



**Town of Barnstable**  
**Zoning Board of Appeals**  
**Minutes**  
**September 15, 2010**

***A regularly scheduled and duly posted meeting for the Town of Barnstable Zoning Board of Appeals was held on Wednesday, September 15, 2010 at 7:00 PM at the Town of Barnstable, Town Hall, 367 Main Street, Hyannis, MA. A quorum was met. Also present were, Art Traczyk –Regulatory/Design Review Planner and Ellen Swiniarski – Regulatory Review Coordinator.***

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

***The Chair and Vice Chair are not present. Therefore, William Newton, the Clerk for the Zoning Board of Appeals, will be chairing the hearing.***

***William Newton opens the hearing at 7:08 PM. He gives a summary of the appeals being heard tonight.***

***He calls the Reed appeal***

**7:10 PM      Appeal No. 2010-009 – Continued**

**Reed  
Appeal of the Building Commissioner**

Opened April 28, 2009, continued July 14, 2010 and to September 15, 2010.

Continued for review and input of the Town Attorney's Office and for alternative variance relief to be filed and noticed.

Board Members Assigned: William H. Newton, James F. McGillen, Michael P. Hersey, Craig G. Larson, Laura F. Shufelt - Associates  
Present: George T. Zevitas, Alex M. Rodolakis

Decision Due: November 19, 2010

An August 19, 2010 letter from Attorney Duane P. Landreth has requested a continuance of this hearing (copy enclosed).

Carol Anne Reed has appealed the Building Commissioner's February 12, 2010 denial of a building permit to construct a single family dwelling on a lot addressed as 1175 Shootflying Hill Road, Centerville, MA. The appeal is being made pursuant to Section 8 of MGL Chapter 40A and is requesting that the Board overrule the Commissioner and find that the lot is a legally-created, pre-existing undersized nonconforming lot that is independently buildable. The subject property is

shown on Map 190 as parcel 221, and addressed 1175 Shootflying Hill Road, Centerville, MA. The lot is in a Residence D-1 and Residence C Zoning District and in the Resource Protection Overlay District.

**William Newton indicates that Attorney Duane Landreth has submitted a letter asking for a continuance and reads it into the record (see attachment)**

**Motion is made by Brian Florence and seconded by Alex Rodolakis to continue this appeal to October 27, 2010 at 7:00 PM.**

**Vote:**

**All in favor**

## **CONTINUED TO OCTOBER 27, 2010 AT 7:00 PM**

**William Newton indicates that he has to wait several minutes to 7:15 in order to call the JDJ appeal**

**Back in session. William Newton indicates they will now do the approval of the minutes from August 11<sup>th</sup> and August 25<sup>th</sup>.**

**Motion is made by Brian Florence and seconded by George Zevitas to approve the minutes as written.**

**Vote:**

**All in favor**

## **MINUTES OF AUGUST 11<sup>TH</sup> & AUGUST 25, 2010 APPROVED**

**William Newton then calls the JDJ Housing Development LLC., appeal.**

**7:15 P.M.**

**Comprehensive Permit No. 2003-90**

**JDJ Housing Development, LLC  
The Village Green – Modification Request**

Opened, August 11, 2010 continued August 25, 2010, and to September 15, 2010.

No Members assigned. No testimony taken.

Staff Report and Application Materials previously distributed to the Board.

Additional letters submitted from Barnstable Housing Committee, Barnstable Board of Health and from K. L. Benson are enclosed.

Decision Due: February 18, 2011

JDJ Housing Development, LLC and Dakota Partners, Inc., have requested a modification of Comprehensive Permit No. 2003-090 as previously modified for the development of The Village Green. The modification request seeks to make changes to the approved plans for the development including: changes in the unit types and area, increase in building footprints and gross building area, interior layout and exterior changes in the proposed structures, integration of the community club house into one of the apartment buildings, adjustments to the site plan to accommodate the building changes, and to modify the distribution of affordable units and workforce housing units amongst the buildings and also to allow the option to change the subsidy program to include the state and federal Low Income Housing Tax Credit Program. The subject property is addressed 0 Independence Drive, Barnstable, MA, and is shown on Assessor's Map 332 as parcel 010-001. The property is zoned IND - Industrial and GP - Groundwater Protection Overlay Zoning Districts.

**William Newton indicates that Attorney Peter Freeman has submitted a letter requesting that this appeal be withdrawn without prejudice. He reads the letter into the record**

**Motion is made by Brian Florence and seconded by Alex Rodolakis to withdraw without prejudice.**

**Vote:**

**AYE: William Newton, Brian Florence, Alex Rodolakis, George Zevitas**

**NAY: None**

## **WITHDRAWN WITHOUT PREJUDICE**

**William Newton asks about the status of the permit.**

**Art Traczyk indicates that the original permit is still in existence but with a withdrawal, they could come back and ask for any changes. Art indicates that in January of 2011 the original permit will expire.**

**William Newton calls another a brief recess.**

**Back in session at 7:25 PM.**

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**7:20PM Appeal No. 2009-025 – Continued**

**EAC Disposal, Inc.  
Modification of Variance No. 1996-14**

Opened April 1, 2009, continued, May 20, 2009, August 5, 2009, September 23, 2009, November 4, 2009 December 9, 2009, February 10, 2010, moved to February 24, 2010, April 14, 2010, May 26, 2010, July 14, 2010, August 11, 2010 and to September 15, 2010.

Continued for an update on Outside Consultant.

Board Members Assigned: William H. Newton, George T. Zevitas, Brian Florence, Alex M. Rodolakis, Laura F. Shufelt

Decision Due: June 18, 2011

EAC Disposal, Inc., d/b/a Cape Resources Company has applied for a Modification of Variance No. 1996-14. The modification is sought to allow for revisions to the site that include a new wood processor and staging area, alteration to interior site circulation, and additions and alterations to screening berms and landscape. The property is addressed 280 Old Falmouth Road, Marstons Mills, MA as shown on Assessor's Map 100 as parcel 008. The lot is in a Residence F Zoning District

**William Newton introduces Attorney Sabatt and that this is a procedural issue.**

**Attorney Sabatt indicates that the Town has asked for the appointment of an outside consultant and that a payment from his client to pay for the consultant. His client is committed to pay for it and they have scheduled the payment but in the interim he has had a meeting of what would be required for this funding. An operational plan is required and has taken Attorney Sabatt awhile to get his client on board with it which they are now. Attorney Sabatt has agreed with Art Traczyk to when payment will be received by the Town and they now are asking for some time. They are asking for the December 15<sup>th</sup> hearing in order to prepare.**

**William Newton asks for a definitive date when the money would be received for the hiring of the consultant. Attorney Sabatt indicates that he has spoken with Art Traczyk and the client who is interested in making installment plans for payment.**

**Attorney Sabatt will firm it up with the client about the schedule of payments and to consult with Art Traczyk about what the time frame will be. Attorney Sabatt indicates that the October 18<sup>th</sup> date is something he is shooting for but must consult with his client.**

**William Newton asks if we have a consultant chosen**

**Art Traczyk indicates that they have and that the firm is SCS Engineering out of New York with a local office. He gives a summary of their experience.**

**Motion is made by Brian Florence to continue this to December 15, 2010.**

**They discuss**

**Attorney Sabatt recommends a summary report by the end of October.**

***Motion is made by Brian Florence to continue this to October 27, 2010 at 7:05 PM for a status report.***

***Seconded b George Zevitas***

***Vote:***

***All in favor***

**CONTINUED TO OCTOBER 27, 2010 AT 7:05 PM**

***Motion is made to adjourn by Brian Florence and seconded by Alex Rodolakis.***

***Vote:***

***All in favor***

***Meeting adjourned at 7:40 PM***