

Town of Barnstable
PLANNING BOARD

Minutes

June 13, 2022

Steven Costello - Chairman	Present
Stephen Robichaud - Vice Chairman	Present
Mary Barry - Clerk	Present
Robert Twiss	Present
Michael Mecenas	Present
Raymond Sexton	Present
Tim O'Neill	Present

Also in attendance via remote participation were Planning & Development Staff; Kate Maldonado, Assistant Director, James Kupfer, Senior Planner and Terri McDonald, Administrative Assistant.

The Planning Board's Public Hearing will be held at 7:00 PM by remote participation methods. Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>
2. Real-time access to the Planning Board meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Planning Board by utilizing the Zoom link or telephone number and Meeting ID provided below:

Link: <https://townofbarnstable-us.zoom.us/j/81549904943>

Phone: 888 475 4499 US Toll-free

Meeting ID: 815 4990 4943

3. Applicants, their representatives and individuals required or entitled to appear before the Planning Board may appear remotely and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting so that they may be displayed for remote public access viewing.

Application materials may be accessed by contacting Karen.herrand@town.barnstable.ma.us or calling 508-862-4064.

Call to Order

Chairman Steven Costello called the meeting to order at 7:00PM

Introduction of Board Members and Staff Members

Attendance Roll Call

Steven Costello
Tim O’Neill
Ray Sexton
Michael Mecnas
Robert (Bob) Twiss
Mary Barry
Stephen Robichaud

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.

Public Comment

Chairman Steven Costello opens up for any general public comment -None.

Approval Not Required

Michael T. Manning has submitted a request for an approval not required for the plan entitled “Plan of Land of 107 & 119 Shell Lane, Cotuit, MA” prepared for Michael Manning, dated August 21, 2021, last revised, May 18, 2022. (Majority of Full Board)

Daniel Ojala, Surveyor for Down Cape Engineering Inc. present and representing. Mr. Ojala gave a brief explanation for request. Asking Zoning Board for a Special Application for trade 603 sq feet. As two grandfathered lots are trading equal square footage to square up property lines. These lots are not building lots, frontage requirements are met. Need Planning Board approval to change Lot Lines.

Chairman Steven Costello entertains a motion to approve, moved by Mary Barry to endorse the plan entitled “Plan of Land of 107 & 119 Shell Lane, Cotuit, MA” prepared for Michael Manning, dated August 21, 2021, last revised, May 18, 2022, seconded by Raymond Sexton.

Roll Call Vote:

Tim O’Neill - aye
Ray Sexton - aye
Michael Mecnas - aye
Mary Barry- aye
Robert Twiss - aye
Stephen Robichaud - aye
Steven Costello - aye

Tim O'Neill recused himself for the next item.

Pauline B. Brazelton, Manager, Dillingham Properties LLC has submitted a request for an approval not required for the plan entitled "Plan of Land of Commerce Road Barnstable, MA" prepared for Dillingham Properties LLC, dated October 28, 2021, last revised May 18, 2022

Pauline B Brazelton, present, Daniel Ojala, Surveyor for Down Cape Engineering Inc. present and representing.

OJALA: Gave Administrative Review. In Summary, the plans have gone through Land Court and the Plan needs to be adjusted. It has been endorsed but a couple of minutes need to be adjusted to hold monuments along with some no-tangent curves and additional arithmetic to work. All lots have frontage on Commerce Way and all lots meet requirements from the Board prior review. 12/20/21. The final Mylars need final endorsement.

Chairman Steven Costello asks for public comment, None.

Chairman Steven Costello entertains a motion to approve a motion by Robert Twiss to endorse the plan entitled "Plan of Land of Commerce Road Barnstable, MA" prepared for Dillingham Properties LLC, dated October 28, 2021, last revised May 18, 2022, seconded by Mary Barry.

Roll Call Vote

Ray Sexton	aye
Michael Mecnas	aye
Robert Twiss	aye
Mary Barry	aye
Stephen Robichaud	aye
Steven Costello	aye
Tim O'Neill	recused

Zoning Amendments:

This proposed amendment is a petition made by ten certified registered voters of the Town and was referred to the Planning Board for a public hearing by Town Council Item No. 2022-159. The purpose of this public hearing is to take comment on a proposal to amend the Town of Barnstable Zoning Ordinances, §240-30E(4) the Separation Requirements of the Medical Marijuana Overlay District. (Majority of members present and voting for recommendation to Town Council)

Tim O'Neill made a motion to open the public Hearing, seconded by Michael Mecnas.

Roll Call Vote

Tim O'Neill – aye
Michael Mecnas – aye

Robert Twiss – aye
Mary Barry – aye
Stephen Robichaud – aye
Steven Costello - aye

Tim McNamara 955 Main Street, Osterville representing.

Costello: Asked James Kupfer to elaborate on the zoning restrictions in this area:

Kupfer: Petition Article Medical Marijuana Amendment TC2002-159 proposal one sub section of §240 -30E (4) Allows for very specific uses, by special permit. Overlay district in industrial area and what is in overlay area to date, subject to change at any time. Offices, bank, religious institution, This request strikes 1000 foot buffer and changes to 500 ft. First read in front of Town Council now in front of Planning Board to back to the Town Council.

Production facilities not sales to general public. Modification within the Overlay. Does allow for sales of Medical

McNamara: under 2012 Cannabis License enables holder to grow and sell at retail to medical clients This overlay is only for Medical use. – excluding recreational sale. Barnstable does not have a retail sale area established to date. Compared to Mashpee – Mashpee started with Medical and now allows for adult use sales.

Established a decade ago – Town \has not had any one apply for a permit for this use. The confines of Attucks Road, in the center is an religious intuition which invalidates the zone as written. All over the state medical dispensaries are opened... We have limited access as written. Supported by public through surveys in due to access must go elsewhere. State has a lot of experience and has minimal impact from the facilities on the related area.

Costello: Public Comment – None.

Board member asked to discuss:

Stephen Robichaud: Asked if they had opened the public hearing?

Costello: Yes. Asked if Robichaud will support.

Robichaud: Yes.

Robert Twiss: Comments: Federal Criminal Law – Proposed amendment will be in violation of Federal Law if change the 1000 feet to 500 for a school. Suggested leaving 1000 feet for a school and change 500 feet for church, that should make be in compliance.

McNamara: Boston faced with zoning issues, as well as Worcester.

Costello: Asks James Kupfer can you confirm schools?

Kupfer: May be a daycare within church or children may congregate in the area this could be problematic.

Twiss: No legal opinion but, I did prosecute individuals for dealing with in 1000 feet of a school. Also religious institutions have before care and after care for children.

Barry: Identified this location was the most viable for medical at the time. Town Council and Planning Board reviewed extensively. Not zoned for recreational but Medical. Seems area is restricted too much small area still doesn't fit.

McNamara: Industry is in conflict of Federal Law anywhere any of these businesses is located. Banking, insurance, Transporting, I don't think it is reasonable under state law to create a zoning scheme and to be able to invalidate at any time.

Holistic medicine, Barnstable is lax and doing a disservice. Other towns are moving forward. Does the town want to create a zoning area or not. Technically this zone does not exist.

Sexton: McNamara potential developer of site?

McNamara: Yes, current owner of one off cape new industry with 3 billion/year in sales would like to see it in Barnstable. Every citizen could have access the uncertainty of having to go through Planning.

Costello - comfortable with footage knows fed law conflicts. Asks McNamara to speak more on State regulations.

McNamara: Consistent with State regulations with the business vetting of employees not references to religious institutions. Some might be concerned with consumption on site, but this is not allowed. We're adequately most secure building in town. Bank CVS with opioids, threat to community, very safe.

Costello: Business that have both recreational and medical, what is percentage of population that is utilizing?

McNamara: Roughly 3% as patient, 20-30% of population consume on thirty day basis. This is regulated cannabis, it is measured and tested distributed with a dosage amount.

Tow of Barnstable needs to be competitive with other communities, and population demand and need in Barnstable. Hate to see Town limited.

McNamara - Town needs to look at adult use. Need to go to ballet. Patients that need access now and can't wait. In favor of medical aspects of it, as the commercial center of the cape, greater conversation needs to be had.

Kupfer: Medical and recreation marijuana illegal on the federal level.

Robichaud: still illegal at federal level – zoning map already violates fed not enforcing but can change

Chairman Costello: Asks to close Public Hearing

Sexton: Similar to Solar farm overlays are we focused specifically on this site or are there other areas that will fence only on existing zoning local only looking at this one.

Robichaud: Only acting on the petition if anything else Town Council would need to weigh in on.

Kupfer - Petition article looking yes or no to recommend to Town Council.

Costello: Zone exists, Town has approved zone. Recommends modification of 1000 feet to 500 for church.

Mary Barry makes a motion to close Public Hearing, seconded by Robert Twiss,

Roll Call Vote

Tim O'Neill	aye
Michael Mecnas	aye
Ray Sexton	aye
Stephen Robichaud	aye
Robert Twiss	aye
Mary Barry	aye
Steven Costello	aye

Chairman Costello entertains a motion to recommend the Petition.

Mary Barry makes a motion to recommend Item No. 2022-159, approval as presented to the Town Council seconded by Stephen Robichaud,

Roll Call Vote

Michael Mecnas	aye
Ray Sexton	aye
Tim O'Neill	aye
Robert Twiss	aye
Mary Barry	aye
Stephen Robichaud	aye
Steven Costello	aye

Staff Updates

Home Occupation Ordinance Discussion and other Zoning Amendments to consider.

James Kupfer: Zoning Amendment to consider with conversation of Planning Board's Role.

Ways that Zoning can be established or changes: Town Council member, Board of Selectmen, a board of appeals, land owner, petition of 10 registered voters. Planning Board, Regional Board (Cape Cod Commission)

Bring forth Home Occupation § 240-46 – Home Occupation to Town Council intent is to manage home occupation by impact not location.

To allow for home occupation by right for those with limited to no impacts, and to allow for additional home occupation opportunities by special permit.

Brian Florence, Building Commissioner: All but two districts allow Home Occupation without special permit. It is very costly to make legitimate business and difficult to manage it. Very costly to apply for special permit. Would like to send to Town Council for 1st reading and come back to the planning board with public hearing (amendments would be made at this time.) Public discussion only tonight.

Maggie Flynn, Permit Coordinator: The Town received 38 applications for Home Occupation in 2022 one of those permits has gone to Zoning This has now been elevated as banking and financial institutions now require a a business license to open an account and do not open them without one.

Chairman Costello entertains a motion to advance as written Home Occupation§ 240-46 petition as to Town Council.

Mary Barry makes a motion to recommend Town Council Item No. 2022-159 Home Occupation § 240-46 petition as presented for approval to the Town Council seconded by Stephen Robichaud,

Roll Call Vote

Michael Mecnas	aye
Ray Sexton	aye
Robert Twiss	aye
Mary Barry	aye
Tim O’Neill	aye
Stephen Robichaud	aye
Steven Costello	aye

Matters Not Reasonably Anticipated by the Chair

Kate Maldonado informed the Board that there will be a Local Comprehensive Planning Committee meet and greet at the end of the month.

Correspondence

- ENF Notification – Halls Creek Maintenance and Improvement Dredging Project – Squaw Island Barrier
- Spit – Hyannisport
- Chapter 91 Notice – 265 Seapuit River Rd., Maintenance dredging

Approval of Minutes

May 23, 2022, draft minutes

Chairman Steven Costello entertains a motion to approve the draft minutes of May 23, 2022, Mary Barry moves to approve the draft minutes of May 23, 2022, seconded by Ray Sexton,

Roll Call Vote

Michael Mecnas aye
Ray Sexton aye
Robert Twiss aye
Mary Barry aye
Tim O'Neill aye
Stephen Robichaud aye
Steven Costello aye

Future Meetings: June 27 and July 11, 2022, @ 7:00 p.m.

Adjournment

Chairman Costello entertains a motion to adjourn, moved by Mary Barry, seconded by Robert Twiss,

Roll Call Vote

Michael Mecnas aye
Ray Sexton aye
Robert Twiss aye
Mary Barry aye
Tim O'Neill aye
Stephen Robichaud aye
Steven Costello aye