



Town of Barnstable

Zoning Board of Appeals



www.town.barnstable.ma.us/ZoningBoard

Board Members:

Craig Larson – Chair Brian Florence – Vice Chair Alex Rodolakis – Clerk George Zevitas – Member
David A. Hirsch – Associate Member Herbert Bodensiek – Associate Member
James Tinsley – Town Council Liaison

Staff Support

Elizabeth Jenkins – Principal Planner - elizabeth.jenkins@town.barnstable.ma.us
Carol Puckett – Administrative Assistant – carol.puckett@town.barnstable.ma.us

Minutes

Wednesday, July 9, 2014

2nd Floor Hearing Room – 367 Main Street, Hyannis, MA

Craig Larson - Chair	Present
Brian Florence – Vice Chair	Present
Alex Rodolakis – Clerk	Present
George Zevitas	Present
David Hirsch	Present
Herbert Bodensiek	Present

Also present were Elizabeth Jenkins – Principal Planner and Carol Puckett – Administrative Assistant.

As a quorum has been met, Craig Larson calls the hearing to order at 7:05 PM. .

Call to Order

Introduction of Board Members – ***All members present introduce themselves.***

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 an in accordance with MGL Chapter 30A §20. I must inquire whether anyone is taping this meeting and to please make their presence known.

Approval of Minutes

May 28, 2014

Motion is made by Brian Florence and seconded by Craig Larson to approve the minutes as submitted.

Vote:

All in favor

Old Business

7:00 PM Appeal No. 2014-026 Metlow

Deborah and Peter Metlow, as prospective lessees, have petitioned for a Conditional Use Special Permit in accordance with Section 240-25(C)(1) HB Business District. The petitioners are seeking to operate a personal service or parapsychology business which will include palm readings and tarot card readings. The property is located at 120 West Main Street, Hyannis, MA as shown on Assessor’s Map 290 as Parcel 161. It is in the Highway Business (HB) zoning district

Continued from June 9, 2014 and June 25, 2014. Members assigned: Craig Larson, Alex Rodolakis, George Zevitas, Brian Florence, Herbert Bodensiek.

Members assigned tonight: Craig Larson, Alex Rodolakis, George Zevitas, Brian Florence, Herbert Bodensiek
Representative: Attorney Mark Boudreau

Attorney Boudreau states that the last time this was before the board, they were concerned about two items. One was in reference to multi principal uses on one lot for which he had met with the Building Commissioner on and who had issued a letter stating it was an allowable use. The other issue was in regards to whether or not the use was clearly enough defined and a request to have the applicants present. The Metlows, father and three daughters are also here tonight. He introduces Gina, who is also on the application and has her answer questions from the board. Gina Metlow states that they do palm and tarot card readings which is somewhat personal psychology to help people make decisions about the future and to give guidance. Attorney Boudreau states that the family has been in this business for 29 years and is moving from Manhattan to this area. Craig Larson asks about hours of operation and how they attract and conduct business. Attorney Boudreau states that the applicants aren't sure what the traffic will bring and would like to reserve the right to set the hours but currently are planning on 10 to 8 Sunday through Monday and will adjust hours as business comes in. Gina states that people can walk-in or make an appointment. Members ask about signage. George Zevitas asks about living quarters and how many separate rooms will be downstairs. Mr. Zevitas asks Attorney Boudreau if they need to be licensed. Attorney Boudreau does not believe so. They discuss fees for services.

Craig Larson asks if there is anyone from the public or from the family who would like to speak. No one speaks.

Attorney Boudreau summarizes what the applicant is proposing and that the Building Commission has approved the parking plan.

Alex Rodolakis makes findings:

Deborah and Peter Metlow and Gna Metlow, as prospective lessees, have petitioned for a Conditional Use Special Permit in accordance with Section 240-25(C)(1) HB Business District. The petitioners are seeking to operate a personal service or parapsychology business which will include palm readings and tarot card readings. The property is located at 120 West Main Street, Hyannis, MA as shown on Assessor's Map 290 as Parcel 161. It is in the Highway Business (HB) zoning district

1. In Appeal No. 2014-026, Deborah and Peter Metlow and Gina Metlow have requested a Conditional Use Special Permit to allow a parapsychology business, including palm readings and tarot card readings, in the first floor of the existing converted residential building at 120 West Main Street, Hyannis.
2. The Petitioners demonstrated standing to file for the Special Permit through the submission of a valid, signed commercial lease dated June 6, 2014.
3. Section 240-25(C)(1) of the Zoning Ordinance allows any use permitted in the B District by Conditional Use Special Permit. Personal service uses are permitted in the B District.
4. No changes are being made to the layout of the site. The Building Commissioner reviewed the proposed use, parking arrangement and rights to pass over adjacent property and approved the proposed tenancy. Site Plan Review approval was issued for the proposed use on June 10, 2014.
5. The Building Commissioner affirmed that the second floor of the converted residential building may be used as a rental apartment unit and the rear garage/warehouse may be used for personal, non-commercial storage use by the owner of the property, as evidenced by his signature on a letter from Attorney Mark Boudreau dated July 1, 2014.
6. After an 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.
7. The proposed use of the property will not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community.
8. The proposed commercial use and reuse of the existing building are consistent with the Local Comprehensive Plan, which designates the West Main Street corridor for commercial infill and redevelopment.

Vote:

AYE: Craig Larson, Alex Rodolakis, Brian Florence, Herbert Bodensiek

NAY: George Zevitas

George would like to state that his reasons for a negative vote is because the service to be provided will be across from a public school and is not satisfied about the living arrangement in terms of occupants and bedrooms and total usage of the property.

Motion is made by Alex Rodolakis to grant the relief being sought in accordance with the conditions as outlined in the revised Staff Report dated July 8, 2014, Conditions 1-5, and be amended to state that the hours of operation not exceed 10:00 am to 8:00 pm daily.

Attorney Boudreau agrees.

Seconded by Brian Florence

Vote:

AYE: Craig Larson, Alex Rodolakis, Brian Florence, Herbert Bodensiek

NAY: George Zevitas

GRANTED WITH CONDITIONS

7:01 PM Appeal No. 2014-029

DeMelo Brothers, Inc

DeMelo Brothers, Inc is seeking a variance from §240-14 RF Residential District – Principal Permitted Uses. The applicant seeks a use variance to allow for the continued operation of a landscape business in the RF District. The company has been operating from this location for 33 years. The property is located at 91 Flint Street, Marstons Mills, MA as shown on Assessor's Map 123 as Parcel 028-002. It is in the Residence F Zoning District and Groundwater Protection Overlay District.

7:01 PM Appeal No. 2014-030

DeMelo Brothers, Inc

DeMelo Brothers, Inc is seeking a variance from §240-14 RF Residential District – Principal Permitted Uses. The applicant seeks a Use Variance to allow for the storage of 68 boats in the RF District. The property is located at 91 Flint Street, Marstons Mills, MA as shown on Assessor's Map 123 as Parcel 028-002. It is in the Residence F Zoning District and Groundwater Protection Overlay District.

7:01 PM Appeal No. 2014-028

DeMelo Brothers, Inc

DeMelo Brothers, Inc is appealing a determination of the Building Commissioner that the Appellant's landscape business, which has operated out of the 91 Flint Street property for 33 years, is not in conformity with the Zoning Ordinance. The property is located at 91 Flint Street, Marstons Mills, MA as shown on Assessor's Map 123 as Parcel 028-002. It is in the Residence F Zoning District and Groundwater Protection Overlay District.

Continued from June 9, 2014. Members assigned: Craig Larson, Brian Florence, Alex Rodolakis, George Zevitas, Herbert Bodensiek

Members assigned tonight: Brian Florence, Alex Rodolakis, George Zevitas, Herbert Bodensiek, Craig Larson
Representative: Attorney John Kenney. Also with him are Mr. DeMelo and Arlene Wilson from Wilson and Associates. Attorney Kenney states that they have worked closely with the Growth Management Department on the findings and conditions. The first area they haven't reached accord is regarding the mechanics bay and notes that it is not used to regularly service vehicles of concern. There is a bay with a lift and in years past they did do work but now the changing of oil, etc., is not done on site. The lift is used to change tires or to weld trucks. He has slips from an automotive repair places off site. The condition about maintenance of vehicles is acceptable except for welding of truck beds and would like to include that. He submits bills (Exhibit A). As for the above ground diesel tank, it is licensed by COMM, which is a 275 gallon tank licensed for 225 gallons (copy of permit (Exhibit B) of diesel and is contained in a shed with a one foot concrete floor, no drains or holes in the floor. He knows it is not an allowed use in the WP district but is the same situation as a home with home heating fuel and asks to keep the tank. The next area is commercial fertilizers. Previously, he misspoke about the fertilizer being 2000 pounds of liquid and was informed by his client that it is 2000 pounds of dry fertilizer delivered approximately every 6 weeks and used within one week. The only fungicide is for his own customers, mixed on site by a licensed pesticide technician. They are agreeable to put it in a container (the dry fertilizer) but will defer to the boards decision on that issue. As for the landscaping plan, they have no problem with that and intend to beautify this property and will be happy to submit a plant drawn by Mr. DeMelo for the beautification. They have reviewed all of the conditions and in 2 (b), they would like to add welding of truck beds. Condition #7: they are asking to maintain the tank and be allowed to keep it. As for #8: will defer to the board and have his client do this until next spring as they are in the middle of his busy season. He states that they are in agreement with everything else. They discuss language of conditions. They discuss containment of fuel storage and fueling and refueling of vehicles. Craig Larson asks about boat storage and if the engines tanks are full. They discuss fueling and concerns about full gas tanks in the GP district.

As for Condition #8, Craig asks Attorney Kenney for clarification as to what the applicant is requesting. Attorney Kenney explains that the fertilizer load is on the truck. Mr. DeMelo clarifies that the diesel and fertilizer are on opposite sides of the building. Attorney Kenney states that if the board is so inclined that, in a structured design, if they could wait until next spring, and if they are to lose the 275 gallon fuel tank, they have a shed with a concrete floor in which they could store the pallets of fertilizer and would have it to have it approved by COMM and the Building Department. Brian Florence clarifies with Attorney Kenney that the applicant is willing to put in a containment system and time to do it. Attorney Kenney believes they can work with the Building Commissioner on it.

Craig Larson asks if there is anyone from the public. No one speaks.

Attorney Kenney wants to clarify Condition #8. Craig Larson asks if they are conducive to this being accomplished within one year from the effective date of this decision or sooner. Also Kenney wants to clarify Condition #2. Alex Rodolakis thinks that #2 should reference the landscaping contracting business and needs to be expressed. They discuss.

Craig Larson makes findings:

1. In Appeal Nos. 2014-029 and 2014-030, DeMelo Brothers, Inc is seeking a variance from §240-14 RF Residential District – Principal Permitted Uses. The applicant seeks a use variance to allow for the continued operation of a landscape business and the storage of boats in the RF District.
2. The property is located at 91 Flint Street, Marstons Mills, MA as shown on Assessor’s Map 123 as Parcel 028-002. It is in the Residence F Zoning District and Groundwater Protection Overlay District. The only principal permitted uses in the RF District are detached single-family residential dwellings.
3. There are 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. The property is a 1.2 acre parcel originally part of a sand and gravel mining operation, which resulted in it being stripped of all vegetation and top soil.
 - b. The lot adjoins the Town capped landfill and transfer station and another commercial business.
 - c. It is currently developed with a 5,360 sq.ft metal commercial building not suitable for residential use.
4. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner:
 - a. The lot is developed as a commercial property and a commercial landscape contracting business currently operates on the property. If the zoning ordinance is literally enforced, it would result in would put the company out of business at this property, leaving it with an unmarketable residential lot and an unusable commercial building. This would create a significant financial hardship for the owner and the business’ employees.
5. Granting relief to allow use of the site for a landscape contracting business and boat storage in accordance with the proposed plan and conditions will not create a substantial detriment to the public good and will not nullify or substantially derogate from the intent or purpose of the zoning ordinance.
 - a. Immediately adjacent property is not used for single-family residential use in accordance with zoning; the property is bounded by the Town capped landfill and transfer station and another commercial business. A business has operated on this site for over 30 years. The continued commercial use of this site will not adversely affect surrounding property owners.
6. A site plan for the storage of boats on the property was approved by the Site Plan Review Committee on March 18, 2014, subject to several conditions to ensure adequate on-site stormwater management, protection of the groundwater, and fire prevention and emergency response.
7. The subject property is located within the Groundwater Protection Overlay District, which is intended to protect the public health, safety, and welfare by encouraging nonhazardous, compatible land uses within groundwater recharge areas.

Alex Rodolakis wants to amend #4 and made additional findings to include that there is significant ambiguity relating to the prior authorization from the town to the applicant relating to the applicant’s use of the property.

Vote:

All in favor

Craig Larson makes a motion to approve with the following conditions:

1. This variance shall allow the following uses of 91 Flint Street, Marstons Mills, MA as shown on Assessor's Map 123, Parcel 028-002 ("the Property") in accordance with all conditions herein:
 - (a) Landscape contracting business and accessory landscape masonry work.
 - i. The landscape contracting use shall include the cultivating and propagating of plants on site; the assembly of landscape crews to go off-site to service other areas; the maintenance of storage areas and offices in connection with the operation of the business allowed herein.
 - ii. Landscape masonry work shall include construction of stone walls, bluestone patios and cobblestone edging and similar activity. The landscape masonry work shall be accessory to the landscape contractor work and shall not be a separate business.
 - iii. ~~In conjunction with~~ Incidental and accessory to the landscape contracting business, the following materials may be stored on site: loam, mulch, plants (including trees to be re-planted), shells, crushed stone, grass and other seed, hydromulch, bluestone, cobblestone, other masonry supplies, and bagged soil. This condition is not intended to allow for the permanent outdoor stockpiling of large quantities of such materials on the property; storage such materials shall be permitted only in quantities typically used by the business within a year's time. ~~Storage of commercial fertilizers shall only be permitted in compliance with the terms of §240-35(F)(2)(v) and Condition No. 8 herein. No hazardous materials shall be allowed to be stored on the property, except as allowed by the exemptions stated in §240-35(F)(2).~~
 - (b) Seasonal storage of boats. ~~from September through March.~~
 - i. Boats shall be removed from the property each year and shall not be permanently stored on the property.
2. Any and all other uses are expressly prohibited on the Property, including, and without limitation the following:
 - (a) Uses prohibited by Section 240-35(F)(2) Groundwater Protection Overlay District.
 - (b) Servicing or maintenance of vehicles or equipment using hazardous materials petroleum products or chemicals is prohibited
 - (c) Servicing or maintenance of vehicles or equipment **that does not involve hazardous materials petroleum products or chemicals is permitted.**
 - (d) Servicing, painting, maintaining, or washing boats is prohibited.
 - ~~(e) On-site shrink wrapping of boats.~~
 - (e) Landscape material processes operations, including brush screening and shredding, composting, and mulch chipping, without prior approval from the Board is prohibited.
 - (f) Retail activity of any kind is prohibited.
3. The site shall be improved in substantial compliance with the plan entitled "Proposed Boat Storage Plan prepared for DeMelo Brothers, Inc" dated (last revised) March 07, 2014, drawn and stamped by Stephen Doyle and Associates and the plan entitled "Detention Basin Plantings" dated March 4, 2014 drawn by Robert DeMelo.
 - (a) Improvements shall be completed prior to the commencement of storage of boats on the property or within one year of the effective date of the variance, whichever is sooner.
4. Prior to commencement of the storage of boats on the property, the Applicant shall demonstrate that internal access ways have been improved to a standard capable of supporting a fire apparatus. Improvements shall be completed to the satisfaction of the Centerville-Osterville-Marstons Mills Fire Department. Access ways shall be maintained and remain unobstructed; parking of vehicles, equipment, or storage of materials within access ways shall be prohibited.
5. All uses, parking, and storage shall be prohibited within a 30 foot setback area from the front property line and a 10 foot setback area from side and rear property lines.
6. Landscape improvements shall be made to the Property as follows. A landscape plan showing the landscape improvements required by this condition shall be submitted to the Director of the Growth Management Department for approval. Landscape improvements shall be installed prior to the commencement of storage of boats on the property or within one year of the effective date of this decision, whichever is sooner.

- (a) Existing trees and shrubs shall be maintained along the frontage of Flint Street and within the 10 foot vegetated buffer strip as shown on the plan referenced in Condition No. 3.
 - (b) Landscape areas between the existing stockade fence and the property lines shall be supplemented with a combination of drought-tolerant grasses and shrubs commonly found on Cape Cod.
 - (c) Vegetated buffer strips shown on the Plan referenced in Condition No. 3 shall be planted with one tree for every 30 linear feet ~~(measured on center)~~. Existing trees may be utilized to meet this requirement, provided they are located on the Property.
7. The above-ground diesel storage tank shall be removed from the Property, unless said tank can be demonstrated to be exempt under Section 240-35(F)(2)(u).
 - (a) The tank shall not be relocated to any other property within the GP or WP Overlay Districts.
 - (b) Evidence of their removal of the tank or qualification under the exemption shall be submitted to the Zoning Board of Appeals and Building Division files prior to the commencement of storage of boats on the property or within one year of the effective date of this decision, whichever is sooner.
8. If commercial fertilizers are stored on site, they must be stored within a structure designed and engineered to prevent escape or transport of commercial fertilizers to the groundwater under any circumstances, as required by Section 240-35(F)(2)(v). Evidence of compliance with this condition shall be submitted to the Zoning Board of Appeals file and Building Division file prior to the commencement of storage of commercial fertilizers on the Property or within one year of the effective date of this decision, whichever is sooner.
9. Boats shall be parked in areas designated on the plan referenced in Condition No. 3 only.
10. Rack storage of boats is prohibited.
11. Prior to commencement of the storage of boats on the property, a Spill Response Plan for spill prevention shall be approved by the Health Division.
12. Boat storage shall limit the amount of gasoline and diesel fuels by preferentially storing outboard powered boats without their motors; new inboard boats which have never been fueled; and non-motorized vessels and trailers.
13. There shall be no future construction or expansion of the gross square footage of any of the existing structures permitted on this lot without the prior consent of the Zoning Board of Appeals.
14. The use and improvements shall be in compliance with the Site Plan Review approval issued on March 18, 2014.
15. The Applicant shall be responsible for obtaining any applicable licenses and complying with all applicable regulations of the Town Health and Building Divisions and Centerville-Osterville-Marstons Mills Fire Department.
16. Signage shall meet the requirements of Section 240-63(E) and shall be non-illuminated.

Attorney Kenney wants to clarify Condition #8 that it shall be within one year with an effective date of this decision. Craig Larson accepts the amendment.

Seconded by Brian Florence

Vote:
All in favor

GRANTED WITH CONDITIONS

As for the following:

7:01 PM Appeal No. 2014-028

DeMelo Brothers, Inc

DeMelo Brothers, Inc is appealing a determination of the Building Commissioner that the Appellant's landscape business, which has operated out of the 91 Flint Street property for 33 years, is not in conformity with the Zoning Ordinance. The property is located at 91 Flint Street, Marstons Mills, MA as shown on Assessor's Map 123 as Parcel 028-002. It is in the Residence F Zoning District and Groundwater Protection Overlay District.

Continued from June 9, 2014. Members assigned: Craig Larson, Brian Florence, Alex Rodolakis, George Zevitas, Herbert Bodensiek

Attorney Kenney asks to withdraw the appeal of the Building Commissioner without prejudice.

Motion is made by Craig Larson and seconded by Brian Florence to withdraw without prejudice.

Vote:

All in favor

WITHDRAWN WITHOUT PREJUDICE

7:02 PM Appeal No. 2014-027 700 South Main, LLC

700 South Main, LLC has applied for a variance from the minimum lot area requirements of Section 240-11.E RD-1 District and 240-36.D Resource Protection Overlay District. The locus contains approximately 3.45 acres of land and is developed with two single-family dwellings which pre-date the Town's adoption of the Subdivision Control Law. The applicant seeks to divide the land into two lots – one lot for each dwelling. Relief is required from minimum lot size requirements to create two lots consisting of 66,500 and 36,100 square feet of upland, respectively. The property is located at 700 Main Street, Centerville, MA as shown on Assessor's Map 186 as Parcel 037. It is located in the Residence D-1 and Resource Protection Overlay Districts
Continued from June 9, 2014. No members assigned.

New Business

7:00 PM Appeal No. 2014-036 700 South Main, LLC

700 South Main, LLC has applied for a variance from Section 240-7(D) Lot Shape Factor/Residential Districts. The Applicant proposes to divide the existing developed property pursuant to Massachusetts General Law Chapter 41 Section 81(L), into two lots with one existing dwelling on each proposed lot. The two proposed lots exceed the shape factor requirements of the Zoning Ordinance and variance relief is requested for both proposed lots. The property is located at 700 Main Street, Centerville, MA as shown on Assessor's Map 186 as Parcel 037. It is located in the Residence D-1 and Resource Protection Overlay Districts

**Members assigned tonight: Brian Florence, Alex Rodolakis, George Zevitas, Herbert Bodensiek, Craig Larson
Representative: Attorney Eliza Cox**

Attorney Cox would like to do both appeals and asks Chair Larson to read the second appeal into the record. Joining her is David Newton who is the manager of the LLC. She gives a summary of relief being sought on both appeals. The lot is currently over 3 acres, is the largest property in the neighborhood, in the RD-1 and RPOD and AP overlay districts. Two dwellings currently exist on the property. One dwelling was constructed circa 1720 and has been inventoried by the Barnstable Historical Commission as Captain Edward Louis home. The current owner has upgraded that house. That house is served by its own septic system which currently passed inspection. Separate utilities that serve each of the two dwellings. The other existing dwelling on proposed lot 2 was, according to the Assessor's record, was constructed circa 1939. However, if you look at the land court plan, it is listed as 1928. This dwelling also has its own septic system which currently passed inspection and has separate utilities. She states that both structures are lawfully, pre-existing, nonconforming to the use requirements of the RD-1 district. Both structures have been historically used separately and both have been occupied and rented separately. She has a letter noting that the structures have been used separately from an abutter who has owned her property for the last 25 years. She clarifies that both lots will house their own septic components separately without easements. As for the curb cut, there would be an easement over Lot 1 for access to Lot 2. She states that there are currently no plans to demolish the structure on Lot 2. She gives reasoning for the three prong test for a variance. If approved, this will eliminate a pre-existing nonconforming use, there will be no intensification of use and would agree to one curb cut for both properties. She hands out a map to the board members (Exhibit A).

Attorney Cox refers to similar previously granted variances and their findings. They have read the conditions and notes that in suggested conditions #4 & 7, since this is land court land, that the language stating "registry of deeds" should be changed to "registry district of the land court" and is the only change they would like to make. Craig clarifies with Attorney Cox that the applicant would be okay with one curb cut.

Craig Larson asks if there is anyone here from public who would like to speak either in favor or in opposition. No one speaks. Craig notes that there are two letters in the file from direct abutters in favor.

Craig Larson makes findings:

Variance Findings

- 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.

Vote

All in favor

Craig Larson makes motion to approve with the conditions as outlined on Staff Report dated July 2, 2014 as amended with the typo errors corrected in reference to Conditions #4 and 7.

Seconded by Brian Florence

Vote:

All in favor

GRANTED WITH CONDITIONS

7:01 PM Appeal No. 2014-037

Gavin

Julia B. Gavin, Trustee of the Julia B. Gavin Trust, has petitioned for a Special Permit pursuant to Section 240-131.4 Craigville Beach District use regulations. The petitioner is proposing to demolish an existing carriage house with living space and reconstruct a two-story, flood-compliant attached structure with a three-car garage on the first floor and living space on the second floor. The property is located at 707 South Main Street, Centerville, MA as shown on Assessor's Map 186 as Parcel 066. It is located in the Craigville Beach District (CBD) and the Centerville River North Bank Neighborhood.

Members assigned tonight: Alex Rodolakis, Brian Florence, George Zevitas, David Hirsch, Craig Larson

Representative: Attorney Paul Tardif who is accompanied by the Gavins and Gary Ellis from Northside Design.

Attorney Tardif gives summary of relief being sought. Plan is to remove a wall and construct an addition. ConComm has seen this and approved it. The only part of the staff report that they differ is in reference to the footnote of limitation of square footage on the second level and thinks it is a matter of interpretation.

Herbert Bodensiek leaves at 8:55 PM.

They discuss the intent of basement/square footage. George Zevitas asks who lives in the carriage house. Dennis Gavin speaks and states that his children live there and that it is not rented out.

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

Brian Florence makes findings:

Julia B. Gavin, Trustee of the Julia B. Gavin Trust, has petitioned for a Special Permit pursuant to Section 240-131.4 Craigville Beach District use regulations. The petitioner is proposing to demolish an existing carriage house with living space and reconstruct a two-story, flood-compliant attached structure with a three-car garage on the first floor and living space on the second floor. The property is located at 707 South Main Street, Centerville, MA as shown on Assessor's Map 186 as Parcel 066. It is located in the Craigville Beach District (CBD) and the Centerville River North Bank Neighborhood

Special Permit Findings

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

Section 240-131.4(D)(2) allows for the change and alteration of existing structures lawfully in existence as of January 19, 2011 with a special permit from the Board.

Site Plan Review is not required for single-family residential development.

After an 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.

Further, §240-131.4 of the Craigville Beach DCPC ordinance states that in granting a special permit, the Board shall find that the proposed alterations and or expansions:

The proposed alterations and expansions are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure.

It complies with § 240-131.1, Purposes and intent:

The purpose and intent of §§ 240-131 through 240-131.8 are to guide development in the Craigville Beach District pursuant to the Guidelines of Barnstable County Ordinance 09-10 to ensure that development and redevelopment meets the following standards:

The redevelopment contributes to and respects the character and historic development patterns of the area and minimizes inconsistent development and redevelopment impacts to the historic and community character resources in this area;

The proposed construction will reflect the character of the existing dwelling and has an architectural style consistent with the historic character of the area.

The Applicant is proposing construction within the same approximate footprint as the existing structure, thus not creating any new obstruction to views or vistas to the water.

The redevelopment will not adversely affect natural resources or ecosystems in the district.

The redevelopment will remove habitable area from the floodplain. The new construction will comply with zoning and building regulations for construction within the floodplain.

The proposed structure does not significantly alter or increase the footprint of structures within the floodplain and thus does not have an adverse affect of the flow of flood waters within the floodplain.

and with the performance standards and design guidelines for the neighborhood overlay area in which the development is located, in accordance with § 240-131.7, Neighborhood District Overlay regulations, with the exception of the dimensional requirements of § 240-131.7D(1):

The proposed development does not intensify any of the existing setbacks. The redevelopment is in character with the surrounding structures.

The redeveloped structure will not be higher than the existing single-family dwelling. The proposal complies with the other requirements of §240-131.5, including required second-story setback and limitations on second story floor area:

Height Requirements:

Maximum permitted building height: 30 ft

The height of the structure from the average grade plane to ridge is 25 feet high from average grade (elev 6.2) to the ridge. The proposed new construction will be no higher than the existing single-family dwelling.

The second story must be set back at least two feet from the façade line of the floor below on two of the building's facades:

The second floor is dormered under a gambrel roof; the dormers are set back a minimum of two feet from the front and side facades.

The second story floor area shall not exceed 80% area of the floor immediately below it: for the thoughts and reasons of Attorney Tardif in that the floor below is not a floor.

Craigville River North Bank Neighborhood: All development and redevelopment shall meet the following standards:

Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member two feet above the BFE in V Zones and one foot above BFE in A Zones: *The proposed construction will be compliant with all requirements for construction in the AE Zone.*

Do not entail an increase in gross floor area or footprint for voluntary demolition of a single-family residence:

The proposal consists of voluntary demolition of an existing carriage house and its reconstruction as a new addition to the dwelling. The new construction will not increase the gross floor area (areas capable of human occupancy) or footprint over what exists.

There is no increase in the gross floor area (areas capable of human occupancy) of the dwelling.

The only proposed increase in building or lot coverage will result from the proposed rear balcony and stairs. The balcony is approximately 5' x 15' (75 sq.ft) with attached stairs.

The proposed construction will remove habitable floor area from the floodplain. The proposed structure does not significantly alter or increase the footprint of structures within the floodplain and thus does not have an adverse affect of the flow of flood waters within the floodplain.

They discuss how they comply with the 80% standard.

Vote:

All in favor

Brian Florence makes motion to grant relief being sought as outline in the staff report dated July 2, 2014.

Craig Larson clarifies that the date of the plans to be used is May 7, 2014. Motion seconded by Craig Larson

Vote:

All in favor

GRANTED WITH CONDITONS

Correspondence

Letter received 06-24-14 anonymously asking for investigation into allowed number of occupants in a rental home in Hyannis.
Letter received 06-2414 anonymously asking for investigation into allowed number of occupants in a rental home in Hyannis.

Other Business

Next Meetings: August 13; September 10; October 8; October 22

Adjourn

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

Vote:

All in favor