**MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS**

**Date of Meeting: December 12, 2018**

1. **CALL MEETING TO ORDER**

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

1. **ROLL CALL**

Members Present: Nazih Elkallassi, Chairman

Jim Eacobacci, Clerk

Jan Kendrick

Wilma Engerman

Also present: Kenneth Buckland, Town Planner

Charles Rowley, Town Review Engineer

1. **PRELIMINARY BUSINESS**
2. **Approve meeting minutes: November 14, 2018**

The minutes will be approved at the next hearing.

1. **#6-18 – 35 & 39 Priscilla Avenue – Minor Modification**

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

 Richard Smith

Mr. Bertolo states this site was previously approved to raze and reconstruct a single family home. The project was approved to encroach on the front yard setback. During construction, it was required to rotate the foundation, causing the foundation to be one foot closer to the front yard setback than what was previously approved. The applicant is requesting a modification for the Special Permit to allow for the structure to be allowed one foot closer to the front setback. The Board agrees this is a minor modification.

**MOTION: Mr. Eacobacci moves to approve as a minor modification. Mr. Morrison seconds.**

**VOTE: (4-0-0)**

1. **PUBLIC HEARINGS**
2. **34-18 – Steven & Cheryl Yurasha – 9 Jordan Road**

Present before the Board: Richard Serkey, Esquire

Mr. Elkallassi must abstain from this hearing.

Mr. Serkey states that the amended petition sought for relief, one for use variance for an in-law apartment and one for a shed. The applicants are submitting a letter of withdrawal for the variance for the in-law apartment. The Yurasha’s have filed and recorded a declaration of restriction, after which the Building Commissioner granted a permit of occupancy.

The second part of the petition for a Variance from the front setback requirements for a shed is requested to be continued.

**MOTION: Mr. Eacobacci continues until January 23, 2019. Motion seconded.**

**VOTE: (3-0-1) Mr. Elkallassi abstains**

1. **CONTINUED PUBLIC HEARINGS**
2. **#23-18 – Anthony Grosso – 1 Rae Avenue**

Present before the Board: Anthony Grosso

Mr. Eacobacci must abstain from this hearing.

Mr. Elkallassi asks if Mr. Grosso would be willing to give the Board an extension until January. Mr. Grosso states he would like extend the hearing until February 27, 2019.

**MOTION: Ms. Kendrick moves to continue until February 27, 2019. Mr. Morrison seconds.**

**VOTE: (3-0-1) Mr. Eacobacci abstains**

1. **#33-18 – Ninety Six, LLC – Fearing Hill Road**

Present before the Board: Robert Perry

Mr. Perry does not speak this evening. Mr. Elkallassi states he will let the public know when this will be continued to.

1. **#38-18 – Sunraise Development – 2382 Cranberry Highway**

Present before the Board: Bob Rogers, G.A.F. Engineering, Inc.

 Joe Harrison, Sunraise Development

 Jim McCarthy, 2384 Cranberry Highway, LLC

 Dennis McCarthy, 2384 Cranberry Highway, LLC

Mr. Rogers states they had performed more imperviability testing and produced a supplemental drainage report. Mr. Rogers states they have also responded to Mr. Rowley’s comments.

Mr. Rogers states in his mind, two issues remain. The stormwater issue and the screening issue.

Mr. Rowley states his concerns are the amount of glacial till on the site, which does not allow for infiltration. Mr. Rowley states he does not feel there has been sufficient testing of the lower soil layer to prove the site could handle the additional runoff. Mr. Rowley recommends that the Board keeps the upper layer vegetated about 100 feet in to allow for drainage on the site. Mr. Rowley states when that site was cleared previously the runoff was tremendous. This is in regards to the line on the south portion on the site abutting the trailer park. Mr. Rowley recommends limiting the construction in order to maintain proper drainage.

Mr. Rogers states keeping a 100’ buffer would stop the project. Mr. Rogers states the applicant is before the Board with a court agreement between the McCarthy’s and the Town stating that a solar project on this site will not be unreasonably withheld. Mr. Elkallassi states that is irrelevant to the Board.

Mr. Rogers states the basins have not changed since the submission of the project, infiltrating at ¼ inch an hour. The slowest actual rate was 1.8 inches per hour. Mr. Rogers states they are confident these basins will work.

Mr. Rowley states using the elevations shown on the plans, seeing where the elevations were compared to the modeling layer, the model of the over dig (drainage) was right at the modeling layer. There is water that travels with that modeling layer under the soil. The test pits did not go deep enough to test the modeling layer. Mr. Rowley does not feel the drainage could handle the runoff from the modeling layer as well.

Mr. Rowley feels clearing the site will affect the infiltration rate of the soil. Mr. Dennis McCarthy states they have had geotechnical engineers showing the rate of the drainage. Mr. McCarthy states he has been working on the site for 30 years and water does not come out of the side of the hill.

Mr. Rowley states he is not concerned of water coming out of the side of the hill, but is concerned the drainage basins could not handle the water coming from the model layer.

Mr. Rogers states he does not feel it is necessary to perform additional tests to find that 5 to 7 feet below the surface is where the water drains at less than ¼ inch an hour.

Mr. Rowley states that the initial calculations were done with a rate of .27 inches per hour infiltration, even with a 10 year storm two of the basins overflowed. Mr. Rowley states with the more recent tests when they recalculated using 1.83 inches per hour, even with a 100 year storm, the water never even came to the floor of the basin, which is incredible to believe.

Mr. Eacobacci asks what happens to the stormwater now.

Mr. Rowley states a lot of the vegetation at the top of the site holds the water. The stormwater currently goes into drainage basins, into the side slopes, through a stone swale, into a catch basin and ultimately into Route 28.

Mr. Elkallassi asks if there is away they could condition the approval to require a review of the stormwater.

Present before the Board: Jim Moniz

Mr. Moniz states there is one area that will be visually affected by the view of the solar farm, and the minimum 50’ buffer should be reconsidered. Mr. Moniz is concerned of the people living in the mobile home park and feels as though they should be considered so their property values aren’t affected negatively.

Mr. Rogers states any water more than three feet below the surface is going to flow exactly as it does on the site now.

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

**VOTE: (4-0-0)**

**MOTION: Mr. Eacobacci moves to approve the project under standard conditions as well as the conditions #6-#9 in Mr. Rowley’s review letter dated December 20, 2018. Mr. Morrison seconds.**

**VOTE: (4-0-0)**

1. **17-18 – RMRM LLC – 3035 Cranberry Highway**

Present before the Board: Richard Serkey

Mr. Serkey requests a continuance to January 23, 2018.

**MOTION: Mr. Eacobacci moves to continue the public hearing until January 23, 2019. Ms. Kendrick seconds.**

**VOTE: (4-0-0)**

1. **ANY OTHER BUSINESS/DISCUSSIONS**
2. **Correspondence**
3. **Executive Session – Appeal of #2-18 – Dakota Partners – 3102 Cranberry Highway**

**Upcoming Hearings:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **January 9, 2019** | **#1-19** | **Special Permit/Variance** | **Jessica Nassif** | **34 Hammond Street** |

**Decision Deadlines**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Special Permit – 1-15-19; Variance – 1-25-19** | **#17-18** | **Special Permit/Variance** | **RMRM Realty, LLC** | **3035 Cranberry Highway** |
| **January 15, 2019** | **#23-18** | **Special Permit/Site Plan Review** | **Anthony Grosso** | **1 Rae Avenue** |
| **November 30, 2018** | **#33-18** | **Variance/Appeal** | **Ninety Six Realty, LLC** | **Parcel A, Fearing Hill Road** |
| **January 22, 2019** | **#38-18** | **Special Permit/Site Plan Review** | **Sunraise Development** | **2382 Cranberry Highway** |

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

**VI. ADJOURNMENT**

**MOTION: Mr. Eacobacci moves to go into executive session to discuss appeal of 2-18. Mr. Morrison seconds.**

**VOTE: (4-0-0)**

Date signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attest: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 James Eacobacci, Clerk

 WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_