



Town of Barnstable Zoning Board of Appeals



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Board Members:

Brian Florence – Chair Alex Rodolakis – Vice Chair
David A. Hirsch –Regular Member Herbert Bodensiek – Regular Member Robin Young – Associate Member Matthew Levesque – Associate Member
Spencer Aaltonen – Associate Member Jacob Dewey – Associate Member
James Tinsley – Town Council Liaison

Staff Support

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

Minutes

Wednesday, July 27, 2016

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

Brian Florence - Chair	Present
Alex Rodolakis - Vice Chair	Present
David Hirsch	Present
Herbert Bodensiek	Absent
Robin Young	Present
Matthew Levesque	Present
Spencer Aaltonen	Present
Jacob Dewey	Present

Also present were JoAnne Buntich – Director Growth Management, Anna Brigham – Principal Planner and Carol Puckett – Administrative Assistant

As a quorum is present, Brian Florence calls the hearing to order

Call to Order

Introduction of Board Members – **Everyone present introduces themselves**

Brian Florence reads the following with no response:

Notice of Recording

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

Minutes

Minutes of May 11 and May 25, 2016

Motion is made by David Hirsch and seconded by Matt Levesque to approve the minutes from May 11, 2016 as submitted

Vote:

All in favor

Motion is made by Alex Rodolakis and seconded by David Hirsch to approve the minutes from May 25, 2016 as submitted

Vote:

All in favor

Brian calls the ER&C appeal and reads it into the record:

7:01 PM Appeal No. 2016-028

E R & C Enterprises, Inc.

E R & C Enterprises, LLC has petitioned for a Special Permit in accordance with 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 pre-existing 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.

Representative: David Lawler, Esq.

Brian explains that they have no interest in not hearing what the public has to say but the issue at the last hearing was about a traffic study. However, the peer review consultant has not had an opportunity to comment on the study. He will open it up and let the public speak if they want but informs them that this board is awaiting information from the peer traffic review. He opens the hearing for public comment:

Ann Marie Moriarity is here with her mother, residents of Old Craigville Road have made their feelings known at the last application of this request, will come back when there is more information and asks that public comment remain open for future public comment as they have concerns to the traffic and school proximity.

Attorney Lawler states that he would like to continue this to August 24th.

Motion is made by Alex Rodolakis and seconded by Matt Levesque to continue to August 24, 2016 at 7:00 pm.

Vote:

All in favor

CONTINUED TO AUGUST 24, 2016 AT 7:00 pm

Brian Florence reads the following into the record:

Old Business

7:00 PM Appeal No. 2016-021

Giatrelis

Daniel J. Giatrelis and Karen L. Giatrelis have applied for a Special Permit pursuant to Section 240-91(H)(3) Developed Lot Protection and a modification of Special Permit No. 2013-032. Special Permit No. 2013-032 approved the demolition of an existing dwelling and reconstruction of a new dwelling with a "garage under". The Applicant is seeking a modification of the Special Permit to construct the garage adjacent to the house, at grade, and attached by a breezeway. The lot coverage of the original dwelling/structures was 25.3%; the dwelling approved with Special Permit No. 2013-002 had a lot coverage of 17.9%; and the new proposal has a lot coverage of 22.4%. The property is located at 112 Ocean Drive, Hyannis, MA as shown on Assessor's Map 266 as Parcel 008. It is zoned Residence B.

Members assigned Alex Rodolakis, Robin Young, David A. Hirsch, Matthew Levesque and Spencer Aaltonen. Continued from May 25 and June 22, 2016.

Request to Withdraw without Prejudice submitted by Attorney John Kenney on 07-16-16

Attorney John Kenney is representing the petitioner and has asked to withdraw without prejudice. He explains why. A motion is made by David Hirsch and seconded by Matt Levesque to withdraw without prejudice.

Vote:

All in favor

WITHDRAWN WITHOUT PREJUDICE

7:01 PM Appeal No. 2016-025

Habitat for Humanity of Cape Cod, Inc.

Habitat for Humanity of Cape Cod, Inc. has applied for a Comprehensive Permit in accordance with MGL Chapter 40B, §§20-23 and 760 CMR 56. They are proposing to divide a 5.91 acre parcel into four buildable lots, each to be developed with an affordable, three-bedroom single-family dwelling. The remaining land would be unbuildable open space and area for an access road. Waivers are being sought from the area, frontage and setback requirements of the RF Zoning District; the two-acre minimum lot area requirement of the Resource Protection Overlay District; maximum lot shape factor requirements; and from the Subdivision Rules and Regulations as follows: street length; width, alignment and grades; drainage; storm drains; clearing, grubbing and excavation; roadway foundation and surface; monuments; inspections; fee schedule; and electronic filing requirements. The property is located at 536 River Road, Marstons Mills, MA as shown on Assessor's Map 061 as Parcel 002. It is located in the Residence F and Resource Protection Overlay Zoning Districts.

Members assigned are Alex Rodolakis, Robin Young, Matthew Levesque, Jacob Dewey, and Brian Florence. Continued from June 22, 2016

Members assigned tonight: Alex Rodolakis, Robin Young, Matt Levesque, Jake Dewey, Brian Florence

Attorney Warren Brodie is here representing the applicant. Also with him are Leedara Zola – Land Acquisition Coordinator and John O'Reilly – Project Engineer. Attorney Brodie summarizes what had happened at the previous hearing and the concerns the board had. Leedara Zola gives a general presentation and overview. Leedara refers to concerns of Roger Parsons – Town Engineer and that working with staff they have mutually agreed to several waivers. They were asked to talk to conservation groups and the Barnstable Land Trust to see if there was interest in taking the open space lots. She states that there were questions and concerns about access and it was decided that it wouldn't be a good parcel for these groups. They were also asked to submit sample Home Owners Association documents which they have done.

John O'Reilly – Project Engineer speaks and states that Habitat for Humanity (HFH) met with the engineering department and at this point, they agreed to waivers for drainage, road base and bounds along the roadway which will be worked out with the town engineer prior to development of construction plans. They will accommodate the bounds as requested by town engineer and will comply with request regarding road base. JoAnne Buntich explains that this project will also need a recordable ANR plan which they board must sign prior to recording and whatever is waived or not waived will be on that definitive plan. Alex Rodolakis asks about the road way foundation concern of the town engineer which does not recommend waiving that section. Buntich states that her recommendation would be that the board agrees to waive this but to a standard mutually agreed upon by the town engineer and the applicant. John O'Reilly clarifies and would like to, instead of a mylar with all construction details, the mylar being signed would have the information for the subdivision but will supply them with approved construction drawings just to keep the definitive plan cleaner. The definitive would be recorded but the plan of profile is typically not recordable documents.

Robin Young wants to make sure that the open lots will remain unbuildable which is acceptable to Attorney Brodie.

Leedara wants to be clear that they have talked to abutters about lot #8 and asks for clarification of the language in the draft decision regarding lot #8.

**Brian asks for public comment:
No one speaks**

Alex Rodolakis makes findings:

Habitat for Humanity of Cape Cod, Inc. is seeking a Comprehensive Permit to construct four affordable, three-bedroom dwelling units. The subject property is proposed to be subdivided into eight lots: four building lots, each with a minimum of 30,000 square feet; three lots to remain as open space; one 28,823 square foot lot intended for conveyance purposes; and a private way.

The dwellings will be one-story, 1,200 sq.ft, 3-bedroom, 1.5 bathroom units with full basements if soil conditions allow. They will be served by on-site septic systems, public water and natural gas. A 10'x12' shed is proposed for each unit, to be built at time of home construction or at a future date. An on-site parking/driveway area is provided on each lot. Habitat is proposing to offer the units for sale at a price affordable to households at or below 65% of the area median income.

The open space lots are proposed to remain in a natural state, with the exception of the drainage facility for the roadway located on proposed Lot 7.

The proposed way is 40 feet in width and approximately 590 feet in length to the center of the T-turnaround. The roadway proposed would be a private drive maintained by the homeowners association. The roadway is proposed to consist of two nine foot travel lanes with 1 foot Cape Cod berms. A T-turnaround is provided to accommodate emergency and other large vehicles.

Findings of Fact: Standing (Alex Rodolakis reads from revised Decision and Notice dated July 27, 2016 findings 1, 2 & 3):

Motion: The Board moves to make the following findings regarding the Applicant's standing to apply for a Comprehensive Permit under MGL Chapter 40B, in accordance with CMR 760 Section 56.04:

1. A Project Eligibility letter was issued by the Department of Housing and Community Development (DHCD) on May 23, 2016. The letter confirms that the Applicant and the project meet all minimum requirements of 760 CMR 56.04 Project Eligibility. Said letter includes findings by DHCD that: the project is generally eligible under the Local Initiative Program; the site is generally appropriate for residential development; the conceptual plan is generally appropriate for the project location; the project appears financially feasible in the context of the Barnstable housing market; the initial pro forma appears financially feasible and consistent with the cost examination and limitations on profits and distributions on the basis of estimated development costs.
2. The above-referenced letter confirms the project sponsor and development team meet the general eligibility standards of the Local Initiative Program. Habitat for Humanity of Cape Cod, Inc. is a non-profit organization. A letter from the Internal Revenue Service clarifies that the organization is exempt under §501(c)(3) of the tax code based on a ruling issued to Habitat for Humanity International.
3. The Applicant is the owner of 536 River Road, evidenced by a deed recorded at the Barnstable County Registry of Deeds in Book 29590 Page 283.

Vote: Based upon the evidence submitted and testimony provided, the Applicant has satisfied all of the requirements for standing pursuant to MGL Chapter 40B and 760 CMR Section 56.04.

Vote:

All in favor

Findings of Fact: Consistency with Local Needs as in revised Draft Decision dated July 27, 2016

Vote: Based upon the evidence submitted and testimony provided, the Board moves to approve these findings with respect to the project's consistency with local needs.

Vote:

All in favor

Decision

Motion: Based upon the findings of fact, the Board moves to grant Comprehensive Permit No. 2016-025 in accordance with MGL Chapter 40B §§20-23 for the development proposed by Habitat for Humanity of Cape Cod, Inc., subject to conformance to the following conditions, terms, and restrictions:

1. Development of the site shall be in substantial conformance with the preliminary plans entitled, "Habitat for Humanity of Cape Cod – Preliminary Site Plan – River Road" dated May 13, 2016 drawn and stamped by John M. O'Reilly, P.E. of JM O'Reilly & Associates, Inc., consisting of one sheet.
2. The dwelling units shall be constructed in substantial conformance with the elevations and floor plans entitled "Habitat for Humanity of Cape Cod, River Road", dated May 23, 2016, drawn by Brown Lindquist Fenuccio and Raber Architects, Inc., consisting of ten sheets. The units shall be three-bedroom, single-family dwellings. The homes will include full basements if soil conditions allow.
3. The applicant shall prepare detailed development and construction plans consistent with this decision, all applicable town standards and recommendations except those waived by this decision, all engineering standards and all applicable building and fire codes. Prior to issuance of building permits or any construction, all plans shall be reviewed and approved for consistency with this decision by appropriate Town agencies and departments and with final review of this Board. The review of the plans shall be done as an administrative review and it shall not require a public hearing or notice of the plan review.
4. The applicant shall prepare a subdivision plan in accordance with Subdivision Rules and Regulations, suitable for endorsement by the Board and recording at the Registry of Deeds. The Zoning Board of Appeals shall endorse such plan if the Board finds it is consistent and within acceptable limits with the preliminary plan presented for the division of the land and that all applicable conditions have been met. The plan shall reference this decision.
5. All stormwater runoff shall be retained on-site. The roadway shall be graded to retain runoff on-site. All plans and specifications shall be reviewed and be in compliance with the requirements of the Town Engineer.
6. Utilities shall be installed in accordance with the requirements of the utility companies, and state and town requirements.

7. The Applicant shall inspect the road sub-base prior to placement of processed gravel road base material to determine adequacy proper for construction of the road.
8. Inspections necessary to ensure completion of the subdivision to development standards shall be set by the Department of Public Works in accordance with this decision and with the Subdivision Rules and Regulations of the Town of Barnstable.
9. The Applicant shall construct the subdivision in full compliance with Massachusetts General Laws Chapter 41, Section 81-Q and the requirements of the Chapter 801 of the Code of the Town of Barnstable, Subdivision Regulations except those specifically waived in this decision.
10. Upon satisfactory completion of the roadway, installation of all utilities and the setting of all bounds in accordance with the Subdivision Rules and Regulations, the Applicant shall submit as-built plans for the subdivision and request a release of all remaining lots under Covenant and the issuance of a Certificate of Completion to close out the Subdivision.
11. Prior to issuance of a Certificate of Occupancy, the Applicant shall landscape the property using drought-tolerant plants and, at a minimum, loam and seed any disturbed areas of the site.
12. Prior to the endorsement of the subdivision plan, the Applicant shall provide:
 - a. A Form F (Covenant) placing Lot 1, Lot 2, Lot 3 and Lot 4 as surety for completion of the subdivision;
 - b. A Form S (Road Maintenance & Repairs) requiring the applicant and successors in title to be responsible for all maintenance (including snow removal) and repair for the roadway; and
 - c. Documents creating a Homeowners Association and entrusting it with the continued maintenance of the roadway, adequate site distances, stormwater infrastructure, common areas and easements. The Homeowners Association documents shall be drafted by the Applicant, submitted to the Town Attorney's Office and Zoning Board of Appeals Office for review and approval prior to any application for a building permit.

These documents shall be recorded at the Barnstable County Registry of Deeds and copies provided to the Zoning Board of Appeals Office prior to the issuance of any building permits.

13. Ownership of the private way shall be conveyed to the Homeowners Association upon its creation. Ownership of the land shall remain with the Association.
14. Lot No's. 5, 6 and 7 as shown on the proposed subdivision layout shall be unbuildable lots in perpetuity. They shall remain undisturbed and in a natural state, with the exception of the drainage facility located on Lot 7. Ownership of said lots shall be conveyed to the Homeowners Association upon their creation and ownership shall remain with the Association.
15. Lot 8 shall not be conveyed to the homeowners association but may be conveyed to the direct abutter. Conveyance to a party other than the homeowners association or the direct abutter shall be an amendment to this decision.
16. The units shall be for single-family use only and shall be owner occupied. The units shall not be rented.
17. The four units shall be dedicated in perpetuity as affordable units as that term is currently defined by Massachusetts Department of Housing and Community Development. The sale and resale price of the affordable dwellings shall be calculated based upon a formula under which monthly housing costs, including mortgage payments, taxes, insurance, and association fees shall not exceed 30% of 70% of the Area Median Income (AMI) of the Barnstable Metropolitan Statistical Area (MSA) and marketed and sold only to qualified individuals and households. Initial sale shall be to households with an income at or less that 65% of the Area Median Income; subsequent sales shall be to households with an income at or less than 80% of Area Median Income or as otherwise specifically approved by DHCD. All of the dwellings shall be made available on a fair and open basis with Affirmative Fair Housing Marketing and Lottery as approved by DHCD.
18. The Applicant shall record a deed restriction, in form and content approved by the Town Attorney, assuring that the affordable units will remain affordable in perpetuity and that they are protected in the event of a foreclosure from loss of their affordable status.
19. The project shall comply with all Local Initiative Program requirements and any conditions the State may insert upon the grant of this permit, to the extent that they are not inconsistent with this decision.
20. A Regulatory Agreement pursuant to the Local Initiative Program and consistent with the terms of this Comprehensive Permit, in form and content approved by the Town Attorney, shall be executed by the Subsidizing Agency, the Town of Barnstable by its Town Manager, and the Applicant. Said Agreement shall be recorded at the Barnstable County Registry of Deeds prior to the issuance of any building permits.

21. A monitoring agent, approved by the Town Attorney's Office, shall be retained by the applicant. All costs associated with monitoring for consistency with the Regulatory Agreement shall be borne by the Applicant.
22. The Applicant shall prepare an Affirmative Fair Housing Marketing Plan (AFHMP), prepared in accordance with Section III of the 40B Guidelines and approved by the Department of Housing and Community Development prior to the issuance of a building permit.
23. This Comprehensive Permit is issued to the applicant Habitat for Humanity of Cape Cod Inc. It shall not be transferable without the prior written approval of this Board.
24. All required state permits and approvals including but not limited to Title V wastewater disposal permits and Massachusetts Natural Heritage & Endangered Species Program (NHESP) approval shall be submitted to the Board's file prior to issuance of a building permit.
25. Prior to the issuance of any permits for the development, this Comprehensive Permit shall be recorded at the Barnstable Registry of Deeds. A copy of the recorded document shall be submitted to the Zoning Board of Appeals file.

Seconded by Matt Levesque

Brian states that #15 need not be conveyed and changed to abutters not abutter

Accepted by Alex Rodolakis

The Board votes to approve the Comprehensive Permit with conditions:

Vote:

All in favor

Request for Waivers

Motion: With respect to the Applicant's request for relief from local rules and regulations, the Board finds that requested waivers may be granted without adversely affecting the public health and safety of occupants in the development, the surrounding neighborhood, and the residents of the Town of Barnstable, provided the conditions imposed in this permit are strictly followed and adhered to. Therefore, the following waivers are granted to Habitat for Humanity for the development of the River Road Community Housing project.

Waivers are granted from the following Code of the Town of Barnstable Part 1: Chapter 240 Zoning requirements:

1. §240-7 Application of district regulation: request waiver from the requirement of conformance to district regulations. Request waiver from bulk and yard regulations; request waiver from lot size and lot shape requirements.
2. §240-14 RF Residential Districts: request waiver from the requirement subsection E, Bulk Regulations, Minimum Lot Area, Minimum Lot Frontage, and Minimum Yard Setbacks.
3. §240-36-D Resource Protection Overlay District regulations: request waiver from the requirement of conformance to minimum lot area requirement of 87,120 square feet.

Waivers are granted from the following Code of the Town of Barnstable Part VIII Planning Board Regulations: Chapter 801 Subdivision Regulations as adopted by the Planning Board on February 24, 2003:

4. §801-3 Definitions and Abbreviations: request waiver from requirements of street length of less than five hundred feet in "Street – Minor B" so that subdivision roadway will be classified as a Minor B Street
5. §801-27 Drainage: request waiver from subsection 1 and subsection 2, submission and design requirements; all drainage systems will meet requirements of subsection 3. §801-27(B) Storm Drains: Request waiver from requirements as listed for Best Management Practices, requirements for diameter, slope and design velocity, and requirements for fail safe feature
6. §801-29 Sidewalks waiver from this requirement in its entirety
7. §801-41(B) Drainage Systems: §801-41(C): Request waiver from requirements pertaining to Storm Drains and Catch Basins which shall be installed as mutually agreed between the Town Engineer and the Applicants Engineer
8. §801-44 Roadway Foundation: Waiver from requirements for roadway foundation which shall be as mutually agreed between the Town Engineer and the Applicants Engineer
9. §801-52 Monuments: Waiver from strict adherence of requirements for setting monuments
10. §801-61 Inspection: Waiver from requirements for inspections; inspection shall be as mutually agreed between the Town Engineer and the Applicant's Engineer
11. §801-63 Fee Schedule: Waiver from Planning Board fees as project permitted through Zoning Board of Appeals

Seconded by Robin Young

Vote: The Board votes to grant the requested waivers:

Vote:

All in favor

GRANTED WITH CONDITIONS

New Business

7:00 PM Appeal No. 2016-027

Zelman

Richard B. Zelman has applied for a Variance pursuant to Section 240-91.H(1)(b)[1] Developed Lot Protection – Lot Coverage. The petitioner is requesting relief from the lot coverage requirement of 20% to construct an addition to an existing one car garage in order to make it a two car garage. The addition would increase the lot coverage from 19.94% to 20.81%. The subject property is located at 133 Sunset Lane, Barnstable, MA as shown on Assessor's Map 319 as Parcel 022. It is located in the Residence B Zoning District.

Members assigned tonight: Brian Florence, Alex Rodolakis, David Hirsch, Robin Young, Spencer Aaltonen
Representative: Attorney John Kenney

Attorney Kenney gives summary of relief being sought. He states that it was a tear down and rebuild in 2012 and that the Zelman's acquired the property in 2016. The property consists of lots 43 & 44 and is located in the RB district. Any further expansion must conform and be 20%. The only reason for this variance is because of lot coverage. The two top features are the wetlands and the way. The subdivision was laid out in 1941 with no lot coverage requirements. It has been approved by the Conservation Commission. Hardship would be that the applicant is a doctor, has equipment storage issues relating to his profession, needs to be able to store snowplowing equipment in order to get to the hospital in the winter and also has vehicles of his three children. Impacts of the wetlands and way may be granted without detriment or nullifying. Size and style is consistent with the homes in the neighborhood.

Robin Young asks if the neighbors were concerned. Attorney Kenney notes that he hasn't heard anything from the neighbors. Alex Rodolakis would like to add to the conditions that there be no further structures or additions without coming back before the Board. Attorney Kenney is agreeable to a condition to that effect.

Brian asks for public comment. No one speaks.

The board discusses.

Spencer Aaltonen makes findings:

Variance Findings

The statutory requirement of MGL Chapter 40A, Section 10 for granting a variance is a three-prong test. The Board is required to find that each of the following three requirements has been met in order to consider granting the variance:

- **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.**

An application for a variance that has met all three requirements "does not confer ... any legal right to a variance." The Board still has the discretionary power to grant or not to grant the variance.

Brian clarifies that Attorney Kenney's main reason for the variance is because of topography.

Vote:

All in favor

Motion is made by Spencer Aaltonen to grant the relief being sought with the following conditions from staff report dated July 6, 2016 being conditions 1-5 and #4 shall represent full build out and that no further structures or additions shall be done without approval from the Board.

Variance Conditions

1. Variance No. 2016-027 is granted to allow the construction of a 110 square foot addition to convert an existing 1-car garage to a 2-car garage at 133 Sunset Lane, Barnstable, MA.
2. The dwelling with addition shall not exceed 20.81% of lot coverage but shall meet all other requirements of the Zoning Ordinance.
3. The dwelling and addition shall be in substantial conformance with the site plan submitted to the file by Baxter & Nye Engineering & Surveying dated May 31, 2016 and the elevations and floor plans by Cotuit Bay Design dated April 28, 2016.
4. The above-described dwelling and addition for a 2-car garage shall represent full build-out of the lot. No further structures or additions shall be permitted without approval from the Board.
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 prior to issuance of a building permit. The rights authorized by this variance must be exercised within one year, unless extended.

Vote:

All in favor

GRANTED WITH CONDITIONS

At 7:55, Brian Florence reads the Norwood appeal into the record:

7:02 pm Appeal No. 2016-029

Norwood

Guy Norwood has petitioned for a Special Permit pursuant to § 240-131.5.(B) – Dimensional, Bulk, and other Requirements. The applicant is seeking to replace and raise the existing roof by 4 feet thereby increasing the total height of the dwelling to 19 feet 9 inches and increasing the gross floor area by 487 square feet. The property is located at 54 Laurel Avenue, Centerville, MA as shown on Assessor Map 226 as Parcel 089. It is in the Craigville Beach District (CBD) and the Craigville Village (CV) Neighborhood Overlay Zoning Districts.

Note: Petitioner has requested to Withdraw without Prejudice

Brian Florence notes that a request has been received from the petitioner asking to Withdraw and with obvious intent, without Prejudice in an email to JoAnne Buntich.

Motion is made by Brian Florence and seconded by David Hirsch to allow the applicant to Withdraw without Prejudice.

Vote:

All in favor

Same members from last case assigned to Norwood

WITHDRAWN WITHOUT PREJUDICE

Comprehensive Permit No. 2005-013 – Osterville Landing

The undersigned, being an authorized agent of the Zoning Board of Appeals of Barnstable, Massachusetts, hereby certifies that the following lots under the control of KTW Group, LLC, and securing the Covenant dated October 30, 2014, and recorded at the Barnstable Registry of Deeds in Book 28479, Page 34 for lots shown on a plan entitled “Lot Layout Plan Mill Pond Estates Osterville Massachusetts” dated and recorded with said Registry in Plan Book 606, Page 27 are hereby released from the restrictions as to sale and building specified in said Covenant. Said lot is designated on said plan as Lot Numbered 10.

Attorney John Kenney is representing KTW Group, LLC. He explains the 40B and that this is the last lot (#10) to be built upon and want to get the foundation in and finish the subdivision. Tonight they posted money in cash surety and prepared the release and ask the board to sign so that and sign so that can pull the building permit in order to commence building.

Members: David Hirsch, Alex Rodolakis, Brian Florence, Matt Levesque, Jake Dewey

Motion is made by Brian Florence and seconded by Alex Rodolakis to release from the restrictions specified in the covenant recorded in Book 28479 Page 34 at the Barnstable County Registry of Deeds on October 30, 2014 for lot #10.

Vote:

All in favor

Brian Florence signs the release which is notarized by Anna Brigham – Principal Planner.

Correspondence

Received 06-27-16 – Notice of License Application No. W16-4692 - Waterways License Application by John Fish, Trustee to construct and maintain stone and timber groins and perform beach nourishment at 81 & 86 Sand Point, in and over flowed tidelands of North Bay.

Received 07-12-16 – Notice of Amended Chapter A, Enabling Regulations Governing Review of Developments of Regional Impact from Cape Cod Commission. Amendments were made to Section 16: Schedule of Fees.

Matters Not Reasonably Anticipated by the Chair

Upcoming Meetings

August 10, 2016, August 24, 2016

Adjournment

Motion is made by David Hirsch and seconded by Jake Dewey to adjourn.

Vote:

All in favor

Please Note: The list of matters are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may 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 Board may go into executive session. The Board may also act on items in an order other than they appear on this agenda.

* Public files are available for viewing during normal business hours at the Zoning Board of Appeals office located at 200 Main Street, Hyannis, MA