



**Town of Barnstable**  
**Zoning Board of Appeals**  
**Minutes**  
**January 5, 2011**

*A regularly scheduled and duly posted Public Hearing for the Town of Barnstable Zoning Board of Appeals was held on Wednesday January 5, 2011 at 7:00 PM at the Town of Barnstable, Town Hall, 367 Main Street, Hyannis, MA. A quorum was met. Also present were Jo Anne Miller Buntich – Director, Growth Management, Carol Puckett – Administrative Assistant, Ann Canedy – Town Councilor and Charlie McLaughlin – Assistant Town Attorney.*

Laura Shufelt - Chair	Present
William Newton - Clerk	Absent
Michael Hersey	Present
Craig Larson	Present
Alex Rodolakis	Absent
Brian Florence	Present
George Zevitas	Present
Scott Harvey	Present

*Laura Shufelt opens the hearing at 7:06 PM.*

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*Approval of minutes from November 3, 2010 & December 1, 2010 is made by George Zevitas and seconded by Brian Florence.*

*Vote:*

*All in favor*

**MINUTES APPROVED FROM NOVEMBER 3<sup>RD</sup> AND DECEMBER 1, 2010**

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*Laura Shufelt calls the JDJ Housing Development LLC., appeal and reads it into the record.*

Comprehensive Permit No. 2003-090

JDJ Housing Development LLC. & Dakota Partners, Inc.  
Request for 2-year Extension

A December 29, 2010 letter from Attorney Peter Freeman has been received at the Zoning Board's Office. The letter requests an additional two (2) year extension of time for implementing Comprehensive Permit No. 2003-090 issued to JDJ Housing Development LLC., for the development of the "Village Green". The request will extend the permit to January 9, 2013.

Comprehensive Permit No. 2003-090 as modified authorized development of 148 rental apartment units in five (5) three-story buildings on 14.32 acres. Forty (40) units are to be committed to affordable and eleven (11) units committed to workforce housing. The development is to be located on property addressed 0 Independence Drive (formerly 770 Independence Drive), Barnstable, MA as shown on Assessor's Map 332, as Parcel 010-1. It is zoned Industrial and is in a Wellhead and Groundwater Protection Overlay Districts.

**Members assigned: Michael Hersey, Craig Larson, Brian Florence, George Zevitas, Laura Shufelt**

**Laura Shufelt reads an email into the record received today from Steven G. Heslinga, Trustee of the Enoch Cobb Trust. Laura indicates that it will put to rest the question of standing of Dakota Partners, Inc., as the Enoch Cobb Trust has completed a purchase and sales agreement with them.**

**Attorney Peter Freeman is representing the applicants. He indicates that his client will be here momentarily and if they need to ask him questions he requests that they wait until he arrives. Attorney Freeman indicates that the first reason for request for an extension is the decline in the real estate market which has made it difficult to proceed with the project. Also, in that period the trustee, David Cole, had passed and it had taken some time to appoint another trustee which had added extra time.**

**Brian Florence asks if according to the acts of 2006, if the applicant needed to be here. Laura Shufelt indicates that comprehensive permits weren't included in that act. To clarify, she reads 760 CMR 56.05 12(c).**

**Craig Larson clarifies that the extension is for the same permit originally issued and if they wanted to change anything they would need to come back to the ZBA.**

**George Zevitas asks how long this can be extended for as the original appeal is from 2003. Laura Shufelt indicates that it is unclear. Attorney Freeman indicates that, in general, a zoning board could stop it from going on and on but can't deny it if not unreasonable.**

**Laura Shufelt makes findings:**

**In comprehensive permit 2003-090, JDJ Housing Development, LLC., and Dakota Partners, Inc.:**

- 1. Under 760 CMR Section 56.05 authorizes the Zoning Board to grant extensions of comprehensive permits upon request.**
- 2. Instructs the Board that an extension request may not be unreasonably denied.**
- 3. States that a request for an extension shall not "constitute a substantial change". That is to say that the request, in itself, shall not require a public hearing and the Board cannot find that one is required.**
- 4. And Section 56.07(4) supplies "Commentary and Examples" of changes that are generally not considered substantial changes and those that could be considered as substantial changes**

**Vote:**

**AYE: Michael Hersey, Craig Larson, Brian Florence, George Zevitas, Laura Shufelt**

**NAY: None**

***Based on the findings, a motion is made by Laura Shufelt that the Board would consider this an insubstantial change. Seconded by Brian Florence.***

***Vote:***

***AYE: Michael Hersey, Craig Larson, Brian Florence, George Zevitas, Laura Shufelt***

***NAY: None***

***Laura Shufelt makes a motion that based on the findings of the Board that they extend this permit for two years to January 9, 2013. Brian Florence seconds.***

***Vote:***

***AYE: Michael Hersey, Craig Larson, Brian Florence, George Zevitas, Laura Shufelt***

***NAY: None***

**EXTENSION GRANTED TO JANUARY 9, 2013.**

***Motion is made by Michael Hersey to adjourn.***

***Brian Florence seconds***

***Meeting adjourned at 7:24 PM.***