



Town of Barnstable Planning Board

www.town.barnstable.ma.us/PlanningBoard

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 October 27, 2014

Paul Curley – Chairman	Present
Stephen Helman – Vice Chairman	Present
Felicia Penn – Clerk	Present
Matt Teague	Present
Raymond Lang	(left meeting unexpectedly at the start)
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:

Crockers Corner Realty Trust - A plan entitled "Approval Not Required Subdivision of Land prepared for James H. Crocker., Trustee of Crockers Corner Realty Trust" has been submitted for endorsement as an Approval Not Required Plan. The plan intends to divide an existing 4.8-acre parcel into two lots. The subject property is addressed 3635 Falmouth Road (Route 28), Marstons Mills, MA. It is shown on Assessor's Map 077 as parcel 004 and is zoned Residential F and RPOD - Resource Protection Overlay District.

Shane Mallon, of Baxter Nye Engineering in attendance. He gives a brief explanation of the ANR application. The intent is to conform with the permitted use. To be divided into two lots, A and B.

Felicia Penn makes reference to the Staff Report, Exhibit A, and asks if Lot B will comply with zoning in the RF district as well as Lot A, she is assuming it will? She understands that it does not have to with an ANR but noticed that there was no mention of it.

Ray Lang asks if the owners (Lot A) have any intentions of removing the existing buildings that are there now and replacing with a different building? What road would be the access/egress, Falmouth Rd. or Prince Ave?

Shane Mallon states both lots will use Prince Ave. for access/egress and the buildings there now will remain.

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

Repetitive Petition Notice:

**ZBA Appeal No. 2014-042 - Bogert
Referral to the Planning Board for Consent on Material
Changes**

The public meeting to consider a Repetitive Petition Review of William B. & Natalie Bogert for a reapplication to the Zoning Board of Appeals for a Special Permit pursuant to §240-91.H(3) Developed Lot Protection; Demolition and Rebuilding on Nonconforming Lot for property addressed 160 Tern Lane, Centerville, MA (Assessor's Map 212, parcel 015).

This public meeting was noticed for the August 25, 2014 Planning Board meeting and moved forward from that date to September 22, 2014 and to October 27, 2014. This meeting is awaiting action by the Zoning Board of Appeals as a Repetitive Petition and the transmittal of findings related to material changes in the proposal. Upon transmittal of the Zoning Board findings, the Planning Board may act to affirming the Zoning Board findings and consenting to the reapplication for it to proceed. For this part of the repetitive petition process, a positive vote of all but 1 of the 7 member planning board is required. As of the draft date of this Agenda, no action has been taken by the Zoning Board and no transmittal made.

Art Traczyk states that the ZBA did not find substantial changes and did not act favorably for this and no recommendation/action is required by the Planning Board.

Motion made by Matt Teague not to consent to this Repetitive Petition, seconded by Felicia Penn, so voted unanimously. (This Motion was made after the Whistleberry discussion).

Discussions:

Whistleberry Subdivision No. 454

This discussion and potential vote concerns review of the scope of work necessary to complete the subdivision in accordance with the current development agreement. The discussion is a continuance of the Board's discussion of June 23, 2014. At the conclusion of that discussion, the Board granted time for the Developer to respond to lists generated.

Charles McLaughlin, Assistant Town Attorney in attendance. He gives some history of this subdivision and refers to the 2002 Development Agreement and what items will be necessary in order to bring this subdivision to completion (Exhibit B). He makes reference to Steve Seymour's letter dated May 14, 2014, (Exhibit C) and the items listed in conjunction with the 2002 Development Agreement, that need to be agreed upon. He would like the Board to vote on these items and to get a time frame by which the Developer has to comply with.

Lot 47 is in the Town's view and legal parameters is that this is history and not germane to tonight's discussion. He submits covenant information (Exhibit D). It is not subject to covenant and was released from covenant in 1984 by the Planning Board. It has been sold to a 3rd party.

Steve Seymour in attendance. He proceeds with the list (Exhibit C) as it pertains to the Development Agreement (Exhibit B) as follows:

Item 1 is complete and all are in agreement.

Attorney Charles McLaughlin interjects that an email came in from the Developer and they are in agreement with Item 1.

Attorney Michael Schulz in attendance representing the Developer and he states that Items 1 through 7 they are in agreement with as well as Items 9 through 12, however there is a slight issue with Item 8.

Steve Seymour explains Item 8. NSTAR maintains the poles, but not the electrical lines, they may be private and not maintained by NSTAR. He doesn't know what the protocol would be for this as of yet.

Charles McLaughlin states that NSTAR insists it needs an easement, which would be either property owner or Homeowner Association's responsibility. This needs to be clarified.

Steve Seymour continues:

Item 2 – this is incomplete (pavement not located in Whistleberry Rd.). All are in agreement that this is incomplete.

Item 3- this is incomplete. (pavement repair on Berry Hollow Drive). All are in agreement that this is incomplete.

Item 4 – this is incomplete (improve swale on Berry Hollow Drive). All are in agreement that this is incomplete.

Item 5 - this is incomplete (road bounds on Berry Hollow Drive). All are in agreement that this is incomplete.

Attorney Schulz comments that Item 2 needs some discussion/instruction. Pavement to be relocated, or be moved? It will impact the front yard of an individual's property. Needs clarification.

Steve Seymour replies that it is his observation that one or the other would work. Doesn't necessarily need to be relocated.

Attorney Schulz asks if this could remain where it is?

JoAnne Buntich gives direction that the Planning Board can vote if this is complete or incomplete only.

Patrick Princi asks what really needs to be voted on?

Stephen Helman clarifies that the Planning Board needs to establish clarity on each Item.

Felicia Penn asks for clarification of what the Planning Board needs to decide on? Amend the Development Agreement? She doesn't think the Planning Board can change the original subdivision at this point in time. Have to make sure the Development Agreement is sound.

Paul Curley replies that this will need a legal solution rather than a practical solution, this will most likely end up in the court. The Planning Board should decide on the Items/work that needs to be done by the Developer.

Charles McLaughlin comments correct.

Matt Teague confirms/clarifies if the Planning Board is being asked to deal with the pavement to be finished on Item 2?

Attorney Brian Wall, representing the Homeowner's Association in attendance. States the real goal tonight is to set the list. In regards to Item no. 2 (Exhibit B, Development Agreement) "Developers shall forthwith either reconstruct those portions and utilities within the layout or in the alternative obtain and record easements from the owners of the properties altering the layout so that the improved portions and utilities are within the layout after its alteration..." If the Developer wishes to change this then they would need to come before the Planning Board and ask for a modification to this Development Agreement, which would require bilateral agreement to change. They are really only disagreeing with four Items out of thirty.

Patrick Princi asks about Item 2 and the option to get the easement, is that what the Developer wants to do as well? Is he having trouble getting an easement?

Attorney Brian Wall thinks that there are 3 property owners involved in obtaining an easement. He cannot speak for the abutters, he is only representing the Homeowner's Association.

Stephen Helman makes a motion to recommend Item 2 per Steve Seymour's memorandum, (Exhibit C, memorandum dated May 14, 2014), seconded by Patrick Princi, so voted unanimously.

Steve Seymour proceeds with list (Exhibit C):

Item 3 – this is incomplete (pavement repair on Berry Hollow Drive).

Jacques Morin, resident of Whistleberry Drive in attendance. He hands out a map and photos numbered 1 through 6 (Exhibit E). Photos 1 through 3 are photos that show where the road is laid out. Photo 4 shows lack of drainage. There have been problems with various delivery/postal people not being able to get down the road. Photo 5 shows where the existing pavement has been deteriorating over the years and the subsurface

material. Photo 6 shows layout of the cul de sac and that it is skewed, emergency vehicles cannot get around this.

Motion made by Stephen Helman to recommend Item 3 per Steve Seymour's memorandum, (Exhibit C, dated May 14, 2014), seconded by Matt Teague, so voted unanimously.

Item 4 - remains incomplete. (improve swale on Berry Hollow Drive) All parties agree.

Motion made by Stephen Helman, Item 4, that the Planning Board move to adopt Steve Seymour's recommendation, seconded by Matt Teague, so voted unanimously.

Item 5 remains incomplete. (road bounds on Berry Hollow Drive) All parties agree.

Motion made by Stephen Helman, Item 5, moves to adopt Steve Seymour's recommendation, seconded by Matt Teague, so voted unanimously.

Item 6, remains incomplete. (As built plans for Berry Hollow Drive) All parties agree.

Motion made by Stephen Helman, Item 6, moves to adopt Steve Seymour's recommendation, seconded by Matt Teague, so voted unanimously.

Item 7, remains incomplete. (legal access to the lots on Berry Hollow Drive). All parties agree.

Attorney Charles McLaughlin states that this is not the Town's Legal Dept's responsibility to weigh in on a private property owner's issue. This is between the developer and the homeowner.

Jacques Morin makes comment that it is the Town's responsibility to see that the road is put in the proper place.

Paul Curley explains once again that the Planning Board is only making record to clarify what Items are complete and incomplete and the agreement of such.

Motion made by Stephen Helman to adopt Steve Seymour's recommendation for Item 7, seconded by Felicia Penn, so voted unanimously.

Item 8 complete (utility line on Berry Hollow Drive) Electric and Telephone. His states complete, however, it may not be. This needs clarification. He is not sure of the status.

JoAnne Buntich interjects and makes reference to Item 8 of the Development Agreement (Exhibit B) which states "Provide written affirmation from the Electric Company indicating that the electrical service to the homes on Berry Hollow Drive is acceptable to the Electric Company and that it will be accepted and maintained by the Electric Company."

Attorney Brian Wall replies that this is an affirmative obligation on the Developer. Reference is made to the June 26, 2014, letter from NSTAR to Thomas McKeown (Exhibit F) he quotes the second paragraph "After investigation, NSTAR has determined that the poles/wires affected are privately owned. Maintenance of privately owned distribution lines are the responsibility of the property owner." They contend that this Item is incomplete.

Matt Teague comments that it is not uncommon to see this situation. Lines are there, but who maintains? There are some that are privately maintained.

Attorney Charles McLaughlin agrees. Sometimes there is an easement in order for NSTAR to access and maintain. Traditionally a Board would not impose on this issue.

Attorney Bran Wall comments that the language of the Development Agreement (Exhibit B) does not refer to poles it refers to utility/electric service to the homes. The Developer has not completed this Item and this is incomplete.

Tom McKeown, President of the Homeowner's Association in attendance. He states that he did talk to NSTAR, and they said that they have accepted poles 1 through 3. They are not accepting the poles going out to Berry Hollow. They cannot get to the poles on Berry Hollow because the road is bad and they cannot get to them/access. There have been electrical fires do to overgrowth. The poles are where they should be, but the road is not.

Attorney Schulz states that they are looking at the list and they will review once there is a quantifiable list.

Felicia Penn directs to Steve Seymour as to whether he agrees or disagrees with this information.

Matt Teague suggests that the Board acknowledge that Item 8 is incomplete.

Motion made by Matt Teague that the Board not recommend Item 8 as it is NOT complete, seconded by Patrick Princi, so voted unanimously.

Item 9 is incomplete. (alleviate puddles in cul de sac on Waters Edge).

Item 10 is incomplete. (repair drainage on Waters Edge at lot 45), these are connected re repair of drainage.

Item 11 and 12 are incomplete. These are interrelated as well (inspect/repair drainage on Waters Edge at lot 37) and (drainage easement/repair on lot 47). All in agreement.

Motion made by Stephen Helman to adopt Steve Seymour's recommendation for Items, 9, 10, 11, 12, seconded by Matt Teague, so voted unanimously.

Gary Blazis, 26 year resident of Berry Hollow Drive in attendance. This road is very bad and the US Postal Service will not come up this road to deliver mail in the winter. Town cannot plow the road, it has a hump and a valley and cannot be plowed adequately. His question is not how, but when will it be done/completed?

Steve Seymour compares his memorandum, pg. 2 (Exhibit C, May 14, 2014) with correspondence from Attorney Brian Wall, with attachment memorandum from Matthew Costa, Cape & Islands Engineering, dated Jan. 23, 2014, (Exhibit G). He refers to the list of Items 1 through 8 on this memorandum (Items 9 through 10 are in reference to Kee Enterprises, Inc. correspondence dated Oct. 18, 2013).

Attorney Schulz comments that he agrees that these are Items that should be reviewed.

David Munsell comments that he and Ray Lang went to visit the area many years ago and it was in need of repair then. This should not have happened.

Attorney McLaughlin comments that the Town does not have a legal liability.

Attorney Brian Wall wants to clarify and quotes from the Development Agreement, pg. 3, (Exhibit B). "The Developers shall remain responsible for any other defects in the roads and utilities installed as part of the requirements of the subdivision plan approval that may become evident, until such time as the Planning Board finds that the subdivision is fully complete....." They are in agreement with all but three of the Items listed per the memorandum from Cape & Islands Engineering (Exhibit G).

Steve Seymour reviews as follows (Exhibit C, pg. 2, Items 1-9 as it relates to Exhibit G, memorandum dated Jan. 23, 2014, from Matthew Costa).

Item 1. Is NOT the responsibility of the Developer – (Catch Basin near lot 2). This has been repaired several times by the Town. This is not the Developers responsibility. In 30 years repairs would need to be done. He does not see any underlying deficiencies.

Felicia Penn states that if the protocol of the Development Agreement wasn't followed and if the proper steps weren't done as outlined or fulfilled she has a hard time thinking that it is not the Developer's responsibility. It seems as if there has been some neglect recently re the bilateral agreement between the Planning Board and the Developer.

Attorney Brian Wall confirms that this is related to the 2002 Development Agreement (Exhibit B). This catch basin has been repaired 3 times in 10 years. The Developer himself has made repairs to this. He makes

reference to a report from Growth Management, Jo Anne Miller Buntich, dated March 4, 2011 (Exhibit H) and Steve Seymour's report, dated March 10, 2011, pg. 3, item 7 *Comments* where it stated "The catch basins inspected and repaired will need to be opened and inspected in the presence of a representative of the Town."

He states that they have not seen any correspondence stating that the inspections have occurred. Reports about repairs, but not inspected. The Developer has not established satisfactorily, that this catch basin was constructed properly.

Matt Teague asks/comments that by acknowledging these Items and in this issue regarding catch basin no. 2 are we modifying the Development Agreement? Are we being asked to do that? We are expanding a list of noted repairs.

Town Attorney Charles McLaughlin replies and refers to the Development Agreement, pg. 3 as it pertains to the items needing repair (Exhibit B) "The Developers shall remain responsible....." He does not think it is modifying the Development Agreement.

Motion by Matt Teague that Item No. 1 on the January 23, 2014, memo from Matthew Costa, catch basin near Lot 2 has been repaired and is completed, seconded by Stephen Helman, so voted unanimously.

Patrick Princi asks if the Homeowners Association has information on any maintenance or repairs they have put into this and to please bring it to the Planning Board's attention.

Steve Seymour continues:

Item no. 2. Is NOT the responsibility of the Developer – (Catch Basins & Pavement lots 15 and 24). Reference is made to the graph from Federal Highway Administration, Attachment A of his report (Exhibit C). This is normal wear and tear. There are some complications here as well, there is a driveway where one of these catch basins are. He doesn't see it as a road construction item failure.

Attorney Brian Wall makes reference to his letters of June 20th and Aug. 29th 2014 (Exhibit I) in regards to this. He states that these are defects and disagrees with Steve Seymour's report. The test hole was dug in the wrong area and this is in fact a defect.

Steve Seymour answers that if the Developer wanted to do this they could.

Attorney Schulz states that he would agree with Steve Seymour that they are outside of the scope, but that he would make reference to Attorney Wall's comments. Need to focus in correct location and have test holes done.

Motion made by Matt Teague that Item 2 from January 23, 2014, memo from Matt Costa is incomplete and merits further investigation, seconded by David Munsell, so voted unanimously.

Item 3. Is NOT the responsibility of the Developer- (Repair pavement in the area of lot 17). This is incomplete. All agree.

Motion by Matt Teague that Item 3, 4, 5, 6, 7 and 8, of the Costa memo shall remain listed as incomplete, seconded by David Munsell..

The motion is retracted and there is some discussion.

Motion by Matt Teague, Item 3 only is incomplete and merits further investigation, seconded by Stephen Helman, so voted unanimously.

Motion made by Stephen Helman that Items 4 through 8 be adopted for recommendation per Steve Seymour's memo of May 14, 2014, seconded by Felicia Penn, so voted unanimously.

Item 9. Is NOT the responsibility of the Developer. – (from Kee Enterprises, Inc.. repair block and mortar on 3 catch basins, Exhibit J). Steve Seymour states that out of the 37 catch basins in the subdivision does not think it is unusual for some to need repair over a 33 year length of time. Does not think that this is a defect from construction and not the responsibility of the Developer.

Attorney Schulz agrees that the Developer would agree and also commented that the Homeowner's Association has \$140,000 that is being held onto for work that needs to be done.

Jacques Morin makes comment that there needs to be realignment of the road and the cul de sac (reference to his submission, Exhibit E). Asks if possibly Steve Seymour could review this?

Attorney Brian Wall states that his position is that this is the responsibility of the Developer. The premature failure is evidence of defect.

Motion by Matt Teague that Item 9 (reference Exhibit C, Steve Seymour's report as it relates to memorandum from Kee Enterprises, Inc., Exhibit J) is not the responsibility of the Developer, and is part of normal wear and tear, seconded by Stephen Helman, so voted unanimously.

Item 10. IS the responsibility of the Developer - Asphalt from 7 catch basins on Waters Edge and on Whistleberry Rd., is the responsibility of the Developer.

Attorney Schulz states that they would disagree and that this has been done by others over the years.

Motion by Matt Teague that Item 10 (reference Exhibit C, Steve Seymour's report as it relates to memorandum from Kee Enterprises, Inc., Exhibit J) is the responsibility of the Developer, seconded by Paul Curley, so voted unanimously.

Motion made by Stephen Helman that this composed list as voted on and amended tonight constitutes the total work necessary to bring the property into compliance with the 2002 Development Agreement.

Attorney Charles McLaughlin interjects that there are still some open items that may need some further investigation, i.e., test holes.

Motion withdrawn by Stephen Helman.

Matt Teague states that the Board should confirm this list.

Motion made by Matt Teague with respect to the composite list so voted on tonight, moves to confirm that this list compiled constitutes the total work necessary to bring the property into compliance with the 2002 Development Agreement, seconded by Stephen Helman, so voted unanimously.

Gary Blazis makes comment that he would like a time table.

Paul Curley directs/asks Attorney Schulz, for information/time frame from the Developer?

Attorney Schulz replies that he needs to get input from his client, now that there is a composite list to work from.

Felicia Penn suggests that the Developer provide the Planning Board with a schedule, grouped or not, by the first Planning Board meeting in December 2014.

Paul Curley wants the Developer to give a monthly report starting at the end of the year of what has been done and be held to that schedule.

Attorney Schulz asks for clarification for a deadline date.

Matt Teague suggests the beginning of next year, January 12, 2014, Planning Board meeting.

Attorney Schulz is in agreement that his client, the Developer, will have information by this date.

New Petitions:

7:00 PM

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

Motion made by Matt Teague to open the Public Hearing, seconded by Stephen Helman, so voted unanimously.

Attorney Charles Sabbatt in attendance, representing the Applicant. He gives a description of the property and the special permit applications being presented. Two docks here at present, three storage sheds that are used for boat equipment and tool storage. In 1981 the Baxters were granted a family apartment from the ZBA. There was a provision granted in 1981 that third floor could not be used for a rental unit. The Bldg. Dept. did an inspection and issued a citation that this is illegal rental. The Town is asking them to stop renting the two rooms, however it can be used/rented as Artists Lofts. Site plan agreed to this, there is no permit needed, it's a matter of right. The relief he's seeking is a multifamily use and secondly authorization granting relief from dimensional requirements.

If relief is allowed than the owners would put kitchenette units in. The by law allows 7 units per acre, they have 4300 sq. ft. available per unit (three units), this is why they are asking relief. This is a pre existing non conforming structure. No changes will be made to the layout. . Reference is made to the Staff Report (Exhibit K), Section 240-24.1.2.E Requirements: pg. 5, item (g) "The development provides workforce housing where appropriate and provides an appropriate mix of affordability levels."

The affordability level exists here and can be rented as such. Past tenants have been work force people.

David Munsell clarifies that they will be staying in the same footprint and there would have to be kitchenette units installed.

Felicia Penn does not have a problem with the rentals. This is a way to bring property into conformance, by granting the special permits so there is an understanding between the Applicant and the Town to make safe, legal and affordable.

Matt Teague states that the Special Permit should have some language re what the intention is exactly, i.e., boarding house etc. He agrees with assertion to make an argument regarding dimensional relief/density. Reference is made to Staff Report, pg. 5, Summary: "What is the present legal use and/or pre-existing legally-created nonconforming use of the property under zoning?" He sees this as being merely a formality to give legal standing to what is in existence now.

Felicia Penn asks if it would be considered that at least one of the units be owner occupied? This may be something to consider in the context of the Special Permit language. There were no safety issues that were noted by the Town, which is good. She has no issues with the density and the dimensional relief being sought.

Matt Teague clarifies the importance of having this done properly and he is in support of it.

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

Art Traczyk states that he can have a draft Decision prepared by the November 24, 2014, meeting.

Discussion to cancel the November 10, 2014, Planning Board meeting, no items on the Agenda

Paul Curley directs/recommends to the Applicant to redo the floor plans to show that the kitchens have been put in.

Motion made by Matt Teague to continue this Public Hearing to November 24, 2014, at 7:00 p.m., seconded by Felicia Penn, so voted unanimously.

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.

Motion made by Stephen Helman to open the Public Hearing, seconded by Matt Teague, so voted unanimously.

Sue Spratt from Tibbets Engineering in attendance. She gives explanation of the project proposed. Reference is made to the Scenic Road Application plan/rendering (Exhibit L). The limits of the actual project will begin at Oceanview Ave. and continue to Vineyard Rd. this is a roadway drainage and waterway improvement project. Tree removal will be between Pinquickset Cove Circle and 1524 Main St., Cotuit.

At the most there will need to be 67 trees removed, 10 would be for the culvert installation and approximately 21 for the installation of the gravel shoulders on both sides of the road, and 30 within the limits of work, but 31 will definitely need to be removed. They will work with abutters if anything beyond the 31 need to be removed. Brush will need to be removed for safety reasons. There will be a 3 ft. buffer.

Roger Parsons, Town Engineer in attendance. He makes reference to email comments received from citizens (Exhibit M, 3 email letters). He gives a history of what is being done to improve the roadway. The whole section is due for improvement and drainage problems. This will be a minimal project and will make the road safe for pedestrians as well.

He has met with Attorney Michael Ford, (representing Griffin Realty Trust, see Exhibit M) They are willing to work with the abutter and work with them through this project.

Reference to email from V. Hoeck, (see Exhibit M) regarding the concern about turtles in the area. They have already discussed this with the Conservation Commission and animals will be able to move through the road with the new culvert.

Reference to email from Curtis Newcomer regarding total tree removal (Exhibit M). Work has not started yet. They are thinking that approximately half of the trees may be able to be saved.

Sue Spratt comments that they have also had this reviewed by the National Heritage re the turtles and they believe that the project will have no adverse affects.

Felicia Penn asks what was the outcome of the last tree removal project done in Cotuit?

Roger Parsons answers that he thinks this was School Street and the end result was that the abutters were happy with the results.

Felicia Penn comments that (Exhibit N, Staff Report) states that some of the trees on the list are not considered street trees? Does this mean Evergreens? Whatever can be done to keep the greenery would be good. Asks if the Applicant can provide a list/report to see what this consists of? Does Main Street now have gravel shoulders like the ones that are being proposed?

Roger Parsons answers that yes they can provide a listing and that Main Street now does not have gravel shoulders.

Matt Teague comments that he does not see any historic value with the trees here. It looks like reasonable replacement listed in this report. He asks for comment from the Tree Warden, Charlie Genatossio.

Charlie Genatossio, Tree Warden for the Town, DPW in attendance. These trees to be removed are in pretty bad shape. He doesn't recommend planting any other trees. This removal would enhance the scenic beauty of the area. He doesn't have any problems/issues with this.

Patrick Princi asks what the age of the trees are? They don't seem very old.

Charlie Genatossio answers correct and he thinks when the material for the roadway was originally brought in this is how any of these trees ended up here, maybe via birds etc. Also, there are no birds nesting in these trees. He's familiar with this area and when he went to look at the site he noticed that it is very crowded and unsafe for vehicles. He thinks this is a good project.

David Munsell comments that this is a rural area and he would like to go back and look at the area before he votes.

Roger Parsons answers that the road has deteriorated and repaving wouldn't last that long.

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

Motion made by Felicia Penn to continue this public hearing to November 24, 2014, seconded by Stephen Helman, so voted unanimously.

Correspondence:

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

Cape Cod Commission Hearing Notice (Revised) September 10 & 23, 2014, Area Wide Water Quality Management Plan

Cape Cod Commission Hearing Notice October 2, 2014, Proposed Amendments to Cape Cod Commission Regulations

DEP correspondence dated September 26, 2014; Sanitary Survey Report for Great Marsh Health Service, 1049 Route 6A, West Barnstable was received. The Survey is for a private supply well serving a population of 25 persons. No violations were reported. A deficiency was identified in the wellhead as it is subject to flooding and ordered the wellhead be extended.

Notification Town Council re proposed Amendment to the General Ordinances New Chapter 78 on Fertilizer pursuant to Regulation of Fertilizer Management District of Critical Planning Concern (DCPC).

Letter issued on behalf of the Board

September 24, 2014 - Consulting Services, Request for Qualifications and Cost of Service Quotes for Inspectional Service related to Barrel Hill Trail Subdivision (No. 818) issued by Growth Management per Section 3 – Hiring of Outside Consultants.

October 16, 2014 – Notice to Andrew Maher, Beach Point LLC, of selected Consultant and requested funding.

Paul Curley directs/asks Art Traczyk what the status is for this?

Art Traczyk answers that we are still waiting for monies.

Approval of Minutes: Approval of August 25, 2014, and September 22, 2014, Board Meeting Minutes

Motion made by Felicia Penn to approve the minutes as received for August 25, 2014, and September 22, 2014, seconded by Stephen Helman, David Munsell and Matt Teague abstain from approval of the August 25, 2014, minutes.

Future Meetings: Regularly Scheduled Meetings: November 24, 2014 and December 8, 2014, @ 7:00 PM.

The November 10, 2014, meeting will be cancelled.

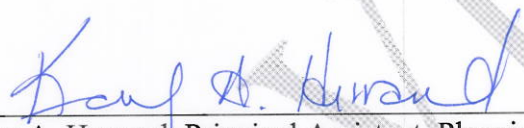
Matt Teague announces that next month or so he will be moving/leaving Barnstable and moving to YarmouthPort and he will be resigning soon. He thanks Staff for all of their hard work.

Paul Curley thanks Matt for what he has brought to the Planning Board.

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

The meeting adjourned at 9:51.

Respectfully Submitted


by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on

November 24, 2014

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 -** Staff Report dated October 8, 2014 – File ANR Crocker, 3635 Falmouth Rd., and Prince Ave, Marstons Mills Map/Par 077/004
- Exhibit B -** 2002 Development Agreement – File Whistleberry Sub. No. 454, Marstons Mills
- Exhibit C -** Memorandum/Report from Steve Seymour, dated May 14, 2014 – File Whistleberry Sub. No. 454
- Exhibit D -** Certificate of Performance/Form G (Covenant Approval Release) as recorded, submitted by Charles McLaughlin – File Whistleberry Sub No. 454
- Exhibit E -** Plan of land dated January 24, 2012 and photos 1-6 submitted by Jacques Morin – File Whistleberry Sub No. 454
- Exhibit F -** Correspondence dated June 26, 2014, from NSTAR – File Whistleberry Sub No. 454
- Exhibit G -** Correspondence dated January 23, 2014, from Cape & Islands Engineering, Matthew Costa – File Whistleberry Sub No. 454
- Exhibit H -** Correspondence dated March 4, 2011, from Weller & Associates to Jo Anne Miller Buntich – File Whistleberry Sub No. 454
- Exhibit I -** Correspondence dated June 20, 2014 and August 29, 2014, from Attorney Brian Wall – File Whistleberry Sub No. 454
- Exhibit J -** Report from Kee Enterprises, Inc. dated October 18, 2013 – File Whistleberry Sub No. 454
- Exhibit K -** Staff Report dated October 6, 2014 – File Special Permit No. 2014-01 and 02, Baxter, 149 Pleasant St., Map/Par 326/053
- Exhibit L -** Scenic Road Application Plans (8 pgs.) dated September 23, 2014 – File Main St. Cotuit/Pinquickset Cove Circle
- Exhibit M -** Correspondence from opposition (3 letters) all dated Oct. 27, 2014 – File Main St., Scenic Rd. application re: Cotuit/Pinquickset Cove Circle
- Exhibit N -** Staff Report dated October 22, 2014 – File Main St., Scenic Rd., application re: Cotuit/Pinquickset Cove Circle