

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: October 25, 2017

I. CALL MEETING TO ORDER

The meeting was called to order at 6:35 P.M.

II. ROLL CALL

Members Present: Nazih Elkallassi, Chairman
Jim Eacobacci, Clerk
Karl Baptiste, Sr.
Jan Kendrick
Wilma Engerman
Jacob Morrison, Associate

Also present: Charles Rowley
Ken Buckland, Town Planner
David Riquinha, Building Commissioner

A. Approve meeting minutes: October 11, 2017

MOTION: Mr. Eacobacci moves to accept the minutes as presented. Ms. Engerman seconds.

VOTE: (5-0-0)

B. Petition #31-17 – Certificate of Occupancy – J. Donegan Co. – 2419 & 2427 Cranberry Highway and 4 Seth F. Tobey Road

Present before the Board: Matt Smith, Bohler Engineering

Mr. Smith states at the last hearing the Board had asked the applicant to come forward with a proposed bond amount in order to complete the site work they are proposing to complete later in the year, after getting a Certificate of Occupancy for Aldi's. The applicant is proposing a cash bond in the amount of \$411,608.00 to cover the remaining site work. Mr. Rowley is concerned that the proposed bond would not cover the site work required.

MOTION: Mr. Baptiste moves to approve issuing the Certificate of Occupancy with the \$411,608.00 bond in place with the two-year maturity and the stipulation that the final paving is completed. Mr. Eacobacci seconds.

VOTE: (4-1-0)

I. PUBLIC HEARINGS

A. Petition #35-17 James Caporiccio – 5 Albatross Avenue

Mr. Elkallassi excuses himself from this vote due to his business with Leonard Bello. Jake Morrison will vote for Mr. Elkallassi and Mr. Eacobacci will act as chairman.

Present before the Board: Leonard Bello, attorney
Mr. & Mrs. Caporiccio

Mr. Bello states that when the property was first built on the property needed 65 feet of frontage and 6,500 square feet of area. Subsequent zoning changes have required these lots to have 200 feet of frontage and 130,000 square feet of area. Mr. Bello states that no lots in Wareham Lake Shores satisfy that zoning requirement. The applicants are requesting to demolish the existing home, increase the footprint, add a second floor and a 24' garage. The home will remain a three bedroom home, but the rooms will be larger in order to better accommodate comfortable living. Mr. Bello states that the applicant is seeking a Special Permit to construct the new home. Mr. Bello states that several other homes of this size have been built in Wareham Lake Shores, sometimes on smaller lots. Mr. Bello states that the setbacks are no more detrimental than they were at the time of the houses construction.

Present before the Board: Yvon Kinsman, 83 Wareham Lake Shore Drive

Ms. Kinsman states that multiple people in the neighborhood have built houses larger than the Caporiccio's are requesting. Ms. Kinsman feels what the Caporiccio's are proposing will help to clean up the neighborhood.

Ms. Engerman states that in the Zoning By-Law it states that family dwellings are not allowed unless otherwise approved by the Board and cannot see reason to enlarge the footprint.

Ms. Kendrick asks if there is any increase in the front and side setbacks. Mr. Bello states there is no increase, and one side is actually three feet further from where it stands now.

Mr. Eacobacci states he feels that the changes in Zoning were intended to set a standard for newly created lots in this district and that there was an oversight or lack of conditions in the By-Law to provide relief for the existing lots.

Mr. Elkallassi states this is feasible as a Special Permit with consideration to the comments Mr. Bello made and doesn't feel this is a detriment to the neighborhood.

MOTION: Ms. Kendrick moves to close the public hearing, Mr. Baptiste seconds.

VOTE: (5-0-0)

MOTION: Ms. Kendrick moves to approve the project as a Special Permit based on the information provided as she does not see a detriment to the neighborhood. Mr. Morrison seconds.

VOTE: (4-1-0)

B. Petition #36-17 Ken Deluze – 2 Agawam Beach Road

Present before the Board: Kenneth Deluze

The applicant is requesting a Special Permit or Variance to construct a single family home on a lot that does not have 180' of frontage. Mr. Deluze states that when he purchased the property that the seller had a building permit for the property already, but never built on the lot. Mr. Deluze states he intends on building the house that had originally been proposed on the lot, which is relayed in the covenant.

Mr. Elkallassi asks Mr. Riquinha why they cannot count lot frontage from both streets on the corner lot. Mr. Riquinha states that frontage is determined by the corner lot arc length. The lot is otherwise conforming.

Mr. Buckland points out that a Variance had been approved for this site in 2003, the hardship was due to the shape, size, and configuration of the lots that strict conformance with the corner lot frontage was not feasible and would result in significant hardship in the sale of this lot.

Present before the Board: Christina & David Coggsell, 132 Great Neck Road

Mr. Coggsell states when the property was purchased there was a covenant on the property and bought the lot they have for what they felt was a large sum of money and the lot in question was dropped \$100,000.00. Mrs. Coggsell states she feels that the construction of the proposed house would depreciate the value of her house.

Mr. Elkallassi states he will pass this around the Board but his recommendation is to have the owner of the property come before the Board with an attorney and house plans to prove hardship of the lot.

Ms. Engerman doesn't want to grant a Variance or Permit unless the applicant buys the lot.

Mr. Elkallassi recommends having the owner appear before the Board with a strong argument requiring a Variance.

Mr. Eacobacci recommends the applicant withdraw without prejudice. The applicant does not wish to withdraw at this time.

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

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to grant the Variance. Mr. Baptiste seconds.

VOTE: (1-4-0)

C. Petition #37-17 – Carlos & Mary Esteves – 7 Beach Street

Present before the Board: Carlos & Mary Esteves, 7 Beach Street

The applicant is proposing to construct a full length dormer on a pre-existing non-conforming dwelling. Mr. Esteves states the current home has a very low pitch roof and is seeking to raise the roof to a full dormer. Mr. Eacobacci believes this is a Special Permit.

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

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to treat this as a Special Permit. Ms. Kendrick seconds.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to grant the Special Permit as presented finding that the proposed project is not detrimental to the neighborhood based on plans drafted by Colonial Engineering, Inc. dated June 26, 2017 and Howard Miller Consulting, Inc. dated June 13, 2017. Ms. Kendrick seconds.

VOTE: (4-0-1)

II. CONTINUED PUBLIC HEARINGS

A. Petition #31-17 – J. Donegan – 2419 & 2427 Cranberry Highway and 4 Seth F. Tobey Road

Present before the Board: Matt Smith, Bohler Engineering
Zach Richards, Bohler Engineering

Mr. Smith states the initial filing for the Site Plan modification was pending on some other permits as well as a pending lease agreement and they are requesting the continuance in order to work out the details. Mr. Smith also states that there may potentially be a bank on the site and they do not want to apply for a Variance during the Site Plan Review process. Mr. Eacobacci states that if a Variance for a drive-thru came before them he would do all he could to help it along. Ms. Kendrick states she would find it necessary to stick to the statute on drive-thru's in the Town.

MOTION: Mr. Eacobacci moves to continue the public hearing until November 8, 2017. Mr. Baptiste seconds.

VOTE: (5-0-0)

B. Petition #29-17 – Dorothy Schnetzer – 31 Priscilla Avenue

Present before the Board: Brad Bertolo, JC Engineering, Inc.

Mr. Elkallassi states he cannot vote on this case so Mr. Morrison will vote in his place.

Mr. Bertolo states that the foundation and orientation on the existing lot it is more financially feasible to demolish the existing house and reconstruct it on the lot. The reconstruction cannot meet the setback requirements. The house is also proposed to be turned so the front of the house is facing the street, which will lessen the side setbacks and also move the house further from the existing wetlands. The applicant is requesting a Special Permit in order to construct the new house. The existing house is in need of repair, and is not financially feasible to perform the required work on the existing house. Mr. Bertolo states he does not feel this will be a detriment to the neighborhood.

MOTION: Ms. Kendrick moves to close the public hearing. Mr. Morrison seconds.

VOTE: (5-0-0)

MOTION: Mr. Baptiste moves to consider this project as a Special Permit. Mr. Morrison seconds.

VOTE: (4-1-0)

MOTION: Mr. Baptiste moves to grant the Special Permit as presented. Mr. Morrison seconds.

VOTE: (4-1-0)

C. Petition #32-17 – Dean Gilhooly – 18 Pine Lake Drive

Present before the Board: David Gilhooly

Mr. Gilhooly is requesting to construct a screened porch on the property. Mr. Eacobacci states it is his recollection that the porch would be in the way of the septic system. Mr. Gilhooly presents a letter from the Health Agent, Robert Ethier stating that the sono tubes will in no way interfere with the septic system. Mr. Elkallassi states he feels that a Special Permit would be appropriate.

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

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to determine the project requires a Special Permit. Mr. Baptiste seconds.

VOTE: (5-0-0)

MOTION: Mr. Eacobacci moves to grant the Special Permit as presented as per plan by JC Engineering, Inc. dated October 20, 2017. Mr. Baptiste seconds.

VOTE: (5-0-0)

D. Petition #33-17 – Angelo & Melody Salvadore c/o Michael Saraive – 15 South Boulevard

The applicant had requested a withdrawal.

MOTION: Ms. Kendrick moves to accept the withdrawal without prejudice. Ms. Engerman seconds.

VOTE: (5-0-0)

III. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS

A. Correspondence

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

Mr. Eacobacci reads into the record an anonymous letter regarding Morgan's Mobile Park. The letter states there are children in the mobile park when the park is meant to be a 55+ community and they feel their rights are being threatened.

Mr. Elkallassi states these concerns are legitimate and believes they should look into the requirements for living in the community.

Mr. Eacobacci states there is a state body that regulates mobile home parks.

B. Upcoming Hearings:

November 8, 2017	#38-17	Special Permit/Variance	David & Eldon Moriera	33 Cleveland Avenue
November 8, 2017	#39-17	Special Permit/Site Plan Review	Blue Wave	Off Charge Pond Road
November 8, 2017	#40-17	Special Permit/Site Plan Review	Blue Wave	Off Charge Pond Road
November 8, 2017	#41-17	Special Permit/Site Plan Review	Blue Wave	Off Charge Pond Road
November 8, 2017	#42-17	Special Permit/Site Plan Review	Blue Wave	Off Charge Pond Road
November 8, 2017	#43-17	Special Permit	Spencer & Katherine Vachon	225 Glen Charlie Road
November 8, 2017	#44-17	Special Permit	Heidi Dobbins-Morse	Spring Avenue

C. Decision Deadlines

December 26, 2017 – Special Permit / January 5, 2017 - Variance	#29-17	Special Permit/Variance	Dorothy Schnetzer	31 Priscilla Avenue
60 Days from Close of Public Hearing	#31-17	Site Plan Review	J. Donegan Company	2419 & 2427 Cranberry Highway and 4 Seth F. Tobey Road
December 26, 2017 – Special Permit / January 5, 2017 - Variance	#33-17	Special Permit/Variance	Angelo & Melody Salvadore c/o Michael Saraive	15 South Boulevard
February 6, 2018	#35-17	Special	James Caporiccio	5 Albatross

Special Permit/ February 16, 2018 Variance		Permit/Variance	c/o Leonard Bello	Avenue
February 6, 2018 Special Permit/ February 16, 2018 Variance	#36-17	Special Permit/Variance	Ken Deluze	2 Agawam Beach Road
February 6, 2018 Special Permit/ February 16, 2018 Variance	#37-17	Special Permit/Variance	Carlos & Mary Esteves	7 Beach Street

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

VII. ADJOURNMENT

MOTION: Mr. Eacobacci moves to adjourn. Ms. Kendrick seconds.

VOTE: (5-0-0)

Date signed: 11-8-2017

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

Date copy sent to Town Clerk: _____

RECEIVED

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TOWN OF WAHEHAM
TOWN CLERK