



Town of Barnstable

Zoning Board of Appeals



www.town.barnstable.ma.us/ZoningBoard

Board Members:

Alex Rodolakis – Chair David A. 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
 Anna Brigham – Principal Planner
 Carol Puckett – Administrative Assistant – carol.puckett@town.barnstable.ma.us

MINUTES

Wednesday, January 27, 2021

Chair Rodolakis began meeting by noting that ZBA would be having a request to continue the case on the McKinnon matter because Chair Rodolakis had recused himself at the last meeting and Mr. Hirsch was going to preside in Chair Rodolakis place but Mr. Hirsch is not here tonight.

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 Option	Telephone Number Option
https://zoom.us/j/96307091933	888-475-4499 U.S. Toll Free
Meeting ID: 963 0709 1933	Meeting I.D. 963 0709 1933

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, 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.

Member	Present via Zoom	Present via Phone Call	Absent
Alves E.	X		
Bodensiek H.	X		
Dewey J.	X		
Hansen M.	x		

Planning & Development Department
 Elizabeth Jenkins – Director
 200 Main Street, Hyannis, MA 02601 367 Main Street, Hyannis, MA 02601
 Phone: 508-862-4785 Fax: 508-862-4784

Chair
formerly opens
PM. Roll call
absence.

Hirsch D.			x
Pinard P.	x		
Rodolakis A.	X		
Walantis T.	x		

Rodolakis
meeting at 7:05
was taken. One

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Taping of meeting

No one was taping meeting this evening.

MINUTES

None this evening.

OLD BUSINESS

We will start with old business because we are going out of order with this. We have two continuances. First one is for:

Appeal No. 2020-042-Noticed Matthew J. MacKinnon: Trustee of 33 Oyster Place Realty Trust, is applying for a Special Permit in accordance with Section 240- 93(B) – Nonconforming Buildings or structures not used as Single or Two-Family Dwellings. The Applicant is proposing to alter the pre-existing, nonconforming pier by removing approximately 3,000 square feet of the solid fill pier and constructing an elevated wooden pier with associated ramps and floats for shared use with the Cotuit Fire District and the Barnstable Clean Water Coalition. The subject property is located at 33 Oyster Place Road, Cotuit, MA as shown on Assessor’s Map 035 as Parcel 101. It is located in the Residence F (RF) and Dock and Pier Overlay Zoning Districts. **Continued from January 13, 2021. (Requests to be last on the agenda due to scheduling issues)**

Deliberation: Chair **Rodolakis** is recusing himself from this Appeal but tonight there will be a request for a continuance to another night. Attorney Potts is on Zoom with us. Hearing no objections for Chair Rodolakis to recuse himself from this appeal; Attorney Cox was introduced. Attorney Cox noted that she had sent an email to Anna Brigham seeking a continuance on this appeal to February 10th. They have been before the Conservation Commission and will have a second appearance before the Conservation Commission next week.

A motion was made by **Mr. Dewey** to continue this appeal until February 10th at 7:01 PM and seconded by **Mr. Pinard**. All in favor with one absence.

Roll call vote:

Question: Can we keep that February 10th will be the first item on the agenda. Discussion ensued regarding reasoning for this item being first on the docket. **Chair Rodolakis** “hated to make a

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commitment today, not knowing what is on agenda for that day (February 10th).” It makes sense and it’ll be everybody’s preference but we don’t know what else could happen. No decision was made.

Member	Appeal 2020-042 Postponement	Absent
Alves E.	In Favor	
Bodensiek H.	In Favor	
Dewey J.	In Favor	
Hansen M.	In Favor	
Hirsch D.		x
Pinard P.	In Favor	
Rodolakis A.	In Favor	
Walantis T.	In Favor	

Member	Appeal 2020-040 Postponement	Absent
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Appeal No. 2020-040

appealing the issuance of on October 2, 2020 to David new home at 101 Warren Street, is claiming that 101 Warren 162 Washington Avenue, and Osterville, MA, have merged and distinct lots. The subject Warren Street (formally 162

Alves E.	In Favor	
Bodensiek H.	In Favor	
Dewey J.	In Favor	
Hansen M.	In Favor	
Hirsch D.		x
Pinard P.	In Favor	
Rodolakis A.	In Favor	
Walantis T.	In Favor	

Beauregard, as Appellant is Building Permit #20-2073 issued Parella for the construction of a Osterville, MA . The Appellant Street, Osterville, MA, formerly 176 Washington Avenue, therefore are unbuildable as two properties are located at 101 Washington Avenue) and 176

Washington Avenue, Osterville, MA as shown on Assessor’s Map 139 as Parcel 086 and 085. It is located in the Residence R-1 (RF-1). Todd Beauregard, as Appellant, is appealing the issuance of Building Permit #20-2073 issued on October 2, 2020 to David Parella for the construction of a new home at 101 Warren Street, Osterville, MA . The Appellant is claiming that 101 Warren Street, Osterville, MA, formerly 162 Washington Avenue, and 176 Washington Avenue, Osterville, MA, have merged and therefore are unbuildable as two distinct lots. **Continued from January 13, 2021.**

Deliberation- Chair Rodolakis noted that there would be a continuance on this as well. Todd Beauregard appeared this evening noting that he had been working with Attorney Kenney and they are waiting for original signatures so they can record deed restriction. It was determined that February 10th would be the next date available. A motion was made by **Paul Pinard** to continue Appeal No. 2020-040 until February 10th. at 7:01 PM. and seconded by **Jake Dewey**. All in favor with one absent.

NEW BUSINESS

Appeal No. 2021-001 Cook Jeffrey and Irene Cook have applied for a Special Permit pursuant to Section 240-92 Nonconforming Building or Structures used as Single Family or two-family residences, Section 240-91 H. (3) Nonconforming Lot, and Section 240-47.1 Family Apartments. The Applicants are seeking to demolish the existing nonconforming detached garage and construct a new garage in the same location. The Family Apartment will be located on the second floor of the proposed garage. The subject property is located at 60 First Way, Barnstable, MA as shown on Assessors Map 301 as Parcel 045. It is located in the Residence B (RB) Zoning District.

Deliberation: Chair Rodolakis

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Attorney Lawlor introduced Irene/Jeff Cook, Applicants and Michael Hurley. Attorney Lawlor indicated that it was, “pretty straight application.” Members had plans in front of them. If all is well within discretion with this board to grant permit. The intent is to keep within the bylaw. The property is on town sewers. We are here to answer questions.

Chair Rodolakis noted there were no other questions for applicant from members. He did ask of Attorney Lawlor if he had reached out to any numbers? Attorney Lawlor indicated that there were no negative comments from the neighbors. We didn’t think it was a problem...based upon structure of design of house. He didn’t feel it was necessary to do mailings to “bug the neighbors.”

PUBLIC COMMENT - Chair Rodolakis indicated there were no public comments on this application. Public Comment was closed.

1. **Board – Deliberation:** – Question was asked, “What is the family intent or reason for need of family apartment?” Mrs. Cook replied, “It is intended for family use. We have three children and son is getting married and use for extra space is needed. He is getting a little old to share sleeping quarters in living room.” **Chair Rodolakis** added that going forward, it is his understanding that there are some amendments that will ease some of these problems mentioned here. Definitely will make ZBA’s job easier. **Chair Rodolakis** asked if there was anyone on the board who wanted to make findings? Any other questions or concerns? No findings, questions or concerns were noted. Attorney Kenney: We are requesting relief under both 24092B building and structures. Not requesting relief under 24090A. Need relief because of size of lot. **Chair Rodolakis** said he would find based on the encroachment on the setback will be no greater than the existing setback. No detriment to the existing structure. We are adding a 2nd floor through the existing structure. Special Permit family apartment, we may allow special permit. We are doing attached structure here. We are keeping garage structure here.

Findings of Fact

At the hearing on January 27, 2021, the Board unanimously made the following findings of fact in Special Permit Application No. 2021-001 a request for a Special Permit to allow the demolition of a garage and construction of a new garage with a family apartment:

- 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 allow 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.

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- 5.). the proposed family apartment would not be substantially more detrimental to the neighborhood than the existing dwelling.
- 6.). The single-family nature of the property and of the accessory nature of the detached structure is preserved.

A roll call was taken of those members involved to vote on findings: (5) in favor.

Member	2021-001	Absent
Alves E.		
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.		
Hirsch D.		x
Pinard P.	In favor	
Rodolakis A.	In favor	
Walantis T.	In favor	

motion was duly made and Applicants the relief being conditions:

Based upon the findings a seconded to grant the sought with the following

1. Special Permit No. 2021-001 is granted to Jeffrey and Irene Cook, to demolish an existing nonconforming accessory structure and construct a nonconforming accessory structure at 60 First Way, Barnstable, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan of 60 First Way, Barnstable (Village)" prepared by Down Cape Engineering, Inc., dated June 14, 2016 with last revision date of November 10, 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. The Applicant must comply with the restrictions in Section 240-47.1 Family Apartments C. Conditions and Procedural Requirements 1-4 of the Ordinance as follows:
 - a. Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection of the apartment unit and the single-family dwelling for regulatory compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds is submitted to the Building Division.
 - b. Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.
 - c. At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling

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- d. and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family
- e. Member occupying either unit occurs.

- f. When the family apartment is vacated, or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.
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 the issuance of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

A roll call was taken of those members involved to vote on special conditions:

Member	2021-001	Absent
Alves E.		
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.		
Hirsch D.		x
Pinard P.	In favor	
Rodolakis A.	In favor	
Walantis T.	In favor	

Result: Vote on Special

Permit No. 2021-001 subject to staff memorandum being 1-6 and dated 1/14/21. (5) In favor.

Conditions: We grant Special special conditions set forth in the again this is staff memorandum **POINT OF ORDER MADE**

AT THIS JUNCTURE - Mr. Bodensiek indicated that he is out of state until mid-February and will not be able to be assigned appeals. Would this be an issue? If you want, you can always mail them in as long as I get the original. Chair Rodolakis, "I apologize if you have to be in state to be doing these within bounds of Commonwealth."

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Appeal No. 2021-002 Wallin, Co-Trustees of Wallin Family Trust W. Bruce Wallin and Lynn P. Wallin, Co-Trustees of the Wallin Family Trust, have petitioned for a Variance in accordance with Section 240-14.E – Bulk Regulations. The Petitioners are proposing to construct a 9.5' X 11' addition that will encroach into the front yard setback by approximately 6 feet. The subject property is located at 562 Poponessett Road, Cotuit, MA as shown on Assessor's Map 007 as Parcel 004-001. It is located in the Residence F (RF) Zoning District. MA as shown on Assessor's Map 007 as Parcel 004-001. It is located in the Residence F (RF) Zoning District. Members assigned to this appeal are Messrs. Bodensiek, Dewey, Hansen, and Alves.

Attorney Shultz was introduced as appearing for the Wallin Family Trust. Home was subject to three past variances. Earlier today Attorney Shultz did provide Anna Brigham with the document blown up to show the board the 30 foot setback does cut through that addition; it's roughly about 50% of the addition and the front yard setback. The Wallins are respectfully seeking a variance submitting evidence to support the three elements. The blow up of the visual showed the 30' set back line running on an angle through the addition. On the left side you can see the garage slightly encroach into the front yard section. The hardship is Mr. Wallin had a stroke and is finding it hard to get to his office on the second floor and that is why they are requesting to build an office on the first floor.

QUESTIONS FROM THE BOARD TO ATTORNEY SHULTZ – none was heard by Chair R Rodolakis.

PUBLIC COMMENT – No one from the public at this time. Public Comment was closed.

1. **BOARD Deliberation:** Mr. Dewey questioned if ZBA received any communications from abutters? Chair Rodolakis does not recall seeing any communications on this appeal. Ann Brigham confirmed there was none. Chair Rodolakis asked if the one big tree in the front was coming down on this property. Attorney Shultz responded that it was not. Chair Rodolakis noted that it will be a little tighter to the road then it has been but he doesn't see this as a huge issue. Mr. Hanson noted that it is a larger set back then other dwellings that have a 20' frontage. It is Mr. Dewey's opinion that it looks like it'll blend in from the looks of it. It'll fit with the shape of the house. Mr. Alves concurred. He continued noting the hardship with the disability has been noted as well. It's the way it sits on the lot. Mr. Alves made findings: only the circumstances to the soil conditions and shape of the topography such land and structures especially effect this land....this application meets the first requirement for variance, also find for the substantial hardship for the applicant, because of the nature of the lot there is very little room on the lot, the inability to build in back because of slope.

Findings

- 1.) 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. The Board found the topography of the lot causes difficulty for construction.
- 2.) A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner. If the Variance was not granted, it would cause hardship to the Petitioner due to his health concerns.

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- 3.) 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. The location of the addition is not intrusive and is not substantially more detrimental.

Roll call was taken to vote on findings.

Member	2021-002	Absent
Alves E.	In favor	
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.	In favor	
Hirsch D.		x
Pinard P.		
Rodolakis A.	In favor	
Walantis T.		

(5) in favor.

CONDITIONS

The Board voted to grant the conditions as follows:

1. Variance No. 2021-002 is granted to W. Bruce Wallin and Lynn P. Wallin, Co-Trustees of the Wallin Family Trust to allow the construction of an addition at 562 Poponessett Road, Cotuit, MA.
2. The 9.5 foot by 11 foot addition shall be no closer to the front yard setback than 24 feet.
3. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan Proposed Improvements at 562 Poponessett Road, Barnstable (Cotuit) Mass" dated November 17, 2020, drawn and stamped by Sullivan Engineering & Consulting, Inc.
4. The above-described addition shall represent full build-out of the lot. No further additions or accessory structures shall be permitted without 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. 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.

requested Variance with

granted to W. Bruce

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Member	2021-002	Absent
Alves E.	In favor	
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.	In favor	
Hirsch D.		x
Pinard P.		
Rodolakis A.	In favor	
Walantis T.		

(5) In favor for Variance with

Mr. Alves: reading conditions: Nos. 1-5 part of staff

Mr. Dewey would like to add that,

or put to the (inaudible) of the property. That is one of the conditions that doesn't appear here." **Chair Rodolakis** asked of Attorney Shultz if the applicant would have any issues with that condition. The reply was, "not at all."

Conditions. Appeal 2021-002

Suggested variance conditions memorandum.

"any mechanicals be screened

POINT OF INFORMATION: We are jumping out of order here. The next one "Fitzgerald" Mr. Bodensiek will take over as Chair Rodolakis will recuse himself.

Appeal No. 2021-004 Mason Christopher S. Mason and Lynne F. Mason have applied for a Special Permit in accordance with Section 240-47.1 B. (4) Family Apartments. The Applicants are proposing to create a Family apartment on the second floor of an existing detached 2-car garage. The property is located at 2005 Main Street, West Barnstable, MA as shown on Assessors Map 216 as Parcel 078. It is located in the Residence F (RF) Zoning District.

Chair Rodolakis recognized Mr. Mason, applicant and Attorney Lawlor via Zoom. This is actually a little simpler than first one before you. They plan on moving children into separate structure. They understand that when it is no longer used for the family unit – they will return it to its original condition. The application is in compliance with the bylaw. The neighbor has submitted a letter in favor of the application.

Chair Rodolakis asked if there was any questions from the board. He also noted the only reason this is in front of board is because of the detached structure issue. Hearing none... **Chair Rodolakis** went to

PUBLIC COMMENT **Chair Rodolakis** noted that ZBA did receive an email from David Troutman. It was noted he would not be able to attend and he has no issue with this appeal. No other issues neighbors or people are in attendance or have sent emails for public comment.

ZBA BOARD – Deliberation: No questions or comments from Board.

Chair Rodolakis recognized Mr. Walantis to read the findings.

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Findings of Fact

At the hearing on January 27, 2021, the Board made the following findings of fact in Special Permit Application No. 2021-004 a request to create a family apartment in a detached structure:

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-47.1. B. allows a Special Permit for a Family Apartment in a detached structure.
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. The proposed family apartment would not be substantially more detrimental to the neighborhood than the existing dwelling.
5. The single-family nature of the property and of the accessory nature of the detached structure are preserved.

A vote was taken on the acceptance of the findings on this appeal.

Member	2021-004	Absent
Alves E.		
Bodensiek H.	In favor	
Dewey J.	In favor.	
Hansen M.		
Hirsch D.		x
Pinard P.	In favor	
Rodolakis A.	In favor	
Walantis T.	In favor	

(5) in favor

CONDITIONS:

1. Special Permit No. Christopher S. and

2021-004 is granted to Lynne F. Mason to

establish a family apartment in a detached accessory structure at 2005 Main Street (Rte 6A), West Barnstable, MA.

2. The site development shall be constructed in substantial conformance with the plan entitled "Plot Plan in Barnstable, Mass" by CapeSurv dated September 30, 1998.
3. The proposed development shall represent full build-out of the lot. Further development of the lot or construction of additional accessory structures is prohibited without prior approval from the Board.
4. The Applicant must comply with the restrictions in Section 240-47.1 Family Apartments C. Conditions and Procedural Requirements 1-4 of the Ordinance as follows:
 - a. Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection of the apartment unit and the single-family dwelling for regulatory

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- b. compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds are submitted to the Building Division.
 - c. Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.
 - d. At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family member occupying either unit occurs.
 - e. When the family apartment is vacated, or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.
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 the issuance of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Conditions on staff memorandum dated January 13, 2021 were read by Mr. Walantis.

Member	2021-004	Absent
Alves E.		
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.		
Hirsch D.		x
Pinard P.	In favor	
Rodolakis A.	In favor	
Walantis T.	In favor	

At this point Attorney Lawlor the conditions on behalf of his clients; he extended their thank He also thanked ZBA for taking

indicated there are no issues with clients and on behalf of his you to Pam and Dave Troutman. them out of turn.

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POINT OF INFORMATION: Mr. Hanson asked the board regarding apartments, "are we assuming when we see these that going forward that they (apartments) are in compliance (filing compliance), Health department, and things like that. We are not asking if they are serviced by the size of the septic because they are not always indicated or how they are hooked up....do we just answer these? That gets answered by the building permit. Ann Brigham indicated that everyone signs the building permit.

Chair Rodolakis noted that we are going to the next item where he will recues himself. **Chair Rodolakis** read the following into the record:

Appeal No. 2021-003 Fitzgerald Michael and Betsey Fitzgerald has applied for a Special Permit in accordance with Section 240-131.4 Craigville Beach District Use Regulations. The Applicants are seeking to construct a 2-story 12.7 foot by 12.2 foot storage, bonus room addition and garage extension. The property is located at 90 Short Beach Road, Centerville (Craigville), MA as shown on Assessors Map 206 as parcel 123. It is located in the Craigville Beach District Long Beach/Short Beach (CBDLBSB) District of Critical Planning Concern (DCPC).

Chair Rodolakis left for the rest of the evening and passed the baton to **Acting Chair Bodensiek** to cover this appeal and rest of the meeting. Acting Chair Bodensiek asked if applicants were in the Zoom Room?

Mr. Fitzgerald, applicant indicated that the application had been heard by the Conservation Commission and was approved. We are mitigating approximately 500 square feet of lawn to accommodate the 3.1 requirements of the Conservation Commission. I believe we are about 14 sq. feet over the lot coverage which is why we are here with the ZBA. I don't know how to make the case indicated Mr. Fitzgerald but that's the conversation.

Acting Chair Bodensiek asked if there was any input from the board? **Mr. Pinard** asked "are there any abutters and have we heard from any of them?" At this point, are there any scenic views or vistas or waste water blocked or interfered by this addition? Mr. Fitzgerald: "There are not. The attachment to the existing garage does pull forward into the property. The nearest obstruction would be the people across the river....at that point their angle of view is quite narrow." **Mr Pinard:** "With respect to the 50' buffer to the salt marsh, does this disturb that buffer in any way?" Mr. Fitzgerald noted that the work is taking place within the 50 to 100 and that is the purpose of the mitigation which we have proposed the 3.1 mitigation requirement because of the work that is in the 50 to 100 zone. **Mr. Pinard:** "Clearly the expansion does not exceed 25% of the gross (inaudible) of the existing structure." Mr. Fitzgerald noted that that was correct. With Mr. Pinard completing his question period..... **Acting Chair Bodensiek** stated that he had a question. "Are you actually infringing on any DCPC rules? It doesn't appear so except for blocking of views which you satisfy but I believe that this might be a question for Anna. This makes it through DCPC fine???? **Anna Brigham:** "Yes it does. The findings will show that." **Mark Hanson:** as far as the lot coverage goes, it's approximately 14 sq. ft that is over the allowable lot coverage?" Mr. Fitzgerald replied, "yes." **Mr. Hanson** "I don't know if you have this figure but as a per centage of the lot coverage, it looks like a fairly large lot there." **Mr. Dewey:** "I don't think we received a report of what Conservation's response was but can you summarize what Conservation's response was in terms of..... we are being asked here to find out what is more detrimental to this environment so I would ask what Conservation had said". **Mr. Dewey:** "We have a DEP report but don't have anything from

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Conservation." Mr. Fitzgerald: "Conservation was appreciative of the fact that we were accommodating the 3.1 requirement and actually went over the 3.1 requirement. I think the idea that they were gaining more wetland for what they were giving up was a good feeling. That was what was said at the meeting." **Mr. Pinard** - "Did they approve it" and Mr. Fitzgerald answered in the affirmative. **Mr. Pinard** summarized that the Conservation Commission has approved it and there were no Craigville Beach District Long Beach Short Beach District for Planning Concerns...there are no violations of that. Mr. Fitzgerald noted that that was correct. Elevations were submitted for permit but not to ZBA indicated Mr. Fitzgerald. At this point Mr. Fitzgerald was given permission to share the plans showing elevations so findings could be made. Mr. Fitzgerald showed the current drawing of the elevation and explained various items on the elevation schematic. Mr. Fitzgerald will have to hold up on the documents because he doesn't have the scans of the existing house. He held up to the camera a schematic of the existing house showing the addition. He also showed a side elevation. After much discussion in this vein, **Mr. Dewey** suggested that we open up public comment.

PUBLIC COMMENT: There are no public comments at this time. Public comment is closed.

BOARD DISCUSSION: Hearing no more discussion from board, **Acting Chair Bodensiek** asked who would be reading the findings. **Mr. Dewey** read the findings from a staff memorandum.

FINDINGS

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit: Section 240-131.4(D)(2) allows for expansion of lawfully existing structures with a Special Permit from the Board.
2. 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.
3. The proposed alteration/expansions are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure.
4. 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.
5. Protects and preserves scenic views and vistas and ways to the water.
6. 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.

7. Protects human life and property from the hazards of periodic flooding.
8. Preserves the natural flood control characteristics and the flood control function of the floodplain.
9. The development complies with the setbacks and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that

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10. predate it. Relief is being requested for expansion of the structure in accordance with § 240-131.4D. The proposed expansion is in compliance with setback requirements.
11. The redevelopment complies with the height limitations set forth herein. The proposed addition will match the existing height.
12. The addition is set back at least 50 feet from the top of the coastal bank resource area.
13. 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.
14. The expansion does 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. The proposed increase in gross floor area is a 5.5% increase, and is in compliance with this limitation.
15. The expansion does 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. The proposed expansion is a 1% increase, and is in compliance with this limitation.
16. The expansion does not increase flood hazards in the neighborhood.
17. The expansion maintains views to Nantucket Sound / Centerville River: a minimum 20 foot view shed is existing and maintained.

Member	2021-004	Absent
Alves E.		
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.	In Favor	
Hirsch D.		x
Pinard P.	In favor	
Rodolakis A.		X
Walantis T.	In favor	

(5) in Favor. Two absences

CONDITIONS:

Based on the findings of fact, seconded to grant Special to the following conditions:

a motion was duly made and Permit No. 2021-003 subject

7. Special Permit No. 2021-003 is granted to Michael and Betsey Fitzgerald to allow the addition of approximately 155 square feet to their dwelling at 90 Short Beach Road, Craigville, MA pursuant to Section 240-131.4 of the Craigville Beach District, District of Critical Planning Concern (DCPC).

The proposed alteration shall be constructed in substantial conformance with the site plan entitled “Proposed Site Plan 90 Short Beach Road Centerville MA” prepared for

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8. Michael T. and Betsey B. Fitzgerald by J.M. O’Reilly and Associates, Inc., dated November 22, 2020 with a last revision date of December 9, 2020.
9. There shall be no further expansion of the structure, construction of accessory structures, or impervious surface coverage on the lot unless approved by the Zoning Board of Appeals.
10. The Applicant shall comply with decisions and conditions issued by the Board of Health and Conservation Commission.

11. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
12. 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 special permit must be exercised within two years, unless extended.

Member	2021-004	Absent
Alves E.		
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.	In favor	
Hirsch D.		x
Pinard P.	In favor	
Rodolakis A.		x
Walantis T.	In favor	

(5) in favor – two absent

CORRESPONDENCE

Acting Chair Bodensiek read

Public Hearing Notice – TC

the zoning map to expand the Multifamily Affordable Housing District to include map/parcel 250/160 at 3 Whitehall Way, Hyannis. Hearing scheduled for February 4, 2021 at 7:00 PM (Hearing date changed).

into the minutes the following:
Item No. 2021-058 Amending

Public Hearing Notice - TC Item No. 2021-059 Amending Article III Chapter 240 Section 16.1 to modify the required percentage of affordable units and revise the definition of Affordable Unit, and amend Article XI Chapter 240 Section 116 to exempt development permitted under the Multifamily Affordable Housing District from Growth Management. Hearing scheduled for

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ADJOURNMENT

Acting Chair Bodensiek would entertain a motion to adjourn. Mr. Picard moved to adjourn with Mr. Hanson seconding the motion. All in favor.

Member	2021-004	Absent
Alves E.	In Favor	
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.	In favor	
Hirsch D.		x
Pinard P.	In favor	
Rodolakis A.		x
Walantis T.	In favor	

Respectfully Submitted
Elizabeth B. Silva

All in favor with two absences

Temporary Transcriber