

MINUTES OF MEETING OF WAREHAM ZONING BOARD OF APPEALS

Date of Meeting: April 22, 2015

I. CALL MEETING TO ORDER

The meeting was called to order at 7:10 P.M.

II. ROLL CALL

Members Present: Ken Ferreira, Chairman
David Sharkey
Nazih Elkallassi (Arrived at 7:00 P.M.)
James Eacobacci (Arrived at 7:00 P.M.)

Member Absent: Jan Kendrick
Wilma Engerman

III. PRELIMINARY BUSINESS

- A. Approve & sign invoice #124710256 from W.B. Mason in the amount of \$24.68 for office supplies.
- B. Discussion: Wal-Mart, c/o Bohler Engineering, Inc. – off site roadway improvements and store opening.

It was stated that Wal-Mart is planning to open on August 23, 2015. Wal-Mart currently has a temporary Occupancy Permit to start getting things ready inside, but they may have to get another temporary Occupancy Permit in July if the issue with the off-site section of their gas line is not resolved. The issue is complicated because it involves MASS D.O.T. and Rt. 28. They do not know how long it will take for the D.O.T. to resolve the issue.

It was stated that Wal-Mart would like a letter of recommendation from the Board in support of the current temporary Occupancy Permit and support of the July request for another temporary Occupancy Permit if it is needed.

MOTION: A motion was made & seconded to support the temporary Certificates of Occupancy Permits for Wal-Mart.

VOTE: Unanimous (4-0-0)

IV. PUBLIC HEARINGS

- A. Petition #04-15 – Wareham Depot Properties – 4 Depot Street.

Present before the Board: Property owner

The public hearing notice was read into the record.

The Board reviewed the application to perform interior renovations to convert an existing building into a Home for Congregate Living. According to the Building Commissioner's letter dated March 18, 2015, it states that the Wareham Zoning Bylaw, Section 1332 specifically requires that a Special Permit be secured any time a non-conforming structure is renovated, rebuilt, or a change in use. It states the applicant's rights to rebuild the structure to its original state are protected by this process. As the Building Commissioner, it is his responsibility to direct applicants through this process so the final permitting meets the intention of the Zoning Laws enacted by the community. Further, there is no such category (congregate living facility) in the Wareham Zoning Bylaws. To establish such a use, the applicant would have to seek a Variance under Section 313.

The property owner explained to the Board his plans to turn the former nursing home into a congregate living facility. He feels this is a sensible use because of the building's history. He explained tenants will stay from six months to one year. A house manager will live on-site. The property will be contracted with Social Services & there will be 14-17 rooms, including the house manager's room. Discussion ensued.

The Board expressed some concerns, but they stated before looking for more information, they must determine if they are going to grant a Special Permit and/or Variance because congregate housing is not listed as allowable in the Zoning Bylaws for the zone (meaning the requested use is prohibited and requires a Variance).

MOTION: A motion was made & seconded to continue the public hearing for Petition #04-15 – Wareham Depot Properties, LLC – 4 Depot Street to May 27, 2015.

VOTE: Unanimous (4-0-0)

B. Petition #05-15 – Nguyen Vu Truong – 2 Tyler Avenue.

Present before the Board: Mr. Westgate,

The public hearing notice was read into the record.

The Board reviewed the application to have an apartment in a building that is in commercial use. According to the Building Commissioner's letter dated February 12, 2015, the apartment would be in a building already used for a commercial purpose. Therefore, it is a mixed use. Such a use is not allowed under Article 312 of the Zoning Bylaws. A Variance granted on February 23, 2005 stated that a residential use will not be allowed w/out a hearing before the ZBA. He suggested the applicant apply to the ZBA for a Variance from Article 321, Residential Use, Apartment in a Mixed Use Building.

Mr. Westgate provided plans showing the layout of the inside of the apartment the applicant is currently living in. It was explained that the applicant currently owns a nail salon located inside the current Wal-Mart. Since Wal-Mart will be relocating to its new location in West Wareham, the applicant has decided to operate the nail salon out of the home he has been living in for two years with his wife and two young children.

Mr. Westgate stated it seems the applicant was told by the Building Commissioner he could not move into the salon with a Variance from the ZBA. Brief discussion ensued. The Board feels a

mistake was made and a Variance is not needed because the home was established before the business moved in; not the other way around.

MOTION: A motion was made & seconded to close the public hearing for Petition #05-15 – Nguyen Vu Truong – 2 Tyler Avenue.

VOTE: Unanimous (4-0-0)

MOTION: A motion was made & seconded to grant a Variance to have an apartment in a building that is in commercial use in as much as the occupants of the house operate the nail salon in the building as well & it is a home occupation, & further, the following condition applies: 1. Subject to all applicable building & health codes.

VOTE: Unanimous (4-0-0)

C. Petition #06-15 – Renewable Generation (MA) LLC.

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

The public hearing notice was read into the record.

The Board reviewed the application to construct two ground mounted photovoltaic (solar) systems. According to the Building Commissioner's letter dated March 23, 2015, a large scale solar project will require a Special Permit.

It was also stated that the applicant is looking for Site Plan Review as well.

The representative stated the applicant is seeking a Special Permit and Site Plan Review for two ground mounted photovoltaic (solar) systems to be located at 127R Marion Road.

It was stated that per 40A, Section 3, private utilities are Variance exempt meaning a Special Permit is what needs to be sought.

Abutters expressed concern re: road access & conditions and maintenance to the solar field since the road is private.

It was stated that Chapter 42, Section 10 states solar fields must be 95% screened with a bond within two years of field being built. The Board members stated they would like to see a full landscape plan, including fencing. The Board stated there are wetlands surrounding the property which will be the Conservation Commission's responsibility to be sure things are done correctly.

The Board members stated they would like the applicant to contact Charles Rowley, PE, PLS for a Site Plan Review, go before the Planning Board for a recommendation, and set up a 53G Account with the Planning Department for the project.

MOTION: A motion was made & seconded to continue the public hearing for Petition #06-15 – Renewable Generation (MA) LLC until May 27, 2015

VOTE: Unanimous (4-0-0)

V. CONTINUED PUBLIC HEARINGS

A. Petition #36-14 – Clear Channel – 3077 Cranberry Highway.

The applicant has requested a continuance.

MOTION: A motion was made & seconded to continue the public hearing for Petition #36-14 – Clear Channel – 3077 Cranberry Highway to May 27, 2015.

VOTE: Unanimous (4-0-0)

B. Petition #01-15 – 3166 Cranberry Highway – Richard Mann

The applicant has requested a continuance.

MOTION: A motion was made & seconded to continue the public hearing for Petition #01-15 – Richard Mann – 3166 Cranberry Highway to May 13, 2015.

VOTE: Unanimous (4-0-0)

VI. ANY OTHER BUSINESS/DISCUSSIONS/UPCOMING HEARINGS

A. Makepeace – Temporary Occupancy Permit letter

Present before the Board: A.D. Makepeace Representative

The representative requested the Board write a letter of recommendation to the Inspectional Services Department asking for a temporary Occupancy Permit with the work remaining to be done being completed within 30 days (Rosebrook).

After reviewing a Site Plan Review letter from Charles Rowley, PE, PLS, the Board told the representative they would write a letter of recommendation.

B. Correspondence

1. See memo update from CHAPA
2. See correspondence sent via email and/or in packets

C. Upcoming Hearings/Meetings

5/13/15	#03-15 – Cont.'d hearing	4 Cameron Street	Chris Timson
5/13/15	#07-15	83 Lake Shores Drive	Yvonne Kinsman
5/13/15	#08-15	43 East Central Avenue	Mary & Edward Sheehan

VII. NEW BUSINESS

VIII. ADJOURNMENT

MOTION: A motion was made & seconded to adjourn the meeting at 9:41 P.M.

VOTE: Unanimous (4-0-0)

Date Signed: Wilma Engerman

Attest: 6/10/15

WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: 6/11/15