



Town of Barnstable Town Council

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TOWN COUNCIL MEETING AGENDA December 16, 2010 7:00 PM

Councilors:

Frederick Chirigotis

President

James H. Crocker

Vice President

Richard G. Barry

Janice L. Barton

Ann B. Canedy

Debra S. Dagwan

Henry C. Farnham

Janet S. Joakim

J. Gregory Milne

James F. Munafo, Jr.

John T. Norman

Tom Rugo

James M. Tinsley

Administrator:

Donald M. Grissom

Administrative

Assistant:

Barbara A. Ford

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
 - **Proclamations:** **Senator Robert O'Leary**
State Representative Jeffrey Perry
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
 - **Election of Town Council Officers**
 - **Discussion -- Annual Calendar of Meetings**
- 6. ACT ON MINUTES**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS,
COMMISSIONS, STAFF, CORRESPONDENCE,
ANNOUNCEMENTS AND COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
 - A. OLD BUSINESS**
 - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

NEXT MEETING: January 6, 2011

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
2011-014	Amending zoning ordinance by adding a new subsection to §240-91 Non-Conforming Lots: I. Lot Area Exchange by Lot Line Change (Public hearing) (May be continued to 01/06/11) (Roll-call, 2/3).....	3 -4
B. NEW BUSINESS		
2011-039	Amend the Code of Barnstable Zoning Ordinances 240-16.1 MAH, Multi-family Affordable Housing Residential District (First reading).....	5 - 6

Minutes --November 18, 2010 and December 2, 2010

Please Note: The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session.

The Council may also act on items in an order other than they appear on this agenda.

A. OLD BUSINESS (Public hearing) (May be continued to 01/06/11) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-014
INTRO: 09/02/10, 12/16/10**

2011-014 AMENDING ZONING-NON-CONFORMING, LOT AREA EXCHANGE

ORDERED:

That Chapter 240, Article VIII of the Zoning Ordinance is hereby amended by adding new Subsection I to § 240-91 Nonconforming Lots as follows:

§ 240-91 Nonconforming Lot

I. Lot Area Exchange by Lot Line Change

(1) Lot Area Equal Exchange As-of-Right. The lot area of legally non-conforming lots may be changed as of right by a lot line change provided that:

- a. The exchange of lot area between abutting lots is an equal exchange;
- b. Any existing non-conformities are not increased;
- c. New non-conformities are not created;
- d. No new lots are created by the lot area exchange by lot line change; and
- e. Proportion of wetland area to upland area of each lot remains the same.

(2) Lot Area Exchange Special Permit. If the proposed lot area exchange by lot line change does not meet the requirements of § 240-91.I(1) above the Zoning Board of Appeals may allow the lot area exchange through the issuance of a special permit subject to the provisions of § 240-125.C herein and provided that the Board finds all the following criteria are met:

- a. The proposed lot area exchange will not result in any violation of state and/or local environmental codes and does not increase any existing non-conformities with state and/or local environmental codes;
- b. Other than a change in lot area, the proposed lot area exchange does not create any new non-conformities or increase or intensify any existing non-conformities;
- c. No new lots are created by the lot area exchange by lot line change; and
- d. Proportion of wetland area to upland area of each lot remains the same.

SPONSOR: Councilor Richard Barry

DATE **ACTION TAKEN**

Read Item

Motion to Open Public Hearing

Rationale

Public Hearing

Close public hearing

Council discussion

Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2011-014

INTRO: 09/02/10, 12/16/10

SUMMARY

TO: Town Council
FROM: Jo Anne Miller Buntich, Growth Management Director
DATE: August 17, 2010
SUBJECT: Amendment to the Nonconforming Lot Provisions

BACKGROUND/ANALYSIS/RATIONALE: At present there is no provision in the zoning ordinance that allows a simple transfer of land between two neighboring developed lots. Neighbors wishing to exchange areas of their lots need a variance from the Zoning Board for that change in the configuration of their lots.

The Zoning Board has seen many of these lot area exchange requests in the course of their work. However the only option for relief is the variance process. Since these lot area exchanges do not depart from the overall purpose and intent of the zoning ordinance, the Board is requesting that a simpler process be brought forward.

This amendment, Section 240-91.I - Lot Area Exchange by Lot Line Change, is being submitted to address that situation. The amendment limits adjustments so they will not introduce any new zoning nonconformity nor intensifies existing nonconformities; assures status quo with respect to environmental codes governing nitrogen loading; and precludes creating new developable lots.

The need for this amendment was discussed with the Town Council in October of 2006 and again recognized by the Board in 2010 as a fundamental amendment needed.

Growth Management Department staff developed and reviewed this amendment that allows some lot area exchanges as-of-right and others by special permit. In both instances, the amendment protects the purpose and supports the intent of the Zoning Ordinance in all residential districts.

STAFF ASSISTANCE: Growth Management Department

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2011-039
INTRO: 12/16/10**

2011-039 AMEND THE ZONING ORDINANCE C. 240, ART. III MAH RESIDENTIAL DISTRICT ORDERED that:

Section 1: The Code of the Town of Barnstable, Chapter 240, Article III, MAH Residential District, Section 240-16.1 I, Definitions, is hereby amended by striking the definition of AFFORDABLE UNIT thereunder and substituting in its place the following definition:

“AFFORDABLE UNIT- A dwelling unit reserved in perpetuity for rental or ownership by a household earning 80% or less of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (DHCD) set forth in the Local Initiative Program Guidelines, in order that such affordable units shall be included in the DHCD Subsidized Housing Inventory.”

Section 2. The Code of the Town of Barnstable, Chapter 240, Article III, MAH Residential District, Section 240-16.1 F (3) is hereby amended as follows:

By striking out the first sentence of Section 240-16.1 F (3) and substituting in its place the following sentence:

“The affordable housing restrictions and the monitoring agreement shall be drafted in compliance with the Local Initiative Program (LIP) Guidelines.”

So that as revised, Section 240-16.1 F (3) shall now read:

“The affordable housing restrictions and the monitoring agreement shall be drafted in compliance with the Local Initiative Program (LIP) Guidelines. The affordable housing deed rider and the monitoring agreement shall be subject to review and approval by the Planning Board and approved as to form by the Town Attorney's office prior to the issuance of any building permits for any dwelling unit.”

Section 3. The Code of the Town of Barnstable, Chapter 240, Article III, MAH Residential District, Section 240-16.1 F (6) is hereby amended by striking out the reference to 760 CMR 45.00, as it appears in the second sentence therein

So that as revised, Section 240-16.1 F (6) shall now read:

“Affordable units shall not be segregated within the MAHD. The affordable units shall satisfy the design and construction standards and guidelines of the Local Initiative Program with regard to distinguishability from market rate units (with the exception that development under this section providing off-site inclusionary housing in conjunction with a senior continuing care retirement community shall not be required to provide services offered within the senior continuing care facility). It is the intent of this section that the affordable units shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as LIP units.”

SPONSOR: John Klimm, Town Manager

BARNSTABLE TOWN COUNCIL

SUMMARY

**ITEM# 2011-039
INTRO: 12/16/10**

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: December 7, 2010

BACKGROUND: At the present time the MAH, Multi-family Affordable Housing Residential District, allows for multi-family affordable housing in a residential district created by the Town Council as such. However, in order to qualify as "affordable units" under the current legislation the rental of such units is not authorized. Existing market conditions indicate a need for the creation of rental affordable units. The proposed change would continue to mandate that such units be affordable in perpetuity, however, it would provide a potential developer to have the discretion of offering such units as either "rental" or "ownership" units. This allows the developer the option to offer either as market conditions may warrant.