



Town of Barnstable Zoning Board of Appeals



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Board Members:

Brian Florence – Chair Alex Rodolakis – Vice Chair George Zevitas - Clerk
David A. Hirsch – Associate Member Herbert Bodensiek – Associate Member Robin Young – Associate Member Matthew
Levesque – Associate Member
James Tinsley – Town Council Liaison

Staff Support

Elizabeth Jenkins – Regulatory / Design Review Planner - elizabeth.jenkins@town.barnstable.ma.us
Anna Bringham – Principal Planner – anna.brigham@town.barnstable.ma.us
Carol Puckett – Administrative Assistant – carol.puckett@town.barnstable.ma.us

Minutes

Wednesday, March 23, 2016

Hearing Room – 2nd Floor – 367 Main Street, Hyannis, MA

Brian Florence - Chair	Present
Alex Rodolakis - Vice Chair	Present
George Zevitas - Clerk	Present
David Hirsch	Present
Herbert Bodensiek	Absent
Robin Young	Present
Matthew Levesque	Present

Also present were Elizabeth Jenkins – Regulatory Design/Review Planner, Anna Bringham – Principal Planner, and Carol Puckett – Administrative Assistant.

As a quorum has been met, Brian Florence calls the hearing to order at 7:01 pm.

Call to Order

Introduction of Board Members – **All members present introduce themselves.**

Brian Florence reads the following with no response:

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. I must inquire whether anyone is taping this meeting and to please make their presence known.

Old Business

7:00 PM Appeal No. 2016-002

E R & C Enterprises, LLC

Applicant has submitted a request to continue the hearing to May 11, 2016. Signed extension on file.

E R & C Enterprises, LLC has applied for a Special Permit pursuant to Section 240-25(C)(1) – Conditional Uses in the Highway Business District for a retail convenience store and food establishment with drive-through. The Applicant, who currently operates a pre-existing nonconforming gas station with car wash and retail, intends to remove the existing drive-through car wash, including all equipment and underground tanks, and construct a 980 square foot addition with a relocated drive-through at the rear of building. The drive-through would be converted to a takeout beverage and food lane. The retail sale of gasoline, a preexisting nonconforming use, is proposed to continue. The property is located at 577 West Main Street, Hyannis, MA as shown

on Assessor's Map 269 as Parcel 003. It is located in the Highway Business (HB) Zoning District and the Wellhead and Groundwater Protection Overlay Districts.

Continued from January 13, 2016 and February 10, 2016.

Members assigned: Brian Florence, Alex Rodolakis, George Zevitas, Herbert Bodensiek, Robin Young

Members assigned 02-10-16: Brian Florence, Alex Rodolakis, George Zevitas, Robin Young

Brian Florence states that Attorney David Lawler has submitted a request to continue.

George clarifies that the plan is not ready and is prepared to vote on this on the merits of the case and would move to put this before the board.

Motion is made by George Zevitas to vote on this tonight and to not allow an extension. Elizabeth Jenkins states that, they need to consider fairness to the number of concerned abutting property owners who were notified that there would be an opportunity for public comment. Ms. Jenkins also states that a consultant has been retained, they have had an initial kickoff meeting, and they agreed to put out a new traffic study with latest standards which will be looked over by the town's consultant. Ms. Jenkins explains that the previous application was withdrawn by the applicant previously.

Brian Florence states that there is a motion on the floor and asks for a second. No one seconds.

Motion is made by Alex Rodolakis to grant the continuance because they are proceeding in good faith. Seconded by David Hirsch.

Vote:

AYE: Brian Florence, Alex Rodolakis, David Hirsch, Robin Young, Matt Levesque

NAY: George Zevitas

Motion is made and seconded to continue this to May 11, 2016 at 7:00 PM

Vote:

All in favor

CONTINUED TO MAY 11, 2016 AT 7:00 PM

7:01 PM Appeal No. 2016-006

Haddock

Applicant has submitted a request to continue the hearing to April 6 13, 2016.

Lucinda Haddock has petitioned for a variance to Section 240-14.E Bulk Regulations. The petitioner is requesting a variance to construct a carport within a required side yard setback. The property is located at 108 Buckwood Drive, Hyannis, MA as shown on Assessor's Map 272 as Parcel 082. It is located in the Residence C -1 Zoning District.

Continued from February 10, 2016

Members assigned: Brian Florence, Alex Rodolakis, George Zevitas, Robin Young, David Hirsch

Brian Florence states that a request has been received from the applicant asking to continue to April 13, 2016

Motion is made by David Hirsch and seconded by Robin Young to continue to April 13, 2016 at 7:00 PM

Vote:

All in favor

7:01 PM Appeal No. 2016-012

O'Connor

Adam O'Connor has petitioned for a variance to Section 240-14.E – Bulk Regulations. The petitioner is proposing to construct an addition to the existing dwelling located sixteen (16) feet from the property line, where a thirty (30) foot front yard setback is required from Gristmill Path. The property is located at 390 Jones Road, Marstons Mills, MA as shown on Assessor's Map 047 as Parcel 093. It is located in the Residence F Zoning District.

Continued from March 9, 2016. No members assigned.

Members assigned tonight: Brian Florence, Alex Rodolakis, George Zevitas, David Hirsch, Robin Young

Representative: Adam O'Connor

Brian Florence instructs Mr. O'Connor of the process and states that they do not have any site plans showing the proposal. Mr. O'Connor provides an overview of relief being sought and in summary wants to add a bedroom addition but is constrained by setbacks as this is a corner lot. He states that uniqueness to this property is the fact that it is a corner lot and the septic system would have to be moved in order to accommodate the addition. Robin Young asks how tall the addition would be. Mr. O'Connor states that it will be matching the height of the house. Brian Florence asks if staff had asked him to bring architectural drawings which they do not have. Alex Rodolakis asks if they could flip the garage with the addition and possibly reduce the size of the garage. Mr. O'Connor states that they would have to move the driveway and that the bedroom would be further away from their children's rooms.

Brian Florence asks for public comment

Jim Lynch, a neighbor, states that this is a dead end and the 17 foot setback would not be a detriment as this is not a well traveled street and will add to his house and would add value to his house as well as to the rest of the neighborhood.

The board discusses.

Mr. O'Connor asks for a continuance in order to get more specific plans.

Motion is made by David Hirsch and seconded by Matt Levesque to continue this to May 11, 2016 at 7:00 pm.

Vote:

All in favor

CONTINUED TO MAY 11, 2016 AT 7:00 PM

New Business

7:00 PM Appeal No. 2016-016

South Sea Village, Inc.

South Sea Village, Inc., as lessee, has applied for a Conditional Use Special Permit pursuant to Section 240-25 and a modification of Special Permit No. 1987-107. The Applicant is proposing a restaurant with take-out service on the premises. The modification would remove a condition that prohibits take-out food service. The property is located at 574 Iyannough Road, Hyannis, MA as shown on Assessor's Map 311 as Parcel 023-001. It is located in the Highway Business (HB) Zoning District.

**Members assigned: Brian Florence, Alex Rodolakis, George Zevitas, David Hirsch, Matt Levesque
Representative: Steve Pizzuti, Esq.**

Also with him tonight is the owner of the restaurant, Zhong Fei Huang. Attorney Pizzuti gives a summary of relief being sought and background. One of the conditions of the previous relief that was issued to Stromboli's and after that, a sports bar. The proposal before the board tonight is for an Asian fusion restaurant which will be 1 of 6 in a chain of restaurants. They are looking to modify the special permit e-for a take-out service. In the 1990 relief granted, they talked about traffic, which was two ways and had no median. Now it has been redesigned with a median. He states that in the Highway Business (HB) zone, restaurants are a conditional use. In this proposal, they will be reducing the number of bar seats down to 33 and have allotted 5 spaces for take-out which was required by the bylaw and shown on the plan.

Questions from the board

Matt Levesque asks if there was a take out for the previous restaurant, Unos. Attorney Pizzuti states that there was the same restriction for Unos. However, they did do take-out anyway. Attorney Pizzuti states that the owner also owns restaurants in Mandarin in Westborough, Mandarin in Milford, Mandarin in Reading, Mandarin in Danvers, Bamboo in Westford, Bamboo in Bedford, and Bamboo in Dedham.

Brian clarifies that this will be curbside take-out and not drive up. Alex asks Elizabeth Jenkins about signage. Jenkins states that there was a sign variance issued to Uno's and that this proposal would be looking for signage in accordance with the bylaw. Attorney Pizzuti clarifies that they will be doing extensive renovations and will not open until September and come back on the sign issue if any. Ms. Jenkins states that the maximum number of seats is about 220. Florence asks if he has read the revised conditions. Attorney Pizzuti answers yes.

Board discusses.

David Hirsch makes findings:

Special Permit Findings

In Application No. 2016-016, South Sea Village, Inc. has requested a Conditional Use Special Permit to operate a restaurant with take-out service at 574 Iyannough Road, Hyannis.

1. Section 240-25(C)(1) of the Zoning Ordinance allows any use permitted in the B District with a Conditional Use Special Permit. A restaurant is permitted in the HB District with a special permit from this Board.
2. Further, the Applicant seeks to modify the conditions of Special Permit No. 1987-107 to remove the prohibition on take-out service.
3. The use of the property as a restaurant was established as-of-right in 1973 and became nonconforming with the adoption of the Highway Business District in 1983. The Board issued Special Permit No. 1987-107 to allow the operation of a family restaurant with 218 seats and for expansion of the pre-existing nonconforming structure. That decision was modified by Special Permit No. 1990-044, which allowed 36 of the 218 seats to be bar seats.
4. The operation of a restaurant by South Sea Village, Inc. and the removal of the prohibition on take-out service would not substantially affect the public health, safety, welfare, comfort or convenience of the community.
5. The Applicant has obtained approval from the Building Commissioner to designate five existing parking spaces for take-out parking spaces. No other changes to the capacity, building or site are proposed.
6. 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.
7. The proposed use of the property will not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community.
8. The proposed commercial use and reuse of the existing building are consistent with the Local Comprehensive Plan, which designates the area as a Regional Retail Center.

Vote:

All in favor

Motion is made by David Hirsch to grant with the following conditions

Conditions

1. Special Permit No. 2016-016 is granted to South Sea Village, Inc. to allow the operation of a restaurant at 574 Iyannough Road, Hyannis.
2. The conditions of Special Permit Nos. 1987-107 and 1990-44 shall be modified to allow for take-out food service accessory to the restaurant and for five (5) parking spaces to be dedicated to take-out service.
3. The site shall be configured as shown on the Site Plan entitled "Jasmine Blossom Restaurant" dated February 18, 2016, drawn and stamped by Sousa Design Architects.
4. The operation of the restaurant and maximum seating and capacity shall be consistent with all requirements and approvals from the Licensing Authority, Building Commissioner, and Board of Health.
5. 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 by the Board.

Seconded by Matt Levesque

Vote:

Attorney Pizzuti clarifies condition #4 about the design plan.

All in favor

GRANTED WITH CONDITIONS

Correspondence

03-11-16 – Regulatory Agreement Application – Mark Hyannis, LLC – Barnstable/Bearse Road Redevelopment Project

03-14-16 – Notice of License Application Pursuant to MGL Chapter 91 – Waterways License Application #W15-4519 – Dockside Marina, LLC. , 21 Arlington Street, Hyannis, MA

Matters Not Reasonably Anticipated by the Chair

Adjournment

Motion is made by Alex Rodolakis and seconded by David Hirsch to adjourn.

Vote:

All in favor

Approved