



Town of Barnstable Zoning Board of Appeals

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Jo Anne Miller Buntich - Director
Carol Puckett – Administrative Assistant

Minutes December 1, 2010

A regularly scheduled and duly posted Public Hearing for the Town of Barnstable Zoning Board of Appeals was held on Wednesday December 1, 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 – Principal Planner and Carol Puckett – Administrative Assistant.

Laura Shufelt - Chair	Present
William Newton - Clerk	Present
Michael Hersey	Absent
Craig Larson	Present
Alex Rodolakis	Present
Brian Florence	Present
George Zevitas	Present

Laura Shufelt opens the hearing at 7:03 PM. She reads a summary of appeals being heard tonight.

**7:00 PM 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, September 15, 2010, October 27, 2010 and to December 1, 2010.

Continued for an update on Consulting Services.

Board Members Previously 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

Craig Larson recuses himself

Members assigned tonight: William Newton, George Zevitas, Brian Florence, Alex Rodolakis, Laura Shufelt

Attorney Sabatt is representing the applicant. Attorney Sabatt indicates that he believes there is a meeting scheduled for December 15th for the purpose of the public to meet with the consultant who will look at the site that day.

Motion is made to continue this to February 2 at 7:00 PM

Brian Florence seconds.

CONTINUED TO FEBRUARY 2, 2011 AT 7:00 PM

Laura Shufelt then calls the Childs-Nilson appeal and reads it into the record.

7:10 PM

Appeal No. 2010-047 - New

Childs-Nilson

Family Apartment Variance

Decision due January 28, 2011

Carol A. Childs-Nilson has applied for a Variance to Sections 240-47.1.(A) 1 and 240-47.1 (A) 3. Family Apartments. The applicant is seeking the variance for a family apartment to be located in an existing detached accessory structure located on the property which consists of 823 square feet when the zoning ordinance only permits family apartments to be within or attached to the principal dwelling and not to exceed 800 square feet. The property is addressed 546 Osterville/West Barnstable Road, Marstons Mills, MA and is shown on Assessor's Map 122 as parcel 008. It is in a Residence F Zoning District.

Members assigned: William Newton, Craig Larson, Brian Florence, Alex Rodolakis, Laura Shufelt

Carol Nilson is here representing herself and indicates that she wanted to rescind her comprehensive permit with the Amnesty Apartment Program and ask for a family apartment. Laura Shufelt clarifies that this is for an apartment located on the second floor of the detached garage. Mrs. Nilson indicates that her father-in-law will be living there and understands the regulations pertaining to the family apartment permit. Ms. Childs indicates that when she first measured the area of the apartment that she included the stairway and accepts the 786 square feet mentioned in the staff report.

William Newton clarifies that she rescinded her comprehensive permit earlier this evening. Brian Florence asks about if Mrs. Nilson could elaborate on the qualifications of the three prong test. Mrs. Nilson indicates that she does not understand the question. Laura Shufelt reads it and indicates that the structure is already legally existing with an apartment that was legal under the Amnesty Apartment Program, that it would be a financial hardship it was not granted and that it would not be detrimental to the neighborhood. Laura Shufelt clarifies that parking is on-site.

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.

Brian Florence does findings:

In Appeal 2010-047, Carol A. Childs-Nilson has applied for a Variance to Sections 240-47.1.(A) 1 and 240-47.1 (A) 3. Family Apartments. The applicant is seeking the variance for a family apartment to be located in

an existing detached accessory structure located on the property which consists of 823 square feet when the zoning ordinance only permits family apartments to be within or attached to the principal dwelling and not to exceed 800 square feet. The property is addressed 546 Osterville/West Barnstable Road, Marstons Mills, MA and is shown on Assessor's Map 122 as parcel 008. It is in a Residence F Zoning District.

In 2004, the petitioner applied for and was granted Comprehensive Permit 2004-029 under the Accessory Affordable Housing Program (Chapter 9, Article II of the General Ordinances of the Code of the Town of Barnstable). That permit authorized the development of the second floor of the garage into a one-bedroom apartment unit and its use as an accessory affordable rental unit. The unit was developed in 2004 and has been in use as an affordable unit and since has been rescinded.

This apartment unit was legally created under the regulations.

Owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, and a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner,

The desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.

Vote:

Alex Rodolakis notes that the square footage is less than 800 square feet. Brian Florence accepts the change.

AYE: Alex Rodolakis, Brian Florence, Craig Larson, William Newton, Laura Shufelt

NAY: None

Brian Florence makes a motion to grant Appeal 2010-047 with the following conditions::

- 1. The family apartment shall comply with and be maintained in accordance with all conditions herein, as well as all applicable requirements of Section 240-47.1 for a family apartment, including that the family apartment use is nontransferable to future owners.***
- 2. The family apartment shall be maintained as a one bedroom unit of 786 sq.ft., in the existing garage structure located on the property.***
- 3. All requirements of the Building Division shall be fully complied with to assure that the use of the property is in full conformance with zoning and all applicable codes, including building, fire, and health.***
- 4. Only one single-family dwelling and its accessory uses shall be permitted on the property.***
- 5. All parking shall be on-site.***
- 6. Occupancy of the family apartment unit is restricted to a family member only. There shall be no renting of the apartment unit to non-family members.***
- 7. When the family apartment is vacated or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use of the apartment shall be terminated and this variance shall become null and void. At that time, this variance shall cease and the applicant or property owner shall be responsible for the removal of the kitchen and use of the apartment as an independent living unit. A building permit for the removal of the unit shall also be required at that time. This condition would not prohibit another family member from occupying the family apartment herein.***

Seconded by William Newton

Vote:

AYE: Alex Rodolakis, Brian Florence, Craig Larson, William Newton, Laura Shufelt

NAY: None

GRANTED WITH CONDITIONS

At 7:20, Laura Shufelt calls the Schultheiss-Alesbury Trust appeal and reads it into the record:

7:20 PM Appeal No. 2010-053 - New

**Schultheiss Alesbury Trust
Expand/Alter Nonconforming Dwelling**

Decision due March 1, 2011

Debra Schultheiss Alesbury a/k/a Debra S. Alesbury as Trustee of the Debra Schultheiss Alesbury Trust has petitioned for a Special Permit pursuant to Section 240-92.B Nonconforming Buildings or Structures Used as Single- and Two-family Residences. The petitioner is requesting the permit to allow for the expansion and alteration of the existing nonconforming dwelling including the addition of 700 +/- sq.ft., to the structure. The structure currently does not meet the required rear yard setbacks and the alteration as proposed will not intensify that nonconformity. The property is addressed 41 Piney Road, Cotuit, MA and is shown on Assessor's Map 034 as parcel 020-002. It is in a Residence F Zoning District.

Members assigned: William Newton, Craig Larson, George Zevitas, Alex Rodolakis, Laura Shufelt

Mr. Alesbury is here representing the appeal before the Board. Steve Devlin, the builder, is also here. Mr. Alesbury gives a history of his ownership of the house and indicates that it approximately 76 years old and would like to renovate and add 700 square feet to the floor plan but stay within the footprint/outline of the house. There is a cantilevered section at the back of the house which goes out about 2 feet which they would eliminate. He indicates that they would also take a section on the west side, which is currently an overhang, which they would like to build from the foundation up to the second floor.

Laura Shufelt indicates there was a letter in the file from Edward C Crawford, a direct abutter, who is in support and has talked to the applicant about using his land to do the renovation but just asks that the disturbed area and the fencing be restored back to its original state. Mr. Alesbury indicates that he is aware of Mr. Crawford's request and is agreeable.

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.

Brian Florence asks if the applicant has seen the staff report and indicates that there was a concern about the dimensions and asks that those numbers be verified. The builder, Steve Devlin, indicates that whatever the plan they submitted is what they are intending to build. The Board indicates that the plan is binding and that the dimensions would be verified by the Building Division.

William Newton does findings:

Debra Schultheiss Alesbury a/k/a Debra S. Alesbury as Trustee of the Debra Schultheiss Alesbury Trust has petitioned for a Special Permit pursuant to Section 240-92.B Nonconforming Buildings or Structures Used as

Single- and Two-family Residences. The petitioner is requesting the permit to allow for the expansion and alteration of the existing nonconforming dwelling including the addition of 700 +/- sq.ft., to the structure.

What they wish to do is basically on page 2 of the staff report:

According to the application and plans submitted, it appears the applicant is proposing to:

- **remove the existing 456 sq.ft., second floor of the building,**
- **rebuild a new second floor of 916 sq.ft., and**
- **completely renovate the 1,093 sq.ft. first floor and**
- **add to the existing open decks.**¹

William Newton clarifies the square footage with the applicant.

The structure does not currently meet the required rear yard setback and the alteration as proposed will not intensify that nonconformity.

The dwelling dates back to 1922 and predates the adoption of zoning in Barnstable. The subject lot has no frontage on Piney Road and the access is taken via an easement over 25 Piney Road.

There is no greater encroachment of the building as measure for the foundation into the setback. There is no increase in the degree of the nonconformity. That part of the building that included over the property line is to be removed and further reduced to line with the building foundation.

We have a letter from Mr. Edward C. Crawford of 1045 Main Street which is to the back of the applicant but has access to Main Street. He has given his permission to allow use of vehicles, equipment, etc., over his land to access the applicant's dwelling for the repairs and renovation which the applicant has agreed to. He has also required that upon completion of the work that the applicant restore the property by re-vegetating and reinstalling the fencing to match the existing.

The application falls within a category specifically excepted in the ordinance for a grant of a special permit.

After 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 the neighborhood affected.

Craig Larson seconds.

Vote:

AYE: William Newton, Craig Larson, George Zevitas, Alex Rodolakis, Laura Shufelt

NAY: None

William Newton makes a motion to grant the variance subject to the following conditions:

- 1. The alterations and expansion of the structure shall be in accordance with plans submitted to the Board entitled; proposed Renovation 41 Piney Lane Cotuit, MA prepared for Bill and Debra Alesbury, as drawn by Central Construction Company, Inc. consisting of Sheets 1 through 5.**
- 2. No part of the building shall intrude into the 2.1-foot rear yard setback.**
- 3. All construction shall conform to all applicable building codes and fire regulations.**

¹ The figures presented are staff calculations based upon the existing Assessor's record and the plans submitted. The applicant should verify the figures for the Board.

4. ***The applicant shall be responsible for restoring the rear of the site, including the abutter's property by reinstallation or replacing in like-kind, the fence, and re-vegetate to restore screening. This shall be required prior to issuance of any occupancy permit.***
5. ***All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be located so as to conform to the required setbacks and any equipment shall be screened from neighboring homes and all ways.***
6. ***This decision must be recorded at the Barnstable County Registry of Deeds and a copy of that recorded document must be submitted to the Zoning Board of Appeals office and to the Building Division at the time a building permit application is made. The relief authorized must be initiated within two years of the granting of this permit.***
7. ***After 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 the neighborhood affected.***

Seconded by Craig Larson.

Vote:

AYE: William Newton, Craig Larson, George Zevitas, Alex Rodolakis, Laura Shufelt

NAY: None

GRANTED WITH CONDITIONS

Laura Shufelt then calls the McCowan & Pelletier appeals and reads them into the record:

7:35 PM Appeal Nos. 2010-034 & 045 – Continued

**McCowan & Pelletier
Variance – Bulk Regulations**

Members previously assigned. William H. Newton, Craig G. Larson, Brian Florence, George T. Zevitas, Laura F. Shufelt

Appeal No. 2010-034 – McCowan Cotuit Trust – 1992

Opened September 29, 2010, continued November 3, 2010, and to December 1, 2010

Decision Due March 8, 2011

The McCowan Cotuit Trust – 1992 has applied for a Variance to Section 240-14.E, Bulk Regulations, Minimum Lot Area and Minimum Lot Frontage and Section 240-36 Resource Protection Overlay District. The variance is sought to render the property a buildable lot for a single family dwelling. The subject lot was established in 1961, however, the establishment of the lot did not conform to the zoning requirements for a legally created lot and therefore the applicant seeks to now legalize the lot under zoning. The property is addressed 1372 Main Street, Cotuit, MA and is shown on Assessor's Map 033 as parcel 046. It is in a Residence F Zoning District.

Appeal No. 2010-045 –Pelletier Realty Trust

Opened November 3, 2010, continued to December 1, 2010

Decision Due April 14, 2011

Pelletier Realty Trust has applied for a Variance to Section 240-14.E, Bulk Regulations, Minimum Lot Area, Minimum Lot Frontage, and Minimum Yard Setbacks, and Section 240-36 Resource Protection Overlay District. The variance is sought to render the existing developed lot a legal lot under zoning. The subject lot was established in 1961, however, the lot did not conform to the zoning requirements for the district and therefore the applicant seeks to now legalize the lot under zoning. The property is addressed 1376 Main Street, Cotuit, MA and is shown on Assessor's Map 033 as parcel 024. It is in a Residence F Zoning District.

Members assigned tonight: William Newton, Craig Larson, Brian Florence, George Zevitas, Laura Shufelt

Attorney Sarah Turano-Flores is representing the applicants. She indicates that she would like to withdraw without prejudice 2010-045 for Pelletier.

Brian Florence makes motion to withdraw Appeal 2010-045 without prejudice.

William Newton seconds.

Craig Larson asks if there is a reason behind it. Sarah Turano-Flores indicates that they were in agreement with the Town Planner's recommendation that it be shown on an ANR plan and that the plan contain a condition that the Barn lot be unbuildable. She indicates that the Board, given its feedback, was reluctant to do so and neither applicant is in a position to buy each other out. Therefore, they would like to go forward with the Barn lot and withdraw the House lot request.

Craig Larson comments that he is confused about what they are trying to accomplish.

Sarah Turano-Flores indicates that the area of concern has been in the family for over 100 years and two different people own each lot. They can't use as such if it was to be combined into one as such. She indicates that they got a determination from the Building Commissioner that this is an unbuildable lot and the Assessor's said they would not change the classification until the applicants were denied a variance from the Zoning Board of Appeals and that is the position that the Board of Assessor's has put the applicants in.

Laura Shufelt asks that if they withdraw the house lot, and deny the variance on the other lot, they would still have a house on a lot that is not in conformance and a barn that is an accessory to nothing on an unbuildable lot.

Craig Larson asks why they wouldn't want to withdraw both. Sarah Turano-Flores indicates that they are here because of the Board of Assessors.

Laura Shufelt asks Art Traczyk if there could be a clarification from the Board of Assessors on this. The Board discusses.

Laura Shufelt indicates that there is a motion on the floor to withdraw without prejudice Appeal No. 2010-045 Pelletier.

Rick McCowan speaks and indicates that they would like a decision either way and their preference is that they withdraw the variance on the house and go forward with the Barn lot.

The Board discusses.

Laura Shufelt reiterates that there is a motion on the floor.

Sarah Turano-Flores indicates that the planner's recommendation addresses the ANR issue that might resolve it.

Rick McCowan wants to leave them the way they are and that the use could change in the future such as using the Barn lot as just access to the water.

Vote to withdraw without prejudice:

Vote:

AYE: William Newton, Brian Florence

NAY: Craig Larson, George Zevitas, Laura Shufelt

Motion doesn't carry.

Laura Shufelt indicates that there are now two variance requests in play. She asks if there is anyone here from the public who would like to speak either in favor or in opposition. No one speaks.

The Board discusses how to go forward.

Craig Larson makes findings:

In Appeal 2010-034, the McCowan Cotuit Trust – 1992 has applied for a Variance to Section 240-14.E, Bulk Regulations, Minimum Lot Area and Minimum Lot Frontage and Section 240-36 Resource Protection Overlay District. The variance is sought to render the property a buildable lot for a single family dwelling. The subject lot was established in 1961, however, the establishment of the lot did not conform to the zoning requirements for a legally created lot and therefore the applicant seeks to now legalize the lot under zoning. The property is addressed 1372 Main Street, Cotuit, MA and is shown on Assessor's Map 033 as parcel 046. It is in a Residence F Zoning District.

Variance Findings:

The statutory requirement of MGL Chapter 40A, Section 9 for granting a variance is a three-prong test. The applicant must substantiate those conditions that justify the granting of the relief being sought. The Zoning Board is required to make specific findings that support that each of the three statutory requirements has been met to consider the grant of variance. The statutory requirements are:

- 1. Owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, and*
- 2. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner,*
- 3. The desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.*

Brian Florence seconds.

Vote:

AYE: William Newton, Craig Larson

NAY: Brian Florence, Laura Shufelt, George Zevitas

Craig Larson makes a motion to grant Appeal No. 2010-034.

William Newton seconds.

Vote:

AYE: William Newton, Craig Larson

NAY: Brian Florence, Laura Shufelt, George Zevitas

Motion does not carry.

NOT GRANTED

Brian Florence indicates his negative vote was because he believes that these lots have already merged.

Craig Larson makes findings on Appeal No. 2010-045, Pelletier Realty Trust has applied for a Variance to Section 240-14.E, Bulk Regulations, Minimum Lot Area, Minimum Lot Frontage, and Minimum Yard Setbacks, and Section 240-36 Resource Protection Overlay District. The variance is sought to render the existing developed lot a legal lot under zoning. The subject lot was established in 1961, however, the lot did not conform to the zoning requirements for the district and therefore the applicant seeks to now legalize the lot under zoning. The property is addressed 1376 Main Street, Cotuit, MA and is shown on Assessor's Map 033 as parcel 024. It is in a Residence F Zoning District.

Variance Findings:

The statutory requirement of MGL Chapter 40A, Section 9 for granting a variance is a three-prong test. The applicant must substantiate those conditions that justify the granting of the relief being sought. The Zoning Board is required to make specific findings that support that each of the three statutory requirements has been met to consider the grant of variance. The statutory requirements are:

- 4. Owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, and**
- 5. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner,**
- 6. The desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.**

Brian Florence seconds

Vote:

AYE: William Newton, Craig Larson

NAY: Brian Florence, Laura Shufelt, George Zevitas

Craig Larson makes a motion to grant Appeal No. 2010-045.

William Newton seconds.

Vote:

AYE: William Newton, Craig Larson

NAY: Brian Florence, Laura Shufelt, George Zevitas

Brian Florence indicates that his negative vote was because he believes that the lots have already merged. Laura Shufelt indicates that her negative vote was because it would be derogation from the intent and purpose of the ordinance.

NOT GRANTED

Laura Shufelt then calls the Doherty appeal and reads it into the record:

Appeal No. 2010-046 - Continued

**Doherty
Bulk Variance for a Shed**

No Members Previously Assigned

Decision Due December 30, 2010

Theodore L. Doherty & Christine S. Doherty as Trustees of the Doherty Family Trust have applied for a Variance to Section 240-14.E, Bulk Regulations, Minimum Yard Setbacks. The applicants are requesting a variance from the required 15-foot side and rear setbacks to allow construction of a 10 X 12 foot shed 6.8 feet off the rear property line and 3.9 feet off the side property line. The property is located at 97 Castlewood Circle, Hyannis, MA as shown on Assessor's Map 273 as parcel 053. It is in a Residence C-1 Zoning District.

Members assigned tonight: William Newton, Brian Florence, Alex Rodolakis, George Zevitas, Laura Shufelt

Craig Larson recuses himself

Mr. & Mrs. Doherty are here representing himself.

Mr. Doherty hands the Board members pictures of his property and a letter explaining their request for a variance which has been submitted to the file.

Laura Shufelt clarifies that the concrete pad already exists. Mr. Doherty indicates that they can't put it anywhere else and have upgraded their septic system and have put a new leaching field in.

Laura Shufelt asks if there anyone from the public who would like to speak either in favor or in opposition to the request.

Mr. William J. Creighton of 85 Castlewood Circle speaks and indicates that he is an abutter and that the request is to put the shed closer than what the required setbacks are. He indicates that the concrete pad exists and was told that the pad could be cut up and pieces removed for a small amount which would not seem excessive. He indicates that the shed can easily be seen from his house and the street and it completely changes his backyard area and can prevent his house from being sold. It appears from the plot plan that a shed of various sizes could be constructed on the other side of the house on a driveway that can hold six automobiles and a smaller shed could be constructed on blocks as are other sheds on Castlewood Circle are on blocks. He has talked with the Building Inspector who is aware of the problem.

Mr. Doherty clarifies where Mr. Creighton lives. Mrs. Doherty indicates they didn't use blocks this time because of rodents. Mr. Doherty indicates that the original shed was on the lot lines and there was a fence 20 years ago when they first moved there which doesn't exist any longer.

George Zevitas asks about other neighbors and how tall the shed is. Mr. Doherty indicates that it is a 10 by 12 shed.

Brian Florence asks Mr. Doherty if the variance were to be granted if he could move the shed to the innermost corner of the pad and if it would be an issue. Mr. Doherty comments that he doesn't think it would be a problem but isn't sure.

Mr. Creighton comments the he doesn't remember a fence being there.

Brian Florence makes findings:

In Appeal No. 2010-046, Theodore L. Doherty & Christine S. Doherty as Trustees of the Doherty Family Trust have applied for a Variance to Section 240-14.E, Bulk Regulations, Minimum Yard Setbacks. The applicants are requesting a variance from the required 15-foot side and rear setbacks to allow construction of a 10 X 12 foot shed 6.8 feet off the rear property line and 3.9 feet off the side property line. The property is located at

97 Castlewood Circle, Hyannis, MA as shown on Assessor's Map 273 as parcel 053. It is in a Residence C-1 Zoning District.

- owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located;
- a literal enforcement of the provisions of the Zoning Ordinance would involve substantial hardship, financial or otherwise to the petitioner, and
- desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance.

William Newton seconds.

Vote:

AYE: William Newton, Brian Florence, Alex Rodolakis, George Zevitas, Laura Shufelt

NAY: None

Brian Florence makes a motion to approve the request for a variance subject to the following conditions:

1. This variance is granted to allow for a shed structure of 120 sq. ft. to be located 6.8 feet off the rear property line as the concrete pad will allow and 3.9 feet off the side property line where zoning requires a 15 foot setback.
2. The location of the shed shall be as shown on a plan submitted entitled: "Plot Plan of Land located at 97 Castlewood Circle Hyannis, MA prepared for Theodore Doherty dated October 4, 2010 by Yankee Land Survey Co., Inc.

Brian Florence asks if the 3.9 would be increased as far as you can bring it internally. Brian Florence points out the placement of the shed to Mr. Doherty on a plan. He is suggesting that the structure comes over but can still remain on the pad.

William Newton seconds.

George Zevitas wants to amend it by adding that they will erect a fence between them and Mr. Creighton.

Brian Florence asks if he would be willing to put up a fence. Mrs. Doherty doesn't see it as necessary

Vote:

AYE: George Zevitas, Alex Rodolakis, Brian Florence, William Newton, Laura Shufelt

NAY: None

It is clarified that there will be no fence.

GRANTED WITH CONDITIONS

Laura Shufelt indicates that a letter from Attorney J. Douglas Murphy has been submitted asking to Withdraw without Prejudice.

7:45 P.M.

Appeal No. 2010-043

- Continued

Oyster Harbors Club, Inc.

Alteration & Expand Nonconforming Use

Opened October 27, 2010, continued November 3, 2010 and to December 1, 2010 - Continued to allow resolution of abutter concerns.

Members previously assigned; Michael P. Hersey, Craig G. Larson, Alex M. Rodolakis, George T. Zevitas, Laura F. Shufelt - Associate Present; Brian Florence,

Decision Due; January 25, 2011

Oyster Harbors Club, Inc., has petitioned for a Special Permit pursuant to Section 240-93.B, Alteration and Expansion of a Nonconforming Buildings or Structures Not Used as Single- or Two-Family Dwelling, and Section 240-94.B, Expansion of a Pre-existing Nonconforming Use. The petitioner seeks to demolish an existing 571 square foot children's play center and to reconstruct a larger, two-story structure of 2,506 square feet for the play center. The building and use is accessory to the principal nonconforming use of the property as a club house. The property is addressed 170 Grand Island Drive, Osterville, MA and is shown on Assessor's map 053 as parcel 012-001. It is in a Residence F-1 Zoning District.

Brian Florence makes a motion to withdraw without prejudice.

Alex Rodolakis seconds.

Vote:

All in favor

WITHDRAWN WITHOUT PREJUDICE

Motion is made by William Newton to approve the minutes from September 15, 2010 & October 27, 2010 as written. Brian Florence seconds.

Vote:

All in favor

MINUTES APPROVED

Open

Chair's Discussion

Laura Shufelt talks about the extension of permits act and will have Art Traczyk send out an email regarding this.

Next meeting of the ZBA is January 5, 2011

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

Vote:

All in favor.

Meeting adjourned.
