elkallassi states that would be July 25, 2018. Mr. Serkey states they waive the time requirements to allow for the Board to make their decision.

MOTION: Mr. Baptiste continues the public hearing until July 25, 2018. Mr. Eacobacci seconds.

VOTE: (5-0-0)

C. #18-18 – Joseph Occhipinti – 2 Agawam Beach Road

Present before the Board: Richard Burke, Bouregard, Burke & Franco

Joseph Occhipinti, owner

The applicant is requesting to construct a house on a lot that does not meet minimum frontage requirements. Mr. Burke states the lot was part of a seven lot subdivision that was approved by the Planning Board in 2003, and is a corner lot. Mr. Burke states the Planning Board at the time must have believed that the lot met the required frontage or they could not have approved the subdivision. Mr. Burke states that from both streets the lot more than meets frontage requirements, but due to the measurement of frontage from a corner lot it does not meet the frontage requirement. Mr. Burke states the lot is short 4.9 feet of frontage when measured from the corner arc. Mr. Burke states this is a hardship of the lot, due to the length of frontage it has along both roads. Mr. Burke requests a Variance to build on this lot. Two previous variances were granted for this property.

Present before the Board: Michael Fitzgerald, neighbor

Mr. Fitzgerald states that there are deed restrictions in the subdivision and Mr. Occhipinti will be required to follow these deed restrictions and he feel

Present before the Board: David & Christine Cogswell

Mr. Cogswell feels that the house being pushed back would de-value their property as the home would be too close to their property. Mr. Elkallassi states the house would be about 90 feet from their home. Mr. Elkallassi states they would take this into consideration.

Present before the Board: Ken Deluze, prospective buyer

Mr. Deluze states he would be willing to work with the neighbors, but the house needs to be built.

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

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to grant the Variance as this is not detrimental to the neighborhood and does not degenerate from the intent of the By-Law. Mr. Baptiste seconds.

VOTE: (5-0-0)

D. #19-18 – Joseph Nadeau – 54 Nanumett Street

Present before the Board: Joseph Nadeau

The applicant is requesting to raze an existing concrete block staircase and replace it with a larger pressure-treated deck. The previous staircase was more non-conforming than the proposed deck and staircase.

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

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves that this this project be treated as a Special Permit due to the existing non-conformity. Mr. Baptiste seconds.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to grant the Special Permit. Mr. Baptiste seconds.

VOTE: (5-0-0)

E. #20-18 – William McCain – 252 Sandwich Road

Present before the Board: Bill Madden, G.A.F. Engineering, Inc.
William McCain

Mr. Madden states that used motor service is an allowed use by Special Permit in the By-Law. There will be no washing of vehicles at the site, it will be vehicle detailing by appointment only so traffic and storage on the site should not be a concern. There is a garage currently on the site. Mr. Elkallassi feels the site is tight. The Board states that two cars could be parked inside and two cars parked outside and no cars can be parked in the state layout.

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

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to grant the Special Permit with no more than four cars on the property at a time between customers and employees, two cars can be inside and two cars can be outside with no parking on the state layout. Additional condition that no washing of vehicles or other activity other than car detailing shall be done. Mr. Baptiste seconds.

VOTE: (4-0-1) Ms. Engerman abstains

F. #21-18 - Pharmacannis MA, Inc. – 112 Main Street

Present before the Board: Shelly Stormo, Pharmacannis
Matt Levigne, Pharmacannis
Andy Nusaforo, Attorney

The applicant is requesting a Special Permit for a medical and adult use retail marijuana dispensary. Pharmacannis is not proposing to make any physical changes to the existing building. Pharmacannis is waiting for their license from the state to sell for adult use. Mr. Elkallassi asks if the applicant requires a Site Plan. Mr. Buckland states that this is a Special Permit just for use, and Site Plan is not required.

Present before the Board: Peter Teitelbaum

Mr. Teitelbaum states this is still marijuana sales whether recreational or medicinal and does not feel this would trigger Site Plan Review.

Mr. Rowley asks if cars can go in and out of the driveway at the same time. The applicant is unsure how wide the driveway is.

Mr. Elkallassi asks the applicant if they get so busy that traffic and parking becomes an issue if they would be willing to return before the Board to discuss the issue. Ms. Stormo states they would be willing to come back before the Board if traffic and parking becomes an issue. Mr. Elkallassi recommends a one year review.

MOTION: Mr. Eacobacci moves to grant the Special Permit with a one year review. Ms. Kendrick seconds.

VOTE: (5-0-0)

III. CONTINUED PUBLIC HEARINGS

A. #4-18 -- Giancola Minot Properties -- 72 Minot Avenue

Present before the Board: No one is present at this time

The applicant has requested a continuance until June 27, 2018. Mr. Baptiste will not be present at the June 27, 2018 hearing.

MOTION: Mr. Eacobacci moves to continue the public hearing until June 11, 2018. Mr. Baptiste seconds.

VOTE: (5-0-0)

B. #2-18 -- Dakota Partners -- 3102 Cranberry Highway

Present before the Board: Peter Freeman, Freeman Law Group
Dominique Rinaldi, Engineer

Ms. Engerman states there are a few items that have not been addressed concerning this project. The first being that they have not received comment from the Fire Department. Ms. Engerman also feels there should be a layout for a playground and basketball court. Lastly, Ms. Engerman is concerned with the lack of sidewalks and hopes that some will be put in or considered. Jim O'Brien had been in touch with the Fire Department, some plans were made, and a meeting with the Fire Department has been scheduled. The selection of peer review consultants has been approved and letters from the traffic review and OSD have been issued. Dakota Properties has not had time to respond to the review letters. Mr. Freeman states at the next hearing they will be prepared to discuss the review letters. Mr. Freeman states they are still waiting on the review from the sewer department.

Mr. Elkallassi states that the Sewer Commissioner is present at this hearing.

Present before the Board: Guy Campinha, Sewer Commissioner

Mr. Campinha states that he has been in contact with the applicant and they are discussing conditions that they would like met. Mr. Elkallassi states they will wait to hear from the Sewer Commissioner until they have reached an agreement with the applicant.

Present before the Board: Ben Hughes, Onset Water Department

Mr. Hughes states that the report from OSD has come in and the results look favorable for the applicant. Mr. Hughes states he would like to make a few conditions. One condition he would like to impose would be monitoring wells with a monitoring plan including reports made to the Onset Water and Fire Department. Mr. Hughes would like to prohibit the use of pesticides. Phase One water main should have two hydrants. Mr. Hughes would like to move the underground infiltration installed in phase 1 out of the R1 Zone. Phase two water main should have two hydrants. OFD requests specific service pipe types.

Present before the Board: Kevin Dandrade, TEC Cosnulting

TEC has performed the traffic review for the project based on the McMann report dated November 2017. Mr. Dandrade states that the traffic report was typical to the way the data was collected and the study area. Mr. Dandrade states the increase of traffic and the number of trips was typical of how they would calculate the information. Mr. Dandrade is concerned about the left hand turn into the site from Cranberry Highway. Mr. Dandrade feels this should be reviewed. Mr. Dandrade just asks that the applicant confirm that no fencing will obstruct the line of site on the east side of the site going to Red Brook Road. Mr. Dandrade recommends having sidewalks on both sides of both driveways to avoid having pedestrians cross the driveways. Mr. Dandrade recommends having a traffic calming device within the site, such as a raised cross walk. Mr. Dandrade recommends having closer to 2 parking spaces per unit rather than 1.5 parking spaces per unit. Mr. Dandrade suggest they may want to review having the open area behind the site instead of in the middle of the traffic area. Mr. Dandrade also cautions being aware of the fire and emergency access due to the geometry of the site. There should be consideration given to delivery trucks such as UPS trucks where they can park for an extended period of time.

Present before the Board: Emmanuel Daskalakis, Planning Board

Mr. Daskalakis states that the Planning Board has reviewed the plans and has some comments they would like to make. Mr. Daskalakis states that the Planning Board feels the site is overcrowded and would like to ask the applicant to consider the driveways and parking between the buildings and the recreation area cause safety issues and separates the residential environments from what would be their front yard and recommend considering having the driving and parking on the outside of the property, moving the buildings inward. The scale of the four-story buildings and their relationship to the surrounding environment is a concern as well. Mr. Daskalakis recommends breaking the buildings length so it doesn't feel like such a long building. The result of this would be a reduction to 140 units instead of 170.

Mr. Elkallassi states he feels this is a favorable recommendation and asks if the applicant would consider this. Mr. Freeman states these are reasonable requests and they will take these recommendations into consideration.

Present before the Board: Peter Teitelbaum, Selectman

Mr. Teitelbaum states he is in agreement with the Planning Board's concerns for pedestrian safety on the site. Mr. Teitelbaum states he would like to hear more details from the Water and Sewer Departments as well. Mr. Teitelbaum still has concerns with the holding tank on the site.

Present before the Board: Guy Campinha, Sewer Commissioner

Mr. Campinha states that they are not requesting a holding tank on the site due to the proposed phasing of the project.

Mr. Freeman states they would get an answer about the redesign of the site from the applicant as soon as possible.

Mr. Elkallassi asks if the applicant can have a preliminary plan prepared in two weeks. Mr. Rowley recommends stating it would not be essential for the applicant to prepare a concept plan, just a verbal agreement should be sufficient.

Present before the Board: Lucille Dodson

Ms. Dodson didn't hear any comments made concerning visiting parking on the site. Ms. Dodson feels the plan presented by Mr. Daskalakis was better, but the parking still needs improvement. Ms. Dodson

states she recalls the Board had asked the applicant to come up with a lower number that would be reasonable and the applicant has not proposed a number yet. Ms. Dodson is concerned with the testing well and requests that the testing wells have a 6-foot fence surrounding the testing wells. Ms. Dodson feels that children will be crammed in the space and will not have enough to do. Ms. Dodson refers to Brandy Hills and the trouble they went through there and requests a manned gate at the entrance to the property.

Present before the Board: Richard Hadley

Mr. Hadley is the representative of the estate of Michael Hadley at 3104 Cranberry Highway and he would like to discuss the traffic at the intersection of Cranberry Highway and Redbrook Road. Mr. Hadley states he feels the traffic light in lieu of the existing yield sign will cause more traffic impacts rather than reduce them. Mr. Hadley feels the project should be denied. Mr. Eacobacci states that this project has been approved by the state and they cannot possibly deny the project, they do not have the ability to stop this project.

Present before the Board: Debbi Edo

Ms. Edo states there is a natural flow of traffic and it will increase and feels the number of units should be decreased to less than 160 units.

IV. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS

A. Correspondence

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

B. Upcoming Hearings:

June 27, 2018	#4-18	Site Plan Review	Giancola Minot Properties	72 Minot Avenue
June 27, 2018	#14-18	Major Modification	Afif El Baba	3070 Cranberry Highway

C. Decision Deadlines

Comprehensive Permit – 8/27/18	#2-18	Comprehensive Permit	Dakota Properties	3102 Cranberry Highway
Site Plan Review – 7-24-18	#4-18	Site Plan Review	Giancola Minot Properties	72 Minot Avenue
N/A	#14-18	Major Modification	Afif El Baba	3070 Cranberry Highway
Special Permit – 9/11/18; Variance – 9-21-18	#16-18	Special Permit/Variance	Kevin Hines	16 Spectacle Pond Terrace
Special Permit – 9/11/18; Variance – 9-21-18	#17-18	Special Permit/Variance	RMRM Realty, LLC	3035 Cranberry Highway
Special Permit – 9/11/18; Variance – 9-21-18	#18-18	Special Permit/Variance	Joseph Occhipinti	2 Agawam Beach Road
Special Permit –	#19-18	Special	Joseph Nadeau	54 Nanumett

9/11/18; Variance – 9-21-18		Permit/Variance		Street
Special Permit – 9/11/18; Variance – 9-21-18	#20-18	Special Permit/Variance	William McCain	252 Sandwich Road
Special Permit – 9/11/18	#21-18	Special Permit	Pharmacannis Massachusetts, Inc. DBA VeriLife	112 Main Street

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

III. ADJOURNMENT

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

Date signed: 7-25-2018 VOTE: (5-0-0)

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

Date copy sent to Town Clerk: 1135 am JD
JUL 26 2018

TOWN OF WAREHAM
TOWN CLERK