

Town of Barnstable
Zoning Board of Appeals
Agenda
May 20, 2009

All hearings are scheduled for 7:00 P.M.

Draft as of 05-07-09

Executive Session

At the request of Assistant Town Attorney, T. David Houghton, an Executive Session of the Board may be held to discuss pending litigation.

Appeal No. 2009-006 - Continued

Fireman
Appeal of the Building Commissioner

Opened February 11, 2009, continued to March 25, 2009 and to May 20, 2009, at request of the applicant. No Members Assigned - No Testimony Taken

Staff Report, Application Materials and a Memorandum in Support were previously transmitted to the Board.

Staff anticipates that the applicants may be requesting a continuance to a future date.

Paul and Phyllis Fireman have appealed the Building Commissioner's letter of November 19, 2008 pursuant to Section 240-125(B)(1)(a), Appeals from Administrative Official. The letter expresses the Commissioner's opinion that 92 South Bay Road, Osterville, Mass., constitutes a single lot and that the demolition of the dwelling on the property and construction of two new dwellings on that property is not allowed under the zoning ordinance. The appellant is requesting that the Zoning Board of Appeals overturn the Building Commissioner's November 19, 2008 letter and find that no zoning relief is required to allow for the construction of two dwelling on the 92 South Bay Road lot. The property is addressed as 92 South Bay Road, Osterville, MA and is shown on Assessor's Map 093 as parcel 042-001. It is in a Residential F-1 Zoning District and the Resource Protection Overlay District.

Appeal No. 2009-004 – Continued

Kohler
Appeal of Building Commissioner & Seeks

Enforcement

Opened January 28, 2009, continued April 1, 2009 and to May 20, 2009.

Continued for additional information and input from the Town Attorney's Office and Building Commissioner.

Members Assigned: William H. Newton, Michael T. Hersey, Alex Rodolakis, Brian Florence, Laura F. Shufelt - Associates Present: Nikolas J. Atsalis, George T. Zevitas

Peter and Rose Kohler have appealed the decision of the Building Commissioner issued September 22, 2008 regarding EAC Disposal d/b/a Cape Resources Company. The appellants are appealing the Building Commissioner's determination that no enforcement action is needed with respects to the activities being carried on by Cape Resources Company at 280 Old Falmouth Road, Marstons Mills,

MA. The property at issue is shown on Assessor's Map 100 as parcel 008. The appeal is being made pursuant to MGL Chapter 40A, Section 15 and is seeking the enforcement of the terms and conditions of the Zoning Board of Appeals Decision issued in Appeal No. 1996-014. The subject property is in a Residence F Zoning District and a GP Groundwater Protection Overlay District.

Appeal No. 2009-025 - Continued

**EAC Disposal, Inc.
Modification of Variance No. 1996-14**

Opened April 1, 2009, continued to May 20, 2009.

Continued at the request of the applicant to allow for further plan review and additional information.

Members Assigned: William H. Newton, Michael T. Hersey, Alex Rodolakis, Brian Florence, Laura F. Shufelt - Associates Present: Nikolas J. Atsalis, George T. Zevitas

EAC Disposal, Inc., d/b/a Cape Resources Company has applied for a Modification of Variance No. 1996-14. The modification is sought to allow for revisions to the site that include a new wood processor and staging area, alteration to interior site circulation, and additions and alterations to screening berms and landscape. The property is addressed 280 Old Falmouth Road, Marstons Mills, MA as shown on Assessor's Map 100 as parcel 008. The lot is in a Residence F Zoning District.

Appeal Nos. 2009-023 & 024 - Continued Baker

Opened April 1, 2009, continued to May 20, 2009.

Continued to allow for review of standing and notice. If needed, this appeal may be re-noticed to assure it is proper with respect to standing. Letter to Town Attorney Office requested opinion on buildability of unmerged vacant lot by special relief.

Members Assigned: William H. Newton, Michael T. Hersey, Alex Rodolakis, George T. Zevitas, Laura F. Shufelt - Associate Present: Brian Florence

Appeal No. 2009-023

Bulk Variance for Merged Lots

Newton S. Baker Jr., and David R. Baker, acting in behalf of Ester S. Baker, have applied for a Variance to Section 240.13.E, Bulk Regulations and Section 240-36 Resource Protection Overlay District, Minimum Lot Area. The applicants seek to un-merge an undersized vacant lot of 35,000 sq.ft., from an abutting developed lot and to develop the lot with a single-family dwelling. The two undersized abutting lots having merged due to common ownership. The vacant lot is addressed 22 Curry Lane, Osterville, MA and the developed lot is addressed 44 Curry Lane, Osterville, MA. They are shown on Assessor's Map 142 as parcels 152 and 072. The lots are in a Residence C Zoning District and a Resource Protection Overlay District.

**Appeal No. 2009-024
Nonconforming Lots**

Special Permit Section 240.91.F,

Newton S. Baker Jr., and David R. Baker, acting in behalf of Ester S. Baker, have petitioned for a Special Permit pursuant to Section 240.91.F, Nonconforming Lots, Merged Lots. The applicants seek to unmerge an undersized vacant lot of 35,000 sq.ft., from an abutting developed lot and to develop the lot with a single-family dwelling. The vacant lot is addressed 22 Curry Lane, Osterville, MA and is

shown on Assessor's Map 142 as parcel 152. The vacant lot is addressed 22 Curry Lane, Osterville, MA and the developed lot is addressed 44 Curry Lane, Osterville, MA. They are shown on Assessor's Map 142 as parcels 152 and 072. The lots are in a Residence C Zoning District and a Resource Protection Overlay District.

Open **Chairman's Discussion**
