



Town of Barnstable

Zoning Board of Appeals



Board Members:

Alex Rodolakis – Chair David Hirsch – Vice Chair Herbert Bodensiek - Clerk
 Jacob Dewey – Regular Member Paul Pinard – Regular Member
 Todd Walantis – Associate Member Mark Hansen – Associate Member Robert Twiss – Associate Member
 David Bogan – 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, February 12, 2020

James H. Crocker Jr., Hearing Room – 2nd Floor – 367 Main Street, Hyannis, MA

Alex Rodolakis - Chair	Present
David Hirsch – Vice Chair	Absent
Herbert Bodensiek – Clerk	Present
Jacob Dewey – Regular Member	Absent
Paul Pinard – Regular Member	Absent
Todd Walantis – Associate Member	Present
Mark Hansen – Associate Member	Present
Robert Twiss – Associate Member	Present
Vacant	

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 BARNSTABLE
 TOWN CLERK

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 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.

Minutes

September 25, 2019

Motion to approve the September 25, 2019 minutes as submitted is made by Herb Bodensiek and seconded by Todd Walantis

Vote:

All in favor

Alex reads the following into the record:

Old Business

7:00 PM

Appeal No. 2020-005

Holcombe

Peter C. and Kathleen F. Holcombe, Trustees of the Kathleen F Holcombe 2016 Trust, have filed an application for Other Powers requesting Enforcement Action. The Appellants are requesting the Board to 1. find Scudder Bay’s use of 69 Fox Run, Centerville, to be illegal under the Ordinance, and 2. order Scudder Bay to cease and desist its illegal commercial use of the property. The Appellants are claiming that Scudder Bay Investment Corporation has been operating a commercial rental operation within the Residence C (RC) Zoning District and that only single-family residential uses are allowed within the District in violation of Section 240-7 and 240-13. The subject property is located at 69 Fox Run, Centerville, MA as shown on Assessor’s Map 227 as Parcel 157. It is located in the Residence C (RC) Zoning District.

Continued from January 22, 2020 – No members assigned, no testimony taken.

Alex explains that an email from the Holcombe’s has been received by the ZBA on February 10, 2020 asking to Withdraw without Prejudice.

Peter and Kathleen Holcombe are present and would like to read a statement. In summary:

Peter states that the Town of Barnstable has well designed zoning regulations and should choose to enforce them. The zoning has many zones some of which permit businesses, etc., and have other zones that permit Airbnb and home rentals and some that have single family only. They reside at 61 Fox Run which is zoned RC which permits single-family residential only. The past two summers, the house next to them at 69 Fox Run has been rented out as a short-term rental by its owner Scudder Bay Investment Corporation through Airbnb and other platforms. As this is a business not permitted in the RC zone, they have asked for enforcement but it was denied by the Town. They appealed to this board for enforcement but a few days ago were provided with a lease for 69 Fox Run showing that now the property is to be rented for the whole summer during June, July and August by a single family. They are withdrawing their request for enforcement because it is no longer a short-term rental. They do so with some trepidation because the lease provides that the tenant can terminate the lease without penalty up until April 1st. Mr. Corcoran, owner of Scudder Bay Investment Corporation has insured them that his intent is to have a long term rental for the summer and they are trusting that he will do so. Hopefully, their trust is well founded. In view of this with the knowledge of the new zoning regulations are being drafted as they speak, they are asking to withdraw their complaint without prejudice and will work with the zoning and regulatory board to come with mutually agreeable regulations. He would say, however, that short-term rentals are not single-family residences; there is no one in residence in short term rentals. There is a steady turnover of transient renters every two to three days. It is a business in a residential neighborhood, which our zoning regulations were made to prevent. The enforcement denial, which they received from the Town, said that it was being used for residential purposes but it is not. A residence requires that someone actually lives there but they do not. It is being used like a hotel and licensed like a hotel and being taxed like a hotel. As different guests come and go every one to four days, this dramatically changes the character of the residential neighborhood. Barnstable should be very eager to preserve the character of our residential neighborhoods and eager to preserve housing stock for its year round residents. They would hope that the new regulations would do that for them. They encourage citizens to get involved in the process by working with the civic associations.

Alex confirms with the Holcombe's that they have received emails from Attorneys Lampe who are representing the Town in this matter explaining the meaning of withdrawing without prejudice. Alex explains the emails and gets confirmation from the Holcombe's that they have received and read those emails and have responded to them.

Motion to Withdraw without Prejudice is made by Todd Walantis and seconded by Mark Hansen

Vote:

All in favor

WITHDRAWN WITHOUT PREJUDICE

Alex reads the following into the record:

New Business

7:00 PM Appeal No. 2020-008

Borror

Ursula K.H. Borror has petitioned for a Variance pursuant to Section 240-7.C – Lot Size Requirements; 240-7.E – Contiguous Upland Requirement; and 240-14.E – RF Residential District Bulk Regulations and Section 240-36 D. Resource Protection Overlay District. The Petitioner is requesting relief to divide one lot into two lots which will result in one undersized developed lot and one undersized vacant lot. The Petitioner is also requesting relief to allow the undersized vacant lot to become buildable. The subject property is addressed as 724 (a.k.a 744) Old Falmouth Road, Marstons Mills, MA as shown on Assessor's Map 124 as Parcel 016-001. It is located in the Residential F (RF) and the Resource Protection Overlay District (RPOD) Zoning Districts.

Representative: John Kenney, Esq.

Alex explains that he will be recusing himself from this appeal, which would leave only four members that can sit on this tonight. Therefore, Attorney Kenney has asked to continue this until there are five members present who can sit on this.

Motion to continue this matter to February 26, 2020 at 7:00 PM is made by Herb Bodensiek and seconded by Mark Hansen.

Vote:

All in favor

CONTINUED TO FEBRUARY 26, 2020 AT 7:00 PM

Correspondence

Matters Not Reasonably Anticipated by the Chair

Upcoming Hearings

Adjournment

Motion to adjourn is made by Herb Bodensiek and seconded by Mark Hansen

Vote:
All in favor

Approved

