



# Town of Barnstable Planning Board

[www.town.barnstable.ma.us/PlanningBoard](http://www.town.barnstable.ma.us/PlanningBoard)



## Board Members

Stephen Helman – Chair   Raymond Lang – Vice Chair   David Munsell – Clerk   Paul R. Curley   Mark R. Ferro   Holly Brockman-Johnson  
John Norman – Town Council Liaison

## Staff Support

Regulatory Review Planner

Karen Herrand – Principal Assistant - [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us)

## Town of Barnstable Planning Board Minutes February 22, 2016

BARNSTABLE TOWN CLERK

2016 APR 15 AM 11:33

Stephen Helman – Chairman	Not Present
Raymond Lang – Vice Chairman	Present
David Munsell – Clerk	Present
Paul R. Curley	Present
Mark Ferro	Present
Holly Brockman-Johnson	Present

Also in attendance were JoAnne Miller Buntich, Director, and Karen Herrand, Principal Assistant, Growth Management Dept.

**Call to Order:** Introduction of Board Members and Staff Members

**Notice of Recording:** This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

**Vice Chair Ray Lang sitting in as Chair for this meeting**

## **Approval Not Required Plans:**

A plan entitled "Plan of Land located in West Barnstable, Mass prepared for Peter Jenkins, Jr., Edwin Jenkins & John P. Jenkins" dated August 10, 2013, has been submitted for endorsement as an Approval Not Required Plan. The property is located at Parker Rd., West Barnstable, MA, Map 176 Parcels 021-001 & 021-002 submitted by Michael A. Dunning, Commissioner appointed for Jenkins et al. The purpose of this plan is to locate the larger "existing building" shown on the plan entirely on one lot. The building was bisected by the shared lot line on the previous plan.

Attorney Michael Dunning (Commissioner appointed by Probate Court) in attendance for the Applicant. Pursuant to court order they were directed to divide the lots into four separate lots, three will be transferred to the owners of the property, Petitioners in this case. Two of the lots didn't leave enough room to get to a building on the property.

Attorney Jim Quirk in attendance, representing two of the Applicant's, Peter Jenkins and John Jenkins, who are two of the three owners. They are in support of this division. Long time project and they would like to finalize it.

David Munsell clarifies that the plan shows a building cut through at the property lines when the plan came before the Planning Board originally.

Attorney Dunning confirms/states that this plan will put the building to remain on one lot and the line bisects the remains of the other building which is going to be removed.

**Motion made by Paul Curley to approve/endorse this ANR, seconded by Mark Ferro, so voted unanimously to approve.**

Two plans have been submitted to the Board for endorsement as Approval Not Required (ANR) plans:

- A plan of land entitled "Plan of Land in Barnstable (Marstons Mills), MA being a division of Lot 25 as shown on Land Court Plan #37157-G, prepared for John P. Webb, Trustee" dated February 1, 2016; and
- A plan of land entitled "Plan of Land in Barnstable (Marstons Mills), MA being a division of Lots 24 & 25 as shown on Land Court Plan #37157-G, prepared for John P. Webb, Trustee" dated February 1, 2016;

The plans propose to adjust a lot line between two adjoining lots.

John Demarest in attendance representing the Webb family. He explains the land court parcel, cutting off and being adjoined to 1553 piece/parcel. One of the plans is going to land court.

Vice Chair Ray Lang asks for clarification about there being two plans and a possibility of a problem.

John Demarest explains that they have been working with Land Court and the Attorneys. It should not be a problem. Per Land Court is requiring the document notation Due to the separation for it to be at Land Court. Filed with document notation.

Two revised mylars. Road changed with documentation...the document number has been removed.

JoAnne Buntich explains that every once in awhile there is Land Court and Registry of Deeds, it has be be recorded for both entities.

**Motion made by Paul Curley to endorse/approve the ANR plan being a division of Lot 25 as shown on Land Court Plan #37157-G, seconded by David Munsell, so voted unanimously to endorse/approve.**

**Motion made by Paul Curley to endorse/approve the ANR plan being a division of Lots 24 & 25 as shown on Land Court Plan #37157-G, seconded by D. Munsell, so voted unanimously.**

**Zoning Amendment:** Proposed Zoning Amendment -Town Council Item No. 2016-054 - To create a new overlay zoning district known as "Hyannis Parking Overlay District" Amending the Code Part I General Ordinances, Chapter 240 Zoning of the Town of Barnstable to Include a Hyannis Parking Overlay District. *(continued from January 25, 2016, Public Hearing)*

**Chair Ray Lang entertains a motion to open the Public Hearing, moved by David Munsell, seconded by Paul Curley.**

**Chair Ray Lang asks for Public Comment.**



Dominic Alessandra of 35 Pleasant Street, Hyannis in attendance. He asks for clarification regarding - Where the overlay area will be and which parking lots?

JoAnne Buntich interjects that the proposal relates to the map, see Exhibit A as submitted. The yellow parcels/areas are lots already being used, commercial parking/open air parking. This is an overlay zoning district that applies only to these areas. Lots that are not included in the overlay do not get this use added. There was a request to include one other parcel in this overlay.

Mr. Alessandra makes comment that this area is a time capsule. His concern is the proposed overlay for Baxter's parking lot. He asks for clarification about the proposed area to be included in this overlay? - Possibility of this area being restored and he refers to his material, see Exhibit B. The parking issue in itself is the greater problem above and beyond an overlay area to be designated. Thinks other areas may request to be included in this overlay as well.

David Munsell stated that he did review the material, Exhibit B. The Planning Board is only able to make comments on this. There is a study to be done on the parking, it is in progress currently. He has spot zoning concerns. Let's see what the study has and see what recommendations come with it.

Paul Curley comments that the intent for this overlay is only to codify existing parking that is there, it will not expand in anyway. Baxter's request will not be honored here. There is an extreme possibility for a major safety issue in this area and this amendment can bring some order and identify the areas where there is access/need access. It is important to do the parking study, however this could be years away, not months. This amendment addresses the issues there now.

David Munsell states we need the enforcement for what is existing now for these parking lots. Strongly wants to see what is in the study. There needs to be enforcement for these areas in order to make them come up to safety. We don't have to have spot zoning to do that.

Paul Curley disagrees and replies that the Building Commissioner and enforcement people will now have something they can point to in order to make enforcement possible.

JoAnne Buntich clarifies that this doesn't take away any zoning or permissions, it makes clarification for the existing parking lots. There is one lot on Pleasant Street that remains. In the Harbor District, when Growth Incentive Zone (GIZ) was implemented open air parking was not allowed. When later looked at there were some areas that weren't exactly clear. If there is more than one use on the property, this overlay requires this computation to be done. If two uses have to have proper parking for both uses.

Attorney Matt Spillane in attendance. He represents the owner of Baxter's at 167 Pleasant St. This property already has 74 parking spaces on the property, this amendment would allow secondary uses as long as the primary uses are fulfilled. There is already existing parking there now and this property allows secondary uses.

JoAnne Buntich interjects that while Baxter's does have parking it is not used as open air parking or commercial surface parking. The purpose of the ordinance is to clarify the land use for existing zoned and/or licensed properties for this use. In order for this property to be included the ordinance would have to be re written and opened up for anyone who would want to do commercial surface parking. It is not a simple matter of just adding a lot to the map because it doesn't meet the requirements of the ordinance as it exists now. None of the lots included in the overlay district include a restaurant.

Attorney Matt Spillane states that if the Planning Board chooses to recommend this proposal forward to the Town Council he would request that the Baxter request be made and the January 25, meeting be

included. There is parking already in place here. There will be some areas of parking that will be needed.

David Munsell asks for clarification about Baxter's parking and suggests possibly fencing off an area and getting licensed for.

JoAnne Buntich states that the entire public record is forwarded to Town Council, regardless of what the recommendation is.

Paul Curley comments/clarifies that they need to address the issues of safety and do it immediately.

Felicia Penn in attendance. Questions:

All lots are pre permitted, so they are already allowed. If the zoning overlay is on top of this will people state that they are grandfathered?

JoAnne Buntich replies that she cannot answer this. These lots are either zoned and/or licensed, some have one or the other, or both. At the direction of the Town Council's sub committee who worked with staff who does this work now, the requirements that are here now should apply already.

Grandfathering would go on a case by case basis. The public safety is supposed to be met. There is the ability to make the lots perform better. This will put everyone with the same zoning permission/clear point.

Felicia Penn states that's because there is no enforcement. i.e., if each parking lot has its own permissions, this would make it easier to enforce. This will change the enforcement responsibilities to the Bldg. Commissioner.

JoAnne Buntich clarifies that every open air parking lot needs both zoning permission and a license, Town Manager license. To operate you need both. Most are licensed, but we need to clarify the zoning permissions, the zoning controls the license. The license can't issue for more than what zoning states. This is an effort to make licensing and zoning in sync/ make this clear.

Felicia Penn confirms that people have permits/licensing, their license should indicate how many cars they are licensed to park, why isn't it enforceable now without the zoning? She realizes the stressed times/parking crisis during summer holidays/events. There are consistent violations regarding enforcement issues. It is a public safety/hazard/disgrace, with some parking lot owners. Why doesn't the Town enforce it now? Doesn't see a section on enforcement for this zoning proposal.

JoAnne Buntich replies that enforcement is an operation of law, don't need to write this into zoning amendments, it's in the first chapter of the Barnstable Zoning Ordinance.

Felicia Penn suggests issue public safety regulations as outlined, and then have regulatory services enforce the regulations as they are handed out to all permitted parking areas when they go for their renewals. Doesn't understand why we need spot zoning. Agrees with parking study report to be done. If this zoning is implemented before the study results are in, then we are at a disadvantage.

JoAnne Buntich directs to Felicia Penn and hands out, Exhibit C, - 2015 Private Parking Lot Licenses Data – licenses are kept by street addresses and year (at the Licensing Division) and we keep records by Map and Parcel number. They have combined now. Reference is made to 260 Ocean St., Hyannis states that the problem, see handout Exhibit C, was included in a 1990 license, part of the lot, with the adjoining lot. The whole lot is included now.



Felicia Penn makes reference to the Ferries and the parking needed.

JoAnne Buntich refers to the data/spaces, Exhibit C, that are licensed, the total number of spaces in 2015, total 1400 approximate. The Steamship Authority numbers we do not have.

Felicia Penn asks if the zoning goes into effect there will be a loss of spaces, so they will lose parking spaces, but this may be creating another problem because where will these cars go now? Somewhat of a dilemma, more work has to be done. She thinks this should be tabled for another time.

Paul Curley comments, that a report, maybe in a year, things don't happen that fast with these types of things. We cannot leave this situation as is. This at least, is a first step for a resolution. Let's recommend to do and follow through with the study. If not we will be talking about this again in the future, we should do something now.

Felicia Penn replies that it really is about enforcement. Planning Board isn't in charge of enforcement, but can make comments/improve. Probably about 3 cases out of all 8 of these lots are in need of enforcement.

David Munsell directs to Felicia Penn, asks for clarification, reference to Exhibit C, about the eight parking lots/owners that are listed. He was under the impression that it was more. Why not send a letter to each owner regarding enforcement.

Felicia Penn agrees, she thinks most are in compliance, maybe just three who are not.

Mark Ferro comments that he is in agreement with David Munsell, hiring an expert for a study/report and who would know more is a good thing to do, taking any action to recommend now could hinder the end result.

Jim Hurley, owner of Hyannis Holiday Hotel, Ocean St., in attendance, one of the eight owners listed for parking. They have been 50 years on their property. They have eighteen spaces beyond what the hotel calls for. They are trying to be proactive and believe they fall within the guidelines. They are paved, and when parking lot is filled they put up "full sign", they have never had a violation. There are sixty eight units. They spend half the time putting people off the property due to the fact that the restaurants don't have adequate parking and they have to police the area. He got permits 28 years ago from Selectmen.

Ray Lang refers to his questions about parking, Exhibit D, questions for parking and zoning in the HPOD:

1. Why an overlay parking district? Can we eliminate underlying zoning and state that these lots are now considered permanent parking lots under private ownership?

Ray Lang states that he was told this could not be done. If this was in place he doesn't think they would have an enforcement problem.

JoAnne Buntich clarifies; you could eliminate the underlying zoning, but that would take away any potential for these lots to redevelop. The overlay district doesn't tamper with the uses that are there, it adds one use to the lots.

Continued reading of Exhibit D.

Any change to that status requires a regulatory hearing to determine whether a new use is consistent with the regulatory requirements now in force? –clarifies the process -

2. Presuming that all proposed parking lots are under private ownership, how many owners are listed now? - confirms there are 9 –
3. If parking lots are sold, can the new owner have a change of use? – use changes/no longer a parking lot, nothing about this is stated –

JoAnne Buntich clarifies that a change of use is one of the things that CAN happen because this is an overlay district.

Ray Lang comments that the land in this area is worth more than the parking is. If a reduction in parking this needs to be looked at carefully.

4. If a parking lot is sold, does an equal number of spaces need to be provided elsewhere in the Harbor location or other areas of the town? –
5. What is the total number of spaces expected to be? How many regular car, small car and oversize vehicles and even busses? Would a lot turn away a small size car if there are no small car spaces left? I doubt a 10% small size space has meaning? –
6. If new lots are added to the proposed zone, would overlay requirements need to be changed to a parking lot designation only and underlying rights are erased? –
7. How many parking spaces do these proposed lots have now? –
8. Is the purpose of this HPOD zone to preserve existing parking spaces or a way to forecast future needs for additional parking and how much? - need these numbers -
9. Under existing regulations can parking lots meet current needs for safety, access and egress, adequate aisle and turning radius as well as landscaping and lighting in the areas identified as parking lots. If so why could we not eliminate the requirement for Parking Lot Zoning district and place operational steps in these areas into the hands of the Town Manager or his designee. Parking in this area is a prime requirement for the businesses in that area and the Town Manager should insure that operations in this area are very important and his concerns for proper operation in these areas is **completely under his control**? - Regulatory Agreement/license and Bldg. Inspector both enforcing. Under one entity -
10. We need to determine the use and procedures required for off-site additional lots? Site plan review should not be concerned about shuttle service it is a license or agreements procedure that does such things. A business is a business. It's up to the parking lot owners to take that responsibility without someone telling them to provide shuttle service? - list of places for offsite parking/parking study/plan that developed 2 story public garages -
11. If overlay zoning continues as a requirement, then we should do nothing and remain as we are now and enforce the requirements we list in the proposal? - Can add a use into the area/zoning -

Ray Lang states that he cannot support the zoning amendment being presented. This needs a lot of work or wait until we see what the parking plan/report says.

David Munsell would like to recommend to Town Council to table this proposal for now and wait for what the study/report will say. Get enforcement for these eight owners to do what they should be doing.

**Motion entertained by Vice Chair Ray Lang not to recommend adoption to Town Council, moved by Mark Ferro, seconded by David Munsell. The vote was: Ray Lang, David Munsell, Mark Ferro, Holly Brockman Johnson all yes. Paul Curley is a no.**

The members supporting the motion believe that this amendment should be deferred until the results of the Parking Management project are received. Mr. Curley relays a concern that public safety is most important. All concur that enforcement for these uses is important.



Paul Curley states that if Town Council excepts the Planning Board's recommendation not to implement that they still do something for oversight of the area for the sake of the safety of the public.

**Motion made by Paul Curley to close the Public Hearing, seconded by Holly Brockman Johnson, so voted unanimously.**

**Special Permits:** Special Permit Application David Colombo - 159 Ocean Street, Hyannis, Black Cat Harbor Shack Map/Par 326/039 – Proposal for: New roof deck, stairs and vertical lift located within front yard setback and reduction of required parking for an additional 23 seats.

The Applicant's attorney is withdrawing the application and resubmitting due to the storm related delay.

**Motion entertained by Vice Chair Ray Lang to accept the withdrawal of this application, moved by Paul Curley, seconded by David Munsell, so voted unanimously.**

Location_Hardship sign renewals (3)	2011-06 - Caffè Gelato Bertini
	2010-04 - Red Fish Blue Fish Studio
	2010-10 – Cape Cod Tours Inc. (Duckmobile)

JoAnne Buntich explains that this is a request to simplify the renewal of the location hardship signs to be done administratively.

**Motion made by Paul Curley to renew all three special permit location hardship signs and allow to remain valid with no further renewals required, seconded by David Munsell, so voted unanimously.**

**Correspondence:** *(Any Member wishing a copy please contact the office)*  
Commonwealth of Mass Energy Facilities Siting Board – Notice of Public Hearing, NRG's Proposed Generating Facility, Wednesday, February 10, 2016.  
  
Chapter 91 Waterways License Notification dated January 22, 2016 - 109 Eel River Rd., Osterville – pier, ramp and float  
Chapter 91 Waterways License Application dated January 25, 2016 – 49 Main Street, Osterville – boardwalk, pier, ramp and float  
  
Chapter 91 Waterways License Notification dated January 29, 2016 – 1001 West Main St., Centerville Long Pond – aluminum pier and boardwalk  
  
Chapter 91 Waterways License Notification dated January 29, 2016 – 300 Smoke Valley Rd., Marstons Mills – ramp and float

**Approval of Minutes:** August 24, 2015

**Motion made by Paul Curley to accept the August 24, 2015, minutes as presented, seconded by Mark Ferro, so voted unanimously to approve.**

**Matters Not Reasonably Anticipated by the Chair:**

**Future Meetings:** Regularly Scheduled Meetings: March 14, and March 28, @ 7:00 PM.

**Motion entertained by Vice Chair Ray Lang to adjourn, moved by Paul Curley, seconded by Holly Brockman Johnson, so voted unanimously.**

The meeting adjourned at 8:41 p.m.

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

Approved by vote of the Board on \_\_\_\_\_

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 -** Proposed Amendment to the Town of Barnstable Zoning Map Creating the Parking Overlay District – Zoning Amendment 2016-054
- Exhibit B -** Correspondence received from Dominic Allessandra – Zoning Amendment 2016-054
- Exhibit C -** 2015 Private Parking Lot Licenses Data handout – Zoning Amendment 2016-054
- Exhibit D -** Correspondence submitted by Ray Lang dated January 27, 2016 – Zoning Amendment 2016-054