

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: Wednesday, August 26, 2020

I. CALL MEETING TO ORDER

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

II. ROLL CALL

Members Present: Jim Eacobacci, Clerk
Veronica Debonise
Jake Morrison
Christopher Conti
Richard Semple

Also Present: Ken Buckland, Town Planner

III. PRELIMINARY BUSINESS

1. Approve meeting minutes: August 12, 2020

Motion: Ms. Debonise moves to approve as presented. Mr. Morrison seconds.

VOTE: (5-0-0)

2. 22-11 Walmart – Cranberry Highway & Seth F. Tobey Road – Release of Landscape Performance Bond

Although no one is present, Mr. Buckland states there was a report submitted requesting the release of (\$20,000.00) that was put aside for performance standards on the landscape plan. Mr. Buckland has reviewed the plan against the conditions of the parking lot and has found that there are dead plants in the landscape area and will have to contact Walmart to determine if they want to use the funds to replace the dead plants or replace them themselves so based on that these findings, this will need to be continued. Mr. Eacobacci states the matter will be continued for releasing the Performance Bond to Walmart until Mr. Buckland has a chance to negotiate the disposition of the \$20,000.00.

Motion: Mr. Semple moves to continue the matter of releasing the Performance Bond to Walmart on Cranberry Highway. Mr. Morrison seconds.

VOTE: (5-0-0)

WAREHAM TOWN CLERK
2020 SEP 24 PM 1:07

IV. PUBLIC HEARINGS

1. 15-16 David & Cynthia Garnett – Special Permit and/or Variance – 23 Fisherman Cove Road – Map 3, Lot R-15

Present before the Board: Bradley Bertolo, JC Engineering
David & Cynthia Garnett, property owners

Mr. Bertolo speaks into the record in behalf of the applicants. He mentions they would like to construct a small addition and porch to the front of the dwelling and a porch on the rear of the dwelling. He states this property contains a single family dwelling and a detached garage on a 15,260 square foot lot. He states that up until 2004 when the zoning changes took place, this lot was conforming but with the zoning change, it is now a preexisting, non-conforming structure. Mr. Bertolo reviews the changes on the plans with the Board. He mentions that what they are proposing is to add the porch and addition to follow the original setbacks. Conversation ensued based on the specifics of the construction. Mr. Bertolo also adds there will be no additional traffic caused by this change. Mr. Bertolo hands the Board a letter from an abutter to be read into the record if necessary.

Mr. Eacobacci states that the letter is in favor of the project. Mr. Eacobacci asks Mr. Bertolo to clarify the lines on the map. Mr. Eacobacci states that he sees the roof line is being changed on the left-hand side, and asks what is being done exactly. Ms. Garnett states that this is the kitchen end of the house, and it is really small so they are just looking for some extra room. Mr. Eacobacci agrees he sees no issues with what is being done and Ms. Debonise appreciates how the project was presented regardless of zoning changes and sees that it is non-detrimental. The rest of the board agrees with the project and like what is being done.

Present before the Board: Rick McDonald, abutter

Mr. McDonald states that he lives directly across the property, and at first he had some concerns because it is the only water view he has. He was concerned that the roof would change his view but has since been told this will have no impact to his view.

Mr. Buckland asks Mr. Bertolo to explain the flood zone lines on the plot plan. Mr. Bertolo states that the flood plain maps have some areas that are delineated zone x shaded and that would be areas that are within the 500 year flood plain but outside of the 100 year flood plain. He adds that the areas that are labeled zone X on the flood plain map do not show any hatching and those areas are outside of the 500 year flood plain. Mr. Bertolo states any areas outside of zone X Are not mandated to carry any flood insurance.

MOTION: Ms. Debonise moves to close the Public Hearing. Mr. Morrison seconds.

VOTE: (5-0-0)

MOTION: Ms. Debonise suggests this is not substantially more detrimental to the neighborhood and should be a Special Permit. Mr. Morrison seconds

VOTE: (5-0-0)

MOTION: Ms. Debonise moves to approve the project as presented with standard conditions. Mr. Semple seconds.

VOTE: (5-0-0)

2. 16-20 TJP Realty, LLC. – Variance – 13 Over Jordan Road – Map

Present before the Board: Kevin P. Klaur II., Esq. with Ament Klauer LLP
Steve Egans, Architect with Longfellow Design Build

Attorney Klauer mentions that he represents TJP Realty LLC, the applicant and owner of the subject property. He states they are seeking to construct a barn, in excess of 20' in height at the premises which will require a variance under Section 625 of the Zoning By-Laws. He continues to say that the property is a large lot, 5.39 acres and the proposed barn, approximately 50x100 ft. at the southern end of the property. He also adds this will not impact views from public ways or affect abutting properties. Attorney Klauer states that the height of the proposed barn is to be approximately 25' to the ridge.

Mr. Eacobacci reiterates the specifics of the project and looks a little deeper into the Zoning By-Laws. He asks for the distance between the barn and the house and Mr. Klauer mentions that it is about 300ft. from the house and the applicant will be using this barn as the common area for the family. Attorney Klauer refers to the full size plan to depict the property. Mr. Egans follows up with a more detailed description regarding location.

Mr. Morrison does not see an issue with the project. Ms. Debonise asks Mr. Buckland regarding the changes to the Zoning By-Laws and Mr. Buckland states that the clarification of the standards was modified but no real changes to this section. Ms. Debonise says she is not necessarily opposed but does have some concerns since it is a residential neighborhood and would like a site visit for a better understanding of the area. She is not prepared to make a decision tonight. Mr. Conti says that it is in fact a large building and asks if Attorney Klauer knows what the intent of the barn is for, and it is unknown at this time, simply knows it is going to be for storage.

The Board agrees to continue the Public Hearing for September 9, 2020.

V. CONTINUED PUBLIC HEARINGS

1. 8-20 – John Churchill – Variance – 2850 Cranberry Highway, Map 129, Lot 1077

Present before Board: Jillian Morton, Esq.
John Churchill, JC Engineering

Ms. Morton asked if the members had a chance to visit the site since the last meeting and Mr. Eacobacci stated that he know the property very well. Mr. Churchill displayed the large site plan up on the easel and passed out the renderings for further discussion of the hardship. Mr. Churchill refers to the plan. He states there is an order of conditions from the Conservation Commissioner for the duplex with one car garage for each unit and that has been approved and recorded with the Registry of Deeds. The other question that had come up was in regards to the impervious area and building coverage. Mr. Churchill mentions that in the Strip Commercial zoning, they are allowed up to 40% building coverage and 65% impervious. They are only asking for 7% building coverage and 16.1% impervious. He mentions that the uniqueness and hardship of this property goes back 20 years ago. Conversation ensued regarding the history of the property. Mr. Eacobacci asks for some clarification regarding the no-touch buffer, and Mr. Churchill explains further. He feels more restricted as time goes by and feels he needs to act before he gets more land taken away from him. He believes he meets the hardship and isn't doing anything in that area that isn't around him.

Mr. Eacobacci states that he doesn't have much input due to the fact that this is not new to him since it has been in front of the Board a few times and finds this to be the highest and best use for the property but understands the applicants position.

Mr. Semple starts off by saying that the lot now is now 1/3 less than what it is supposed to be, however he does have some traffic concerns. He feels there is a lot going on in that lot for what the applicant is asking. Mr. Churchill addresses Mr. Semples' concerns with some of the conditions already in place by the Conservation Commission.

Noting - there are issues with this recording....

Could not hear Mr. Morrison's input due to bad recording. Mr. Conti states he agrees with Mr. Semple and has the same concerns. He thinks this lot is going to be more of a non-conforming lot than it seems. Mr. Conti asks the town engineer has looked at the property and the Board feels there isn't a need.

Ms. Debonise asks about the lot next door, and Mr. Churchill states they are separate. They are both 30ft' lots today. She thinks it's a stretch to do a two-family. She said she personally would like to see a commercial building go on in that property.

:CD having gaps in between, cutting off some of the comments being made by the members.:

More questions being made regarding the no-touch zone put in place by Mass DOT. Mr. Eacobacci asks so he better understands what it means. Mr. Churchill explains the no-touch condition that is in place.

Mr. Morrison likes the idea being presented and disagrees putting a commercial property in this lot.

Mr. Buckland states he is bothered with the no-touch use and reduces the efficiency of the development with this property.

Conversation ensued regarding restrictions in place.

MOTION: Mr. Morrison moves to close the Public Hearing. Mr. Conti seconds.

VOTE: (5-0-0)

**MOTION: Mr. Morrison moves to grant as presented with standard conditions.
None seconded.**

MOTION: Mr. Debonise moves to deny project as presented based on the lot size and frontage requirements and does not find that hardship prevents use as permitted. Mr. Conti seconds.

VOTE: (3-2-0)

VI. ANY OTHER BUSINESS/DISCUSSIONS

VII. ADJOURNMENT

MOTION: Mr. Conti moves to adjourn. Mr. Semple seconds.

VOTE: (5-0-0)

Date signed: 9-23-2020

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

Date copy sent to Town Clerk: _____