



Town of Barnstable
Zoning Board of Appeals
Draft Minutes
January 19, 2011

A regularly scheduled and duly posted Public Hearing for the Town of Barnstable Zoning Board of Appeals was held on Wednesday January 19, 2011 at 7:00 PM at the Town of Barnstable, Town Hall, 367 Main Street, Hyannis, MA. A quorum was met. Also present were Jo Anne Miller Buntich – Director, Growth Management, Elizabeth Jenkins – 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
Scott Harvey	Present

Laura Shufelt opens the hearing at 7:02 PM. She introduces JoAnne Buntich who indicates that they are asking if the board would be amendable to changing the dates to the second and fourth Wednesdays. The board discusses. Everyone is okay with the second and fourth Wednesdays.

Approval of minutes from January 5, 2011 is made by Brian Florence and seconded by Craig Larson.

Vote:

All in favor

Laura Shufelt introduces Scott Harvey, the new Associate Member.

Laura then calls the Iyanough Road Trust and reads it into the record.

7:00 PM Appeal No. 2011-001

Iyanough Road Trust

Iyanough Road Trust has applied for two special permits to allow for the alteration and expansion of a nonconforming building and a nonconforming use. The first permit is sought pursuant to Section 240-93 B - Alterations or Expansions in a Pre-existing Nonconforming Building or Structure to allow for the construction of a 2000 sq. ft. addition not in conformity to the required yard setbacks and to retain certain nonconformities in the site. The addition is for added storage space and to accommodate the store's recycling facility. The second permit is sought pursuant to Section 240-94 B - Expansion of a Pre-existing Nonconforming Use or in the alternative, a conditional use special permit pursuant to Section 240-25.C(1) Conditional Uses in the Highway Business District to allow the retail sales of liquor. The property is the Parker's Liquor Store at 1156 Iyanough Road (Route 132), Hyannis, MA. It is shown on Assessor's Map 274 as parcel 006. The property is zoned Highway Business and B Business.

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

Attorney Michael Ford is representing the applicant. Also with him are Jeff Ford, Esq., and Steve Chinard.- site engineer for the project.

Attorney Ford gives a brief history of Parker's Liquors at this location at this location from approximately the 1960's. He indicates that the lot was further divided from a larger piece in 2007 by an ANR plan breaking off the Millway Marine piece that was in the back all of which was in the B zone and what remains out of that division is what is here before the Board tonight. He indicates that the lot is nonconforming in terms of width and was so prior to the division. The operator of the business has, for the last 10 or 12 years, conducted a recycling and redemption program on-site in two areas as shown on the site plan and through a series of outdoor facilities including the use of trailers on-site. This proposal is an attempt, by the owner/operator, to operate in a separate area. None of the proposed space will be devoted to retail use and is strictly for storage, recycling and bottle redemption. The site will be updated, the trailers will be removed, and the 600 square feet. area in blue (as presented on the easel) will be removed so the net increase will be 1400 square feet. He indicates that this proposal was before Site Plan Review and was advised in Site Plan by the Building and Fire Departments, that if, as a result of the construction of this addition, that the total building, counting all of the existing building, exceeded 7500 square feet it would require that the entire building be sprinkled. As there has been recent renovations, his client felt that this would be too costly, thus, the net addition turned into 1400 square feet which brings them under 7500 square feet. Also, in Site Plan, they were asked to show the relationship between this parcel and the redevelopment of the proposed Stop & Shop. They did show where the interconnect would be between this lot and the Stop & Shop if and when it is constructed. He suggests that this not be part of the conditions as suggested in the staff report as they are a part of a separate Site Plan Review and has conditions on it including time as approved by the Cape Cod Commission and believes it is adequately regulated and conditioned and contained in other permits and need not be part of this. Another issue has come up through Site Plan Review which relates to certain parking spaces of which some will be removed and some to remain. They met several times and were asked to remove 3 parking spaces and relocate them as parallel spaces along the easterly side of the property which they show on their revised plan. Additionally, they showed that the 11 spaces remaining in the front of the building (7 immediately in the front and the 4 encroaching into the 132 layout) would remain. When he got the Site Plan approval for the first time, there was a bulleted section that indicated that the spaces are to be removed and that space landscaped. He was surprised to see it and hasn't had time to follow it up with Tom Perry as of yet. He summarizes the relief being sought. They are not seeking to expand the retail use as this is for the recycling, storage and bottle redemption program and would expect a condition for that particular use. He gives his reasoning for the granting of special permits in the HB zone. He refers to Page 6 of the Staff Report (3rd page) and what he would suggest would be that they be given the opportunity, maybe through a continuance or through a condition that they return to Site Plan Review to clarify the fourth bullet that calls for the parking spaces to be removed and landscaped.

Laura Shufelt indicates that they couldn't make a decision, in her opinion, because it is an outstanding condition. Laura asks if those conditions were removed, what would that do to his parking requirements. Attorney Ford indicates that they would add in the back or to the right as it is an open area and would also do something short term. Also, under phasing concerns, he would suggest that those parking spaces relating to Stop & Shop are unrelated to this and that they weren't seeking permission to this and would suggest that the best way for the Town to keep track is through the Stop & Shop plan. They discuss the Stop & Shop plan.

Laura Shufelt clarifies that the parking and landscape will not be part of the ZBA decision.

Attorney Ford indicates also that he was not aware that there was a variance in regards to the septic system and that they need to connect to the sewer and understands that. Also, he doesn't have the square footage of the building which is solely retail and would suggest they condition it to be exclusively for redemption and not for retail and that they are not seeking retail space. Also with respect to alteration of the

nonconforming building or structure, condition #3, they would deal with site plan, condition #5 with respect to the parking spaces and will take whatever direction the board gives them. Also, the condition on colors, he saw that they were seeking to make it yellow and is open to that.
George Zevitas clarifies with Attorney Ford that Mr. Norton is owner/trustee and has been there at least 10 years.

Brian Florence is concerned about the parking spaces in the front.

Laura Shufelt is concerned if the parking is reduced temporarily where would people park.

Attorney Ford indicates that a note could be put on the plan regarding the phasing. They discuss the Stop and Shop about interconnects. As a result those improvements are to be made when done.

Laura Shufelt asks if Stop & Shop doesn't go forward would it leave the back lot landlocked. Attorney Ford indicates no.

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

The board discusses the removal of the 4 spaces and Site Plan Review.

Attorney Ford requests to continue this to February 2, 2011. .

Brian Florence makes a motion to continue this to February 2, 2011 at 7:30 PM.

Craig Larson seconds

CONTINUED TO FEBURARY 2, 2011 AT 7:30 PM

At 7:58, Laura Shufelt calls the JDJ Housing Development LLC., - Dakota Partners, Inc., appeal and reads it into the record.

**7:15 PM Comp Permit 2003-090 JDJ Housing Development LLC, - Dakota Partners, Inc -
The Village Green**

JDJ Housing Development, LLC and Dakota Partners, Inc., have requested a modification of Comprehensive Permit 2003-090 issued for the development of the Village Green, a 148 unit rental apartment development with 37 units committed to affordable housing on 14.32 acres. The Applicant seeks to change the total number of units from 148 to 120 units and to change the number of affordable units from 37 units committed to low and moderate-income households to 30 units committed to low and moderate-income households and to change units committed to workforce housing from 14 units to 8 units to be committed to households earning between 81% and 120% of the area's median income. The proposal will decrease the number of apartment buildings from five to four and a separate building for management and common space, decrease the number of units and increase the size of the living area within all of the units which thus increases the size of the building footprints and gross building area. The property is addressed 0 Independence Drive, formerly 770 Independence Drive, Barnstable, MA, as shown on Assessor's Map 332 as Parcel 010-001, located in the Industrial Zoning District, and Wellhead and Groundwater Protection Districts.

No members assigned tonight.

Laura Shufelt indicates that there is a letter from Attorney Freeman regarding his clients, the applicants, dated and received by the Zoning Board of Appeals on January 11, 2011. She indicates that the regulations require a determination as to whether it is substantial or insubstantial change within 20 days of the receipt of the letter and that tonight's hearing is Just to have the board decide the change and then it will be heard in full on February 2, 2011.

William Newton makes a motion that the proposal by JDJ Housing Development, LLC & Dakota Partners, Inc., (Village Green), is in fact, a substantial change.

Vote:

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

NAY: Brian Florence

There has been correspondence received by the Zoning Board of Appeals that will be read on February 2, 2011 as they are not taking any public testimony this evening.

Jo Anne Buntich indicates that the materials and plans submitted by the applicant are considerable and that the members as well as the public are encouraged to view them at the Zoning Board of Appeals office located at 200 Main Street, Hyannis, MA during normal office hours. She indicates that they will also be working with the applicant's attorney to clarify what currently exists and what they are proposing to change.

JoAnne Buntich clarifies that the ZBA will meet again on February 16, 2011 and then begin the new schedule.

A motion is made by Brian Florence to adjourn and seconded by Craig Larson.

Meeting adjourned at 8:03 PM.