



# Town of Barnstable Planning Board



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### Board Members

Steven Costello – Chair   Jeffrey Swartz – Vice Chair   Patrick Foran - Clerk   Mary Barry   Stephen Robichaud   Aimee Guthinger   Robert Twiss

Mathew Levesque – Town Council Liaison

### Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director

Kaitlyn Maldonado, Senior Planner

Karen Herrand – Principal Assistant - [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us)

## Town of Barnstable PLANNING BOARD Minutes January 11, 2021

BARNSTABLE TOWN CLERK

2021 JAN 26 PM 4:11

|                                |         |
|--------------------------------|---------|
| Steven Costello – Chairman     | Present |
| Jeffrey Swartz – Vice Chairman | Present |
| Patrick Foran – Clerk          | Present |
| Marry Barry                    | Present |
| Stephen Robichaud              | Present |
| Aimee Guthinger                | Present |
| Robert Twiss                   | Present |

*Also in attendance via remote participation were Elizabeth Jenkins, Director, Planning & Development, Kaitlyn Maldonado, Senior Planner, Planning & Development and Karen Herrand, Principal Assistant.*

The Planning Board’s Public Hearing will be held at 7:00 p.m. by remote participation methods as a result of the COVID-19 state of emergency in the Commonwealth of Massachusetts.

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>

2. Real-time access to the Planning Board meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Planning Board by utilizing the Zoom link or telephone number and Meeting ID provided below:

Link: <https://zoom.us/j/93590728000>

Phone: 888 475 4499 US Toll-free   Meeting ID: 935 9072 8000

3. Applicants, their representatives and individuals required or entitled to appear before the Planning Board may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting so that they may be displayed for remote public access viewing.

Application materials may be accessed by contacting [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us) or calling 508-862-4064.

**Call to Order:** Introduction of Board Members and Staff Members

**Attendance Roll Call:**

**Chair Steven Costello**

**Jeff Swartz**

**Patrick Foran**

**Mary Barry**

**Stephen Robichaud**

**Aimee Guthinger**

**Bob Twiss**

**All in attendance.**

**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.

**Zoning Amendment Items moved out of order**

**Zoning Amendments**

**ZA TC Item No. 2021-058** MAH District– 3 Whitehall Way Proposal to amend the Town of Barnstable Zoning Ordinance by amending Article II, Chapter 240, Section 6, The Zoning Map of the Town of Barnstable to rezone property from the Residence C-1 Zoning District to the Multifamily Affordable Housing Zoning District. The proposed Zoning Map Amendment would expand the MAH District to include the adjoining parcel at 3 Whitehall Way. The prospective developer of the MAH parcel purchased the property and has agreed to deed restrict it from development. The parcel would be utilized for the purpose of calculating density, setbacks, and compliance with open space requirements.

**ZA TC Item No. 2021-059** MAH Affordability– Proposal to amend the Town of Barnstable Zoning Ordinance by amending Article III, Chapter 240, Section 16.1, Multifamily Affordable Housing District to modify the required percentage of affordable units and to revise the definition of affordable unit. In addition, this item proposes to amend the Town of Barnstable Zoning Ordinance Article XI, Chapter 240, Section 116 Exemptions to exempt development permitted under the Multifamily Affordable Housing from Growth Management.

Attorney David Lawler in attendance. These Amendments are specifically related to the Special Permit No. 2020-03 – 850 Falmouth Rd., Hyannis. Assessor Parcel Map shown, Exhibit A.

He gives a history of the property and the lot. His client would like to develop into multifamily affordable housing (MAH). Standard Housing LLC, owner/project. Triangular piece. The purpose of applying this and rezoning is to have the project/property within all the zoning setbacks and requirements, allowing 53 units to be built. Rezoning in order to do the project. MAH designed for this lot. Formula came up in the past for 25% affordability at a 65% AMI ratio. Things have changed now. Materials and requirements for utilizing has made it economically impossible to make a profit at the 65% AMI. It's so difficult with an affordable percentage, Commonwealth of Massachusetts has created a program where they will give a tremendous tax incentive, but have to build 80% market rate – so 25% for afford able is impossible to do the market rate percent. The 53 units in order to get 85% market, the numbers would be 53 units and 10 for affordable. The proposal would reduce the AMI down to 50%. Most affordable here is at 80%. Without these benefits new affordable housing will not get built. Two areas of relief are to add this triangle piece, and the second one is the change of the zoning requirement on affordability going from 25% to 18%. Building code cap. Seeking Special Permit conditioned upon Town Council later.

Elizabeth Jenkins states that Town Staff did work with Attorney Lawler in cooperation to bring these forward. Town is in support.



**Chair Steven Costello entertains a motion to open the public hearing (both Zoning Amendments), moved by Jeff Swartz, seconded by Aimee Guthinger,**

**Roll Call Vote:**

**Chair Steven Costello - aye**

**Jeff Swartz - aye**

**Patrick Foran - aye**

**Mary Barry - aye**

**Stephen Helman - aye**

**Aimee Guthinger - aye**

**Bob Twiss - aye**

Mary Barry clarifies that it would be going from 25% to 18%. Mary Barry asks re market would be 80%?

Attorney Lawler replies yes. 53 units and 10 would be affordable. Some other restrictions within the lot.

Chair Steven Costello interjects that the state requires 20% re tax credits.

Attorney Lawler replies that it is based on units. When affordable units come in place we wouldn't be making smaller units, will be the same.

Attorney Lawler reiterates that the town and the state have different numbers. The most we could have is 10, and that's where the 18% is derived from. State says you can't go 79.9 you have to be at 80% or above.

Mary Barry asks if the 53 units are all the same makeup?

Attorney Lawler, no construction plans are the same.

Jeff Swartz asks for clarification of 80% to 50% of AMI. Good price range for rents.

Chair Steven Costello asks how affordable units are assigned, designated ?

Elizabeth Jenkins states affordables are assigned in accordance with/of Fair Housing Laws. Developer will need a plan to assure equal access, then lottery assignment/deed restriction as well.

Chair Steven Costello clarifies that this is the only MAH district. Not aware of any other projects like this.

Elizabeth Jenkins replies, yes, correct. To allow for the Town's inclusionary to be met. Since then the project then became the Everleigh project. The Town has amended this district a couple of times. Doesn't preclude any future. Not uncommon to permit through the Regulatory Agreement process. This is a little different.

**Chair Steven Costello asks for any public comment.**

Rick Presbry, of Marstons Mills in attendance. Wonders if funding from other ways. Tax credits. The max income is 36,050 with that location you'd be ruling out some people. Some could come in with Section 8 and would get a better tax credit. Suggesting the federal tax credit and still make a profit. How much experience have the developers had with rentals? Have to have some expertise because can get complicated. The 10% issue under 40B which is the way land zoned before, it's a minimum to avoid being a victim where you lose control. We have had 50 years to do affordables. Cape Cod said no to getting money for sewerage. Questioning that Hyannis only need market price housing. Rents are high. Hyannis needs housing that meets the needs of the people. Thinks good project, but should be done in a good way. How much is the cost to the Town re the taxes and implications to do this.

Felicia Penn in attendance. Concerned that the 10 units – 18.6 percent, technically 19%. If 18%, really only going to end up with 9 units. Why not just say 81% and 9%. Possible that one unit drop off.

- Cost of construction materials is high, but the cost to borrow money is the lowest right now and would offset plus tax credits and exemptions would come into play. No numbers about rents/how much. Long term effect of these changes to the Town's housing plan. A lot of our workforce would not qualify for 50% but would for 80%, not sure what these rates would be. Taking a zone that was MAH and now making it market rate – hope not to do this. Think about the ultimate effect to the Town. Interested to know what the tax exemptions would be.

Chair Steven Costello clarifies if it is a problem to modify.

Attorney Lawler - have no problem with the language being approved re percentages to units, not to go below 10 units as affordable, very reasonable suggestion.

Chair Steven Costello probably more practical to have where sewer lines exist. Problem with how publications posted/legal notice.

Elizabeth Jenkins advertisement for Town Council, small error, it read Monday 21<sup>st</sup>, not Thursday. Legal is recommending to re notice these. Will re advertise for the next Town Council meeting.

Attorney Lawler states that he may have the Feb. 4<sup>th</sup> Town Council meeting covered by Attorney John Kenney. We will also be on the 21<sup>st</sup>.

Elizabeth Jenkins has no issue with the recommendation to change percentages to 19%. Maybe condition the Special Permit with those conditions. It will have more flexibility.

Chair Steven Costello with the zoning questions – he was hoping could get a vote to Town Council (TC). Doesn't want to penalize the applicant due to error – can we condition subject to TC agreeing.

Bob Twiss comments about the production of housing, try to avoid where ordinances defeat. Have some flexibility with affordable housing and still meet the state statute. Good to go forward as suggested. Maybe not include the hard numbers in case use in another area. In favor of the proposal as presented.

Aimee Guthinger appreciates public comment re the AMI income level - directs to Attorney Lawler.

Attorney Lawler replies that they committed to 50%. Certain vulnerable population that is difficult to serve. This project would assist these. This is the 50% that we have agreed to do.

Stephen Robichaud he is in favor as well. Any rent figures on hand?

Attorney Lawler replies will be based on the numbers per the AMI. The issue is that on Cape Cod it is not as other areas in Massachusetts.

Patrick Foran likes the project as well.

Jeff Swartz – sounds like it will fall into an entry level job person. Good compromise.

Chair Steven Costello thinks positive.

Elizabeth Jenkins explains structured into two separate amendments map and text. Map vote to expand and recommendation vote on two part text amendment and modification to Growth Management to exempt from Building.

**Chair Steven Costello entertains a motion to close the public hearing (both Zoning Amendments), moved by Jeff Swartz, seconded by Patrick Foran,**

**Roll Call Vote;**

**Chair Steven Costello - aye**

**Jeff Swartz - aye**



- Patrick Foran - aye
- Mary Barry - aye
- Stephen Robichaud - aye
- Aimee Guthinger - aye
- Bob Twiss - aye

Chair Steven Costello entertains a motion to recommend to Town Council for 2021-058, (map amendment) moved by Stephen Robichaud, to approve as written, seconded by Bob Twiss,

**Roll Call Vote;**

- Chair Steven Costello - aye
- Jeff Swartz - aye
- Patrick Foran - aye
- Mary Barry - aye
- Stephen Robichaud - aye
- Aimee Guthinger - aye
- Bob Twiss - aye
- So voted unanimously.

Discussion re the percentage of units.

Elizabeth Jenkins 18% - agree to make it in the conditions for the Special Permit. A density bonus. Town seeing a benefit at 50, a modification.

Jeff Swartz states that affordable housing is severely needed, and worth it for the Town to give tax credits. Inventory of work. Beneficial.

Chair Steven Costello entertains a motion for recommendation to Town Council on the text Zoning Amendment 2021-059, as written, moved by Stephen Robichaud, seconded by Mary Barry,

**Roll Call Vote;**

- Chair Steven Costello - aye
- Jeff Swartz - aye
- Patrick Foran - aye
- Mary Barry - aye
- Stephen Robichaud - aye
- Aimee Guthinger - aye
- Bob Twiss - aye

**Special Permits**

SPECIAL PERMIT NO. 2020-03 – Standard Holdings, LLC, seeks a Special Permit pursuant to Section 240-16.1 C(1) – Multi-family affordable housing development to allow for proposed construction of approximately 70,000 square feet multi-family housing, 53 dwelling units of which 10 will be affordable units. The property is 850 Falmouth Road and 3 Whitehall Way, Hyannis, MA and is shown on Assessor’s Map 250 as Parcels 036 and 160. The subject property (850 Falmouth Rd.) is located in the MAH – Multi Family Affordable Housing District and the GP – Ground Water Protection Overlay District. This Application has been requested to be continued to January 11, 2021. New public notice of the hearing will be provided.

Chair Steven Costello entertains a motion to open the public hearing, moved by Jeff Swartz, seconded by Stephen Robichaud,

**Roll Call Vote;**

- Chair Steven Costello - aye
- Jeff Swartz - aye
- Patrick Foran - aye
- Mary Barry - aye
- Stephen Robichaud - aye
- Aimee Guthinger - aye

**Bob Twiss – aye**

Attorney David Lawler in attendance.

Matt Eddy, of Baxter & Nye in attendance.

John LaFreniere and Sadmira Ovcina of LaFreniere Architects in attendance.

Bob Carlton and Tim Telman, Developers & Principles, of Standard Holdings, LLC

Attorney Lawler – refers to the plan – Exhibit B, plan packet. C3.0, Layout and Dimensional plan.

Explains the process of Site Plan - to make the plan conform and be in compliance with what is set forth.

Elevations refers to C3.1 Landscaping plan. No relief is being requested.

Stephen Robichaud asks what is requiring a Special Permit?

Attorney Lawler – for the use.

Mary Barry asks if any comment has been received, heard anything from anyone?

Attorney Lawler states he has not.

Jeff Swartz clarifies one and two bedrooms.

Sadmira Ovcina – 9 one bedroom units.

**Chair Steven Costello asks for any public comment. None.**

**Chair Steven Costello entertains a motion to close the public hearing, moved by Jeff Swartz, seconded by Mary Barry,**

**Roll Call Vote:**

**Chair Steven Costello - aye**

**Jeff Swartz - aye**

**Patrick Foran - aye**

**Mary Barry - aye**

**Stephen Robichaud - aye**

**Aimee Guthinger - aye**

**Bob Twiss - aye**

Chair Steven Costello reads the Suggested Special Permit Findings into record:

Suggested Special permit findings –

1. Standard Holdings LLC seeks a Special Permit pursuant to Section 240-16.1 C(1) – Multi-family affordable housing development to allow for proposed construction of approximately 70,000 square feet multi-family housing development, with 43 dwelling units and 10 affordable units for a total of 53 units.
2. The property location is 850 Falmouth Road and 3 Whitehall Way, Hyannis, MA. 850 Falmouth Road is shown on Assessor's Map 250 as Parcel 036 in the MAH District and 3 Whitehall Way is shown on Assessor's Map 250 as Parcel 160 in the RC-1 District.
3. The proposed development responds to the need for market rate rental housing in the Town of Barnstable and represents infill development served by public infrastructure.
4. 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 neighborhood affected.



5. The plan has been reviewed and approved by the Site Plan Review Committee under application #046-20. The conditions of that decision shall be incorporated by reference as conditions of this Special Permit.
6. The Special Permit is contingent on Town Council passing the two zoning amendments, Item No. 2021-058 which proposes to amend the Zoning Map to allow the proposed density and site configuration; and Item No. 2021-059 which proposes to amend requirements for number of affordable units and definition of affordability.

**Chair Steven Costello entertains a motion to accept the Findings, moved by Mary Barry to accept as read, seconded by Jeff Swartz,**

**Roll Call Vote:**

- Chair Steven Costello - aye**
- Jeff Swartz - aye**
- Patrick Foran - aye**
- Mary Barry - aye**
- Stephen Robichaud - aye**
- Aimee Guthinger - aye**
- Bob Twiss - aye**

Two additional Conditions to be added:

- The number of affordable units shall be 10. The affordable units shall be made available to tenants at 50% of the Area Median Income (AMI).
- The Deed restriction for 3 Whitehall Way shall be submitted to the Building Commissioner prior to issuance of the building permit.

**Chair Steven Costello entertains a motion to approve with suggested conditions and additional conditions as outlined; the number of affordable units shall be 10, the affordable units shall be made available to tenants at 50% of the Area Median Income and the Deed restriction for 3 Whitehall Way shall be submitted to the Building Commissioner prior to issuance of the building permit, moved by Jeff Swartz to accept as suggested by Planning & Development, seconded by Mary Barry,**

**Roll Call Vote:**

- Chair Steven Costello - aye**
- Jeff Swartz - aye**
- Patrick Foran - aye**
- Mary Barry - aye**
- Stephen Robichaud - aye**
- Aimee Guthinger - aye**
- Bob Twiss - aye**

**Matters Not Reasonably Anticipated by the Chair**

**Correspondence**

- Chapter 91 Notice – 65 Short Beach Rd. – Maintenance Dredging – Pinho
- Chapter 91 Notice – 398 East Bay Rd., Ost. – Dock/Pier - Rehnert

**Approval of Minutes**

- December 14, 2020, draft minutes
- July 10, 2017, draft minutes
- July 24, 2017, draft minutes
- May 8, 2017, draft minutes

Chair Steven Costello entertains a motion to approve the draft minutes of December 14, 2020, July 10, 2017, July 24, 2017, and May 8, 2017, as submitted, moved by Jeff Swartz, seconded by Mary Barry,

**Roll Call Vote:**

Chair Steven Costello - aye

Jeff Swartz - aye

Patrick Foran - aye

Mary Barry - aye

Stephen Robichaud - aye

Aimee Guthinger - aye

Bob Twiss - aye

So voted to approve all draft minutes.

**Future Meetings:** January 25 and February 8, 2021, @ 7:00 p.m.

Mary Barry cannot attend on Jan. 25, 2021.

**Adjournment**

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

**Roll Call Vote**

Chair Steven Costello - aye

Jeff Swartz - aye

Patrick Foran - aye

Mary Barry - aye

Stephen Robichaud - aye

Aimee Guthinger - aye

Bob Twiss - aye

The meeting adjourned at 8:43 p.m.

Respectfully Submitted

Karen Herrand, Principal Assistant, Planning & Development

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** – Special Permit No. 2020-03 – 850 Falmouth Rd., Hyannis. Assessor Parcel Map shown.

**Exhibit B** - Special Permit No. 2020-03 – 850 Falmouth Rd., Hyannis, Plan packet – Layout/Dimension.