

Zoning Board of Appeals MINUTES Wednesday, May 25, 2022 - 7:00 PM

The Zoning Board of Appeals Public Hearing will be held by remote participation methods.

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://townofbarnstable-us.zoom.us/j/81505281046	888 475 4499 US Toll-free
Meeting ID: 815 0528 1046	Meeting ID: 815 0528 1046

3. Applicants, their representatives and individuals required or entitled to appear before the Zoning Board of Appeals may appear remotely, 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.

Call to Order

Chair Jacob Dewey calls the meeting to order and takes roll call:

Member	Present	Absent
Dewey, Jacob – Chair	X	
Hirsch, David	X	
Bodensiek, Herbert	X	
Hansen, Mark	X	
Pinard, Paul	X	
Walantis, Todd		X
Johnson, Denise	X	
Webb, Aaron	X	

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. No response.

Minutes

None.

Local Initiative Program Applications Policy Adoption

The Town of Barnstable requests to amend the Zoning Board of Appeals Comprehensive Permit Rules and Regulations by adding "[Procedures for Partnering on a Local Initiative Program Project](#)" as provided.

Senior Planner Jim Kupfer and Housing Coordinator Ryan Bennett share a few slides with the Board to walk through the process for local initiative program comprehensive permits under Chapter 40B. Currently there is no process in place for a Friendly 40B (AKA Local Initiative Program) so they are seeking to adopt this process. Denise Johnson expresses concern that it may be an intimidation tactic to sway the ZBA, with other boards and the Town Manager offering approval beforehand. Jim Kupfer says this

option is already in place for any developer, it just doesn't have a process yet—they are just trying to assign a process. The Board discusses the process and its merits and demerits. Paul Pinard makes a motion to approve the procedures for partnering on a local initiative program project. Mark Hansen seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay:

Abstain: Aaron Webb, Denise Johnson

The motion to approve the procedures for partnering on a local initiative program project passes.

Executive Session

The Zoning Board of Appeals may vote to enter into an Executive Session under G.L. c. 30A section 21(a)(3), to discuss litigation strategy with respect to the pending appeal by Ciluzzi v. Zoning Board of Appeals, 149 Beech Leaf Island Road, if the Chair declares that an open meeting may have a detrimental effect on the litigating position of the Town.

Jake Dewey makes a motion to enter into Executive Session under G.L. c. 30A section 21(a)(3), to discuss litigation strategy with respect to the pending appeal by Ciluzzi v. Zoning Board of Appeals, 149 Beech Leaf Island Road, because an open meeting may have a detrimental effect on the litigating position of the ZBA. He then reads the second Executive Session request.

Executive Session

The Zoning Board of Appeals may vote to enter into an Executive Session under G.L. c. 30A section 21(a)(3), to discuss litigation strategy with respect to the pending appeal by Shoestring LLC v. Zoning Board of Appeals, 53 South Street and 110 School Street, if the Chair declares that an open meeting may have a detrimental effect on the litigating position of the Town.

Jake Dewey makes a subsequent motion to enter into an Executive Session under G.L. c. 30A section 21(a)(3), to discuss litigation strategy with respect to the pending appeal by Shoestring LLC v. Zoning Board of Appeals, 53 South Street and 110 School Street, because an open meeting may have a detrimental effect on the litigating position of the ZBA, and that the Board will return to open session at the conclusion of both of these executive sessions. Mark Hansen seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard, Aaron Webb, Denise Johnson

Nay:

Old Business

7:00 PM

Appeal No. 2022-018

Holian Family Realty Trust

Janet Holian, Trustee, Holian Family Realty Trust, has petitioned for a Variance from Section 240-7 D. Lot Shape Factor for Parcel B on a plan showing Lot Division. The Petitioner is seeking to divide the existing lot into two lots. The subject property is located at 250 Windswept Way Osterville, MA as shown on Assessor's Map 051 Parcel 012. It is located in the Residence F-1 (RF-1) Zoning District and Resource Protection Overlay District (RPOD). Continued from April 27, 2022.

Attorney Mike Ford requests to continue this item to June 22, 2022. Jake Dewey makes a motion to continue Appeal No. 2022-018 to June 22, 2022 at 7:00 PM. Mark Hansen seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard, Aaron Webb, Denise Johnson

Nay:

Appeal No. 2022-018 Holian Family Realty Trust is continued to June 22, 2022 at 7:00 PM.

New Business

7:01 PM

Appeal No. 2022-022

Kusiak

Kathleen J. Kusiak, Trustee of the Kathleen Joyce Kusiak Revocable Trust has applied for a Special Permit pursuant to Section 240-91(H)(3) Developed Lot Protection, Demolition and Rebuilding on nonconforming lots by Special Permit. The Applicant is proposing to demolish the existing 1,646 square foot dwelling and construct a 2,367 square foot dwelling pursuant to the plans by ES Design and by Down Cape Engineering. The subject property is located at 130 Seventh Avenue, Hyannis, MA as shown on Assessor's Map 245 as Parcel 062. It is located in the Residence B (RB) Zoning District.

Attorney Michael Schulz is representing the applicant. He is joined by Ed Sargent, the architect, and the owner and applicant Kathleen Kusiak. The property is a single-family residence that was built in 1952 on a 7,979 square foot lot. It is consistent with the neighborhood in terms of size and setback. The property is located 22 feet from Forrest Street, 2 feet from the easterly property line, 6.7 from the northerly property line, and 35.7 feet from 7th Avenue, with a lot coverage of 23.12%. Attorney Schulz reads through his proposed findings and submits that the proposed setbacks are greater except the staircase that extends on the northerly property line. All of the criteria for 210-91(H)(3) are met. The lot coverage is less than the existing, at 22.5%, the FAR is less than .3, and the building height is 29.7 inches. It is not substantially more detrimental to the neighborhood and will be increasing green space and reducing lot coverage. The applicant has received 5 letters of support.

Chair Dewey opens it up to the Board for questions. Paul Pinard notes that of all the letters of support, only one is from a direct abutter.

Chair Dewey opens for public comment. He notes the five letters of support: Claire Curran, Mark & Jessica Joyce, Michael & Kendra McKinley, Sue & Steve Mele, and Patricia Nakache, and one general letter from Gail Gugel. Jake Dewey makes a motion to close public comment. Herb Bodensiek seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay:

The Board deliberates. Mark Hansen asks if this is by right aside from the undersized lot. Attorney Schulz confirms.

Mark Hansen makes findings for Appeal No. 2022-022:

Kathleen J. Kusiak, Trustee of the Kathleen Joyce Kusiak Revocable Trust has applied for a Special Permit pursuant to Section 240-91(H)(3) Developed Lot Protection, Demolition and Rebuilding on nonconforming lots by Special Permit. The Applicant is proposing to demolish the existing 1,646 square foot dwelling and construct a 2,367 square foot dwelling pursuant to the plans by ES Design and by Down Cape Engineering. The subject property is located at 130 Seventh Avenue, Hyannis, MA as shown on Assessor's Map 245 as Parcel 062. It is located in the Residence B (RB) Zoning District.

1. 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 demolition and rebuilding on a nonconforming lot.
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.

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:

4. The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building. The existing front yard setbacks are 22.3 feet from Forrest St and 35.7 feet from Seventh Ave, easterly side yard setback is 2 feet and northerly side yard setback is 6.7 feet. The proposed front yard setbacks are 31.8 feet from Forrest Street and 27.1 from Seventh Ave, and the northerly side yard setback is 6.5 feet and the easterly side yard setback is 10.1 feet. The required setbacks are 20 feet front, side and rear are 10 feet.
5. The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The proposed lot coverage is 22.5%, a reduction from the existing lot coverage of 23.12%.
6. The floor area ratio shall not exceed 0.30 or 30% the existing floor area ratio of the structure being demolished, whichever is greater. The proposed FAR is 29%.
7. 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 approx. 29.7 feet to plate (30 feet maximum) and is 2 stories.
8. The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

Jake Dewey remarks that the findings do not address the staircase that is intruding into the setback and the Building Commissioner may take issue with that. Attorney Schulz says they can reduce the staircase by .2 feet to keep it existing and will make that reference on the plan. Herb Bodensiek seconds the findings.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay:

Mark Hansen reads that the appeal is subject to conditions 1-6 from Staff Report dated May 13, 2022. Attorney Schulz requests that Condition No. 4 clarify the floor area ratio to not exceed 30%. Mark Hansen then reads that the appeal is subject to conditions 1-3, 5, and 6 as written, and No. 4 as "The total lot coverage of all structures on the lot shall not exceed 22.5% and the floor-area ratio shall not exceed 30%."

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay:

Appeal No. 2022-022 Kusiak is granted with conditions.

7:02 PM

Appeal No. 2022-023

Starr

Sherrri Starr, Trustee of Tempy Realty Trust, has applied for a Special Permit pursuant to Section 240-93 B. Nonconforming Buildings or Structures not used as Single-or Two-Family Dwellings, by Special Permit. The Applicant is proposing to demolish the existing 884 square foot residential condominium unit and construct a new 1,054 square foot residential condominium unit in accordance with plans prepared by W.B. Daniels Architectural Design and by Canal Land Surveying and Permitting Inc. The subject property is located at 16 Second Avenue No. 4, Osterville, MA as shown on Assessor's Map 116 as Parcel 061-00H. It is located in the Residence C (RC) Zoning District.

Sitting on this will be Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, and Paul Pinard.

Attorney Michael Schulz is representing the applicant. The lot is comprised of 47, 878 square feet. It has 5 structures of condominiums. There is no date associated with the building, but would suggest it predates any zoning in Osterville. It is consistent with the neighborhood in terms of size and setback. Attorney Schulz reads through his proposed findings and submits that they will be improving the structural integrity of the cottage with the demo/rebuild, and the setback requirements will be either maintained or improved. The Board of Trustees of the condominiums, who are also owners of neighboring units, approved the plans. He suggests that under 240-93B the structure does house a conforming use so no finding is required.

Chair Dewey opens it up to the Board for questions. Jake Dewey expresses confusion that this can be a single-family lot, and therefore conforming, if there are 5 dwellings on it. He asks why the applicant didn't go to Site Plan Review. Attorney Schulz responds that Building Commissioner Brian Florence told him the property did not need to go before Site Plan Review.

Chair Dewey opens for public comment. He reads that the Board received a letter from Aunt Tempy's Board of Trustees in support. Jake Dewey makes a motion to close public comment. Herb Bodensiek seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay:

Mark Hansen makes findings for Appeal No. 2022-023:

Sherrri Starr, Trustee of Tempy Realty Trust, has applied for a Special Permit pursuant to Section 240-93 B. Nonconforming Buildings or Structures not used as Single-or Two-Family Dwellings, by Special Permit. The Applicant is proposing to demolish the existing 884 square foot residential condominium unit and construct a new 1,054 square foot residential condominium unit in accordance with plans prepared by W.B. Daniels Architectural Design and by Canal Land Surveying and Permitting Inc. The subject property is located at 16 Second Avenue No. 4, Osterville, MA as shown on Assessor's Map 116 as Parcel 061-00H. It is located in the Residence C (RC) Zoning District.

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. *The existing use is pre-existing nonconforming and any expansion/alteration is allowed under Section 240-93.*
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. A Site Plan has been reviewed and found approvable with conditions. Site Plan Review was not required.

Further, Section 240-93 B. requires the Board to find that:

4. The proposed repairs, alterations and/or expansion are not substantially more detrimental to the surrounding neighborhood.
5. The proposed use is a conforming use.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay:

Mark Hansen reads that the appeal is subject to conditions 1-4 from Staff Report dated May 13, 2022. Attorney Schulz finds the conditions acceptable.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay:

Appeal No. 2022-023 Starr is granted with conditions.

7:03 PM

Appeal No. 2022-024

Zhang/Wang

Ying Zhang and Yingli Wang have applied for a Special Permit pursuant to Section 240-91 H. (3) Developed Lot Protection, Demolition and Rebuilding on nonconforming lots by Special Permit, Section 240-92 B. Nonconforming Buildings or Structures used as Single and Two-Family Residences by Special Permit, Section 240-93 B. Nonconforming Buildings or Structures not used as Single and Two-Family Residences by Special Permit, and Alteration of a Nonconforming Use pursuant to Section 240-94 A. and Expansion under Section 240-94 B. The Applicant is proposing to demolish the existing two dwellings (principal dwelling contains 2,600 square feet and Cottage contains 500 square feet) and construct two dwellings (proposed principal dwelling will contain 2,728 square feet and the proposed cottage will contain 960 square feet) and to transfer the second kitchen facilities from the Principal Dwelling to the Cottage. The subject property is located at 401 Ocean Street, Hyannis, MA as shown on Assessor's Map 325 as Parcel 010. It is located in the Residence B (RB) Zoning District.

Sitting on this will be Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, and Paul Pinard.

Attorney Jennifer Carey is representing the applicants. She is joined by the architect of the project. The lot is improved with a two-family dwelling and a cottage (with no kitchen). The applicants would like to demo/rebuilt both structures, and in doing so, move the second kitchen from the main dwelling to the cottage. The cottage is located within the sideyard setback, and the rebuild would keep it there. Attorney Carey hopes this would go through under 240-94(A), but would be amenable if the Board requested 240-94(B) for expansion.

Chair Dewey opens it up to the Board for questions. Paul Pinard asks how many bedrooms there are. Attorney Carey responds currently 3 bedrooms.

Chair Dewey opens for public comment. Susan Parmater of 389 Ocean Street addresses the Board to voice her support. Jake Dewey makes a motion to close public comment. Mark Hansen seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay:

The Board deliberates. Mark Hansen doesn't believe this needs be determined an expansion. He asks how the cottage was used before. Attorney Carey explains that the existing cottage is without facilities and was and will continue to be mostly used for overflow guests. The main dwelling is a preexisting nonconforming two-family with two kitchens. Mark Hansen asks if the cottage is currently served by sewer. Mrs. Wang answers that the cottage has a bathroom that is on sewer. Jake Dewey wants to be careful about this, so as to not grant buildability for the cottage. Attorney Carey explains that having two kitchens is preexisting nonconforming—they just want to move one kitchen from the main house to the cottage. The applicants want the main dwelling to feel like a single-family home, but want to maintain the ability to have the second kitchen they are granted because of their two-family dwelling status. The Board expresses confusion over why the cottage isn't an ADU. Attorney Carey responds that they don't need an ADU because they are a preexisting nonconforming two-family. Jake Dewey says the cottage is not preexisting nonconforming, only the house is. The Board and Attorney Carey discuss a recent appeal, 2022-014, where the Board approved moving a kitchen from a beach house to a pool house on a property. The difference is that this is a two-family. Paul Pinard believes it needs to be a condition that the primary residence goes from a two-family to a one-family.

Paul Pinard makes findings for Appeal No. 2022-024:

Ying Zhang and Yingli Wang have applied for a Special Permit pursuant to Section 240-91 H. (3) Developed Lot Protection, Demolition and Rebuilding on nonconforming lots by Special Permit, Section 240-92 B. Nonconforming Buildings or Structures

used as Single and Two-Family Residences by Special Permit, Section 240-93 B. Nonconforming Buildings or Structures not used as Single and Two-Family Residences by Special Permit, and Alteration of a Nonconforming Use pursuant to Section 240-94 A. and Expansion under Section 240-94 B. The Applicant is proposing to demolish the existing two dwellings (principal dwelling contains 2,600 square feet and Cottage contains 500 square feet) and construct two dwellings (proposed principal dwelling will contain 2,728 square feet and the proposed cottage will contain 960 square feet) and to transfer the second kitchen facilities from the Principal Dwelling to the Cottage. The subject property is located at 401 Ocean Street, Hyannis, MA as shown on Assessor's Map 325 as Parcel 010. It is located in the Residence B (RB) Zoning District.

1. 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 demolition and rebuilding on a nonconforming lot. Section 240-92 B. allows for an expansion/alteration by Special Permit. Section 240-93 B. allows for an expansion/alteration by Special Permit. Section 240-94 A. and B. allow for alteration/expansion by Special Permit.
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.

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:

4. The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building. Existing front yard setback for the principal dwelling is 24 feet, and the side yard setback for the accessory dwelling is 7.8 feet. The proposed front yard setback is 20 feet, and the proposed side yard setback for the accessory structure remains at 7.8 feet. The front yard setback requirement in the RB District is 20 feet.
5. The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The proposed lot coverage is 15%.
6. The floor area ratio shall not exceed 0.30 or 30% the existing floor area ratio of the structure being demolished, whichever is greater. The proposed FAR is 24%.
7. 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 approx. 30 feet to plate (30 feet maximum) and is 2 1/2 stories.
8. The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

Section 240-94 A. requires the Board to make the following findings:

9. The applicant has received all necessary approvals from the Board of Health.
10. The proposed nonconforming use:
 - (a) Requires no more parking than the previous use;
 - (b) Does not generate more traffic than the previous use, as measured by the Institute of Transportation Engineers Trip Generation Handbook or other sources acceptable to the Zoning Board of Appeals, nor does it cause Town expenditures to address traffic mitigation measures;
 - (c) Does not result in an increase of on-site and off-site noise, dust, and odors;
 - (d) Does not result in an increase in the hours of operation or in the number of tenants or employees;
 - (e) Does not expand the gross floor area of the nonconforming use, except as may be provided in § 240-93B, nor does it increase the number of nonconforming uses on a site;
 - (f) Is on the same lot as occupied by the nonconforming use on the date it became nonconforming; and
 - (g) Is not expanded beyond the zoning district in existence on the date it became nonconforming.

Section 240-94 B. requires the board to make the following findings:

11. Any proposed expansion of the use shall conform to the established setbacks for the zoning district in which it is located, or such greater setbacks as the Zoning Board of Appeals may require due to the nature of the use and its impact on the neighborhood and surrounding properties.
12. The proposed use and expansion is on the same lot as occupied by the nonconforming use on the date it became nonconforming.
13. The proposed new use is not expanded beyond the zoning district in existence on the date it became nonconforming.
14. At the discretion of the Zoning Board of Appeals, improvements may be required in order to reduce the impact on the neighborhood and surrounding properties including but not limited to the following:
 - (a) Greater conformance of signage to the requirements of Article VII;
 - (b) The addition of off-street parking and loading facilities;
 - (c) Improved pedestrian safety, traffic circulation and reduction in the number and/or width of curb cuts;
 - (d) Increase of open space or vegetated buffers and screening along adjoining lots and roadways. The applicant shall demonstrate maximum possible compliance with § 240-53, Landscape Requirements for Parking Lots, Subsection F, if applicable.

(e) Accessory uses or structures to the principal nonconforming use may be required to be brought into substantial conformance with the present zoning.

Section 240-93 B. requires the board to make the following finding:

15. The proposed repairs, alterations and/or expansion are not substantially more detrimental to the surrounding neighborhood. If the building or structure houses a nonconforming use, the provisions of § 240-94 shall also apply.

The Board discusses whether the applicant has met all these findings, as Paul Pinard was unsure about Finding No. 10. Herb Bodensiek asks whether the applicant wants to apply under 240-93 B or 240-92 B. Attorney Carey says they will withdraw 240-93 B and apply under 240-92 B.

Vote:

Aye: David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay: Jake Dewey

Paul Pinard reads that the appeal is subject to conditions 1-6 from Staff Report dated May 13, 2022, and adds a No. 7 that says the principal dwelling shall be a single-family dwelling, and the cottage shall be a detached second dwelling.

Vote:

Aye: David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay: Jake Dewey

Appeal No. 2022-024 Zhang/Wang is granted with conditions.

7:04 PM

Appeal No. 2022-025

Howe

Celeste M. Howe and Michelle A. Aceto have petitioned for a Variance from Section 240-47. 2 C. Accessory Dwelling Units (ADU's). The Petitioners seek a variance to establish a 540 square foot accessory dwelling unit (ADU) in the existing detached garage which is located in a three-unit residential condominium development. The subject property is located at 33 Captain Murphy's Way No. 3, Barnstable, MA as shown on Assessor's Map 317 as Parcel 031-01C. It is located in the Residence F-2 (RF-2) Zoning District.

This appeal was read in with the appeal below, 2022-026, and then the Board voted concurrently to continue both (details below).

7:05 PM

Appeal No. 2022-026

Howe

Celeste M. Howe and Michelle A. Aceto, have applied for a Special Permit pursuant to Section 240-47. 1 B. Family Apartments. The Applicant is seeking a Special Permit to establish a 540 square foot Family Apartment to be located in an existing detached garage. The subject property is located at 33 Captain Murphy's Way No. 3, Barnstable, MA as shown on Assessor's Map 317 as Parcel 031-01C. It is located in the Residence F-2 (RF-2) Zoning District.

The Board received a request to continue Appeal No. 2022-025 and Appeal No. 2022-026 to June 8, 2022. Jake Dewey makes a motion to continue 2022-025 and 2022-026 to June 8, 2022. Mark Hansen seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard, Aaron Webb

Nay:

Appeal No. 2022-025 and Appeal No. 2022-026 are continued to June 8, 2022.

7:06 PM

Appeal No. 2022-027

Tomkinson Trust

Tomkinson Trust has applied for a modification to Condition No. 1 in Special Permit No. 2005-073 to allow the transfer of business ownership from the current owner, Theodore Hedderig, to Scott Greenberg. No other changes are proposed. The subject property is located at 381 Old Falmouth Road, Unit No. 7, Marstons Mills, MA, as shown on Assessor's Map 123 as Parcel 003. It is located in the Residence F (RF) Zoning District.

Sitting on this will be Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, and Paul Pinard.

Attorney David Lawler is representing the applicant. He provides background: this business has been around for at least 30 years. The current owner is retiring and will be handing over the business to Scott Greenberg, a long-time employee. There are no other changes proposed.

Chair Dewey opens for public comment. He reads that a letter in support was received from Andrew Pesek. The Chairman makes a motion to close public comment. Paul Pinard seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay:

Chair Dewey makes a motion to modify Special Permit No. 2005-073 to modify Condition No. 1 that will allow the transfer of the business to the new owner, Scott Greenberg. Otherwise, all other conditions will remain intact. Mark Hansen seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Nay:

Appeal No. 2022-027 Tomkinson Trust has modified Special Permit No. 2005-073.

Correspondence

Zoning Amendment Transmittal: Citizens petition amending Chapter 240 Article 3

Meeting notice from Cape Cod Commission for a virtual subcommittee hearing June 9, 2022 at 5 PM to discuss the Centerville Gardens Wireless Communications Tower Project

Matters Not Reasonably Anticipated by the Chair

David Hirsch requests setting a deadline of the Thursday before a meeting for all meeting materials or changes to be submitted by applicants. He also requests that any applicant who wants to request a continuance must do so in person, not by letter. The Chairman agrees. Anna Brigham suggests that if an applicant wants to request a continuance within 24 hours of a meeting, they must ask in person but otherwise, they can do so by letter. The Board takes a vote on those proposed changes.

Vote:

Aye: Jake Dewey, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard, Aaron Webb, Denise Johnson

Nay:

Upcoming Hearings

June 8, 2022, June 22, 2022, July 13, 2022

Adjournment

Mark Hansen makes a motion to adjourn. Paul Pinard seconds.

Vote:

Aye: David Hirsch, Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard, Denise Johnson, Jake Dewey

Nay: None

Respectfully submitted,
Genna Ziino, Administrative Assistant

Further detail may be obtained by viewing the video via Channel 18 on demand at <http://www.town.barnstable.ma.us>