



# Town of Barnstable Planning Board



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Board Members

Stephen Robichaud – Chair    Robert Twiss – Vice Chair    Tim O’Neill - Clerk    Mary Barry    Michael Mecnas    Raymond Sexton    Matthew Teague  
Felicia Penn – Town Council Liaison

Planning & Development Dept. Staff Support

James Kupfer, AICP, Interim Director  
Karen Pina – Principal Assistant - [karen.pina@town.barnstable.ma.us](mailto:karen.pina@town.barnstable.ma.us)

## Town of Barnstable PLANNING BOARD Minutes July 8, 2024

|                              |         |
|------------------------------|---------|
| Stephen Robichaud – Chairman | Present |
| Robert Twiss, Vice Chairman  | Present |
| Tim O’Neill – Clerk          | Present |
| Mary Barry                   | Absent  |
| Michael Mecnas               | Absent  |
| Raymond Sexton               | Present |
| Matthew Teague               | Present |

*Also in attendance were Planning & Development Staff; James Kupfer, Interim Director and Karen Pina, Principal Assistant.*

**Notice of Recording**    The meeting will be televised live via Xfinity Channel 8 or high definition Channel 1072. It may also be accessed via the Government Access Channel live stream on the Town of Barnstable’s website: <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

**Call to Order**    Introduction of Board Members

**Public Comment**

David Moir, 220 Windswept Way in attendance. Land on Oyster Harbors Island all roads recorded on Land Court. He owns the land abutting shown on LC plan – any subdivision of land should report. Land Court plans, shows Windswept Way in existence since 1933. Deed, land under Windswept Way not to be used for building. Have filed objection to – facts to be with the deed, where frontage is. Shared by Oyster Harbors owners and club. Anything developed should be in compliance. Patty Baker in attendance also an abutter.

Patricia Baker in attendance. 43 Sunset Point, 3 houses here, very narrow pass.

Attorney Benjamin Tymann in attendance, representing both abutters for the Windswept Way ANR. Legal deficiencies for 250 Windswept Way. Applicant has made multiple revisions in order to cure illegal deficiencies. Parcel A with the plan has no legal frontage. Has to have adequate access. Parcel A can only have access with Windswept Way. No access to Sunset Point. Windswept not a qualified way. Has to meet requirements in 801 b12. Doesn’t meet any of the proposals. Parcel A does not have sufficient lot area. Applicant included land that is comprised of Windswept Way and the other side. The lot does not have 2

acres properly included within it. June 26<sup>th</sup> plan not stamped by a surveyor. Should not endorse upon court review. Planning Board should refuse to endorse.

**Chair moves Agenda items out of order: ANR application done first.**

**Approval Not Required**

Holian Family Realty Trust, Janet Holian Trustee has submitted an Approval Not Required Plan entitled "Plan showing Lot Division at 250 Windswept Way, Barnstable (Oyster Harbors) MA" dated June 26, 2024

Chair Stephen Robichaud states have read the correspondence from Attorney Benjamin Tymann. Lot area, frontage and access important.

Attorney Michael Ford in attendance. Representing Janet Holian, Family Trust – the Applicant. Proposed division is effort to build an additional lot to build a house for brother. Order of Conditions from Conservation Commission, Lot A and Bldg. permit received from Bldg. Inspector. Copies of the Bldg. permit were sent to the abutters and advised that can be appealed. Appeal of Bldg. permit went to Zoning Board of Appeals (ZBA). Wetlands line to determine configuration was on the plan when bought, but new line done with Conservation. Reported to Bldg. Commissioner. Suspend. Filed a new ANR plan, revised the common lot line. Complied with new wetlands line, this is the plan now. Lot configuration, nor lot area do not come before the Planning Board. Previous ANR plan recorded. Now have a new plan. Meets the lot shape factor now. Have to show frontage. Sunset Way, comes off of Windswept, bears to the left, 30 ft. in width. This road – Board of Survey in 1952. ANR was endorsed in 1965. Took portions of property that comprise Sunset to make separate lots. No portion of a lot can be bisected by a street. Sunset Way created by stipulation. New lot has 40 ft. of frontage on Windswept Way. Laid out by Land Court in 1951, shows Windswept Way ends and turns into a 20 ft. private right of way. This is not shown on the Land Court plan, created by a stipulation, this is a right of way. This is not a street. Right of way running in between is not Windswept Way, doesn't provide frontage to anybody.

Chair Stephen Robichaud clarifies because not a right of way, so can use this?

Attorney Ford, yes, not defined as a street. Abutters state not a street. Bldg. Commissioner has no problems using as lot area.

Chair Stephen Robichaud, some may argue about the frontage on Sunset Point – no physical access currently.

Attorney Ford, you have to have a legal right of way – can put driveways anywhere off of Sunset. Concur does meet requirements of ANR. In letter admitting that first ANR should not have been signed, not true, just for the lot shape factor.

Matt Teague, clarifies former title for parcels. If all registered land would need to be reviewed by Land Court surveyor.

Attorney Ford, all unregistered. Titles are all unregistered.

Ray Sexton, confirms the layout of Sunset Point – abuts parcel A. Neither separate on Sunset Way and Sunset Point. Clarifies driveways if put in.

Attorney Ford, correct, made separate parcels.

Chair Stephen Robichaud, frontage on Sunset Point much clearer. Sufficient frontage. The paved drive from Windswept Way to property on parcel B. Does this have any impact regarding frontage on Sunset Point?

Attorney Ford, no. Have to show that we are able to put in the access. Not sure whether driveway will be moved or stay.

Bob Twiss, frontage, parcel A and in the northwest corner and also in northeast corner feet that qualify. Even with creation of proposed parcel C, there is 143.88 ft of frontage of parcel A even with creation of new parcel C.

Attorney Ford - 227.9 confirms frontage.

Bob Twiss, lot line between A and B up to where C takes away land on Sunset – three separate locations. Clarifies plan for parcel A subtracting the wetlands. Well in excess - we are approving more than 2 acres of land. Allegation that falls below 87, this plan shows after.

Tim O’Neill – property line to the north is this what was amended?

Attorney Ford, reconfigured the common lot line to get the lot shape fact for A and B. the new wetlands line with the order of conditions.

**Chair Stephan Robichaud entertains a motion to endorse/approve, moved by Tim O’Neill, - the plan as submitted qualifies as an Approval Not Required plan as it does not constitute a subdivision because each of the lots have the minimum required frontage on an existing way having suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use and for the installation of municipal services to serve such use or has been labeled as “not buildable”; and all materials and conditions of Chapter 801, Article IV Approval Not Required Plans, have been submitted and are in full compliance, seconded by Matt Teague,**

**Roll Call Vote:**

- Matt Teague - aye**
- Ray Sexton - aye**
- Bob Twiss - aye**
- Tim O’Neill - aye**
- Stephen Robichaud - aye**

Larry Nickulas has submitted an application for an Approval Not Required Plan for Old Stage Rd. and Parker Lane, West Barnstable, Ma, Assessors Map 152 Parcels 110 & 006

Jim Kupfer some plan changes t- updated plan received.

Attorney Jeffrey Johnson in attendance, representing the Applicant, Larry Nickulas. The difference between the prior plan and this plan. Frontage over an easement area. Did a deal with the Eagan’s and purchased that parcel. Now have continuous frontage along Parker Lane for lot 2. Lot 1 has pre existing house on it. Have rights over Parker Rd. to Old Stage Rd. and the service Rd. Frontage now exceeds 500 linear ft. Now will not need to do a subdivision plan.

Ray Sexton, clarifies where Parker Rd. comes in – noted not a buildable lot. Old Stage road continuation?

Attorney Johnson, dotted line on the plan, would move it up to parcel A, relocate.

Chair Stephen Robichaud clarifies where Parker lane frontage is.

Jim Kupfer, if privately they want to build a driveway in parcel A may trigger DPW storm water assessment. Frontage now – lot 2 has new area and frontage.

Chair Stephen Robichaud entertains a motion to endorse/approve, moved by Matt Teague, as it does not constitute a subdivision because each of the lots have the minimum required frontage on an existing way having suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use and for the installation of municipal services to serve such use or has been labeled as “not buildable”; and all materials and conditions of Chapter 801, Article IV Approval Not Required Plans, have been submitted and are in full compliance, any additional motion to endorse plan, relocation, prepared, last revised July 8, 2024, seconded by Bob Twiss,

**Roll Call Vote:**

**Matt Teague - aye**

**Ray Sexton – nay**

**Bob Twiss - aye**

**Tim O’Neill - aye**

**Stephen Robichaud – aye**

**Subdivisions**

**Subdivision No. 829** – Larry Nickulas has submitted an application for a Definitive Subdivision for Old Stage Rd. and Parker Lane, West Barnstable, Ma, Assessors Map 152 Parcels 110 & 006 *continued from June 10, 2024 and June 24, 2024*

*Attorney Johnson states applicant would like to withdraw this subdivision application.*

***Motion made by Matt Teague to accept the request to withdraw, seconded by Ray Sexton,***

**Roll Call Vote:**

***Matt Teague - aye***

***Ray Sexton - aye***

***Bob Twiss - aye***

***Tim O’Neill - aye***

***Stephen Robichaud - aye***

**Housing Production Plan Public Meeting Presentation**

Jim Kupfer gives an update. Running parallel with Local Comprehensive Plan Committee (LCPC). State requirements – in order to be certified. Starts with Housing Committee and then reviewed. Planning Board and then Town Council, that has a subcommittee for housing. Town Council must adopt if go to state board certification.

Chair Stephen Robichaud – public comment and strategies in the plan and where take place. LCP should be the ones for geographic approach. Rather than vote this evening, thinking prior to our vote would like to hear Town Council leadership to refer to committee.

Jim Kupfer, their first meeting is next week.

Ray Sexton, these are ad hoc committees, not created by town charter. Creations of the president of Town Council?

Chair Stephen Robichaud, concept came from Town Council leadership to put sub committees into place. Advisory and will offer recommendations.

Ray Sexton a lot of informal hoops just to get something done.

Chair Stephen Robichaud -inclusionary affordable housing ordinance. Wording to strengthen the IAH ordinance by acquiring a percentage at a variety of income levels. If too high a percentage, will it stop housing in it’s tracks. Falmouth results are not great, May 15%. What point might be?

Jim Kupfer, 10% was established awhile ago. Has done 13% with a recent project. Have done early studies. We have a unique area median income 65%, much have 80%. Not typical HUD standards. Tiered percentages possibly and density bonuses. Housing Production Plan (HPP) talks about looking at inclusionary and tweaking it.

Matt Teague, everyone has to get subsidies. Challenge to provide at all income levels. Chapter 40Y and Housing Bond Bill has a number of incentives. This is the number one focus at State level without the HPP. Need to be concurrent with the housing plans foundation of infrastructure.

Chair Stephen Robichaud Affordable housing trust only has so much income. Have to find other sources. Housing Trust fund does that come to local housing trusts?

Jim Kupfer, not sure, appears to be the case. We can follow up on this.

Ray Sexton, reiterates will not have people to do jobs and do blue collar work and maybe white collar work as well. Affordable housing – if public government creates reasonable subsidies and tax breaks. Have to create this.

Chair Stephen Robichaud, pg. 3 recommendation for starter homes district. Anything that can be referenced any sort of markets for this.

Jim Kupfer, definitely a need and a number of models that can be referenced, 40R in example. Cluster subdivisions, can get back to some 40Y attempts to do this. Can have some models.

Chair Stephen Robichaud, starter homes - inclusionary at 15%.

Jim Kupfer, can offer comments and edits and suggestions. The HPP will do the same.

Bob Twiss, need workers. Housing that is affordable. Need a middle ground. Trying to set a policy to encourage and in percentages that work for Town of Barnstable and people that work. A certain number would discourage and maintain as much flexibility as possible and to meet our needs. Infrastructure created differently all over. LCP Committee extensive discussion done here. Cluster subdivision and creating enough open space. Concessions in negotiations. A lot of different ways to finance housing. Federal tax credits available and have not seen any discussion of these tax credits. Need max flexibility. Should defer until after hear from subcommittee from Town Council. Want to hear their ideas before making a determination made by that committee. Then we can take a vote to adopt or not. Get their report first.

Tim O'Neill – HPP plan strong emphasis on starter homes. Senior housing options and choices, a lack of that market. Empty nesters need to be able to downsize. Should have maximum flexibility important aspect to focus on. Large population over 60, this demographic is growing. Defer and have Subcommittee info first.

Chair Stephen Robichaud confirms like to be referred to committee and see what they come up with. Continue to August 26<sup>th</sup>?

Ray Sexton, LCP and Planning Board and Housing Subcommittee, have a lot of housing items, should work to coordinate together. HPP reference, people may be working off of different date/information and not all the same. Recommends that housing efforts are one integrated town approach to affordable housing.

Chair Stephen Robichaud, ultimately it's the LCP.

Jim Kupfer, HPP is state requirement prescribed document that outlines how to achieve Affordable housing goals. LCP looking at what are we going to do about getting affordable housing hat will dovetail. This has been presented and are integrated somewhat now. LCP will be looking at land use strategies, getting to final point of the actions and where put. Will come back to Planning Board for adoption.

Chair Stephen Robichaud asks for any public comment. None.

Chair Stephen Robichaud entertains a motion to continue, moved by Bob Twiss, seconded by Matt Teague,

Roll Call Vote:

Matt Teague - aye  
Ray Sexton - aye  
Bob Twiss - aye  
Tim O'Neill - aye  
Stephen Robichaud - aye

#### Annual Election of Officers

Motion made by Time O'Neill to nominate Stephen Robichaud for Chair, seconded by Matt Teague,

Roll Call Vote:

Matt Teague - aye  
Ray Sexton - aye  
Bob Twiss - aye  
Tim O'Neill - aye  
Stephen Robichaud - aye

Motion made by Stephen Robichaud to nominate Bob Twiss for Vice Chair, seconded by Matt Teague,

Roll Call Vote:

Matt Teague - aye  
Ray Sexton - aye  
Bob Twiss - aye  
Tim O'Neill - aye  
Stephen Robichaud - aye

Motion made by Bob Twiss to nominate Tim O'Neill for Clerk, seconded by Matt Teague,

Roll Call Vote:

Matt Teague - aye  
Ray Sexton - aye  
Bob Twiss - aye  
Tim O'Neill - aye  
Stephen Robichaud - aye

#### General Correspondence

Chapter 91 Notice - Tern Lane, Centerville – Brooks & McAuliffe – ext of pier and maintain boathouse

#### Staff Updates

#### Weekly Recap

Jim Kupfer, LCPC working on additional chapters. Do have Historic preservation recordings. Presentation on Barnstable, Melissa Chartrand Arts Coordinator. Videos on Barns LCP. Meet July 25<sup>th</sup> goals and strategies. Updates to Design Guidelines, working group. Likely presenting in the near future.

Subcommittee to assess zoning and regulatory agreement process. Looking for update or presentation regarding this, July 19<sup>th</sup>, Friday at 3 p.m. would like Planning Board Chair to join and provide insight. Then will talk about zoning.

Ray Sexton, is there a shadow government? We have charter entities to do this.

Chair Stephen Robichaud, Town Council subcommittees have been established in the past.

Jim Kupfer, to work with Planning staff to evaluate regulatory agreement and zoning and reviewing. Did get a Town Council vote to adopt. Topics have been zoning enforcement and regulatory agreements. Subcommittee can present to the Planning Board.

Chair Stephen Robichaud, process to change zoning is recommendation from Planning Board to Town Council.

**Matters Not Reasonably Anticipated by the Chair**

**Approval of Minutes**

June 24, 2024, Draft Minutes

**Chair Stephen Robichaud entertains a motion to approve, moved by Tim O’Neill, seconded by Ray Sexton,**

**Roll Call Vote:**

**Matt Teague - aye**

**Ray Sexton - aye**

**Bob Twiss - aye**

**Tim O’Neill - aye**

**Stephen Robichaud - aye**

Chair Stephen Robichaud – It is a great loss to lose Planning Board Director, Elizabeth Jenkins. She has been an unbelievable source of knowledge, thanks her for working for this town for a such a long time.

**Future Meetings:** July 22 and August 12, 2024 @ 7:00 p.m.

**Adjournment**

**Chair Stephen Robichaud entertains a motion to adjourn, moved by Matt Teague, seconded by Bob Twiss,**

**Roll Call Vote:**

**Matt Teague - aye**

**Ray Sexton - aye**

**Bob Twiss - aye**

**Tim O’Neill - aye**

**Stephen Robichaud - aye**

The meeting adjourned at 8:42 p.m.

Respectfully Submitted

Karen Pina, Principal Assistant, Planning & Development

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