

Town of Wareham
Zoning Board of Appeals
Wednesday, August 10, 2022

WAREHAM TOWN CLERK
2022 AUG 31 PM5:46

- I. **CALL MEETING TO ORDER:** Mr. Elkallassi opened the Zoning Board of Appeals meeting at 6:30 p.m.

II. **ROLL CALL:**

Present: Nazhi Elkallassi, Jim Eacobacci, Troy Larson, and Richard Semple

Absent: Jacob Morrison and Veronica DeBonise

Assistant Town Planner, Monique Baldwin was also in attendance in person.

Independent Engineer Consultant for the Town, Mr. Charlie Rowley was also in attendance.

III. **PRELIMINARY BUSINESS:**

1. **Approval of Meeting Minutes:** 7/8/2020, 7/22/20 and 7/27/2022

Mr. Eacobacci made a Motion to approve the minutes with a few minor modifications and was seconded by Richard Semple. The Motion passed unanimously. (5-0-0)

IV. **CONTINUED PUBLIC HEARINGS:**

1. 23-22 John F. Keating – Special Permit & Variance – 18 Highland Road – Assessors Map 61, Lot 1140

At the applicant's request, Mr. Eacobacci made a motion to continue the Public Hearing at the applicant's request to August 24, 2022. The motion was seconded by Mr. Larson. The Motion passed unanimously.

At the near end of the meeting, the Board discussed they would not have a quorum on August 24, 2022, so they rescinded this vote.

Mr. Eacobacci made a motion to reverse the decision to move to August 24, 2022 and was seconded by Mr. Semple. Motion passed unanimously.

Mr. Eacobacci made a motion to continue 23-22 John F. Keating to September 14, 2022 and was seconded by Mr. Semple. The motion passed unanimously.

V. **PUBLIC HEARINGS:**

1. 25-22 Villages 801 Main Street LLC – Comprehensive Permit, M.G.L. Chap 40B - 801 Main Street – Assessors Map 88, Lot 1011A

Mr. Elkallassi read the public hearing in for the record, he did say that they didn't have a full board and asked the applicant if he wanted to move forward tonight.

Mr. Eacobacci read the advertisement for the record.

Attorney Peter Freeman was present. John Scanlon, Principal of the applicant LLC. The project manager was also present as well as the engineer from Atlantic Designs.

Mr. Freeman stated that the application was complete with the request for waivers. He said there is an existing barn and house and will stay on the property. He said different people own the properties. Mr. Freeman advised the three requirements of a 40B. He said they put in the package letters of support. He said they got \$300,000 from CPC funds from the Town for this project.

Mr. Elkallassi asked if they claim 'safe harbor'. Mr. Freeman stated they do not. Mr. Elkallassi stated they need to make sure they are not excessive of 40B's. Mr. Freeman stated he hopes they don't assert a safe harbor, especially where the Town has already given its support.

Mr. Scanlon, Principal, and developer of the 801 and 815 Projects.

Rich Tabanski from Atlantic Design was present. He reviewed the plans with the board. He said this is zoned MR30, with no wetlands. He shared where the new buildings would be located via the plans. He stated fourteen parking spaces were being proposed at the next property/project. He stated nineteen parking spaces in total on the whole site. He said the units will be served by a new septic system. He said they got a drainage system calculation request from the peer reviewer and can provide that if the board wants. He reviewed the utility system for the site.

Mr. Elkallassi asked about the adjoining project and if it was deemed substantial by this board, could the 805 then support its own parking spaces? He asked if that would be feasible.

Mr. Freeman stated Mr. Rowley sent a letter today with comments. He said he asked for a review of the Fire Department for access. He said that the fire department said they were a-ok and waiting for the letter in writing.

Mr. Elkallassi opened it up to the board members.

Mr. Semple stated he only had questions regarding the nitrogen reduction system because of the watershed and DET.

Mr. Freeman stated that if they applied and that wasn't a regulation, they wouldn't need to do it.

Within a 500' wetland, they need to use this type of system, Mr. Elkallassi stated. He said the board may impose it if they want to, even if not a requirement.

Mr. Eacobacci asked about the two different entities but apparent that it's an extension of the same owners/managed etc. He said the drainage is on the other property as well as some parking. He said it appears as 'one big project'.

Mr. Freeman stated that he can issue a memo with the separateness of the project.

Mr. Elkallassi stated what if they come back for an easement and the board says no. He says he understands the legalities of it, but perhaps it's about the CPC grant money. He said it appears complicated with the project next door.

Mr. Morrison stated he agrees with everyone, and it seems like just an extension of the old project.

Mr. Rowley stated he needs to plead ignorance as he has never read the permit for the previous project. He said the density does not impact the additional fourteen parking spaces. He said he doesn't think they'll be traffic issues. He said they have not narrowed the driveway. He said he'd prefer to read the permit for 805 before making additional suggestions.

Mr. Elkallassi stated 815 was designed a certain way and now they want to take a piece of the parking lot and add it to 805. He said they are adding new spaces on the driveway of the access.

Madame Selectwoman, Patricia Worst was present and stated she remembered the plan coming before them and them approving the way it came before them. She said they did not understand the parking spaces were going to be on the previous project plan.

Mr. Rowley stated that the driveway is measured at 23-24' wide.

Mr. Elkallassi asked about the medium for affordable housing.

Mr. Freeman stated up to 80% median of affordable housing.

Greg – Architects was present, and he explained the building plans to the board. He said they were proposing 2-one-bedroom units.

Mr. Elkallassi -less than 600sq feet may need a waiver. He said that every detail needs to be on the plans, and they can't go back on that once approved without coming back in front of the board. He said the specifications needed to be listed.

Mr. Elkallassi asked if there was anyone in the public who wanted to speak, but there was none.

Mr. Elkallassi stated they need to come up with a plan to move forward. He said they would pass the safe harbor. He said the biggest challenge is to visit 815 Main Street. He asked if they could carve a piece off and sell it.

Mr. Freeman stated they would come up with a plan for an easement of the two properties. He said they would come before them to add an 'insubstantial change' on 815 Main Street.

Mr. Elkallassi asked about the leeching field and the parking in the back.

He said they wanted it to be in proximity to the parking areas.

Mr. Scanlon thought they'd be farther away from the neighbors and closer to the parking.

Mr. Elkallassi suggested the board does a site visit and review the permit for 815 Main Street. He also said they need to look at the wetlands in that area. He asked if they have run the plan by the Board of Health as of yet. He stated they also need to review with the Water Department.

Mr. Eacobacci stated they need to review 815 Main Street.

Mr. Freeman stated they will review all of the suggestions presented before their next meeting.

Mr. Eacobacci asked about the easement for the parking spaces and if the easement would protect just the parking spaces and/or driveway.

Mr. Freeman stated that the easement would only protect the parking spaces and only have the right to pass on the driveway to the parking spaces that are proposed.

Mr. Rowley stated there is some missing information on the plans. He says the septic plan has no elevations associated and some things are missing, the completed details are not shown. He asked if he can

Mr. Elkallassi stated that stormwater management needs to be looked at for 815 Main Street, as it may be affected by the parking spaces.

The engineer stated that the drainage will not be affected by the stormwater management. He said it would go into the catch basin.

Mr. Elkallassi stated they would need the stormwater management report that shows runoff. He said they need to do a perc test and go to the Board of Health.

The engineer stated they have already done that.

Mr. Elkallassi stated that he recommends they come back with a definitive plan and work with Mr. Rowley to satisfy the concerns. He asked for a review of the waivers.

Mr. Freeman reviewed the waivers. The use, the density, and the front and side setbacks. The parking things are to the width and the length, 9x18 feet. He said this is a landscape and was of the 40' buffer zone. He said they are asking for permission to hook up to municipal water and street openings in a public way. He said there aren't major waivers. He said they are asking for the waive of fees whereas seven are affordable housing.

Mr. Elkallassi said he is not in favor of supporting the waiver of fees. He said Wareham Water has reasonable fees. Regarding the parking width, he asked Mr. Rowley about it.

Mr. Rowley stated he reviewed, and some are 9x18, and these new spaces would be the same. He said that is the standard. He said there is certainly room to advise them to accommodate that size.

Mr. Semple stated there was an email from the fire department that said he had no issues.

Mr. Eacobacci made a motion to continue to September 28, 2022 and was seconded by Mr. Semple. The motion passed unanimously.

VI. ANY OTHER BUSINESS/DISCUSSIONS:

Mr. Elkallassi asked what the dates were for a particular hearing, 18 Highland Avenue.

Ms. Baldwin said 18 Highland Avenue was submitted on June 29th and 90 days would be the end of September.

The board discussed there would be no quorum at the next meeting, August 24, 2022.

Mr. Semple stepped out of the meeting at 7:52 p.m. He returned on 7:54p.m.

In another discussion, Mr. Elkallassi stated there have been some permits that both the Planning Board and the Zoning Board haven't followed through on landscaping and other requirements. He said an example is the dumpsters at Starbucks and they are just in the middle of the road. Mr. Elkallassi stated he thinks they need to shut them down or have them come back to the board. Mr. Eacobacci recommended a cease is in order.

Mr. Semple stated the backup of traffic is crazy over there as well.

Mr. Rowley said that the whole section over there has been a topic of discussion for the Planning Board for a while. He said he has discussed with them the dumpster modification, and nothing has come of it. He said the Planning Board has contacted them and has met with them in an updated plan. He said he did an inspection of the whole site and had a whole list of things that needed to be done for the site plan, and he believes not much of it is done.

Mr. Elkallassi stated they are not singling out Starbucks. He said there are a few that are not following the direction of their permit. He said that he thinks they need to provide a cease and desist if they are not following the permit.

Mr. Elkallassi also stated that Water Wizz hasn't followed their special permit. He also pointed out the landscaping at certain plans that need to be adhered to. He said Cape and Island Tires also need to adhere to the landscaping.

Mr. Elkallassi stated he would be reaching out to the Building Commissioner/Zoning Enforcer to send letters to adhere or be shut down.

Mr. Elkallassi stated the old Wareham pharmacy received a variance and for some reason, they thought they had a permit to start building. They never came back for a site plan review. He said that the building commissioner went out there today with a cease and desist.

Mr. Eacobacci stated he heard from their counsel and asked what they needed to do. He said the developer thought they could just build with the variance they received. Mr. Eacobacci stated the council now believes they have a use variance but now he knows they need to complete a site plan review.

Mr. Elkallassi stated they cut down trees on the property right up to the street and didn't leave a buffer.

Mr. Eacobacci stated they hired their peer reviewer in New Hampshire, and he explained that they need to come back to the board and the Town would say who the peer reviewer is.

In another discussion, Mr. Semple stated they went to the Planning Board the other night and there was a step to open communication in the future.

Ms. Wurts said it was nice to see the Planning Board and the Zoning Board start working together to communicate.

Mr. Eacobacci made a Motion to adjourn and was seconded by Mr. Morrison. The Motion passed unanimously.

The meeting ended at 8:14 pm.

Respectfully submitted,

Patricia A. Pacella
Recording Secretary

Date signed: 8-24-2022

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

Date copy sent to Town Clerk: _____

WAREHAM TOWN CLERK
2022 AUG 31 PM 5:47