



Town of Barnstable Planning Board



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Board Members

Mary Barry – Chair Stephen Helman – Vice Chair Steven Costello - Clerk Jeffrey Swartz Patrick Foran Walter Watson Stephen Robichaud
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Elizabeth Jenkins, AICP, Director
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Kar – Principal Assistant - karen.herrand@town.barnstable.ma.us

Town of Barnstable PLANNING BOARD Minutes June 10, 2019

Mary Barry – Chairman	Present
Stephen Helman – Vice Chairman	Present
Steven Costello - Clerk	Present
Jeffrey Swartz	Present
Patrick Foran	Present
Walter Watson	Present
Stephen Robichaud	Present

Also in attendance were Elizabeth Jenkins, Director, Planning & Development, Paul Wackrow, Principal Planner and Kathleen Thompson, Principal Assistant, Planning & Development

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:

William McDonald has submitted a plan for 192 and 215 Harbor Point Road, Cummaquid, Map 352 Parcel 068 and 006, entitled “Plan of Land in (Cummaquid) Barnstable, MA to be filed in the Land Court Prepared for William & Carol McDonald” dated December 5, 2018, drawn and stamped by Daniel A. Ojala, P.L.S., of Down Cape Engineering, Inc.

Daniel Ojala reminded the Board that this was almost identical to the one signed a couple of years ago which went to Land Court. The lines are about an inch different in the back. After approval they will send it back to Land Court for a re-draft.

No questions by the Board.

Motion made by Stephen Helman to endorse/approve this ANR, seconded by Jeff Swartz, so voted unanimously.

Mark H. Boudreau for Deborah Clough has submitted a plan for 627 & 633 South Main Street, Centerville, Map 186 Parcel 061 and 062, entitled “Approval Not Required Plan of Land at 627 & 633 South Main Street in Centerville, Massachusetts (Barnstable County)” dated February 15, 2019, drawn stamped by John L. Churchill Jr, PLS of JC Engineering, Inc. – *Copy of staff report, application, plan, and associated documents enclosed.*

Attorney Albert Shultz stated that this was the former site of Vivian’s Real Estate in Centerville and has been approved by the Zoning Board of Appeals.

Jeffery Schwartz with a question regarding parking.
Attorney Shultz replied that they have the required number of spaces.
No further questions.

Motion made by Stephen Helman to endorse/approve this ANR, seconded by Jeff Swartz, so voted unanimously.

Special Permits:

Special Permit No. 2019-004 – 25, 55 & 67 Iyannough Rd. AND 80 Cedar St., Hyannis, Massachusetts, Map 343 Parcels 002, 005, 006 & 008, D’Olimpio Realty Trust, FOGO Restaurant & GOL Market Café seek a special permit under Barnstable Zoning Ordinance Section 240-24.1.11.A(4)(b) Location of off-street parking to reduce or waive on-site parking requirements for new development located within 500 feet of leased parking.

Continued

Chair Mary Barry entertains a motion to, moved by Stephen Helman, seconded by Jeff Swartz, so voted unanimously.

Regulatory Agreements:

Regulatory Agreement No. 2019-02 – 268 Stevens Street, Hyannis, Massachusetts, Map 308 Parcel 017 - Laham Management & Leasing, Inc. seeks to enter into a Regulatory Agreement with the Town of Barnstable to develop the former site of an automobile dealership into a carwash with two residential apartments for employees and office space on the second floor. The Regulatory Agreement seeks waivers from the Zoning Ordinance, specifically Section 240-24.1.6 OM Office/Multi-family to allow for a “carwash” use in the OM Zoning District. A carwash is not a permitted use in the OM Zoning District. – *Continued from February 25, March 25, 2019, and April 22, 2019.*

Attorney Mike Ford gave a brief overview. Project was started well over a year ago. Mr. Laham acquired property from Mr. Bornstein. There was confusion regarding date of meeting for the last meeting. The site has a permit for an auto body shop. Mr. Laham made a decision that there was better use for the property. Councilor Dagwam walked through the site and sent them comments she had received concerning the ingress and egress off Mitchell’s Way. They came back with a plan to eliminate them. They showed the new plan to Councilor Dagwam and received good comments back. Mr. Laham went ahead with plans of the building. It was mentioned that it should be a mixed use (housing) so they put in apartments. They were also encouraged to take into consideration energy code, some renewables and solar panels. After the outreach they embarked on permitting. Site Plan Review looked at the plan and approved it. Then started the Planning Board process. Mr. Laham held an abutters meeting and invited everyone that had written letters and e-mails to the Town.

The main concern was traffic and noise.

We prepared a traffic memorandum and Town staff recommendations on issues that remain today concerning pedestrian amenities. They added crosswalks and blinking lights to the plan.

They looked at wastewater issues. DPW encouraged them to add a pumping station to benefit the area to which they agreed to add. They would then turn it over to the Town for other usage.

On the issue of noise they added:

- Stealth quiet drying system.

- Redesigned the tunnel to move it back from the exit

- Moved motors from vacuums inside

After more complaints on vacuums they eliminated them.

They also changed hours to closed Sundays.

They added plenty of greenspace.

Attorney Ford ended that they hoped this would pass the regulatory agreement.

Public Comment

Maryanne Barboza – Mitchells Way, can't appreciate what Attorney Ford said. He totally ignored Mitchells Way. Maryanne has issues with traffic on Mitchells Way which is already awful. She has fear about it and requests the members of the Planning Board to walk down Mitchells Way at night. Opposed.

Patricia Cooper – Megan Rd., corner of Pine Grove Ave./Mitchells Way. There are four bus pick up in AM. She is worried about traffic, speeding and reckless driving. There are already problems on Mitchells Way, Stevens St. and Bassett. Opposed.

Maria Daluz – Mitchells Way, has concerns about traffic. She wants to know if it's common to approve Regulatory Agreements. Opposed.

Juliette Farrell – Marstons Mills former resident of Mitchells Way has concerns about volume of traffic. She doesn't agree with the need for another car wash. Opposed.

Lisa Deluz – Pleasant Hill Ln. & Stevens St. says the Town should be ashamed for not fixing sidewalks. Residents don't want a car wash. She's very concerned about traffic. Opposed.

Robert Patton – apologized for sending out the wrong date to residents. He has issues with loud radios, people lingering to clean their cars out, and cars coming & going & backing up. Opposed.

Shelia Christian – Stevens St. says many of her questions have been answered. She has previously requested from the Town for signs and crosswalks. She has no issues with quiet vacuums. Approves.

Laura Cronin from the Greater Hyannis Civic Association read a letter sent to the Planning Board dated 4/12/2019 as follows;

The Greater Hyannis Civic Association has concerns with the Laham Management & Leasing, Inc. applicant's request to enter into a Regulatory Agreement with the Town of Barnstable to seek waivers from Zoning Ordinance (specifically Section 240-24.1.16 OM Office/Multi-family), to develop the property at 258 Steven's Street for a car wash.

With the already existing traffic congestion on North and Stevens Streets, as well as increased pedestrian and residential developments, adding a car wash with the volume needed to sustain the business plan Mr. Laham presents would certainly increase the traffic and put pedestrians and drivers at serious risk. Since the last use of the property as a car lot, the surrounding properties have been developed to bring more residential and weekday businesses to the area. This has helped vitalize the area and increase property values. Adding the noise and congestion into this area that the car wash brings would negatively impact the quality of life for these residents, potentially decrease values and/or losing tenants.

Additionally, at the March 25th Planning Board meeting, Mr. Laham's Attorney made a statement if he did not get approval for the car wash, he would put a bare metal building there and an automotive repair business which the property currently has an approval for a non-conforming use. First, the residents of Hyannis do not appreciate the threat of telling us if you don't give me this, they will put a less appealing building and business there. Secondly, this is not being a good business neighbor, and the Greater Hyannis Civic Association would further object, and request the Town reevaluate the approve non-conforming use for an automotive shop, as the growth in that area is much different than it was when the variance was first allowed then or when the car dealership was there.

We would like to see Mr. Laham reconsider developing the property that would best benefit the neighborhood the way it is today.

The Greater Hyannis Civic Association is requesting the Planning Board vote no to this request to enter into a Regulatory Agreement with the Town of Barnstable.

Laura suggests the car wash go on Willow St. and is concerned about water use. Opposed.

Elizabeth Wurfbain, Executive of the Hyannis Main Street Business Improvement District spoke next representing the Hyannis Main Street Business Improvement District including Dave Columbo, President, who is in attendance. She started by saying that several members wrote letters supporting this project including Rob Brennan and Rick Penn.

She continued by stating that this is a great example of an idea that came to the Town which evolved to try to appease many worries or concerns about the environment. Mr. Laham has done a beautiful job compared to what the lot has been for the past years. The whole area has been a blight without good sidewalks, very dangerous crossings and impossible to get from North St. to the rotary. He has seven improvements to the walkability to that part of town. It will enable residents to get to downtown safely. He has listened to resident's concerns and will improve the sound, congregation of people and flow of traffic.

Studies show that when you are right on the curb and have lighting you have much less concerns for safety and security. Empty lots have problems with the nefarious deeds of certain people. Vitality is the key for a safe neighborhood. Police say many problems occur on empty lots. Any other business will be just as busy as a car wash. I believe it is very important to the vitality and business of downtown. Approves.

Tony Gallager – Stevens St. has concerns with traffic. This is an intersection that's difficult now. Car Wash means cars and we don't need more cars. Opposed.

Stu Bornstein – has two businesses on Stevens St. and North St. Mr. Bornstein started by putting a video up on the screen showing the traffic flow during the morning from 10:30 – 12:00. He states that this is a quiet time and that it's not busy on mornings or week-ends. He condensed this to 3-4 minutes. It get busier from 4-6 with people going home. Sometimes it backs up 10-12 cars on Steven's Street.

He also states he has never seen a project that five crosswalks are proposed for one project and adds that although it doesn't belong they are trying to fit it in.

He continues by saying that there's a plan to add a third lane on Stevens St. which is 30 feet, shoulder to shoulder, for the convenience of a left turn lane. He says the street is too narrow. He also states that a car wash would have water run offs with water going to Betty's Pond which is problematic. A car wash would need millions of gallons of water which might be an issue in years to come. Mr. Laham does nice projects but this is not the right one. Opposed.

Douglas Hadley – Orrs Ave. – been in neighborhood 34 years. Parked van at circle at 11:30 am and 100 cars went by in 5 minutes. Another 5 minutes 90. There are 160 people in apartments & homes in that are. He can hear kids playing at the Hyannis Elementary School. At the U-Haul he couldn't hear the man he was talking with because of the noise at the neighboring car wash. Can't imagine having a car wash that starts at 7 am. Opposed.

Tim Williams – Owner Village Marketplace. Not aware of any sewer issues on his property. There are over 100 people living on his property. The stealth blowers are at highway noises. Doors will never close. There are already traffic issues. There is a Veteran's Center at Village Marketplace and plans for a daycare. More cars mean more danger. Car wash needs are already served. Developers shouldn't be paying for services that we pay taxes for and should already have. Opposed.

Dan Ojala here on behalf of Tim Williams. Zoning is in place for incompatible land uses. Here you can enforce zoning that is already in place. This is a residential multi-family district. Opposed.

Meg Burton – Stevens St. Delores Deluz – Mitchells Way for 50 years. Car wash does not belong in a residential area. Opposed.

Donna Orf – Pitchers Way. Here to support her Hyannis neighbors. Concerned about pollution, an already stressed water system in Hyannis and litter. Opposed.

Elizabeth McChesney – Traffic Engineer at Crossman Engineering. Speaking on behalf of Attorney Jeffery Johnson. She sent a memo to the Town and proceeds to summarize. A list was created from a traffic report and analysis to slightly improve in & out access to property driveway and provide pedestrian amenities. Crossman's concerns are that it doesn't address level of service, cueing issues and safety at Stevens and

North Sts. Trip generation by Mr. Laham is artificially low. Crossman feels that this would have negligible effect on area. Auto body shop would have a much smaller impact than a car wash.

Attorney Ford points out that they have received at least 10 letters of support from supporters of the Car Wash including Mr. Perry.

Applicant - Mr. Laham of Laham Management & Leasing, Inc. starts off by saying there have been a lot of comments made regarding traffic, crosswalks and light. Two of the abutters who spoke never spent a dime on anything but he listened to the residents and is going to fix them. He's not against what they want. The traffic already exists.

Chair Barry requests public remain quiet and will have one removed if he speaks out again.

Mr. Laham continues..25 Falmouth Rd. was a mess. His crew picked up needles and bottles. He fixed traffic and bought 2 homes behind it with residents now in them. Landscaping is done. His Audi property put in a water line for \$100,000. At this site he is putting in a pumping station as the Town said it would be a benefit to the area. He's invested a significant amount of money to the area over the past 12 years. He respects that the residents don't want a car wash there but look at the images. He is willing to listen and do anything it takes. Look at his previous projects and see the quality and investment he makes. The significant taxes he pays are a benefit to the area and he maintains all of his properties. Stu sold him this property for over 1 million dollars. Maybe he should buy it back and give it to the neighbors. Traffic noise fixed, property was open 7 days a week, he reduces the hours. Councilor Dagwam said she met with residents. Mr. Laham has met with the Town Board. He disagrees that this will cause problems. It will fix problems. There is no Town money flowing around. He wants to work in partnership with the Town to fix problems. He's contributed to Main St. since he's been here. The gentleman who owns the business across the street talked about bringing more people to fill his vacant buildings which will add to traffic. Stu's building is empty. The Fed-Ex man is happy to have the car wash. Mr. Perry has been harassed for approving this project. Many buildings on North St. are empty. Stu owns them. Those properties will not improve. We need vitality here. We are putting in the only biodegradable system. There is only one other car wash in Hyannis.

Walter Watson interjects at this point. "Ladies and gentlemen listen to me. This is a public forum. You have a voice, you have an opinion. You've had your opportunity. During your opportunity, regardless of the tone, content or the method on which you delivered it, Mr. Lahm, his Attorney and his engineer sat there and let you say your piece. Please afford him the same opportunity that he afforded you. Please hold your comments and disgruntlement and allow this to happen in a civil manner. Thank you"

Mr. Laham continues..The only other car wash has an antique system and is noisy as a result. The person that built Flagship supports us. Our system has quiet blowers that are inside. Vacuums eliminated, closed Sundays. We did what every neighbor, we heard from, has asked us to do. He drove down Mitchell's Way at night and agrees it is curvy and dark. The site is not on Mitchells Way. He is fixing North and Stevens Sts. willingly. None of my neighbors are doing any of this. This will be a dramatic improvement to the town. I've heard the neighbors and am doing everything requested. Stu decide to fight this. He sold the property to him then decides to bring out all people writing letters to oppose. Every small body shop in Hyannis asked him not to put in a collision shop. They said it would put them out of business. Someone has paid for a traffic study. Balise's name is behind the scene. This is a monopoly being created by a car wash. I appreciate and respect my neighbors. We employ 150 people in this Town.

Chair Barry requested Attorney Ford make his closing arguments.

Attorney Ford made comments about the Hyannis Civic Association. Because of scheduling issues on both sides they have been unable to meet. A meeting seems like it would be meaningful. He requests that the Board give them time to do that.

Chair Barry states that the Board has a lot of questions and comments. We could continue to have this debate over and over. She suggests they close the public hearing so that the Board can deliberate and the

questions the public have will be resolved. She asks for a motion to close the public hearing, Patrick Foran so moves, Stephen Helman seconds. All in favor.

Walter Watson states that public concerns show that they would rather have an auto body shop. Have there been any sound studies done?

Attorney Ford replies no.

Patrick Foran – Traffic mitigation regarding crosswalks since people don't pay attention to them. Would a traffic light be plausible so that people could press a button to walk?

Attorney Ford – DPW went over this with them and suggested what should be done.

Patrick Foran asked if they could change the hours to 9-7.

Mr. Laham replied they could do 8-7.

Patrick Foran asked if they could put speed lights on Mitchells Way

Mr. Laham – Streets don't align so staff said that wouldn't work and speed bumps aren't good for plows.

Patrick Foran asked if they could move the car wash to the Cadillac dealership.

Attorney Ford replied that there is a current groundwater issue there.

Patrick Foran – It was stated that there are 160 residential units and another 40 coming. We have an interest in housing, so these need to be factored in.

Steven Costello sympathizes with Mitchells Way residents however their safety concerns need to be taken up with the Town as it's unrelated to this. He asks if the Town has responded to complaints and calls. It's not the applicant's responsibility and he doesn't believe that a car wash is going to be incentive for people to drive on Mitchell's Way to access it. From a traffic standpoint, this needs to be addressed to the Town to make the street safe. He would love to address this in another Way. He believes there is definitely a need for an additional car wash. Ultimately, whether this is the site or not, I do believe the need exists. He would like to know from Crossman Engineering who hired them to do the study.

Elizabeth Jenkins states since the Board has voted to close the public hearing, there has been a lot of dialog. The Planning Board may need to reconsider re-opening the public hearing to get their questions answered and then re-evaluate.

Steven Costello Make a motion to re-open the public hearing, Stephen Helman seconds. Aye all.

Elizabeth McChesney replies to the previous question that the only person she's been in contact with is Attorney Jeffery Johnson.

Steven Costello asked Attorney Johnson is he hired Elizabeth McChesney for a traffic study.

Attorney Johnson relies yes.

Steven Costello asks what his interest in this project is.

Attorney Johnson replies he was hired by Stuart Bornstein.

Chai Barry states that the public hearing , at this point, is only open for the purpose questions from the Board. We will open the public hearing on another date.

Steven Costello – Clearly this is an incredibly busy location. There are additional housing units approved for Mr. Williams and what additional traffic that would bring.

Stephen Helman had a question for Elizabeth Jenkins regarding the comment made about Willow St. Is it in the purview of the Planning Board to have such a discussion.

Elizabeth Jenkins – Regarding regulatory agreements. Our contracts between the Town and the Developer to establish development rights on a property – the scope of the ability for the Town and a property owner to enter into those regulatory agreements are limited in geography. The Willow St. area, where Mr. Laham owns additional property is not within a regulatory agreement district. Those area are within a groundwater protection overlay district thus necessitating a use variance from those provisions which could only be granted by the Zoning Board of Appeals.

Stephen Helman – correcting a quote made earlier. He made the comment that he hadn't heard anything from the community. Now he has. Directed at Mr. Laham he said You have done everything they asked you to do. He hadn't heard anyone ask him to do anything. He agrees with others that you do great work. There is definitely a need for a car wash. He heard Mr. Laham calmly and rationally state his project and what he is willing to do to accommodate the community. But he only heard them complain and say, loudly, that they don't want this project. He could do anything and they won't want it. Mr. Laham has gone out of his way to make this project work. They aren't buying it.

Mr. Laham – There are people that are in favor.

Chair Barry states it's about the residents that live there.

Stephan Helman. States he would be very uncomfortable imposing this on the community knowing they are against this.

Jeffery Swartz would like to go on the record saying the studies that aren't done by the Town (ex. Crossman Engineering) are confusing. He also asked how much money he's spent on improvement not done by the Town.

Mr. Laham stated over \$200,000.

Jeffery Swartz said that Mr. Barboza made an excellent point. Mr Laham takes horrible places and turns them into beautiful places. It increases the tax base in this town which is really important. It also increase property values. He has a hard time weighing the differences. We need more people like you but it shouldn't be at the angst of the residents.

Stephen Robichaud also agrees that Mr. Laham makes beautiful projects. This would be a great improvement to the area. However there are serious concerns with the residents. He has a question about noise and asks for more information.

Mr. Laham points to the slide of the picture coming out of the car wash. On other car washes there is typically someone outside drying the car. He has a completely quiet Buff and Shine which dries the car so additional blowers aren't needed.

Jeffery Swartz asks Mr. Laham and Mr. Williams could sit down and come together

Mr. Laham completely agrees and agrees to meet with neighbors.

Chair Barry, Attorney Ford and Mr. Laham agree to meet back July 22, 2019.

Stephen Helman moves to keep the public hearing open and continue Board deliberation to July 22, 2019 allowing applicant to meet with Civic Association, any neighbors and any Town staff needed.

Steven Costello seconds. Aye All.

Chair Barry states that this concludes the public hearing until July 22, 2019.

Approval of Minutes:

Stephen Helman moves to approve the minutes of March 25, 2019, April 22, 2019 and May 13, 2019
Patrick Foran seconds. Aye All.

The Board takes a 5 minute break until the room clears of some of the noise.

Election of Officers Election of Chair, Vice Chair and Clerk

Stephen Helman states per the Nominating Committee: nominate Steven Costello for Chair, Jeffery Swartz for Vice Chair, and Patrick Foran for Clerk.

**Motion made by Stephen Helman to elect Steven Costello for Chair, Jeffery Swartz for Vice Chair, and Patrick Foran for Clerk, moved by Steven Costello.
The motion passes.**

Correspondence: CPC is looking for a Board volunteer liaison.

Matters Not Reasonably Anticipated by the Chair:

Stephan Helman will be retiring from the Board the end of June.

Future Meetings: June 10 and June 24, 2019, @ 7:00 p.m.

Chair Mary Barry entertains a motion to adjourn, moved by Steven Costello, seconded by Jeff Swartz, so voted unanimously.

The meeting adjourned at 9:15 p.m.

Respectfully Submitted _____

By Kathleen Thompson, Principal Assistant, Planning & Development

Approved by vote of the Board on _____

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