



# Town of Barnstable Planning Board

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## Board Members

Matthew Teague – Chair   Paul Curley – Vice Chair   Stephen Helman – Clerk   Patrick Princi   Felicia Penn   Raymond Lang   David Munsell  
John Norman – Town Council Liaison

## Staff Support

Art Traczyk – Design/Regulatory Review Planner – [art.traczyk@town.barnstable.ma.us](mailto:art.traczyk@town.barnstable.ma.us)  
Karen Herrand – Principal Assistant – [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us)

## Town of Barnstable Planning Board Minutes May 12, 2014

Matthew Teague – Chairman	Present
Paul Curley – Vice Chairman	Present
Stephen Helman - Clerk	Present
Felicia Penn	Present
Raymond Lang	Present
David Munsell	Present
Patrick Princi	Present

Also in attendance were Art Traczyk, Regulatory/Design Review Planner

**Approval Not Required Plans:** None

**Subdivision:** None

## **Special Permit**

**7:00 P.M. Public Hearing – New**

**Modification of PIAHD Special Permit Settler's Landing II –  
Subdivision No. 812 - Martha M. Morin, Trustee of Settlers Landing  
Realty Trust II**

To all persons deemed interested in the Planning Board acting under the General Laws of the Commonwealth of Massachusetts, Chapter 40A, Section 9, and all amendments thereto and the Town of Barnstable Zoning Ordinances you are hereby notified of a Public Hearing to be held to consider an application for a fifth Modification for the Private Initiated Affordable Housing Development (PIAHD) Special Permit issued for Settlers Landing II - Subdivision No. 812. The Petitioner, Martha M. Morin, Trustee of Settler's Landing Realty Trust II, is seeking to modify a lot line between Lots 48 and 49 of the subdivision. The common addresses of the specific lots are 85 and 75 Settlers Lane, Hyannis, MA and are shown on Assessor's Map 273 as Parcels 122-014 and 122-013.

The locus is the southern 7.75 acres of the subdivision commonly known as Settler's Landing located off Castlewood Circle in Hyannis, MA. The 29 parcels are shown on Assessor's Map 273 as Parcel 122, Lots 013 through 027 and Assessor's

Map 272 as Parcels 212 to 225. The lots are addressed from 75 to 174 Settler's Landing, Hyannis, MA. The locus is Zoned Residential C-1.

**Motion entertained by Chair Matt Teague to open the Public Hearing, moved by Stephen Helman, seconded by David Munsell, so voted unanimously.**

Jacques Morin and Dan Ojala in attendance. Dan Ojala gives a review/explanation about this request for an ANR/Modification to Special Permit. This is due to an extra garage bay that wasn't coordinated with site plan.

He makes reference to the note on the ANR plan (Exhibit A).

Ray Lang asks about the issuance of the building permit? (Staff Report, Exhibit B). Asks who discovered the error?

Dan Ojala answers that there was conflicting information in the site plan and it was discovered recently.

Paul Curley asks if Jacques Morin got a new building permit?

Jacques Morin answers that he did not get a new building permit. The site plan only showed a one car garage. The Building Commissioner may want to see this site plan.

Paul Curley asks Jacques Morin if he registered the modification that was approved on March 5th?

Jacques Morin answers that there were two Decisions (Schooner Village and Settler's Landing) that came about that time, for two subdivisions. He does not think he received the one for Settler's Landing.

Paul Curley asks for information about the tax issues presented.

Jacques Morin explains about the tax information. He makes reference to Staff Report/Taxes (Exhibit C).

He disputes that he is past due/delinquent, stating that there are different rules regarding time frames from the Tax Collector and the Definitive Subdivision rules as they pertain to taxes.

Copy of *M.G.L.A. Chptr. 40, §57 Mass General Laws Annotated, Part I. Administration of the Government Title VII. Cities, Towns and Districts Chapter 40 Powers and Duties of Cities and Towns Licenses and Permits of Delinquent Taxpayers* distributed by Jacques Morin to the Board Members (Exhibit D).

David Munsell comments that there is too much time being spent discussing the tax issue, let's concentrate on the issue at hand.

Felicia Penn states that this is not anything new for this Applicant. She is concerned that this issue has come up again. We are parsing over the word delinquent or overdue, if taxes are not overdue then why are they accruing interest? In doing business with the Town they should not be in this status. Reference is made to Staff Report (Exhibit B) and the recommendations made by Staff.

Stephen Helman comments/directs to Jacques Morin for clarification, that it is Mr. Morin's position that the Planning Board's Subdivision Regulations are in violation of Massachusetts Law?

Jacques Morin answers that it is not clear with the subdivision regulation language, i.e., the Town's general ordinance for licensing follows this language (State's) almost exactly.

Stephen Helman makes comment/states that the subdivision regulations that were put into effect previously (before his time) should be adhered to, if this is what was put into the subdivision regulation. So what is the issue then? Reference made to (Exhibit C) Staff Report Taxes Due.

Jacques Morin directs to Felicia Penn's comments that yes he owed some taxes, due to economic times, but he did get caught up. He requested a legal opinion for this. The taxes for the properties being addressed today are paid.

Ray Lang is confused and asks more specifically about the building permit that was issued and was not followed.



Matt Teague clarifies/directs to Ray Lang that this does happen sometimes. He has been in this business and this type of mistake does occur. Reference is made to receipt of paid taxes in the amount of \$4,966.47 (Exhibit E) distributed to Chair by Jacques Morin.

Jacques Morin states that he has been in business for thirty five years and this is the first time that an encroachment onto the setbacks has occurred.

Ray Lang asks who determined this error? Can this happen again?

Dan Ojala answers that his office discovered the error and it came to light at the as-built phase.

Chair Matt Teague asks for public comment. None.

**Motion entertained by Chair Matt Teague to close the Public Hearing, moved by Paul Curley, seconded by Stephen Helman, so voted unanimously.**

**Motion made by Paul Curley to approve this Modification of PIAHD Special Permit Settler's Landing II, Subdivision No. 812, seconded by Stephen Helman, so voted unanimously.**

**Future Meetings:** Regularly Scheduled Meetings: June 9 and 23, 2014 @ 7:00 PM.

Matt Teague states that it is time to create an appointments committee.

Ray Lang volunteers to chair a committee and he will select two people for this and will report back to the Planning Board at the next meeting.

Felicia Penn asks about an informal matter whereby an individual was going to find another location for a business, any update for this?

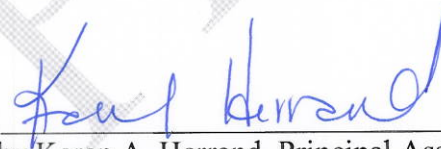
Matt Teague will follow up on this issue.

Patrick Princi comments/asks about the wind turbine at Peck's, in Marstons Mills and asks how long do they have to install?

Art Trazyk replies that this permit is good for some time because of the extension act. It has not been installed yet.

**Motion entertained by Chair Matt Teague to adjourn, moved by Stephen Helman, seconded by Paul Curley, so voted unanimously.**

**The Meeting adjourned at 7:31 p.m.**

Respectfully Submitted   
by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on June 9, 2014

Further detail may be obtained by viewing the video via Channel 18 on demand at <http://www.town.barnstable.ma.us>

**List of Exhibit Documents**

**Exhibit A** – Plan of Land of #75 & #85 Settlers Lane Hyannis, MA, dated April 30, 2014 – File Modification of PIAHD Special Permit Settler's Landing II – Sub. No. 812

**Exhibit B** –Staff Report dated May 7, 2014 – File Modification of PIAHD Special Permit Settler's Landing II – Sub. No. 812

**Exhibit C** – Staff Report of Taxes Due dated May 12, 2014 – File Modification of PIAHD Special Permit Settler's Landing II – Sub. No. 812

**Exhibit D** – Copy of M.G.L.A. 40 Sec. 57, pg. 1, Mass General Laws Annotated Part I. Administration of the Government Title VII. Cities, Towns and Districts Chapter 40. Powers and Duties of Cities and Towns Licenses and Permits of Delinquent Taxpayers – File Modification of PIAHD Special Permit Settler's Landing II – Sub. No. 812

**Exhibit E** – Tax receipt from Town of Barnstable's Tax Dept., dated May 13, 2014, for \$4,966.47 – File Modification of PIAHD Special Permit Settler's Landing II – Sub. No. 812