



# 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   Emanuel Alves – Associate Member  
David Bogan – Town Council Liaison

Staff Support

Elizabeth Jenkins –Director - [elizabeth.jenkins@town.barnstable.ma.us](mailto:elizabeth.jenkins@town.barnstable.ma.us)  
Anna Brigham – Principal Planner – [anna.brigham@town.barnstable.ma.us](mailto:anna.brigham@town.barnstable.ma.us)  
Carol Puckett – Administrative Assistant – [carol.puckett@town.barnstable.ma.us](mailto:carol.puckett@town.barnstable.ma.us)

## Draft Minutes

### Wednesday, November 18, 2020

*As a quorum has been met, Alex Rodolakis opens the hearing at 7:05 PM and reads the following into the record:*

The Zoning Board of Appeals Public Hearing will be held by remote participation methods as a result of the COVID-19 state of emergency in the Commonwealth of Massachusetts.

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>
2. Real-time access to the Zoning Board of Appeals meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Zoning Board of Appeals by utilizing the Zoom link or telephone number and Meeting ID provided below:

Join Zoom Meeting  
<https://zoom.us/j/97540700506>  
Meeting ID: 975 4070 0506

888 475 4499 US Toll-free  
Meeting ID: 975 4070 0506

3. Applicants, their representatives and individuals required or entitled to appear before the Zoning Board of Appeals may appear remotely and are not permitted to be physically present at the meeting, and may participate through accessing the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to [anna.brigham@town.barnstable.ma.us](mailto:anna.brigham@town.barnstable.ma.us), so that they may be displayed for remote public access viewing.

Copies of the applications are available for review by calling (508)862-4682 or emailing [anna.brigham@town.barnstable.ma.us](mailto:anna.brigham@town.barnstable.ma.us) .

### Call to Order

Introduction of Board Members

*Alex takes roll call attendance:*

Member	Present via Zoom	Present via Conference Call	Absent
Alex Rodolakis	x		

David Hirsch			X
Jake Dewey	X		
Herb Bodensiek		X	
Paul Pinard	X		
Todd Walantis			X
Mark Hansen	X		
Manny Alves	X		
Also present were:			
Anna Brigham – Principal Planner	X	X	
Carol Puckett – Administrative Assistant			
David Bogan – ZBA Liaison	X		
Sarah Turano-Flores, Esq.	X		
John Kenney, Esq.	X		
Rob Wilson	X		
Albert Schulz, Esq.	X		
Gordon Starr	X		
Conrad Watson	X		
Corrie Vilsaint		X	

*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**

October 14, 2020, October 28, 2020

*Motion to approve the October 14, 2020 minutes is made by Paul Pinard and seconded by Mark Hansen*

*Roll Call Vote:*

MEMBER	AYE	NAY	ABSTAINED
Alex Rodolakis	X		
David Hirsch			
Jake Dewey	X		
Herb Bodensiek	X		
Paul Pinard	X		
Todd Walantis			
Mark Hansen	X		
Manny Alves	X		

*Motion to approve the October 28, 2020 minutes is made by Paul Pinard and seconded by Mark Hansen.*

*Roll Call Vote:*

MEMBER	AYE	NAY	ABSTAINED
Alex Rodolakis	X		
David Hirsch			
Jake Dewey	X		
Herb Bodensiek	X		
Paul Pinard	X		
Todd Walantis			
Mark Hansen	X		
Manny Alves	X		

**Request for Variance Extension**

Attorney John Kenney is requesting a 6-month extension for Variance 2020-008 Ursula Borrer pursuant to M.G.L. Chapter 40A Section 10. In Variance No. 2020-008, the Petitioner 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 requested relief to divide one lot into two lots, which will result in one undersized developed lot and one undersized vacant lot. The Petitioner also requested 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.

The new extension would expire September 10, 2021.

**Representative: John Kenney, Esq. explains that the applicant has sold both lots to a developer who has a prospective buyer for one of the lots. However, the buyers have to get plans and the timing is a concern before it originally expires. Attorney Kenney also notes that these parcels are also under a Planning Board covenant to build a road. They are therefore requesting the extension in anticipation for permits and construction started. The board discusses dates from which the permit would be valid. Attorney Kenney suggests granting it until August 26<sup>th</sup> and if not a full six months, he could come back and believes they will be underway before August. Alex would like to give a six month extension.**

**Motion to grant a 6 month extension is made by Alex Rodolakis and seconded by Paul Pinard  
Roll Call Vote:**

MEMBER	AYE	NAY	ABSTAINED
Alex Rodolakis	x		
David Hirsch			
Jake Dewey	x		
Herb Bodensiek	x		
Paul Pinard	x		
Todd Walantis			
Mark Hansen	x		
Manny Alves	x		

## SIX MONTH EXTENSION GRANTED

**Alex reads the following into the record:**

### Old Business

7:00 PM

Appeal No. 2020-036

Hall – Trustee of TMT Realty Trust

Laurie J. Hall, Trustee of the TMT Realty Trust, has applied for a Special Permit pursuant to 240-47.1(B) Family Apartments. The Applicant is proposing to construct a detached, three-bedroom apartment cottage to be used by more than two adult family members. The subject property is located at 979 Sea View Avenue, Osterville, MA as shown on Assessor’s Map 090 as Parcel 008. It is located in the Residence F-1 (RF-1) Zoning District.

Continued from October 28, 2020. Members assigned: Alex Rodolakis, David Hirsch, Herb Bodensiek, Jake Dewey, Paul Pinard

**Representative: Sarah Turano-Flores explains that from a letter from Brian Florence – Building Commissioner, that they have decided to withdraw without prejudice.**

**Motion to allow the applicant to Withdraw without Prejudice is made by Alex Rodolakis and seconded by Paul Pinard.**

**Roll Call Vote:**

MEMBER	AYE	NAY	ABSTAINED
Alex Rodolakis	x		
David Hirsch			
Jake Dewey	x		
Herb Bodensiek	x		
Paul Pinard	x		
Todd Walantis			
Mark Hansen	x		
Manny Alves	x		

## WITHDRAWN WITHOUT PREJUDICE

**Alex reads the following into the record:**

**7:02 PM**

**Appeal No. 2020-039**

**Goff, as Trustee**

Jennifer M. Goff, Trustee of the Jennifer M. Goff 2010 Revocable Trust, has applied for a Modification of Special Permit 2020-013, Condition No. 3 in order to allow for the slight expansion of the existing screen porch by an additional 1.5'. The subject property is located at 511 Wianno Avenue, Osterville, MA as shown on Assessor's Map 162 as Parcel 004. It is located in the Residence F-1 (RF-1) Zoning District.

**Members assigned tonight: Alex Rodolakis, Jake Dewey, Herb Bodensiek, Paul Pinard, Mark Hansen**

**Representative: Albert Schulz, Esq . explains that relief was previously granted by this Board. However, they are here to ask for a slight extension of the porch from 5.8 to 7.2 inches. Pinard clarifies that this is a proposed screened porch which has not been constructed as of yet.**

**Alex clarifies that it is on the back side of the house. Attorney Schulz explains that the porch is going towards the lake in the back.**

**Alex asks for public comment. No one speaks.**

**Paul Pinard makes findings:**

**Proposal & Relief Requested**

Jennifer M. Goff, Trustee of Jennifer M. Goff 2010 Revocable Trust, is seeking to modify Condition No. 3 of Special Permit No. 2020-013 to allow a slight expansion of the screen porch by an additional 18 inches. The property is located at 511 Wianno Avenue, Osterville. It is located in the Residence F-1 (RF-1) Zoning District. The relief is sought pursuant to Section 240-92 (B) Nonconforming buildings or structures used as a single- and two- family residences. The existing accessory structure does not meet the required front yard setback of 30 feet from Lake Avenue. The proposed accessory cottage will have a nonconforming front yard setback of 3.3 feet from Lake Avenue where 30 feet is required.

In the case of a special permit, the Board must find the proposed alteration or expansion will not be substantially *more* detrimental to the neighborhood than the existing building or structure (emphasis added).

**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.

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-92 (B) Nonconforming buildings or structures used as a single- and two- family residences allows for alterations.
2. Site Plan Review is not required for single family residential dwellings.
3. 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.
4. Pursuant to Section 240-92 (B), the proposed alteration or expansion will not be substantially more detrimental to the neighborhood than the existing building or structure.

**Roll Call Vote:**

MEMBER	AYE	NAY	ABSTAINED
Alex Rodolakis	x		
David Hirsch			
Jake Dewey	x		
Herb Bodensiek	x		
Paul Pinard	x		
Todd Walantis			
Mark Hansen	x		
Manny Alves			

**Paul Pinard makes a motion to grant the relief being sought with the conditions as outlined in the November 18<sup>th</sup> staff report: They discuss the submitted updated plan in #2.**

## Conditions

1. Special Permit No. 2020-039, a request to modify Special Permit No. 2020-013 Condition No. 3, is granted to Jennifer M. Goff, Trustee of Jennifer M. Goff 2010 Revocable Trust, to allow for a slight expansion of the cottage screen porch by an additional 18 inches at 511 Wianno Avenue, Osterville.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan Proposed Improvements at 511 Wianno Avenue Barnstable (Osterville) Mass" prepared by Sullivan Engineering & Consulting, Inc dated October 22, 2020 and revised November 17, 2020.
3. The proposed redevelopment shall represent full build-out of the lot. Further alteration or expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
4. All mechanical equipment associated with the dwellings (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
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.

### Roll Call Vote:

MEMBER	AYE	NAY	ABSTAINED
Alex Rodolakis	x		
David Hirsch			
Jake Dewey	x		
Herb Bodensiek	x		
Paul Pinard	x		
Todd Walantis			
Mark Hansen	x		
Manny Alves			

## GRANTED WITH CONDITIONS

*Alex reads the following into the record:*

### New Business

7:01 PM

Appeal No. 2020-038

Vilsaint

Corrie L. and Kevin Y. Vilsaint, as prospective buyers, have applied for a Modification of Special Permit 1998-77, Condition No. 2 in order to allow for year-round use of the cottage (barn structure) by Applicant's family members and house guests; and elimination of Condition No. 3 which provides that the Special Permit will expire upon the Owner's voluntary or involuntary transfer of the property. The subject property is located at 358 Flint Street, Marstons Mills, MA as shown on Assessor's Map 101 as Parcel 121. It is located in the Residence F (RF) Zoning District.

**Members assigned tonight: Alex Rodolakis, Jake Dewey, Herb Bodensiek, Paul Pinard, Manny Alves**

**Representative: Albert Schulz, Esq. explains that the property contains a dwelling and cottage and that they are here wanting to modify two conditions: Condition #2 provided for seasonal use and are requesting a year round use and would like to eliminate Condition #3. The cottage will be used by parents and available on occasion for use by their house guests. This proposal seeks a continuation of a NC use that has been there since the 50's. Will not be more detrimental to the neighborhood. They have spoken to abutters. One of them, Mr. Curtis Larson, who has no objection to their proposal. The applicants are also in agreement with the conditions in the staff report.**

**Mark Hansen asks if it is in the purchase and sales for this property and what was the reason for just the seasonal use previously. Attorney Schulz isn't sure and tried to contact the former attorney but never heard back.**

**Herb asks if the barn is winterized. Attorney Schulz states that it is and has heat. Jake asks if this request wouldn't be better for a family apartment. Attorney Schulz states that the applicants are not year round residents. Jake asks if the applicants would have a problem with a condition that the cottage not be rented. Attorney Schulz is okay with that condition. Manny notes that the sale is contingent and what would happen if relief was granted and then it fell through, they would then have two dwellings on the same lot.**

*Attorney Schulz suggests that the board could put a condition that this only be granted if the perspective buyer goes through with the sale.*

*Alex asks for public comment. Gordon Starr – Town Councilor, asks if there is a septic system that has been approved. Attorney Schulz states yes and that the septic systems are already in place and that both structures have title 5 compliancy. There are three bedrooms in the cottage and four bedrooms in the main dwelling.*

*Board deliberates. Alex has concerns and that they have an option for a family apartment. Jake has mixed concerns. Mark asks about cooking facilities. Attorney Schulz explains that the kitchen facilities pre-dated the 1998 decision. Manny clarifies that the purchase and sales agreement says that the seller must install a new septic system for the three bedroom dwelling Attorney Schulz states that the system failed and needs to be upgraded. They discuss a condition about no condominiums. Attorney Schulz is okay with a condition to the affect.*

*Alex has concerns regarding eliminating Condition #3 and allowing an additional residence for this lot. He would be okay with the seasonal use with a condition that on the sale or transfer it goes away. He is not comfortable with an expansion of the use.*

*Alex does a poll of members opinions. Herb is okay with everything they are seeking. Jake is in agreement with Alex and thinks that this is expanding and perhaps put some conditions like the family apartment. Manny also shares Alex' concerns.*

*Alex asks Schulz if he wants to consult with this client. Schulz is okay to continue.*

*Motion to continue to December 9, 2020 at 7:01 PM is made by Alex Rodolakis and seconded by Herb Bodensiek.*

*Corrie Vilsaint asks if he can comment. He states that the family apartment will not work for their family. The seasonal issue would not be something they would agree to. They are also pursuing different houses.*

*Schulz says that he understands Mr. Vilsaint's comments and will talk with him tomorrow morning.*

**Vote to continue:**

<b>MEMBER</b>	<b>AYE</b>	<b>NAY</b>	<b>ABSTAINED</b>
Alex Rodolakis	x		
David Hirsch			
Jake Dewey	x		
Herb Bodensiek	x		
Paul Pinard	x		
Todd Walantis			
Mark Hansen			
Manny Alves	x		

## **CONTINUED TO DECEMBER 9, 2020 at 7:01 PM**

### **Correspondence**

The Massachusetts Energy Facilities Siting Board directed Vineyard Wind to send the Planning Board and Zoning Board of Appeals copies of the Final Decision issued by the Siting Board in the matter docketed as *Vineyard Wind LLC*, EFSB 17-05/D.P.U. 18-18/18-19.

### **Matters Not Reasonably Anticipated by the Chair**

### **Upcoming Hearings**

December 9, 2020, January 13, 2021, and January 27, 2021

### **Adjournment**

*Motion to adjourn is made by Alex Rodolakis*

**Roll Call Vote:**

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<b>MEMBER</b>	<b>AYE</b>	<b>NAY</b>	<b>ABSTAINED</b>
Alex Rodolakis	<b>x</b>		
David Hirsch			
Jake Dewey	<b>x</b>		
Herb Bodensiek	<b>x</b>		
Paul Pinard	<b>x</b>		
Todd Walantis			
Mark Hansen	<b>x</b>		
Manny Alves	<b>x</b>		