



Town of Barnstable Planning Board



www.town.barnstable.ma.us/PlanningBoard

Board Members
Steven Costello – Chair Stephen Robichaud – Vice Chair Mary Barry - Clerk Robert Twiss Michael Mecnas Raymond Sexton Tim O’Neill

Mathew Levesque – Town Council Liaison
Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director
Kaitlyn Maldonado, Assistant Director
James Kupfer, AICP, Senior Planner
Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

BARNSTABLE TOWN CLERK
2022 JAN 4 PM 1:17

Town of Barnstable PLANNING BOARD Minutes December 13, 2021

Steven Costello – Chairman	Present
Stephen Robichaud – Vice Chairman	Present
Mary Barry – Clerk	Present
Robert Twiss	Present
Michael Mecnas	Present
Raymond Sexton	Present
Tim O’Neill	Present

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

The Planning Board’s Public Hearing will be held at 7:00 p.m. by remote participation methods. 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/95087759997>

Phone: 888 475 4499 US Toll-free

Meeting ID: 950 8775 9997

3. Applicants, their representatives and individuals required or entitled to appear before the Planning Board may appear remotely 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 or calling 508-862-4064.

Call to Order

Introduction of Board Members and Staff Members

Attendance Roll call

Tim O'Neill

Ray Sexton

Michael Mecnas

Bob Twiss

Mary Barry

Stephen Robichaud

Steven Costello

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.

Public Comment

Chair Steven Costello asks for any public comment - General public comment. None.

Approval Not Required:

The Town of Barnstable Department of Public Works has submitted an Approval Not Required plan entitled: "Plan of Land, 1456 Falmouth Road, Village of Centerville Barnstable Massachusetts" dated November 30, 2021 and revised December 8, 2021.

(Majority of Full Board)

Assistant Town Attorney Charles McLaughlin in attendance. Town is processing this application. Got from Cumberland Farms, Rte 28 & Phinneys Lane. This is to define a non buildable lot, both lots unbuildable. May declare the property surplus. This is Town owned. First step is to do the ANR.

Ray Sexton, if declare non buildable doesn't that make no use in the future?

Attorney Charles McLaughlin replies if abutting property owners bid during RFP process, could be conjoined with other properties that may have interest in it.

Chair Steven Costello entertains a motion to endorse the plan entitled "Plan of Land at 1456 Falmouth Road, Village of Centerville Barnstable, MA" prepared and stamped by Shane Brenner, P.L.S. of the Town of Barnstable, last revised December 8, 2021 as an Approval Not Required Plan, moved by Mary Barry, seconded by Ray Sexton,

Roll Call Vote:

Steven Costello - aye

Stephen Robichaud - aye

Mary Barry - aye

Bob Twiss - aye

Michael Mecnas - aye

Ray Sexton - aye

Tim O'Neill - aye

Cape Cod Healthcare and Michael K. Lauf have submitted an Approval Not Required plan entitled: "Plan of Land of #35 Wilkens Lane Barnstable MA prepared for Cape Cod Healthcare" dated November 22, 2021, prepared and stamped by Daniel A. Ojala, PLS of Down Cape Engineering, Inc.

(Majority of Full Board)

Request to continue to Dec. 27th meeting. Jim Kupfer states that they are asking for an earlier date.

Attorney Eliza Cox in attendance, representing Cape Cod Healthcare/Hospital. She gives a history of the land, development agreement from 2003, with the Cape Cod Commission (CCC). Minor modification to recognize the proposed division. Working with CCC. Asking if Planning Board would consider a special meeting on December 20th to consider this. Need to proceed with CCC first prior to Planning Board acting on the ANR. This would be a special meeting of the Board.

Chair Steven Costello asks for clarification.

Attorney Cox, Lot 2 is being conveyed to New England Development - are to have the special meeting to maintain the current transactional agreement.

Chair Steven Costello is fine with Dec. 20th.
The Board is unanimous for a December 20, 2021, meeting for this.

Chair Steven Costello entertains a motion to request a special meeting, moved by Ray Sexton to continue Approval Not Required plan entitled: "Plan of Land of #35 Wilkens Lane Barnstable MA prepared for Cape Cod Healthcare" dated November 22, 2021, prepared and stamped by Daniel A. Ojala, PLS of Down Cape Engineering, Inc. to December 20th, at 7pm., seconded by Stephen Robichaud,

Roll Call Vote:

**Steven Costello - aye
Stephen Robichaud - aye
Mary Barry – aye
Bob Twiss - aye
Michael Mecnas - aye
Ray Sexton - aye
Tim O'Neill - aye**

Pauline B. Brazelton/Dillingham Properties, LLC have submitted an Approval Not Required plan entitled "Plan of Land of Commerce Road, Barnstable, MA, prepared for Dillingham Properties, LLC" dated October 26, 2021, prepared and stamped by Daniel A. Ojala, PLS, of Down Cape Engineering, Inc. (Majority of Full Board)

Tim O'Neill recuses.

Dan Ojala Downcape Engineering, Inc. in attendance. Two houses on the other side of the property. Applicant would like to do more with the land. Had a mandatory DRI. All the lots meet zoning and have adequate frontage. Panhandle lots, oversized lots. Dividing two lots into five, and a partial in back, two restricted parcels – 6 lots. Some conservation restriction. Will go to Land Court. Revised plan to be signed.

Chair Steven Costello entertains a motion to endorse, moved by Michael Mecnas to endorse the plan entitled " Plan of Land of Commerce Road, Barnstable, MA, prepared for Dillingham Properties, LLC" dated October 26, 2021, last revised December 10, 2021, prepared and stamped by Daniel A. Ojala, PLS, of Down Cape Engineering, Inc. as an Approval Not Required Plan, seconded by Ray Sexton,

Roll Call Vote:

**Steven Costello – aye
Stephen Robichaud - aye
Mary Barry - aye**

Bob Twiss - aye
Michael Mecnas - aye
Ray Sexton – aye

Zoning Amendments:

Zoning Amendment TC Item No. 2022-034 - Proposal to amend the Town of Barnstable Zoning Ordinance by amending the code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning by expanding the Ground-Mounted Solar Photovoltaic Overlay District to include the property located at 810 Wakeby Road, Marstons Mills (Assessors' Map 013 Parcels 004, 005, 052) and by requiring a Special Permit for large-scale ground-mounted solar photovoltaic installations located within any residential district located within the overlay district. – *continued from November 8, 2021* (Public Hearing) (Majority of members present and voting for recommendation to Town Council)

Chair Steven Costello states that several Board members have visited the site.

Attorney Michael Ford in attendance, representing TJA. Good to see that some members have viewed it.

Elizabeth Jenkins – a result of proposal that came from 810 Wakeby Rd. we are updating the ordinance. CCC has published a model by law for large scale solar installations on Cape Cod. Has expanded definitions, storm water and erosion control. At this point recommendation to continue for another meeting to fully evaluate the proposal in light of what CCC has done. Another few weeks. Have been discussing the battery component issue with Town Attorney - any hazardous material could be enhanced with additional - outstanding questions regarding battery acid relative to ground water protection need more research at this time.

Chair Steven Costello asks for any public comment – new information – people that have not spoken yet please.

Anne Salas in attendance. It is required to have battery storage at the site/point.

Tim O'Neill couldn't make the site tour. Town of Sandwich/this abuts town line, they just voted to purchase two lots, may be right next to this property to put into a Mass DEP conservation/holding. Just as an fyi. CCC provided the potential by laws – good information.

Ray Sexton thinks opportunity to set a standard for future projects. Good to move with speed. Look at CCC information. Thanks the people that have provided information that live near the site. He understands their concern. Regulatory guidelines for – zoning amendment would do in broad strokes and then special permit would put into detail.

Bob Twiss identifying potentially hazardous that may be brought to the property. What impact for groundwater and aquifer. In favor of continuing for CCC information.

Mary Barry is in agreement to continue the review. Need to have a program set out for the future going forward.

Stephen Robichaud good to look at this site and the topography/size, the lot is massive. Thrilled that CCC is going to weigh in, we have to get it right. Concerned about battery storage and that close to a residential neighborhood. The setback 75 ft. feels like not enough. Interested in what CCC has to say.

Chair Steven Costello it is a unique site. There are safety questions to be asked. Preparedness for fire, something Fire Chiefs would be acquainted with. The CCC component is very helpful. Green energy and initiatives are not going away. Safety precautions and groundwater need to be taken into consideration.

Abutters, suggestion maybe get some kind of discounted electrical service, a way to say thank you. Bigger picture and compromises for.

Elizabeth Jenkins states that Dec. 27th is reasonable to continue, they have been working on a draft. No, January 10th is the date.

Attorney Michael Ford replies that January 10th makes sense with the holidays etc. Recommendation to have no battery storage in this by law.

Elizabeth Jenkins, initial reaction is based on discussions with others, need research.

Attorney Michael Ford replies that just had one in the Town of Dennis had specific requirements and was approved unanimously. The battery is to be with the scale of the project. This is an important component.

Motion made by Bob Twins to continue Zoning Amendment TC Item No. 2022-034 to January 10, 2022, Planning Board meeting at 7:00 p.m., seconded by Mary Barry,

Roll Call Vote:

Steven Costello – aye

Stephen Robichaud – aye

Mary Barry – aye

Bob Twiss – aye

Michael Mecnas – aye

Ray Sexton – aye

Tim O’Neill - aye

Subdivisions:

Modification to Subdivision No. 826 Loomis Lane. The application was submitted by Attorney Schulz on behalf of the following property owners, Eric J. Fischer, Simone S. Fischer, Dean C. Swartz, Maureen F. Swartz, and Herbert K. Bodensiek. The request is to modify the roadway layout of a section of Loomis Lane to coincide with the traveled portion. The subject properties are shown on Assessors Map 230 Parcel 104, Map 230 Parcel 105 and Map 230 Parcel 111. – *continued from November 8, 2021* (Public Hearing) (Majority of the full Board)

Attorney Albert Schulz in attendance. This involves 3 properties. 3,100 sq. ft. to relocate a portion of Loomis Lane that abuts 3 properties and travelled Lane. Been in existence for 122 years. Refers to the plan, Exhibit A, lot 1 on the plan. Been to ZBA for variances for all 3 properties. Shape factor at 45 Loomis, lot area and front yard setback on 58 Loomis Lane. Have requested waivers, see Staff Report, Exhibit B, 9 waivers. Has been paved with a betterment. Applicants are satisfied with draft findings and conditions proposed. Aligning Loomis Lane to its traveled way.

Chair Steven Costello asks for any public comment. None.

Jim Kupfer states no physical improvements being asked. Would like to see a recorded plan, this is stated in the conditions. Then can go down the subdivision requirements and record with Registry in perpetuity.

Attorney Schulz, the captioned prepared for block states his name, can they put in the names of the three applicants, Fischer, Swartz and Bodensiek – so it can be recorded.

Chair Steven Costello entertains a motion to close the public hearing, moved by Mary Barry, seconded by Bob Twiss,

Roll Call Vote:

Steven Costello - aye
Stephen Robichaud - aye
Mary Barry - aye
Bob Twiss - aye
Michael Mecenas - aye
Ray Sexton – aye
Tim O’Neill – aye

Motion made by Mary Barry to approve the proposed modification to Subdivision #826 as shown on the plans entitled: “Revision to a Section of Loomis Lane Layout” prepared for Albert Schulz dated October 7, 2021 stamped by Shane Mallon, P.L.S. and subject to the following suggested conditions:

1. The development shall be subject to all applicable Subdivision Rules and Regulations, except those waived by the Board as stated herein.
2. Approval is subject to approved performance guarantees per 801-24.J, unless waived, including:
 - A. The Applicant shall submit a Form S for the subdivision, requiring the Developer and successors in title to be responsible for all maintenance and repair to Loomis Lane as shown on the plan entitled “Revision to a Section of Loomis Lane Layout” prepared for Albert Schulz dated October 7, 2021 stamped by Shane Mallon, P.L.S.
 - B. Prior to endorsement of approval, the applicant shall submit a returnable check for \$1,000 to ensure recordation for the Development Agreement. Such check shall be held to ensure recordation at the Barnstable Registry of Deeds a copy of this decision notice when final approval is given by the Town Clerk, the endorsed subdivision plan, the signed Development Agreement, the covenants, and an executed Form S.
 - C. The Development Agreement and Form S, unless waived, shall be recorded at the Barnstable County Registry of Deeds together with the Definitive Plan Modification. A copy of the recorded documents shall be returned to the Planning Board. Upon evidence of the recordation of all the documents cited above, the \$1,000.00 check required in Condition 2B shall be returned to the Applicant. If no evidence or insufficient evidence is provided, the check shall be cashed to cover the cost of recording the documents.
3. This subdivision approval shall be in effect upon recordation of this decision notice, its referenced definitive subdivision plan, and all documents cited in the conditions herein with the Registry of Deeds and shall expire eight (8) years from the date of endorsement of the subdivision plan by the Planning Board. This subdivision is subject to all applicable Subdivision Regulations except as waived herein.

Seconded by Ray Sexton,

Roll Call Vote:

Ray Sexton - aye
Steven Costello - aye
Stephen Robichaud - aye
Mary Barry - aye
Bob Twiss - aye
Michael Mecenas - aye
Tim O’Neill - aye

Chair Steven Costello – add the plan as prepared for the applicants, Fischer, Swartz, and Bodensiek.

Jim Kupfer asks if Shane Mallon can provided an updated/revised plan reflecting these changes.

Subdivision No. 822 Covenant Release Request. Attorney John Kenney, on behalf of William A. Riley and Kenneth D. Polivy, has requested a release of Lot 2 in Subdivision No. 822 from covenant. Subdivision No. 822 is recorded in Book 651 and Page 49 and is located at Aberle Way, Barnstable, MA.
(Majority of the full Board)

Attorney John Kenney in attendance. 6 lot subdivision. Sole lot under covenant is lot 2. Needs final coating of the road. 35,000 cash bond per recommendation by Engineering Dept. for the road.

Chair Steven Costello asks if it is practical to have a final date for road. Should have some sort of timeline idea.

Attorney Kenney replies, two houses under construction, possibly next fall. Would ask for a year so won't have to come back.

Tim O'Neill is this the top coat or the last 100 yards of unpaved.

Attorney Kenney, full final top coat over binder.

Mary Barry suggests possibly more than a year, so you wouldn't have to come back.

Chair Steven Costello suggests June of 2023?

Motion made by Stephen Robichaud to include the date of June 1, 2023, for final, moves to release lot 2 from covenant, said motion includes a security bond in form approved by the Town Attorney for the amount of \$35,000 to be held until such time as all outstanding requirements are complete, including but not limited to the final top coat for the roadway, submission of final as-built plans for the Definitive Subdivision and issuance of a Certificate of Completion for the Definitive Subdivision, seconded by Michael Mecenias,

Roll Call Vote:

Steven Costello - aye

Stephen Robichaud - aye

Mary Barry - aye

Bob Twiss - aye

Michael Mecenias - aye

Ray Sexton - aye

Tim O'Neill - aye

Modification of Subdivision No. 646A

Decision has been fully executed - Endorsement of the plan entitled "Subdivision #646A Road Profile Plan of Wendy Way Marstons Mills, MA prepared for Samuel Traywick", prepared by Down Cape Engineering, Inc., dated, as revised, July 20, 2021, - approved by the Planning Board on July 26, 2021.
(Majority of Full Board)

Dan O'jala in attendance. This is administrative - to have the plan endorsed.

Motion made by Tim O'Neill to endorse the plan entitled "Subdivision #646A Road Profile Plan of Wendy Way Marston Mills, MA prepared for Samuel Traywick", prepared by Down Cape Engineering, Inc., last revised, July 20, 2021, seconded by Mary Barry,

Roll Call Vote:

Steven Costello - aye

Stephen Robichaud - aye

Mary Barry - aye

Bob Twiss - aye

Michael Mecenias - aye

Ray Sexton - aye
Tim O'Neill - aye

Matters Not Reasonably Anticipated by the Chair

Correspondence

Chapter 91 Notice – 199 Cedar Tree Neck Rd. – Geranoitis, ramp, float and stairs
Chapter 91 Notice – 167 Cedar Tree Neck Rd. – Owades – ramp and float

Approval of Minutes

November 22, 2021, draft minutes

Chair Steven Costello entertains a motion to approve the draft minutes of November 22, 2021, moved by Mary Barry, seconded by Stephen Robichaud,

Roll Call Vote:

Steven Costello – aye
Stephen Robichaud – aye
Mary Barry – aye
Bob Twiss – aye
Michael Mecenias – aye
Ray Sexton – aye
Tim O'Neill - aye

Future Meetings: December 27, 2021 and January 10, 2022, @ 7:00 p.m.

Mary Barry asks if can move all items that may be on for the next meeting of Dec. 27, 2021, up to the Dec. 20th 2021, meeting and cancel the Dec. 27th meeting.

Discussion – the Dec. 27, 2021, meeting will be cancelled and a special meeting for Dec. 20th, 2021, will be done.

Adjournment

Chair Steven Costello entertains a motion to adjourn, moved by Mary Barry, seconded by Stephen Robichaud,

Roll Call Vote:

Steven Costello - aye
Stephen Robichaud - aye
Mary Barry - aye
Bob Twiss - aye
Michael Mecenias - aye
Ray Sexton - aye
Tim O'Neill - aye

The meeting adjourned at 8:15 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 - Plan - Modification to Subdivision No. 826 Loomis Lane

Exhibit B - Staff Report – waivers Modification to Subdivision No. 826 Loomis Lane

APPROVED