



Town of Barnstable Planning Board



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Board Members

Paul Curley – Chair Stephen Helman – Vice Chair Felicia Penn – Clerk Patrick Princi Matthew K. Teague Raymond Lang David Munsell
John Norman – Town Council Liaison

Staff Support

Art Traczyk – Design/Regulatory Review Planner – art.traczyk@town.barnstable.ma.us
Karen Herrand – Principal Assistant – karen.herrand@town.barnstable.ma.us

Town of Barnstable Planning Board Minutes November 24, 2014

BARNSTABLE TOWN CLERK

2015 JAN 14 PM 2:46

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| Paul Curley – Chairman | Present |
| Stephen Helman – Vice Chairman | Present |
| Felicia Penn – Clerk | Present |
| Matt Teague | Not Present (in process of resigning) |
| Raymond Lang | Present |
| David Munsell | Present |
| Patrick Princi | Present |

Call to Order:

Introduction of Board Members – All members present introduce themselves

Notice of Recording: This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

Approval Not Required Plans:

700 South Main, LLC - A plan entitled "Plan of Land for 700 South Main LLC Showing a Subdivision of Land Court Plan 12870A 700 South Main Street Centerville, Barnstable, MA" dated August 20, 2014", as drawn by Holmes & McGrath, Inc., has been submitted for endorsement as an Approval Not Required Plan. The plan intends to divide an existing 3.45-acre parcel of land into two lots. The subject property is addressed 700 South Main Street, Centerville, MA. The property is shown on Assessor's Map 186 as parcel 037. It is zoned Residence D-1 and is within the RPOD - Resource Protection Overlay District. The proposed division has been before the Zoning Board of Appeals and has the benefit of Variance No 2014-027 & 036 for relief to Section 240-11.E and 240-36.D Minimum Lot Area and Section 240-7(D) Lot Shape Factor/Residential Districts.

Attorney Eliza Cox in attendance, representing South Main Street LLC, the Applicant. She makes reference to the plan (Exhibit A). She gives a brief explanation of the plan which is being presented to divide one lot into two lots. A ZBA variance was granted. At present there are two single family dwellings on the lot and after the division there will be one on each lot. Each lot contains minimum frontage.

Ray Lang asks what was the re a ZBA variance granted? Why did this property need a variance?

Attorney Eliza Cox explains that they needed two variances, one was for the minimum lot size requirement, RPOD zoning requires two acres and also the minimum shape factor requirements.

Motion made by Patrick Princi to endorse/approve this ANR plan, seconded by Stephen Helman, so voted unanimously to approve.

Subdivisions:

Summerwind – Subdivision No. 778

Release of Security & Certificate of Completion

By letter dated September 9, 2014, Laim P. Monaghan has requested a release of all securities being held by the Planning Board and the issuance of a Certification of Completion for Subdivision No. 778, “Summerwind”. Summerwind is a 5-lot subdivision endorsed by the Board on April 9, 2001. It is located northeasterly off Pleasant Pines Avenue and is situated partly in West Barnstable and partly in Barnstable Village. The Board is holding \$67,000 in cash as surety for the completion of the development.

Art Traczyk states that the Developer can not be here tonight.

David Munsell asks about the status on the development of the lots and what does it take to get the road approved? Would the lot owners have to go before the Town to make this a public road?

Art Traczyk answers that not all the lots are developed and they will also need a Form S for maintenance responsibility of the road. This is not a town road and it doesn't connect to another roadway (five lots take access to the roadway). The lot owners can petition the Town to make it a town road.

Motion made by Patrick Princi to release the security on this Subdivision, seconded by Stephen Helman, so voted unanimously,

Motion made by Stephen Helman to approve this Subdivision to be complete, seconded by David Munsell, so voted unanimously.

Continued Petitions:

Petitions No. 2014-01 – Baxter - Pleasant Street Realty Trust

7:00 PM

Special Permit - Section 240-24.1.7.B(2), Multifamily Use

Special Permit Petitions No. 2014-01 is that of Hudson H. Baxter, Trustee, Pleasant Street Realty Trust seeking a Special Permit pursuant to Section 240-24.1.7.B(2), Multifamily Use in the Harbor District to allow for the existing dwelling and lot to be used as a three-family dwelling. The subject property is addressed 149 Pleasant Street, Hyannis, MA and is shown on Assessor's Map 326 as parcel 053. It is in the HD - Harbor District of the Hyannis Village Zoning Districts.

7:00 PM

Petitions No. 2014-02 – Baxter - Pleasant Street Realty Trust

Special Permit - Section 240-24.1.2.F, Dimensional Relief

Special Permit Petitions No. 2014-02 is that of Hudson H. Baxter, Trustee, Pleasant Street Realty Trust seeking a Special Permit pursuant to Section 240-24.1.2.F, Dimensional Relief to allow the existing 17,171 sq.ft., lot to be used for a three-family dwelling when Section 240-1.7.B(2) limits the number of dwelling units to a maximum of 7 units per acre or 18,669 sq.ft. for 3 units. The property is short 1,498 sq.ft., from that dimensional requirement. The subject property is addressed 149 Pleasant Street, Hyannis, MA and is shown on Assessor's Map 326 as parcel 053. It is in the HD - Harbor District of the Hyannis Village Zoning Districts.

Attorney Charles Sabatt in attendance, representing the Applicant, Hudson Baxter. He gives a brief recall of the history and what the Planning Board had requested at the last public hearing, draft decision to be done.

Revised plans and kitchens are to be added. He makes reference to large scale plan (Exhibit B) as handed out to Planning Board Members.

There are three units in total. There will be an owner occupied unit. The other units can only occupy a single individual each.

They have also proposed that one unit be a workforce unit and would meet the criteria for workforce housing. The by law states there should be a mix of units, they would like the flexibility of any one of the units to be workforce.

Ray Lang asks for clarification that if the property is sold would this Special Permit still be in effect?

Attorney Charles Sabatt confirms that the Special Permit runs with the property/land. All Zoning decisions are recorded at the Registry of Deeds, so a buyer would be on alert as to what was recorded and what is legal for the property.

Ray Lang makes reference to Draft Decision, pg. 4, item no. 4 (Exhibit C) "reserved for individuals and families..." Is there going to be any expansions?

Attorney Sabatt answers no, he doesn't think that Health Regulations would permit that and his client is not intending to do this.

Ray Lang asks if there is any possibility for these to be summer rentals? Asks for clarification that if a new owner purchased property they could discontinue the use of the Special Permit?

Attorney Charles Sabatt answers no because there will be a stipulation of a one year lease term.

Art Traczyk explains that an owner can operate with or without the Special Permit. They can enter into another type of agreement at any point in time.

Stephen Helman reads the Findings of Facts into record (Exhibit C) as follows:

Findings of Facts:

At the meeting of November 24, 2014, a motion was duly made and seconded to make the following findings of fact with regard to Petitions Numbers 2014-01 and 2014-02:

1. The petitioner in both applications to the Board is Hudson H. Baxter, Trustee Pleasant Street Realty Trust. The subject property is addressed 149 Pleasant Street, Hyannis, MA and is shown on Assessor's Map 326 as parcel 053. It is in the Harbor District (HD) of the Hyannis Village Zoning Districts.
2. According to the Assessor's record, the subject lot is a 0.26-acre lot developed with a 2.5-story, 4,316 gross square foot residential dwelling that dates to 1930. The lot fronts some 54 feet on Pleasant Street. The record indicates that the lot also supports boat docking facilities including two piers and on-site boat storage and accessory parking. Storage of Boats and marinas are principal permitted uses in the Harbor District and are permitted as-of-right.
3. The petitioner seeks two special permits. Petition No. 2014-01 seeks a special permit pursuant to Section 240-24.1.7.B(2), Multifamily residential development totaling not more than seven units per acre and Petition No. 2014-02 seeks a special permit pursuant to Section 240-24.1.2.F for Dimensional Relief in the Hyannis Village Zoning Districts. Petition No. 2014-02 seeks dimensional relief from the density requirement to allow a lot of 14,171 sq.ft. to be used for 3-units of multifamily housing (apartments) when the lot area is short 4,498 sq.ft. to meet the density minimum area for 3-units or 18,669 sq.ft. Furthermore the existing lot does not meet the 20,000 sq.ft. minimum lot area required in the Harbor District. If it did it would be capable of meeting that density requirement for 3 units of multifamily.
4. Regarding Section 240-123.C(2) - Standards for granting special permits:
 - Based upon the cited sections in Finding No. 3, the applications submitted fall within the category specifically excepted by the Zoning Ordinance for the grant of the special permits.
 - The proposal was submitted to the site plan review committee for review on January 3, 2014, and was found approvable in accordance with Article IX, Site Plan Review, subject only to the

issuance of the special permits. A site plan review approval letter dated January 14, 2014, has been submitted to the file.

- Upon evaluating of the evidence presented during this public hearing by the petitioner and interested parties, the proposal is in keeping with the spirit and intent of the Zoning Ordinance and with Section 240-24.1 - Hyannis Village Zoning Districts. Granting of the special permit with conditions does not represent substantial detriment to the public good nor the neighborhood affected.
5. Regarding Section 240-24.1.2.E Requirements, the proposal meets the following criteria for the grant of a special permit:
- The permit will provide a mixed use development on the Harbor that includes a marina use and multifamily use which is appropriate and consistent with the Hyannis Village Zoning Districts and the neighborhood in which it is located.
 - The granting of this permit will provide workforce housing.

Paul Curley asks for public comment. No public comment.

Motion entertained by Paul Curley to accept the Findings of Fact, moved by Stephen Helman.

Roll call vote as follows: Patrick Princi votes yes, Stephen Helman votes yes, Ray Lang votes yes, Paul Curley votes yes, Felicia Penn votes yes, David Munsell votes yes. The vote is unanimous.

Patrick Princi reads the Conditions into record (Exhibit C):

Conditions:

Based on the Findings of Fact, a motion was duly made and seconded to grant a Special Permit pursuant to Section 240-24.1.7.B(2), Multifamily residential development and Section 240-24.1.2.F for Dimensional Relief in the Hyannis Village Zoning Districts subject to the following conditions and restrictions:

1. This special permit is issued to Hudson H. Baxter, Trustee Pleasant Street Realty Trust for property addressed 149 Pleasant Street, Hyannis, MA as shown on Assessor's Map 326 as parcel 053
2. This special permit is issued to allow a lot of 17,171 sq.ft. to be used for multifamily housing consisting of 3 apartment units. The three apartment units shall be located within the existing dwelling situated on the parcel.
3. Of the 3 units, one shall be dedicated for the property owner and shall constitute their residence. It shall not be leased or rented and is exclusively reserved for the owner of the property only.
4. ~~The One of the~~ other two units are to be workforce rental housing reserved for individuals and families making no more that 120% of the area median income as defined by the U.S. Department of Housing and Urban Development and priced so that the total annual rent and utilities shall not exceed 30% of the individuals or family residing therein annual income.
5. ~~The two~~ workforce housing units ~~are~~ is to remain affordable workforce housing in perpetuity and shall be dedicated through a deed restriction, regulatory agreement and/or monitoring agreement or similar documentation as may be required by and approved by the Town Attorney's Office and recorded thereafter with the Barnstable Registry of Deeds.
6. ~~The retail~~ rental units shall be rented or leased for a term of not less than one-year.
7. The total number of bedrooms permitted on the property shall not exceed 5.
8. The residential dwelling shall not be expanded in area or footprint without permission from the Planning Board.

9. A minimum of one on-site parking space shall be provided for each apartment unit and shall be so marked and dedicated on the grounds.
10. All units shall include a working kitchen (or kitchenette) and full or 3/4 bathroom facilities.
11. In executing this decision, the petitioner must secure a building permit and occupancy permit for the conversion of the dwelling to a 3-unit multi-family dwelling in compliance with all applicable building, health and fire codes.

Ray Lang asks about the wording for workforce housing in perpetuity and if a new owner could cancel or revise this agreement?

Attorney Sabatt answers that whomever would have to adhere to this restriction or if they want to modify this special permit they could do that as well, i.e., a single family home.

Attorney Sabatt also clarifies a clerical error in the square footage amount. It is stated in the document (Exhibit C, Draft Decision) that the square footage is 17,171 sq. ft. it is actually 14,171 sq. ft.

David Munsell asks for clarification that this will change from two workforce units to just one?

Board Members confirm correct.

Felicia Penn confirms for correction that the clerical error in number 6 that states "retail" should be changed to "rental".

Chair Paul Curley asks for public comment. There is no public comment.

Roll call vote as follows:

Patrick Princi votes yes, Chair Paul Curley votes yes, Stephen Helman votes yes, Ray Lang votes yes, David Munsell votes yes, and Felicia Penn votes yes. The vote is unanimous.

Chair Paul Curley entertains a Motion to close the Public Hearing, moved by Stephen Helman, so voted unanimously.

Continued Scenic Road Public Hearing:

7:00 PM

Planning Board and Tree Warden - Scenic Road Public Hearing Tree Removal, Main Street, Cotuit – Between 1524 Main St. and Pinquickset Cove Circle)

To all persons deemed interested in or affected by the actions of the Planning Board and the Tree Warden of the Town of Barnstable, a combined public hearing, in accordance with MGL Ch. 40, Section 15C, Designation and Improvement of Scenic Roads and Chapter 180, of the General Ordinances of the Code of the Town of Barnstable, Scenic Roads, will be held regarding a proposal to remove a total of 67 trees within the layout of Main Street from Pinquickset Cove Circle to House No. 1524 Main Street, Cotuit, Massachusetts. The proposed tree removal is submitted as a part of a minor roadway widening to achieve a uniform pavement width of 20 feet, and a 3-foot wide gravel shoulder along both sides of the roadway. Included is the installation of a new culvert, re-paving of the roadway surface, wetland replication, traffic signs and pavement markings. The Town of Barnstable's Highway Division is the Applicant.

Susan Spratt, Tibbetts Engineering in attendance and Roger Parsons representing DPW in attendance.

Roger Parsons states that in developing this proposal/project they have already considered minimizing the design to lessen the impact. They anticipate to save approximately 40% of the trees that were actually asked for originally. The project has been approved by Conservation Commission. He makes reference to photos that he took at the site this morning (Exhibit D, handed out at the meeting).

Chair Paul Curley asks for public comment. No public comment.

Patrick Princi comments that there were several pieces of email correspondence that were received.

Stephen Helman reads into record (Exhibit E), Draft Decision, pg. 2:

Public comment was requested and no one testified. The Board Chair noted that in addition to Attorney Ford's letter, email correspondence was received from; Curtis Newcomer of 39 Highland Avenue, Cotuit, citing opposition to the cutting of the trees noting that it will effect the scenic tree canopy over the roadway, Elizabeth Mattoli of 72 Windmill Lane, Cotuit in opposition as it will change the character of the roadway, Joe Gergyes and Richard Thomas, 104 Old Kings Road, Cotuit in opposition as it will effect the rural charm of the roadway, and Virginia N. Hoeck of 189 Pinquickset Cove Circle, Cotuit, in opposition as it will add to deterioration of the environment and natural habitat in the area. Leslie Leveille, address unknown, also communicated by e-mail her opposition to the proposal. Jonathan V. Taylor, owner of property addressed 551 Old Post Road communicated by e-mail opposition to removal of the trees. Don Bartolone, a 24 year Cotuit resident (address not known) e-mailed his opposition to the project.

The Board discussed the issue noting that some compensatory action should be undertaken after the road work is completed to reestablish the scenic quality of the road. The Board discussed options with the Tree Warden to have some new trees planted as a part of the improvements.

Ray Lang asks if there are trees in the roadway? Is there a lot of roots from the trees into the road?

Susan Spratt answers no, they are not in the physical roadway. The total number of trees to be removed, out of the 67 proposed, will probably be around 30 to 31. These are about a foot off the edge of the roadway.

Roger Parsons states that many of the trees (with the help of the abutter and correspondence with abutter) can be preserved. Many of the trees are small. The largest is about 18 inches in diameter (two of the largest) and many are pitch pines. They are in agreement with the mitigation of replanting as well.

David Munsell comments that he is impressed with this area, it is a fragile area. Does not want to see all of it lost. He asks for clarification of what drainage will be done. Will the water go into both wetland areas? Will the road be stripped and regraded?

Roger Parsons answers/explains they will regrade the total road and replace with a new culvert, level shoulder gravel area. There is severe ponding in the area which creates a safety issue. They are trying to improve that as well as preserve the area. They will have close scrutiny on the project. The water table is to high.

Charlie Genatossio, Tree Warden, DPW in attendance, he comments that a lot of these trees were not there 25 years ago. He knows the area very well. He can sympathize with people who love the trees, but there is no canopy here. Because of conservation restrictions sometimes areas get overgrown and eventually what will happen is that you will loose the vista view as it is now. This used to be just a road across the marsh.

This road has had issues with drainage and icing over do to the inadequate drainage. There are a couple of nice trees, however overgrowth sometimes blocks the natural beauty of things.

Patrick Princi states from his experience, when the Planning Board and the Developer come to an agreement of what they can do to preserve an area it is done. He has good faith that they will preserve everything that they can.

Public Comment.

Curtis Newcomer, of 39 Highland Ave., resident of Cotuit, also in representation of others in opposition states that he didn't have any problem with the water in the roadway and there is a huge canopy in the road in the summer. The homeowners are very concerned that this will affect the community and they don't think it is a necessity.

Ray Lang asks if the electricity is brought in by poles or underground?

Susan Spratt answers she thinks it is by poles.

Ray Lang states that trees with an overhang will and do get cut by utility companies when they are overgrown.

Curtis Newcomer doesn't believe this would be an issue, thinks the electricity is underground here.

Chair Paul Curley asks about the public safety issue.

Roger Parsons answers that they have to consider pedestrians and bicycles as well as vehicles. Frequently he has seen locals walking with dogs in the road here and this is an issue., this project will allow for a small space for pedestrians to walk safely. This is unique area, Oregon beach etc. He thinks this will be beneficial for all that use this roadway.

Motion entertained by Chair Paul Curley to close the Public Hearing, moved by Ray Lang, seconded by David Munsell, so voted unanimously.

Stephen Helman reads the Findings into record (Exhibit E). pg. 2 to 3:

At the conclusion of the public hearing, a motion was duly made and seconded to find:

1. The improvements will result in improved public safety not only for vehicle traffic but more-so for pedestrians and bicyclists.
2. The installation of the culvert will connect the wetlands bordering the roadway, providing for improved drainage as well as improved wetland habitat and natural environmental system in the area.
3. The Tree Warden has testified that in certain areas opening vistas for views over the wetlands will actually enhance the scenic qualities of the roadway.
4. The applicant has committed to limiting tree removal during the construction phase and thereafter installing appropriate natural plantings including trees along the roadway.

Decision:

Based on the finding, a motion was duly made and seconded to conditionally approve the removal of up to 67 trees 34 trees total along the 720 linear feet of Main Street Cotuit as presented in the application provided that up to 14 new trees along with appropriate native shrubs and under-story vegetation are planted within the public layout. The final number of trees and shrubs, including the type, size and location is to be determined by the Tree Warden.

Roll call vote as follows:

Patrick Princi, yes, Stephen Helman, yes, Chair Paul Curley, yes, Ray Lang, yes, David Munsell, no, Felicia Penn, yes.

Five yes votes and one no vote. The Decision is approved.

Felicia Penn comments that she is pleased to know that the number of trees to be removed is now less and that there will be some replanting as well and thank you for listening to everyone, abutters etc.

Correspondence:

Any Member wishing a full copy of the document please contact the office

DEP Sanitary Survey Report for First Lutheran Church Barnstable, dated October 29, 2014

Environmental Notification from MEPA Project for West Barnstable Conservation Land – Shooting Range, Service Rd. received November 14, 2014.

Approval of Minutes: Approval of October 27, 2014 Board Meeting Minutes

Motion to approve the Minutes of October 27, 2014, made by Stephen Helman, seconded by David Munsell, so voted unanimously.

Motion made by Stephen Helman to adjourn, seconded by Chair Paul Curley, so voted unanimously.

The meeting adjourned at 8:10 p.m.

Future Meetings: Regularly Scheduled Meetings: December 8, 2014 and January 12, 2015 @ 7:00 PM.

Respectfully Submitted Karen A. Herrand
by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on January 12, 2015
Further detail may be obtained by viewing the video via Channel 18 on demand at <http://www.town.barnstable.ma.us>

List of Exhibit Documents

Exhibit A - Plan of Land for 700 South Main St., Centerville, Map/Par 186/037 – File – ANR South Main LLC

Exhibit B – Revised Floor Plans for Hudson and Elizabeth Baxter, 149 Pleasant St., Hyannis – File – Special Permit Petitions 2014-01 and 2014-02 (Multifamily Use and Dimensional Relief)

Exhibit C – Draft Decision and Notice, Hudson H Baxter, 149 Pleasant St., Hyannis – File – Special Permit Petitions 2014-01 and 2014-02 (Multifamily Use and Dimensional Relief)

Exhibit D – Photograph re: Scenic Road Tree Removal, Main St., Cotuit (1524 Main St. & Pinquickset Cove Circle) – File Scenic Road Appln./Tree Removal – TOB/DPW Project

Exhibit E – Draft Decision Scenic Road Tree Removal, Main St., Cotuit (1524 Main St. & Pinquickset Cove Circle) – File Scenic Road Appln./Tree Removal – TOB/DPW Project