



Town of Barnstable Planning Board of Appeals

Board Members:

Alex Rodolakis – Chair David Hirsch – Vice Chair Herbert Bodensiek - Clerk
Jacob Dewey – Regular Member Paul Pinard – Regular Member
Kyle Evancoe – Associate Member Todd Walantis – Associate Member Mark Hansen – Associate Member
James Tinsley – Town Council Liaison

Staff Support

Elizabeth Jenkins – Director - 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, August 22, 2018

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

Alex Rodolakis - Chair	
David Hirsch – Vice Chair	
Herbert Bodensiek - Clerk	
Jacob Dewey – Regular Member	
Paul Pinard – Regular Member	
Kyle Evancoe – Associate Member	
Todd Walantis – Associate Member	
Mark Hansen – Associate Member	

Also present were Anna Brigham – Principal Planner and Carol Puckett – Administrative Assistant

As a quorum has been met, Alex Rodolakis opens the hearing at 7:00 PM

Call to Order

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

Alex reads the following into the record with no response:

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 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

New Business

7:00 PM Appeal No. 2018-041

Carboneau

Laurie Carboneau has applied for a Special Permit pursuant to Section 240-34.L – Floodplain District Regulations – Exception from the Requirements. The applicant is seeking relief to finish the lower level of the principal dwelling to allow for temperate controlled storage and additional living space. The property is located at 174 Bay Shore Road, Hyannis, MA as shown on Assessor’s Map 325 as Parcel 084. It is located in the Residence B (RB) and the AE (11) – 100 Year Flood and VE (13) – Velocity Zone Flood Zones.

Letter has been received from Attorney John Kenney dated August 20, 2018 asking for a continuance.

Motion is made by David Hirsch and seconded by Todd Walantis to continue this to September 12, 2018 at 7:00 PM

Vote:

All in favor

7:01 PM Appeal No. 2018- 042 Speedway

Speedway, LLC has petitioned for a variance from §240-25.E – Bulk Regulations. The petitioner is requesting relief to allow the parking to be set back a minimum of five (5) feet from Bearer’s Way and thirty-one (31) feet from Falmouth Road/Route 28. A Variance is also requested to allow impervious coverage of 48.0%. Site work is a result of a Massachusetts Department of Transportation project involving the relocation of curb cuts on Falmouth Road and Bearer’s Way. This petition was previously approved by the Zoning Board of Appeals (2016-044) but the Variance expired before the work commenced. The property is located at 317 Falmouth Road/Route 28, Hyannis, MA as shown on Assessor’s Map 292 as Parcel 005. It is located in the Highway Business (HB) Zoning District.

Members assigned: Alex Rodolakis, David Hirsch, Herb Bodensiek, Jake Dewey, Paul Pinard

Representative: Matt Brook from Bohler Engineering representing Speedway. Mr. Brook states that this is the same application and impementation which was before the board and approved in 2016. However, because of delays in construction, the decision has lapsed, dependent on Massachusetts Department of Transportation (MASS DOT). The variance expired and they are here to reapply as Speedway will now be in the position to do the work.

Alex confirms that no other changes will be made.

Alex asks if there is anyone from the public who would like to speak. No one speaks.

Paul Pinard 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.

Alex wants to add uniqueness of the lot, being a corner lot, because of the changes, the highway being expanded and doesn’t think that this would be a detriment to public good or the neighborhood affected.

Vote:

All in favor

Paul Pinard makes a motion to grant the relief being sought with the following conditions:

Variance Conditions

1. Variance No. 2018-042 is granted from Section 240-25 E. to Speedway LLC at 317 Falmouth Road, Hyannis, to allow the parking to be setback a minimum of 5 feet from Bearer’s Way and 31 feet from Falmouth Road.
2. The improvements shall be in substantial conformance with the site plan entitled “Boundary & Topographic Survey Speedway LLC # 2439” by Control Point Associates dated May 11, 2016 and the plans entitled “Site Development Plans for Proposed Site Modifications Remodel #2439” by Bohler Engineering with the last revision date of November 3, 2016.
3. 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

Alex reads the following into the record:

7:02 PM Appeal No. 2018-043

Rankin

Margaret C. Rankin has applied for a Conditional Use Special Permit pursuant to §240-11.C(6)(b) - Bed & Breakfast provisions. The applicant is requesting a special permit to transfer the ownership and operation of an existing three bedroom, six guest, bed and breakfast. The property is located at 651 Main Street/Route 6A, West Barnstable, MA as shown on Assessor's Map 156 as Parcel 057. It is located in the Residence F (RF) Zoning District.

Members assigned: Alex Rodolakis, David Hirsch, Jake Dewey, Herb Bodensiek, Todd Walantis

Representative: Margaret Rankin is here representing herself. She states that she lives on that premises at 651 Main Street and purchased the property in May of 2018. She states that she is looking to continue the use as a Bed & Breakfast with no changes.

Mark confirms that she purchased the property on May 25, 2018 and will not be making any changes, will be operated as it was previously and asks her if she understand the ordinance.

Alex asks for public comment. No one speaks.

Todd Walantis makes findings:

Proposed 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.** Under Section 240-11C. (6), Bed-and-breakfasts [8], Special Permits are not transferable so a new Special Permit is required.
- **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 site plan has been reviewed by the Site Plan Review Committee and found approvable (see letter dated July 31, 2018).**

Vote:

All in favor

Todd Walantis makes a motion to grant with the following conditions:

Conditions

1. Special Permit No. 2018-043 is granted to Margaret C. Rankin to allow the transfer of ownership and operation of an existing three bedroom, six guest, bed and breakfast.
2. This permit is issued to the applicant only and is not transferable.
3. The bed and breakfast operation shall be in compliance with Section 240-11(C)(6) and all conditions herein.
4. The applicant shall obtain sign permit(s) and any other applicable permits from town departments as necessary.
5. 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.

Vote:

All in favor

GRANTED WITH CONDITIONS

Request for Extension

7:03 PM Appeal No. 2018-044

E.R. & C Enterprises, LLC.

By a letter dated July 30, 2018, David Lawler, Esq., as representative for Al Naoum d/b/a/ West Main Gas (E.R. & C Enterprises, LLC.) has requested a one year extension of Appeal No. 2016-028, a Conditional Use Special Permit for a retail convenience store and food establishment with drive-through. The property is located at 577 West Main Street, Hyannis, MA as shown on Assessor's Map 269 as Parcel 003 000. It is located in the Highway Business (HB) and the Wellhead Protection Overlay (WP) Zoning Districts. Granting the request would extend the validity of the permit from October 11, 2018 to October 11, 2019.

Members assigned: Alex Rodolakis, David Hirsch, Jake Dewey, Paul Pinard, Mark Hansen

Representative: David Lawler, Esq. states that he is seeking a request to extend the time extension as there were issues in construction and that his client was out of the country due to family medical issues. He is requesting a one year extension

Motion is made by Paul Pinard and seconded by David Hirsch to grant a one year extension.

Vote:

All in favor

ONE YEAR EXTENSION GRANTED

Correspondence

Received August 3, 2018 from Cape Cod Commission – RE: Cape Cod Mall, Modification Type 2 to the Development of Regional Impact (DRI) Decision: TR96025.

Matters Not Reasonably Anticipated by the Chair

Upcoming Meetings

September 12, 2018, September 26, 2018, October 10, 2018, October 24, 2018

Adjournment

Motion is made by Paul Pinard and seconded by David Hirsch 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