



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, October 12, 2016

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

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

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 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

Approval of minutes from August 10, 2016, August 24, 2016

Motion is made by Spencer Aaltonen and seconded by Matt Levesque to approve the August 10th minutes as submitted.

Vote:

All in favor

Motion is made by Matt Levesque and seconded by Spencer Aaltonen to approve the August 24th minutes as submitted.

Vote:

All in favor

New Business

Brian reads the following appeal into the record:

7:00 PM Appeal No. 2016-033

Drago

Mark Drago has applied for a Special Permit to demolish an existing dwelling and construct a dwelling pursuant to Section 240-91(H)(3) Developed Lot Protection. The applicant is proposing to demolish an existing 640 square foot cottage and construct a 2,712 square foot, four bedroom single-family dwelling on 9,293 square foot lot. A Special Permit is required for the demolition

and rebuilding of dwellings on lots containing less than 10,000 square feet. The existing dwelling has a lot coverage of 640 square feet (6.8%) and the proposed dwelling has a lot coverage of 1,792 square feet (19.3%), where 20% is the maximum allowed. The proposed dwelling will comply with dimensional setbacks. The property is located at 90 Bay View Road, Barnstable MA as shown on Assessor's Map 319 as Parcel 031. It is located in the Residence B Zoning District.

Members assigned: Brian Florence, Robin Young, Matt Levesque, Spencer Aaltonen, Jake Dewey
Representative: Dan Ojala from Down Cape Engineering.

Dan Ojala gives summary of relief being sought. He states that they have also been before the Conservation Commission (ConComm) on September 13th and received approval of the plans with modest modifications regarding runoff and drainage and with their recommendation will install stone pillars along the edge of mitigation planting area and will put wildflower plantings closer to the wetlands. The home will be pulled out of the wetland buffer with a small amount of patio to remain. He points out the house drawings (Exhibit A) very modest height, nice style and feels Old Kings Highway Historic board (OKH) will be happy. It is on town sewer, will be three (3) bedrooms up and master on first floor making it a total of four (4) bedrooms. Gross Floor Area will be 2712 square feet which is a 0292 ratio, Lot coverage is 1792 which is 19.3%. The setbacks will be better. He received a call from an abutter to the south today who understood that they had to keep the house away from the wetland and asked if they could nudge it away from the abutter but had to remind him of the circumstances as to why they were moving it where they propose.

Robin Young asks about the email from an abutter to the south, Mr. Radziszewski, and asks if there could be more plantings between the abutter and the applicant. Mr. Ojala thinks it would be reasonable and suggests perhaps four cedar trees but will speak with the neighbors.

Brian references email from Mark Radziszewski and reads it in summary (Exhibit B).

Brian asks for public comments. No one speaks.

Board deliberates briefly.

Matt Levesque makes findings:

Proposal & Relief Requested

The Applicant is proposing to demolish an existing nonconforming 640 square foot cottage and construct a 2,712 square foot, 2-story single family dwelling on a lot of 9,293 square feet, under the required minimum 10,000 square feet as required under Section 240-91 H. (1) "As of Right".

The existing building coverage is 640 square feet and proposed building coverage is 1,792 square feet, increasing from 0.06 % to 19.3%. The proposed dwelling will have a crawl space beneath due to clay soils and a high water table in the area.

Section 240-91(H)(3) requires a special permit for all demolition and rebuilding projects if the proposed demolition and rebuilding cannot satisfy the criteria under Section 240-91 (H)(1) "As of Right", but the following criteria must be met:

- Lot Coverage: 19.3% (20% maximum) – 1,792 (inclusive of garage)
- Floor-Area Ratio: .29 (.30 maximum) – 2,712 square feet (2,787 square feet allowed)
- Building Height: 19 feet to top of plate (30 feet maximum)

Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- **The application falls within a category specifically excepted in the ordinance for a grant of a special permit.** Section 240-91(H)(3) allows for the complete demolition and rebuilding of a residence on a nonconforming lot containing less than 10,000 square feet by Special Permit.
- **Site Plan Review is not required for single-family residential dwellings.**
- **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.**

Further, Section 240-91(H)(3) requires the Board to find that if the proposed demolition and rebuilding cannot satisfy the criteria established is H(1) As-Of-Right, then the Board may allow the demolition and rebuilding by Special Permit provided the Board finds that:

- **The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building.** The proposed setbacks will comply with the requirements of the Residence B Zoning District.

- **The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater.** The proposed lot coverage is 19.3%.
- **The floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished, whichever is greater.** The proposed FAR is .27.
- **The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories.** The proposed height is 19 feet to top of plate (30 feet maximum) and the proposed dwelling is 2 stories.

The Board is also asked to find that:

- **The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.**

Vote:

All in favor

Based on those findings, Matt Levesque makes a motion to grant relief being sought with the following conditions:

Conditions

1. Special Permit No. 2016-033 is granted to Mark Drago for the demolition of an existing nonconforming cottage and construction of a 2,712 square foot dwelling at 90 Bay View Road, Barnstable.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan of 90 Bay View Road Barnstable, MA prepared for Mark Drago" dated September 16, 2016, drawn and stamped by Daniel Ojala, Down Cape Engineering; and the floor plans and elevations dated August 13, 2016 by Hanlon Homes.
3. The total lot coverage of all structures on the lot shall not exceed 19.3% and the floor-area ratio shall not exceed 29%.
4. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
6. The 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 building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Seconded by Spencer Aaltonen

Brian Florence asks if Mr. Ojala and his clients have reviewed the conditions. Mr. Ojala states that they have and are okay with them.

Vote:

All in favor

GRANTED WITH CONDITIONS

Brian reads the following into the record:

7:01 PM Appeal No. 2016-035

Beach Club of Craigville, Inc.

Beach Club of Craigville, Inc. has applied for a Special Permit pursuant to Section 240-131. (D)(2) – Change, Expansion or Alteration of Structures by Special Permit. The applicant is proposing to reconstruct an existing deck and stairs; add handicap accessible ramps and accessible ground level boardwalk; and add a seasonal deck awning. The existing lot coverage is 17.2% and the proposed lot coverage is 18%. The existing building coverage is 18,484 square feet and the proposed building coverage is 19,779 square feet. As the existing development exceeds building and lot coverage limitations, a special permit is requested. The property is located at 27 Long Beach Road, Centerville, MA as shown on Assessor's Map 206 as Parcel 016. It is located in the Craigville Beach District-Craigville Beach Neighborhood Overlay (CBD-CB).

Members assigned: Brian Florence, Robin Young, Matt Levesque, Spencer Aaltonen, Jake Dewey
Representative: Michael Scott, Esq.

Brian Florence discloses that, in the past, he has done construction work with his father on the building and asks Attorney Scott if he is okay with him sitting on this. Attorney Scott does not have a problem with Mr. Florence sitting on this.

Attorney Scott gives summary of relief being sought and introduces Dr. Lake who is a member of the club and on the building committee at the club. The main purpose is to fix a deck in disrepair and provide handicap accessible facilities at the club. The deck and stairs will be replaced with Brazilian hardwood, the handicapped features will be a ramp and boardwalk and they are also seeking to install a seasonal awning for shade purposes. All features are pervious, therefore, there will be no sheeting of water. Attorney Scott also states that they have met with the building inspector who thinks that the plans are adequate and confirmed that Site Plan Review was not necessary. They also met with Conservation Commission which approved their plans without notice of intent for this project. He goes through the criteria for the granting of the special permit which he feels they meet. They are not changing any conditions within the V zone and ask for favorable approval.

Dr. Lake says they boardwalks can be removed every year and do not have to be a permanent part of the structure but

Jake Dewey asks if the capacity of the club will remain the same. Attorney Scott confirms that it will not be changing and that they are only adding accessibility features.

Brian Florence asks for public comment. No one speaks.

Robin Young asks about neighbors. Dr. Lake states that there really is only one direct abutter and have had no concerns. Dr. Lake states that the building committee is concerned about the safety of the deck and bringing it up to ADA standards.

Jake Dewey clarifies that the awning will be seasonal.

Robin Young makes findings:

Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit:
- 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.
- The proposed alterations and expansions are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure.

The purpose and intent of §§ 240-131 through 240-131.8 are to guide development in the Craigville Beach District pursuant to the Guidelines of Barnstable County Ordinance 09-10 to ensure that development and redevelopment meets the following standards:

- Contributes to and respects the character and historic development patterns of the area and minimizes inconsistent redevelopment impacts to the historic and community character resources in this area;
- Protects and preserves scenic views and vistas and ways to the water.
- Protects and improves natural resources, including but not limited to the barrier beach and groundwater and coastal water quality and minimizes development and redevelopment impacts to the natural resources and ecosystems in this district;
- Protects human life and property from the hazards of periodic flooding.
- Preserves the natural flood control characteristics and the flood control function of the floodplain
- The development complies with the setbacks and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that predate it. Relief is being requested for expansion of the structure in accordance with § 240-131.4D.
- The redevelopment complies with the height limitations set forth herein.¹

The reconstructed deck and stairs and handicapped accessible ramps and ground level boardwalk and seasonal awning will be at the first floor level and will not increase the height of the structure.

¹ BUILDING HEIGHT: The vertical distance from the grade plane to the highest point of a gable, hip or gambrel roof and the highest point of the coping of a flat roof. These height limitations shall not apply to chimneys cupolas, flagpoles or other similar appurtenances as approved by the Building Commissioner.) (Gable roofs having a slope of 7/12 or greater allowed maximum height; hip and other sloped roofs with a slope of 4/12 or greater are allowed five feet less than the max)

- All new non-water-dependent development shall be set back at least 50 feet from the top of the coastal bank resource area. Change, alteration, or expansion of existing structures shall not be sited closer to the top of the coastal bank resource area than the existing development to the maximum extent feasible.

The reconstructed deck and stairs and handicapped accessible ramps and ground level boardwalk and seasonal awning will be located within the coastal bank in an area already disturbed.

- Existing natural vegetation within the fifty-foot buffer area to salt marsh and undisturbed buffer areas 50 feet landward of the mean high-water mark of coastal water bodies shall be preserved to the maximum extent feasible.
- No development or redevelopment shall be permitted within V Zones, except that existing structures may be changed or altered provided there is no increase in gross floor area, footprint, or intensity of use (including but not limited to increase in wastewater flow and impervious area) within the V zone.
- Any activity or development in a V Zone that creates an adverse effect by increasing elevation or velocity of floodwater due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited...

The property is within a VE Zone but will not alter drainage characteristics.

- Do not exceed 25% of the gross floor area of structures in existence as of July 1, 1989, or do not exceed 10% of the gross floor area of structures in existence as of November 6, 2009.²

The reconstructed deck and stairs and handicapped accessible ramps and ground level boardwalk and seasonal awning are unenclosed and will not represent an increase in gross floor area

- Do not increase lot coverage over what is allowed under § 240-131.6, Coverage limitations, or by more than 10% over what was existing on November 6, 2009, whichever is greater.
- Do not increase flood hazards in the neighborhood.
- In V Zones, do not increase south-facing building surfaces so as to limit the adverse effect of increasing elevation or velocity of floodwaters due to a change in flowage characteristics on the subject site, adjacent properties, or any public or private way.

Brian suggests that the findings are as written along with comments in the Staff Report dated October 12, 2016.

Vote:

All in favor

Robin Young makes a motion to grant the relief being sought as outlined in the Staff Report dates October 12, 2016, Suggested Conditions 1 through 4 (Exhibit A).

Suggested Conditions

Should the Board find to grant the Special Permit No. 2016-035, it may wish to consider the following conditions:

1. Special Permit No. 2016-035 is granted to Beach Club of Craigville, Inc., for the reconstruction of the deck and stairs and new handicapped accessible ramps and ground level boardwalk and seasonal awning at 27 Long Beach Road, Centerville pursuant to Section 240-131.4 of the Craigville Beach District.
2. The alterations and expansions shall be constructed in substantial conformance with the site plan entitled Plan of proposed deck & ramp modification prepared for The Beach Club of Craigville, Inc., for lot B #27 Long Beach Road in Centerville Barnstable MA by Holmes & Mcgrath, Inc., dated July 27, 2016 with a last revision date of September 14, 2016 and design plans by Paul F. Webber A200-A202 dated April 30, 2016.
3. The above-described structure shall represent full build-out of the lot. No further additions shall be permitted without approval from the Board.
4. The 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 building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Seconded by Matt Levesque

² Gross floor area is defined as "the sum of all floor areas within a building or structure, measured from the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. It shall include all areas capable of being used for human occupancy, including all basement floor areas, mezzanine and attic space and enclosed porches.

Vote:
All in favor

GRANTED WITH CONDITIONS

Correspondence

Elizabeth Jenkins handed out the latest Citizen's Planner Training Collaborative (CPTC) workshop flyer and asks members if they so wish to attend the training sessions. One is in Harwich next Thursday. Ms. Jenkins also states that there was a training session last year headed by Ruth Weil – Town Attorney which could perhaps be set up again for the new members to attend.

Chapter 91 Application – Anthony Tavilla, "O" Long Beach Road, Osterville, Map 185 Parcels 022-001 and 050-001 – construct and maintain a fixed pier and seasonal dock and platform, in and over flowed tidelands of Centerville River.

Chapter 91 Application – Charles and Nicole King, 273 Regency Drive, Marstons Mills, Map 064 Parcel 041 – construct and maintain a pier, ramp, float and public access steps in and over waters of Mystic Lake.

Matters Not Reasonably Anticipated by the Chair

Upcoming Meetings

October 26, 2016; November 9, 2016; December 14, 2016

Adjournment

Motion is made by Spencer Aaltonen and seconded by Brian Florence to adjourn.

Vote:
All in favor

Exhibits

7:00 PM Appeal No. 2016-033

Drago

1. Exhibit A = Drawings A-1 through A-4
2. Exhibit B = Email from Mark Radziszewski dated 12-12-16

7:01 PM Appeal No. 2016-035

Beach Club of Craigville, Inc.

1. Exhibit A = Staff Report dated October 12-2016