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

**Date of Meeting: December 13, 2017**

1. **CALL MEETING TO ORDER**

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

1. **ROLL CALL**

Members Present: Nazih Elkallassi, Chairman

Jim Eacobacci, Clerk

Karl Baptiste, Sr.

Jan Kendrick

Wilma Engerman

Jacob Morrison, Associate

Also present: Ken Buckland, Town Planner

Charles Rowley

David Riquinha, Building Commissioner

1. **III. PRELIMINARY BUSINESS**
2. **Approve meeting minutes: November 8, 2017**

**MOTION: Mr. Eacobacci moves to accept the minutes as presented. Mr. Baptiste seconds.**

**VOTE: (5-0-0)**

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

The applicant has requested a continuance until January 10, 2018.

**MOTION: Mr. Eacobacci moves to continue the public hearing until January 10, 2018. Ms. Kendrick seconds.**

1. **PUBLIC HEARINGS**
2. **Petition #45-17 – Richard McBrine – 55 West Central Avenue**

Present before the Board: Richard McBrine

Judith McBrine

The applicant is requesting a Special Permit to construct a 16’x6’ addition to the existing porch. Mr. McBrine states he is hoping to extend his front deck that is currently 5’x6’. Mr. Elkallassi states it is difficult to grant a Special Permit without a surveyed plan. Mr. McBrine states that the cost to have the property surveyed would cost more than his budget allows and would cost more than the construction of the deck. Mr. McBrine states that he has the frontage on the property, but that the percentage of building coverage on the lot is what is being exceeded. Mr. Eacobacci states that the plan presented is difficult for him to understand. Mr. Morrison believes he needs a better drawing of the project as well. Ms. Kendrick concurs. Mr. Elkallassi states he would like to see a surveyed plan. Mr. Elkallassi states the public hearing can be continued. Mr. Elkallassi recommends extending the hearing until January 24, 2018 and if the applicant is not ready to send a letter requesting a continuance.

**MOTION: Mr. Eacobacci moves to continue the public hearing until January 24, 2018. Ms. Kendrick seconds.**

**VOTE: (5-0-0)**

1. **Petition #46-17 – Ramos Realty Trust – 300 Glen Charlie Road**

Present before the Board: Arlene Mason, 14 Eldridge Street, Wareham ,MA

The applicant is requesting a Special Permit to construct and 816 s.f. living space addition as well as an 896 s.f. rear deck addition. Ms. Mason states the property comes back from the road at an angle, and requires a Special Permit for the addition. Mr. Elkallassi stated that he requires an engineered plan as well as the architectural plans. Mr. Elkallassi asks Ms. Mason how long it would take to return with a plan. Ms. Mason says until January 24, 2018.

**MOTION: Mr. Eacobacci moves to continue the public hearing until January 24, 2018. Ms. Kendrick seconds.**

**VOTE: (5-0-0)**

1. **Petition #47-17 – Kelly & Chris Socha – 6 Wareham Lake Shore Drive**

Present before the Board: Christopher and Kelly Socha

The applicant is requesting a Special Permit or Variance to construct two new front entrance additions. Mrs. Socha states they have recently moved to Wareham and are making improvements on their home. Ms. Socha states they would like to build an entrance way over the existing bulkhead and a matching front door to the left side. Ms. Engerman asks why they are asking for two doors. Mrs. Socha states she has to exit the house to access the bulkhead to do the laundry now, having the two doors will allow easier access.

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

**VOTE: (5-0-0)**

**MOTION: Mr. Baptiste moves to treat this project as a Special Permit. Mr. Eacobacci seconds.**

**VOTE: (4-1-0)**

**MOTION: Mr. Eacobacci moves to grant the Special Permit with standard conditions with the findings that this project does not substantially increase the nonconformity and is not substantially detrimental to the neighborhood. Ms. Kendrick seconds.**

**VOTE: (4-1-0)**

1. **Petition #48-17 – Deborah & Joseph McMullen – 70 Longwood Avenue**

Present before the Board: Bill Lockwood, Lockwood Architects

Deborah and Joseph McMullen

The applicant is requesting a Special Permit or Variance in order to raze a single story detached accessory structure and replace it with a detached two story addition with living space above and office space below. Mr. Lockwood states that the garage on the site is proposed to be demolished and construct a two story addition in order to provide Mrs. McMullen an elevator to better access the second floor. The existing garage is closer to the property lines than the proposed addition is going to be. Mr. Lockwood states that this proposed construction will decrease the coverage on the lot. Ms. Engerman states that mixed use is not allowed in this zone. Mr. Eacobacci asks what the mixed use will be. Ms. Engerman states the office is not allowed in the home. Mr. Elkallassi states this is a home occupation and is not a mixed use. Mr. Buckland notes that the proposed addition on the plan states one bedroom addition but the plans should read two story one bedroom addition.

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

**VOTE: (5-0-0)**

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

**VOTE: (4-1-0)**

**MOTION: Mr. Eacobacci moves to grant the Special Permit with standard conditions per the plans submitted with the project with the note changed from stating one bedroom addition to two story one bedroom addition with the findings that this project does not substantially increase the nonconformity, it is a reduction of the nonconformity and is not substantially detrimental to the neighborhood. Mr. Baptiste seconds.**

**VOTE: (4-1-0)**

1. **Petition #49-17 – Leon Gaudette, Jr. – 2 Benjamin Street**

Present before the Board: Leon Gaudette, Jr.

The applicant is requesting a Special Permit or Variance to construct a new 8’ x 16’ addition. Mr. Gaudette states he is hoping to construct a room on the side of his house for his mother-in-law, after which point they do not require the room for that use will be turned into a dining room.

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

**VOTE: (5-0-0)**

**MOTION: Ms. Kendrick moves to treat this project as a Special Permit. Mr. Baptiste seconds.**

**VOTE: (4-1-0)**

**MOTION: Mr. Baptiste moves to grant the Special Permit with standard conditions with the findings that this project does not substantially increase the nonconformity and is not substantially detrimental to the neighborhood. Ms. Kendrick seconds.**

**VOTE: (4-1-0)**

1. **Petition #50-17 – John & Jacquelyn Burroughs – 6 Priscilla Avenue**

Present before the Board: John and Jacquelyn Burroughs

The applicant is requesting to raze and existing dwelling and reconstruct a new single family dwelling in the same footprint. Mr. Burroughs states he has an approved septic plan for the project. Ms. Engerman states that the lot size requirements do not meet those in the zone.

Present before the Board: Cassie Allen, 344 Plymouth Avenue

Ms. Allen states that the property the Burroughs have built have been an absolute improvement to the neighborhood and that she feels they will improve this property as well.

Present before the Board: John and Elizabeth Manuel, 312 Plymouth Avenue

Mr. Manuel states if the house is built any higher than it is now then it will completely block their view of the lake. Mr. Manuel states in MGL 40 it states views cannot be obstructed and Section 1335 F of the Zoning By-Law prohibits blocking of a view. Ms. Kendrick states that the Zoning By-Law does not say you cannot block a view but can be a consideration when determining detriment. Mr. Elkallassi asks Mr. Burroughs how high the foundation will be from the ground from Priscilla Avenue. Mr. Burroughs states the foundation will be seven feet above the ground. Mr. Elkallassi states that would make the property a two-story house. There is some confusion as to how high the foundation is intended to be. Mr. Burroughs states the foundation changed from what is presented on the plan due to the septic.

Present before the Board: Cassie Allen, 344 Plymouth Avenue

Ms. Allen states that two houses up from the subject house is a home that is significantly higher than the roof line proposed.

Mr. Elkallassi states that if they can move forward with the plans as they are presented that would be best. Mr. Burroughs states that would change the septic. The Board determines they require revised plans to accurately determine what the height of the foundation will be. Mr. Elkallassi recommends Mr. Burroughs comes back with revised plans. Mr. Burroughs asks if he could come back for January 10, 2018.

**MOTION: Mr. Eacobacci moves to continue the public hearing until January 10, 2018. Mr. Baptiste seconds.**

**VOTE: (5-0-0)**

1. **Petition #51-17 – Kristin R. Monast – 8 Squaws Path**

Present before the Board: Philip Monast

The applicant is seeking a Special Permit or Variance to construct a second dwelling unit within the existing structure. Mr. Monast states this is proposed to be an in-law apartment.

Present before the Board: Bob Brady

Mr. Brady states that the notification stated the property was in Zone R-30 but the notice states R-130. Mr. Brady states in the R-30 zone a two-family dwelling is allowed.

Present before the Board: David Riquinha, Building Commissioner

Mr. Riquinha states that the Assessors database had the property listed as R-130, however, the property is in fact R-30. However, this quantifies as an accessory apartment and still requires a Special Permit and does not constitute as a two-family.

Mr. Eacobacci asks if the project needs to be re-noticed to protect the applicant. Ms. Kendrick states this public hearing would have to be closed and the process

Present before the Board: Jeff Monast

Mr. Monast states he is the only direct abutter and does not feel this project should be required to be re-advertised. There is no direct access from outside the structure of the house.

Mr. Elkallassi asks the applicant if he would like to continue today and see if an applicant appeals the project.

Mr. Rowley states he feels that the accurate explanation with the address, map and lot of the notice supersedes the zoning district on the notice.

Mr. Philip Monast states he would like to continue with the public hearing this evening.

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

**VOTE: (5-0-0)**

**MOTION: Mr. Eacobacci moves to grant the Variance with the condition that if the house is sold it is sold as a one family without an accessory apartment, finding that the hardship is due to the unique characteristic of the property, that this will not alter the essential character of the neighborhood, and the hardship has not been self-created. Mr. Baptiste seconds.**

**VOTE: (4-1-0)**

1. **CONTINUED PUBLIC HEARINGS**
2. **Petition #31-17 – J. Donegan – 2419 & 2427 Cranberry Highway and 4 Seth F. Tobey Road**

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

The applicant has requested a continuance until January 10, 2018.

**MOTION: Mr. Eacobacci moves to continue the public hearing until January 10, 2018. Ms. Kendrick seconds.**

**VOTE: (5-0-0)**

1. **Petition #39-17 – BlueWave Solar – Off Charge Pond Road**

Present before the Board: Richard Serkey, attorney

Richard Riccio,

John Mancini, BlueWave

Lexi Barlow, BlueWave

The applicant has submitted revised plans to the Board. Mr. Riccio states they had previously discussed the issue of access to the site. The applicant has since developed a design plan that creates a 20’ access easement over the existing easement with temporary construction easement for grade purposes only, 10’ on either side of the easement. 20’ fire access lanes have been provided around the entire site and the fire department has approved the plan. The site plans have been revised to meet the 50’ setback around the entire array. The applicant has revised the decommissioning report and Mr. Rowley and they have come to an agreement for the decommissioning bond.. The other issue addressed was the view from Route 25 of the solar panels. The plans have been revised to show a rising grade on Route 25 and additional notes have been added to the plan regarding clearing; no clearing will be done outside of the fence until an inspection has been done at the site. Mr. Rowley states in the discussion to hide the panels from Route 25 it would be prudent to not clear outside of the array panels until the site has been inspected to see which trees are essential to be removed, in order to maintain as much natural vegetation as possible.

Mr. Elkallassi asks how many feet of gravel will be applied to the easement. Mr. Riccio states 20’ of gravel will be applied. Mr. Elkallassi states he recalls it being a concern that the grading on the 20’ easement would encroach onto town property. Mr. Rowley states it would, but he believes the applicant has received permission to perform this grading. Mr. Rowley says his only concern in the easterly portion of the site should have vegetated swales added to retain the runoff to avoid erosion.

Present before the Board: Derek Sullivan, Town Administrator

Mr. Sullivan states that the applicant does have permission from the town to perform the required grading on the town property.

Mr. Elkallassi asks if the applicant has submitted proposals for the decommissioning bond. Mr. Riccio states he did submit the decommissioning proposals to Mr. Buckland. Mr. Buckland states that after 5 years there will be a review of the bond to scale the escalation and readjust.

Mr. Rowley states the only other thing he added was that the gravel access roads be constructed according to the plan and to the satisfaction of the landowner. Mr. Rowley states he feels there should be some documentation stating that the landowners are amiable to this

Present before the Board: Derek Sullivan, Town Administrator

Mr. Sullivan states he is before the Board because this project had generated a large concern about the removal of the trees for the solar panels. Mr. Sullivan says he looks at the overall impact this will have on the community and right now the average single family tax bill is a little over $2,900.00. This project annually throughout the project will generate annually around $300,000.00 for the community. There is really no impact to the town services. Mr. Sullivan states he feels this is one of the lowest impact projects they will see in this town. Chapter land will also come back into taxable property.

Present before the Board: Tom Jepson, 15 Long Beach Road

Mr. Jepson states that he is not opposed to the entire project. Mr. Jepson states the last time he was at the hearing he was told he should discuss his concern with the amount of trees being cut should be discussed with conservation. Mr. Jepson stated that 39 acres of trees will be clear cut. Mr. Jepson states that 35 acres will be for one solar array and that is the one he is most concerned about. Mr. Jepson stated he had requested an environmental impact study and was told it was not required. Mr. Jepson then asked if a CTCC study could be done and that was not required either.

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

**VOTE: (5-0-0)**

**MOTION: Ms. Kendrick moves to grant the Special Permits and Site Plan Reviews for Petitions #39-17, 40-17, 41-17, 42-17 subject to review by the Board of Appeals, Town Planner, Town Review Engineer and Building Commissioner of the terms of the written decision. Mr. Eacobacci seconds.**

**VOTE: (5-0-0)**

1. **Petition #40-17 – BlueWave Solar – Off Charge Pond Road**
2. **Petition #41-17 – BlueWave Solar – Off Charge Pond Road**
3. **Petition #42-17 – BlueWave Solar – Off Charge Pond Road**
4. **ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS**
5. **Correspondence**
   1. See correspondence sent via email and/or in packets.
6. **Upcoming Hearings:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **January 10, 2018** | **#01-18** | **Variance** | **J. Donegan Company** | **2419 & 2427 Cranberry Highway & 4 Seth F. Tobey Road** |

1. **Decision Deadlines**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **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** |
| **60 Days from Close of Public Hearing** | **#39-17**  **#40-17**  **#41-17**  **#42-17** | **Site Plan Review** | **Blue Wave Solar** | **Off Charge Pond Road** |
| **February 6, 2018** | **#39-17**  **#40-17**  **#41-17**  **#42-17** | **Special Permit** | **Blue Wave Solar** | **Off Charge Pond Road** |
| **Special Permit - March 13, 2018**  **Variance - March 23, 2018** | **#45-17** | **Special Permit/Variance** | **Richard McBrine** | **55 West Central Avenue** |
| **Special Permit - March 13, 2018**  **Variance - March 23, 2018** | **#46-17** | **Special Permit/Variance** | **Ramos Realty Trust** | **300 Glen Charlie Road** |
| **Special Permit - March 13, 2018**  **Variance - March 23, 2018** | **#47-17** | **Special Permit/Variance** | **Kelly & Chris Socha** | **6 Wareham Lake Shore Drive** |
| **Special Permit - March 13, 2018**  **Variance - March 23, 2018** | **#48-17** | **Special Permit/Variance** | **Deborah & Joseph McMulling** | **70 Longwood Avenue** |
| **Special Permit - March 13, 2018**  **Variance - March 23, 2018** | **#49-17** | **Special Permit/Variance** | **Leon Gaudette, Jr.** | **2 Benjamin Street** |
| **Special Permit - March 13, 2018**  **Variance - March 23, 2018** | **#50-17** | **Special Permit/Variance** | **John & Jacquelyn Burroughs** | **6 Priscilla Avenue** |
| **Special Permit - March 13, 2018**  **Variance - March 23, 2018** | **#51-17** | **Special Permit/Variance** | **Kristin R. Monast** | **8 Squaws Path** |

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

**VIII. ADJOURNMENT**

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

**VOTE: (5-0-0)**

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

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

James Eacobacci, Clerk

WAREHAM ZONING BOARD OF APPEALS

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