



Town of Barnstable
Zoning Board of Appeals
Draft Minutes
November 19, 2008

A regularly scheduled and duly posted Public Hearing for the Town of Barnstable Zoning Board of Appeals was held on Wednesday, November 19, 2008 at 7:00 PM at the Town of Barnstable, Town Hall, 367 Main Street, Hyannis, MA. A quorum was not met. Also present were Art Traczyk – Principal Planner and Carol Puckett – Administrative Assistant.

Laura Shufelt	Present
James McGillen	Absent
Michael Hersey	Present
Craig Larson	Present
William Newton	Present
Alex Rodolakis	Present
Nikolas Atsalis	Present
Brian Florence	Absent
George Zevitas	Present

Laura Shufelt opens the hearing at 7:01 PM. She indicates that tonight there are two hearings, an extension as well as an executive session. She indicates that she will hear the extension first and then go into executive session.

Laura Shufelt calls the Village Green Appeal 2003-090 which is requesting a 6 month extension. She indicates that the Board has received a letter requesting an extension. She reads all the previous extensions granted and indicates that this is the third and will expire in July of 2009. She indicates that they can do this administratively and that this extension request will not require a public hearing.

***Motion is made to grant a six month extension.
Seconded***

Vote:

AYE: George Zevitas, Craig Larson, Michael Hersey, William Newton, Laura Shufelt

Nay: None

SIX MONTH EXTENSION GRANTED

Laura Shufelt asks for a motion to go into executive session to discuss pending litigation and will return.

Motion is made to go into executive session.

Seconded

Vote:

AYE: George Zevitas, Nik Atsalis, Alex Rodolakis, Craig Larson, Michael Hersey, William Newton, Laura Shufelt

NAY: None

Board makes a motion and votes to go back into session.

AYE: George Zevitas, Nik Atsalis, Alex Rodolakis, Craig Larson, Michael Hersey, William Newton, Laura Shufelt

NAY: None

Laura Shufelt then calls the Hyannis Toyota appeal and reads it into the record.

**Appeal No. 2008-064
Toyota**

Hyannis Enterprises, Inc., d/b/a Hyannis

Conditional Use Highway Business

Hyannis Enterprises, Inc., d/b/a Hyannis Toyota has petitioned for a Special Permit pursuant to Section 240-25.C.(1) Conditional Uses in the Highway Business District. The petitioner is seeking the permit to allow the use of a lot addressed 1056 Iyannough Road (Route 132), Hyannis, MA for parking of new and used car sales and parking of vehicles to be serviced. The subject property is shown on Assessor's Map 294 as Parcel 072. It is in a HB, Highway Business and Business B Zoning Districts.

Members assigned: George Zevitas, Craig Larson, Michael Hersey, William Newton, Laura Shufelt

Attorney Brian Wall is representing the client. He gives a brief summary of relief that they are requesting. He indicates that the applicant isn't here to legitimize the use. He indicates that proper permits were never obtained and they are here to legitimize it. He wants to use the Swift lot

for the parking of cars for sale and is not proposing any service on the lot. They went through the site plan review successfully. The applicant is proposing a landscaping buffer. The applicant is also agreeable to the footpath as suggested in the staff report. He contends the use has continually been met as it has been used continuously for 25 years. He has looked at the conditions and the applicant is agreeable to it. Attorney Wall indicates that Andrew Garlay from Down Cape Engineering is also here to answer any questions.

Laura Shufelt asks for clarification of where the pedestrian footpath is and asks where it is located.

Attorney Wall indicates that the only lot before the Board tonight is the empty lot and doesn't think the site plan shows the footpath.

Art Traczyk indicates that the footpath is on both lots. He indicates that Growth Management would like an egress but they have to work something out with the Festival Plaza.

Craig Larson asks how it is leased and what happens with the special permit if he sold the property.

Attorney Wall explains

Art Traczyk explains that the special permit goes with the applicant and not the land.

Laura Shufelt asks if there is anyone here from the public who would like to speak either in favor or in opposition. No one speaks.

William Newton makes positive findings.

- a. The application falls within the category specifically excepted by the ordinance for a grant of a special permit**
- b. An evaluation of all the evidence presented at the public hearing by the petitioner and interested parties as it relates to the fulfillment of the spirit and intent of this chapter without substantial detriment to the public good or the neighborhood affected.**
- c. A site plan has been reviewed and found approvable.**
- d. Such uses do not substantially adversely affect public health, safety, welfare, comfort or convenience of the community.**

No discussion.

Vote:

AYE: George Zevitas, Craig Larson, Michael Hersey, William Newton, Laura Shufelt

NAY: None

William Newton makes motion to grant special permit 2008-064 , Hyannis Enterprises Incorporated with the following conditions as suggested by the planner on page 4, 1 through 6 but specifically under #2 with respect to the landscaping, this is to be completed within the first year. .

**Seconded
No discussion**

**Vote:
AYE: George Zevitas, Craig Larson, Michael Hersey, William Newton, Laura Shufelt
NAY: None**

GRANTED WITH CONDITIONS

Laura Shufelt now calls the Carpenter appeal.

Members assigned: Alex Rodolakis, Craig Larson, Michael Hersey, William Newton, Laura Shufelt

**Michael Gaspard is here representing the applicant
Michael Gaspard indicates that this appeal was approved before but he is here as the new modification is to place the doorway back to where it originally was with a covered porch. He indicates that this change does not meet the current setbacks of the zoning district.**

Laura Shufelt clarifies that this modification doesn't change the setbacks or footprint.

Michael Gaspard explains that the changes do not change the setbacks but alters the footprint because the covered porch is extended.

Laura Shufelt asks if there is anyone here from the public who would like to speak. No one speaks

Laura Shufelt asks if there is anyone here from the public who would like to speak either in favor or in opposition. No one speaks.

William Newton makes a motion for the following findings of fact.

- 1. The modification suggested in 2008-065 modification special permit of 2007-093 are in fact minor, everything stays within the one foot setback as was proposed in the original special permit.**
- 2. The proposed modifications are in fact in keeping with the cottage look of the surrounding homes in the area.**

No discussion

Vote:

AYE: Alex Rodalakis, Craig Larson, Michael Hersey, William Newton, Laura Shufelt
NAY: None

William Newton makes a motion to grant the modification to special permit 2007-093 be accepted with the following conditions as outlined on Page #3. In addition to those, from 1 through 5, he would add #6 as suggested by the Planner "At the time the foundation footing for the porch are located and poured, an on-site surveyor shall be required to verify that the location of the footings are properly sited in accordance with the proposed plans.

Seconded.

No discussion

Vote:

AYE: Alex Rodalakis, Craig Larson, Michael Hersey, William Newton, Laura Shufelt
NAY: None

GRANTED WITH CONDITIONS

Laura Shufelt indicates that she has decisions made tonight and October 29th from the Accessory Affordable Apartment Program. Laura asks Art Traczyk to go over the procedures for this. Art indicates that the Amnesty Officer, who is Laura, when the decisions are made she has to get the decisions to the members for a 14 day review period and since they are a comprehensive permit they have a total of 40 days to get clocked in. During that 14 days, they are expected to read them and if there is a matter of law within the document that you feel has not been met, such as missing a requirement for a finding to be made, etc., it cannot be the merits of the case and is just a matter that they have missed this issue. These are the only things that they can question. In other words, they cannot question the decision being made, only if it was made properly. If they have questions they can direct it to the ZBA staff and it will be dealt with properly or they can direct it to the hearing officer.

Laura Shufelt indicates that the next amnesty meeting is December 10th as well as our regular ZBA Hearing.

Laura Shufelt indicates that she will be voting on the minutes at the next meeting. .

Motion to adjourn

Seconded

All in favor.

Meeting adjourned