

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

**Date of Meeting: May 28, 2014**

**I. CALL MEETING TO ORDER**

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

**II. ROLL CALL**

Members Present: Michael Martin, Acting Chairman  
Mary Scarsciotti, Clerk  
Richard Secher (Arrived at )  
David Sharkey  
Wilma Engerman, Associate Member

Member Absent: Ken Ferreira

**III. PRELIMINARY BUSINESS**

**A. Discussion: Letter dated 5/20/2014 from A.D. Makepeace re: Statement of Compliance for Rosebrook Place.**

Present before the Board: Jim Kane, A.D. Makpeace Co.

Mr. Kane provided the Board with the following:

1. A letter dated May 20, 2014 re: statement of compliance from A.D. Makepeace Co. explaining the rationale and need for such a statement.
2. A letter from Beals and Thomas dated May 21, 2014 explaining the project is in compliance with the Special Permit as issued by the Board.
3. Inspection report from Charles Rowley, PE, PLS dated May 28, 2014 w/ report noting several observations & items that need to be done at the discretion of Bob IaFrates, Building Inspector before a Certificate of Occupancy is issued.
4. According to Beals and Thomas, the second drive-thru has been eliminated. If A.D. Makepeace Co. wishes to re-add the drive-thru, they must go back before the ZBA for a Special Permit modification or approval.

**MOTION: A motion was made & seconded to allow the Acting Chairman to sign the document dated May 28, 2014 which will serve as a Statement of Compliance for the Building Commissioner from A.D. Makepeace Co. re: Rosebrook Place.**

**VOTED: Unanimous (4-0-0)**

**IV. PUBLIC HEARINGS**

**A. Petition #17-14 – 18 Commonwealth Avenue – Scott & Barbara Soby.**

The public hearing notice was read into the record.

Present before the Board: Bill Lockwood, Lockwood Architects

The Board reviewed the application to renovate an existing garage & convert the upper level into an apartment. According to the Building Commissioner's letter dated April 10, 2014, the Wareham Zoning Bylaws stated an apartment is not allowed to be created on an existing single family lot in an MR-30 residential zone. A permit to conduct such work cannot be issued unless a Variance is issued by the ZBA.

Discussion ensued re: the plans submitted & the requirements for a Variance.

The Board concurred that the hardship requirement was not met because it applies to problems with the land, not the owner. It was stated that Mr. & Mrs. Soby do not own the land and there are statutory issues requiring legal opinions.

**MOTION: A motion was made & seconded to continue the public hearing for Petition #17-14 – 18 Commonwealth Avenue – Scott & Barbara Soby to July 9, 2014.**

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

**B. Petition #18-14 – 12 Maple Street – Dennis & Adele Teves**

The public hearing notice was read into the record.

Present before the Board: Dennis Teves

Mr. Martin gave a disclaimer stating that he lives at 2 Maple Street. He stated the petitioner is unknown to him and he has no personal or financial interest in this case. He provided this disclaimer because he has elected to sit in order to constitute a five member Board for this petition. Mr. Teves was then asked if he wished to proceed with the hearing. Mr. Teves stated he did wish to continue with the hearing.

The Board reviewed the application to re-build a garage w/ a deck over it. According to the Building Commissioner's letter dated April 16, 2014, the Wareham Zoning Bylaws, section 1335 requires that a Special Permit be granted by the ZBA before any permit for an extension to a non-conforming structure can be issued.

Discussion ensued re: possible abutters missing from the abutters list. It was stated the Town provides the list, but is not responsible if there are omissions. The petitioner is held responsible and must start the appeal process from the beginning once the Town has received notice of the omission.

Discussion ensued re: the plans submitted. It was stated the project cannot go outside of the current footprint of the non-conforming lot. If the project did go outside the current footprint, it would create a new non-conforming lot. Mr. Teves stated his engineer will provide a stamped plan showing the set back from the property line to the roof gutter line after the work is complete.

Several abutters came forward w/ concerns about the deck being detrimental to the area, but they did not provide any proof, only their feelings about it. The abutters were told they must prove a substantial detriment to the area.

**MOTION:** A motion was made & seconded to continue the public hearing for Petition #18-14 – 12 Maple Street – Dennis & Adele Teves to June 11, 2014.

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

**C. Petition #19-14 – 48 East Central Avenue – Beth & Luke Laperriere**

The public hearing notice was read into the record.

Present before the Board: Bill Lockwood, Lockwood Architects

The Board reviewed the application to remove an existing rear deck & stairs & replace w/ a larger screened porch & stairs. According to the Building Commissioner's letter dated June 4, 2013, the present structure already exceeds the lot coverage requirement per section 621. Further expansion of the deck will require a Variance from the ZBA.

Discussion ensued re: the plans submitted to remove the 8x10 deck & stairs & the proposed 10x10 deck & stairs.

**MOTION:** A motion was made & seconded to close the public hearing for Petition #19-14 – 48 East Central Avenue – Beth & Luke Laperriere.

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

**MOTION:** A motion was made & seconded to grant a Variance for Petition #19-14 – 48 East Central Avenue – Beth & Luke Laperriere to remove the existing deck & stairs & replace with a larger screened porch & stairs, finding that strict enforcement of the zoning requirement for building coverage would not substantially benefit the public, while the harm to the individual would be in denial of the enjoyment of the property.

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

**D. Petition #20-14 – 37 Pine Tree Drive – Kevin & Frances Jones**

The public hearing notice was read into the record.

Present before the Board: Steve Gircio

The Board reviewed the application to demolish an existing dwelling & construct a new dwelling & garage. According to the Building Commissioner's letter dated April 18, 2014, the property is located in an R-43 residential zone where the minimum lot size is 43,000 sq. ft. The existing lot in question contains 41,379 sq. ft., thus making the property an existing non-conforming situation. According to the Town's Zoning Bylaws, section 1335, any alteration of an existing non-conforming structure requires a Special Permit by the ZBA before a building permit can be issued.

Mr. Gircio stated the intent is to acquire a Special Permit to replace the existing non-conforming structure w/ a new conforming structure. The project will remove the existing non-conformities w/ the exception of lot size. He stated an NOI has been filed w/ the Conservation Commission & has received approval from them. He stated he will be working w/ the Board of Health on a nitrogen removing septic system.

Discussion ensued re: the plans submitted.

**MOTION:** A motion was made & seconded to close the public hearing for Petition #20-14 – 37 Pine Tree Drive – Kevin & Frances Jones.

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

**MOTION:** A motion was made & seconded to grant a Special Permit for Petition \$20-14 – 37 Pine Tree Drive – Kevin & Frances Jones to demolish an existing dwelling & to construct a new dwelling & garage per the Wareham Zoning Bylaws, Section 1335 & w/ the following condition: 1. A Board of Health review is needed for a nitrogen removal septic.

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

## **V. CONTINUED PUBLIC HEARINGS**

### **A. Petition #11-14 – 7A Weaver Street – Potential Properties**

It was stated the Board previously requested, from the applicant, the original documentation allowing the applicant to change the building from a two-family to a three-family. The applicant has not provided the requested documentation. The Board stated they still want to see the original paperwork. The applicant had stated he received a letter from Myles Burke (Director of Inspectional Services at the time) stating the two to three conversion was O.K. The Board stated they cannot make a determination without confirmation from the Building Inspector confirming the two to three conversion is legal and to code. A letter from the Building Inspector and a copy of Mr. Burke's letter is necessary.

The Board would like to see photos of the house and property and would like the applicant to put some type of parking barrier across the front of the property to ensure no one will be parking on the street.

**MOTION:** A motion was made & seconded to continue the public hearing for Petition #11-14 – 7A Weaver Street – Potential Properties to June 11, 2014.

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

### **B. Petition #12-14 – 210 Blackmore Pond Road – Joaquin & Susan Macedo**

The Board reviewed the plans to construct a 24x26 ft. barn for the keeping of a horse on a residential lot on less than five acres. According to the Building Commissioner's letter dated February 19, 2014 the Wareham Zoning Bylaw table of uses, Section 321 states that stables for the sheltering of horses on residential lots less than five acres requires a Special Permit from the

ZBA. The lot in question contains 4.9 acres & although it is very close to the acreage requirement, it does not meet the intent of the Bylaw. It was noted the plans do meet the set back requirements.

Discussion ensued. It was stated should the Board be willing to grant the Special Permit, it would be for one horse. If the petitioner wants more than one horse, they would have to come back before the Board.

**MOTION:** A motion was made & seconded to close the public hearing for Petition #12-14 – 210 Blackmore Pond Road – Joaquin & Susan Macedo.

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

**MOTION:** A motion was made & seconded to grant a Special Permit for Petition #12-14 – 210 Blackmore Pond Road – Joaquin & Susan Macedo to construct a barn for the keeping of a horse on a residential lot less than five acres and w/ the following conditions: 1. To be built per plan filed w/ the Board dated May 15, 2014. 2. Limit of one horse. If more than one horse is sought, petitioner must come back before the Board. 3. Condition of all approvals must be sought from other required Town entities.

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

**C. Petition #13-14 – 13 Sunset Street – Sheila & William Butler**

The Board reviewed the plans to construct a front covered porch along w/ a rear deck & renovations to the first floor & a second floor to an existing single family residence. According to the Building Commissioner's letter dated February 3, 2014 the Wareham Zoning Bylaws, Section 1335, any increase in the density on a pre-existing non-conforming lot requires a Variance to be issued by the ZBA. It was stated the farmer's porch that will replace the existing deck does meet setbacks. Discussion ensued.

**MOTION:** A motion was made & seconded to close the public hearing for Petition #13-14 – 13 Sunset Street – Sheila & William Butler.

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

**MOTION:** A motion was made & seconded to grant a Special Permit for Petition #13-14 – 13 Sunset Street – Sheila & William Butler to construct a front covered porch along w/ a rear deck & renovations to the first floor & second floor per the Wareham Zoning Bylaws, Section 1335 & per plan prepared by Lockwood Architects & on base plan prepared by JC Engineering, Inc. dated 3/10/14 & revised 5/25/14.

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

**VI. ANY OTHER BUSINESS / DISCUSSION**

**A. Upcoming hearings.**

1. 6/11/14 - #03-14 –Continued Hearing – 2 Warr Avenue – Zecco Marine

VII. NEW BUSINESS

VIII. ADJOURNMENT

MOTION: A motion was made & seconded to adjourn the meeting at 9:10 P.M.

VOTE: Unanimous (5-0-0)

Date signed: William Engeman 6/24/15

Attest: James D. Escobedo

WAREHAM ZONING BOARD OF APPEALS

Date copy sent to Town Clerk: 6/25/15

A TRUE COPY  
ATTEST

May Ann Schri  
TOWN CLERK

REC'D