



Town of Barnstable
Zoning Board of Appeals
Minutes
November 14, 2012

Laura Shufelt - Chair	Present
William Newton – Vice Chair	Present
Craig Larson	Present
Alex Rodolakis	Present
Brian Florence	Present
George Zevitas	Present

Staff also present were Elizabeth Jenkins – Principal Planner and Carol Puckett – Administrative Assistant.

As a quorum has been met, Chair Laura Shufelt opens the hearing at 7:02 PM.

Introduction of Board Members – everyone present introduces themselves.

Laura Shufelt then calls the Ruggiero appeal and reads it into the record:

7:00 PM Appeal No. 2012-049 – Cont'd

Daniel & Mindi Ruggiero

Daniel and Mindi Ruggiero have petitioned for a Special Permit pursuant to Section 240-91(H)(3) Demolition and Rebuilding on Nonconforming Lots. The Petitioners are proposing to raze an existing dwelling on a 7,500 square foot lot and rebuild a new 2,106 sq.ft dwelling in conformance with the setback requirements. The subject property is located at 93 Circuit Avenue, Hyannis, MA as shown on Assessor's Map 324 as Parcel 052. It is in the Residence B Zoning District. **PRECINCT 13**

Opened September 26, 2012. No members assigned.

Applicant to ask for a continuance to January 9, 2013

Laura Shufelt indicates that a letter has been submitted by the petitioner's representative Brian Grady, asking for an extension and a continuance to January 9, 2013.

Motion is made by Laura Shufelt and seconded by William Newton to continue this appeal to January 9, 2012 at 7:00 PM.

Vote:

All in favor

CONTINUED TO JANUARY 9, 2013 AT 7:00 PM

At 7:05, Laura calls the Global Companies appeal and reads it into the record:

7:05 PM

Appeal No. 2012-054 - **New**

Global Companies, LLC

Global Companies LLC has applied for a variance from Section 240-21.E, the minimum front yard setback requirement in the Business District. The Applicant is proposing to construct a canopy over existing fuel service islands within the required 100 foot setback from Route 132. The 50' x 53' canopy is proposed in conjunction with upgrades and site improvements to the existing gas and service station. The subject property is located at 1449 Iyannough Road (Rte 132), Hyannis, MA as shown on Assessor's Map 274 as Parcel 020. It is in the B Business District.

PRECINCT 1

Members assigned tonight: George Zevitas, Alex Rodolakis, Craig Larson, William Newton, Laura Shufelt

Representation: C. Anthony Fruchtl from Ayoub Engineering.

Mr. Fruchtl gives summary of where the lot is located, what has been existing on the lot for over 40 years, and a summary of the proposal which is to add a canopy over the fuel island which would protect customers during inclement weather and which will also provide better lighting for customers. He indicates that currently, the setback from Strawberry Hill Road is 20 feet and 100 feet from Route 132. He indicates that installing the canopy will not add to the impervious area and that part of the project would be to clean up the area and improve the landscaping of the site. They will clean out the storm grates and the lighting will be LED which will be less intrusive to passerby's. The signage would be brought into compliance.

Questions from the board

William Newton asks if this adds to the nonconformity. Elizabeth Jenkins indicates that what is nonconforming is the use in the WP overlay district because of hazardous materials on-site and that they will not be increasing that nonconformity but will be intensifying the nonconforming setback from Route 132.

Alex Rodolakis clarifies the height of the canopy and asks how they came up with the height. Mr. Fruchtl indicates that it is the standard height so that it won't be clipped by trucks.

Laura asks if there is anyone from the public who would like to speak either in favor or in opposition. No one speaks.

George Zevitas comments that it is close to the street and wonders if there is any concern on the board to take this opportunity to add a barrier for safety. Laura asks Mr. Fruchtl how much space there is between the pumps and the lot line. Mr. Fruchtl indicates that it is nine feet from the canopy and that the pumps will not change. They discuss putting a barrier between the front pumps and the sidewalk. Elizabeth Jenkins suggests using decorative bollards to provide safety. Craig Larson asks if the applicant would accept some safety measures. The board discusses further. Mr. Fruchtl proposes putting three bollards at their discretion. Ms. Jenkins indicates that the total length is 53 and that one every ten feet could be considered. Mr. Fruchtl agrees to put one bollard every ten feet for a total of five.

Craig Larson asks Mr. Fruchtl if he has read the staff report and is agreeable to all of the suggested conditions. Mr. Fruchtl answers yes.

William Newton clarifies that the pumps are existing and that they will be in the same location with a new fire suppression system.

Craig Larson makes findings

Global Companies LLC has applied for a variance from Section 240-21.E, the minimum front yard setback requirement in the Business District. The Applicant is proposing to construct a canopy over existing fuel service islands within the required 100 foot setback from Route 132. The 50' x 53' canopy is proposed in conjunction with upgrades and site

improvements to the existing gas and service station. The subject property is located at 1449 Iyannough Road (Rte 132), Hyannis, MA as shown on Assessor's Map 274 as Parcel 020. It is in the B Business District.

The canopy addition is proposed in conjunction with various other improvements to the site, including replacement of the islands and fuel pumps. The number of pumps is not proposed to increase. The station will continue to offer both self-service and full-service pumps. The Applicant is also proposing to install new landscaping within the island at the corner of Rte. 132 and Old Strawberry Hill Road.

Variance Findings

- owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located;
- a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and
- desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.

Vote on Findings:

All in favor

Craig makes a motion to grant with the suggested conditions as outlined on page 2 and 3 of the staff report with the addition of Condition #10 which will state that there will be a minimum 5 bollards spaced between the fuel island and the road layout of Route 132.

William Newton seconds.

Vote:

AYE: George Zevitas, Alex Rodolakis, Craig Larson, William Newton, Laura Shufelt

NAY: None

GRANTED WITH CONDITIONS

7:10 PM

Appeal No. 2012-057 - New

Cape Town Plaza LLC

Cape Town Plaza LLC has petitioned to modify Conditional Use Special Permit 2002-047 which allows use of the approximately 26,000 sq.ft freestanding building at 790 Iyannough Road for retail sales. The Petitioner seeks to delete Condition No. 1 of the permit, which restricts the use to a retail home furnishings and accessory decorating store, and to allow the existing building to be used by general retail tenants. Minor site improvements are also proposed. The subject property is located at 790 Iyannough Road, Hyannis, MA as shown on Assessor's Map 311 as Parcel 092. It is zoned Highway Business and Business.

PRECINCT 1

Members assigned tonight: Brian Florence, Alex Rodolakis, Craig Larson, William Newton, Laura Shufelt

Laura makes an announcement that if anyone in the audience was here for anything else that those appeals have been continued to a later date.

Representation: Louis Masiello and Katie Weatherby of WS Development. Mr. Masiello explains that WS Development is a New England based shopping center ownership and management/development privately owned firm. With the recent owners/managers/operators of Cape Town Plaza, approximately a year ago they bought the controlling interest. The fee for this property is owned by the Barnstable Municipal Airport

Commission but since the late 1960's has been under a ground lease to the private sector who has built and operated the shopping center since. The ground lease between the airport and his firm gives the total and complete control to the tenant. He points out the plan on the easel showing the zoning demarcations which bisects the property. He indicates that the center operated as a cohesive shopping center. He then gives a history of the proposed structure which had a benefit of a special permit from 2002 for the previous business which was a home furnishings store and which Old Navy is proposing to occupy. He indicates that they would like to modify that special permit which restricted the structure to home furnishings and to change that retail use to general retail use.

Questions from the Board:

Laura asks Mr. Masiello if he has seen the staff report and wants to get his opinion about a crosswalk. Mr. Masiello has seen and concurs with all recommendations made in the staff report. He also indicates that they are intending to re-stripe the crosswalk and that Site Plan Review suggested another crosswalk which they would agree to.

Laura talks about the comments on the area between the building and Tiki Port. Mr. Masiello indicates that they have since installed no parking signs as people were parking there instead of parking at the airport and they have made a more concerted effort to enforce the no parking for which they have seen a significant decrease.

Laura asks if there is anyone from the public who would like to speak either in favor or in opposition. No one speaks.

Craig Larson asks the applicant to address the comment about the seasonal nursery in the staff report. Mr. Masiello indicates that in the past K-Mart has used the parking lot for sale of nursery items and their lease allows them some outdoor sales and that this gives his company a right to police it. He indicates that come next spring, what they should expect to see is only that row of parking to the immediate side of K-Mart and behind this structure used for outdoor structure and must comply to local ordinances.

Craig Larson asks if Mr. Masiello is familiar with the seven suggested conditions. Mr. Masiello answers yes.

Brian Florence makes findings

1. In Appeal No. 2012-057, the Applicant has requested to modify Conditional Use Special Permit No. 2012 to remove the restriction on use of the building as a retail home furnishings and accessory decorating store and to permit general retail sales to one or more tenants. Section 240-25(C)(1) of the Barnstable Zoning Ordinance permits general retail sales in the HB District with a Special Permit from the Zoning Board of Appeals.
2. The Site Plan Review Committee reviewed the proposal and issued a letter dated November 8, 2012 approving the plan, subject to modification of the Special Permit.
3. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.
4. The use does not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community.

Vote on Findings:

All in favor

A motion is made by Brian Florence and seconded by William Newton to grant the modification of the special permit with the following conditions:

A modification of Special Permit No. 2002-047 is granted to delete Condition No. 1, which limits the use of the existing building to retail home furnishings and accessory decorating store. This modification shall allow the existing building to be used for general retail sales by one or more tenants.

1. Conditions No. 2 and 3 of Special Permit No. 2002-047 shall be amended to permit minor site improvements as shown on the plan entitled "Proposed Site Improvement Plan" dated November 7, 2012 and the elevations entitled "Cape Town Plaza – Old Navy" dated October 12, 2012.
2. All other conditions of Special Permit No. 2002-047 shall remain in full force and effect.
3. Parking is prohibited in the drive aisle located on the south and east sides of the building.
4. Outdoor storage is prohibited, unless approved by the Building Commissioner. No storage shall be permitted in parking spaces or drive aisles or in trailers, containers, trucks, or storage units. The area behind the building shall be kept clean; no trash or other materials shall be stored outside of enclosed disposal areas.
5. New signage shall comply with the Condition No. 9 of Special Permit 2002-047 and shall not be internally illuminated.
6. The crosswalks as outlined in the staff report be installed.
7. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division for this special permit to be in effect. The rights authorized by this special permit must be exercised within two years, unless extended.

Vote:

AYE: *Brian Florence, Alex Rodolakis, Craig Larson, William Newton, Laura Shufelt*

NAY: *None*

GRANTED WITH CONDITIONS

At 7:50, Laura calls the Haseotes appeals and reads them into the record:

7:15 PM **Appeal No. 2012-055 - New**

Haseotes

Kristen Williams Haseotes and George Haseotes have petitioned for a Special Permit pursuant to Section 240-131.4(D)(2) Change, Expansion or Alteration of Uses and Structures and Section 240-131.4(E) Special Permit for Dimensional Relief. The Petitioners are proposing to completely demolish the existing dwelling at 158 Long Beach Road and reconstruct a new dwelling. The new dwelling will be elevated above the floodplain. The subject property is located at 158 Long Beach Road, Centerville, MA, as shown on Assessor's Map 205 as Parcel 009. It is in the Craigville Beach District and the Long Beach/Short Beach Neighborhood Overlay District.

PRECINCT 4

Applicant to ask for a continuance to December 12, 2012

7:15 PM **Appeal No. 2012-056 - New**

Haseotes

Kristen Williams Haseotes and George Haseotes have petitioned for a Special Permit pursuant to Section 240-131.4(D)(2) Change, Expansion or Alteration of Uses and Structures and Section 240-131.4(E) Special Permit for Dimensional Relief. The Petitioners are proposing to completely demolish the existing dwelling at 168 Long Beach Road and reconstruct a new dwelling. The new dwelling will be elevated above the floodplain. The subject property is located at 168 Long Beach Road, Centerville, MA, as shown on Assessor's Map 205 as Parcel 008. It is in the Craigville Beach District and the Long Beach/Short Beach Neighborhood Overlay District.

PRECINCT 4

Applicant to ask for a continuance to December 12, 2012

Laura Shufelt indicates that a letter has been submitted by the petitioner's attorney, Michael Schulz, asking for a continuance to December 12, 2012

Motion is made by Laura Shufelt and seconded by Brian Florence to continue to December 12, 2012 at 7:00 PM.

Vote:
All in favor.

CONTINUED TO DECEMBER 12, 2012 AT 7:00 PM

Laura Shufelt then reads the Cummaquid Golf Course appeals into the record:

7:20 PM Appeal No. 2012-058 - New Cummaquid Golf Club

The Cummaquid Golf Club of Yarmouth and Barnstable has petitioned for a special permit pursuant to Section 240-94 Nonconforming Use and to modify Special Permit 1972-16. The Petitioner seeks to demolish the existing golf course clubhouse and rebuild a new, larger clubhouse. The gross floor area of the existing clubhouse is 11,238 sq.ft and the proposed clubhouse is 21,089 sq.ft. The subject property is located at 35 Marstons Lane, Barnstable, MA as shown on Assessor's Map 350 as Parcel 001. It is zoned Residence F-2. **PRECINCT 1**

Applicant to ask for a continuance to December 12, 2012

Letter has been submitted by petitioner's attorney, John Kenney, asking for a continuance to December 12, 2012

Motion is made by Laura Shufelt and seconded by William Newton to continue this appeal to December 12, 2012 at 7:05 PM

Vote:
All in favor

CONTINUED TO DECEMBER 12, 2012 AT 7:05 PM

Open: Chair's Discussion

Laura Shufelt indicates that the members were given updated information regarding the Open Meeting Law for their education.

The 2013 schedule will be voted on at the next meeting in December.

Elizabeth Jenkins informs the board members that Haseotes might be searching out alternatives to getting relief from ZBA.

Elizabeth Jenkins indicates that Cummaquid Golf course had to be continued because of site plan changes and about obtaining a license. George indicates that he will have to recuse himself from the Cummaquid Gold course appeal.

Motion is made by Craig Larson and seconded by William Newton to adjourn.

Vote:
All in favor

Meeting adjourned at 7:55 PM.