



Town of Barnstable

Zoning Board of Appeals



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Board Members:

Craig Larson – Chair Brian Florence – Vice Chair Alex Rodolakis – Clerk George Zevitas - Member
 David A. Hirsch – Associate Member Herbert Bodensiek – Associate Member Robin Young – Associate Member Matthew Levesque – 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, June 10, 2015

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

Brian Florence – Vice Chair	Present
Alex Rodolakis – Clerk	Present
George Zevitas	Present
David Hirsch	Present
Herbert Bodensiek	Present
Robin Young	Absent
Matthew Levesque	Absent

Call to Order

As a quorum has been met, Brian Florence calls the hearing to order at 7:05 PM

Brian Florence reads the following with no response:

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.

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

At 7:07 PM Brian Florence reads the following into the record:

New Business

7:00 PM Appeal No. 2015-030 Guarco

Anne and Brian Guarco have petitioned for a Special Permit pursuant to §240-91H(3) and Massachusetts General Law Chapter 40A Section 6 to demolish and reconstruct a dwelling on a preexisting nonconforming lot that contains less than 10,000 square feet. The Petitioners are proposing to demolish the existing principal dwelling and construct a new, 2,216 sq.ft dwelling. The property is located at 163 Estey Avenue, Hyannis, MA as shown on Assessor’s Map 306 as Parcel 197. It is located in the Residence B Zoning District

7:01 PM Appeal No. 2015-031 Guarco

Anne and Brian Guarco have applied for a variance to §240-91H(3)(b) and §240-91H(1)(b)[2] for relief from maximum floor area ratio requirements for the demolition of a nonconforming single-family dwelling and reconstruction of a dwelling which exceeds floor area ratio requirements. Alternatively, variance relief is requested from §240-11(E) for relief from Bulk Regulations for minimum lot area and front yard setback to permit the proposed reconstruction. The

property is located at 163 Estey Avenue, Hyannis, MA as shown on Assessor's Map 306 as Parcel 197. It is located in the Residence B Zoning District

Members assigned: Alex Rodolakis, George Zevitas, David Hirsch, Herbert Bodensiek, Brian Florence
Representative: Eliza Cox, Esq., from Nutter McClennen and Fish Also with her is Brian Guarco, his father Michael, Richard Avery from Cape Cod Remodeling, and Kieran Healey from BSC Group. Attorney Cox distributes copies of amended notes from her memo to the board members (EXHIBIT A). She notes that she had previously handed in a memo dated June 3rd which she would like to make a correction to and will explain. She states that the civil site plan originally filed with the application had the wrong square footage. Since then, the revised plan she just handed in has the correct average. The correct acreage is 7392 sf and the upland is 5805 sf which is different from the original plans filed. Elizabeth Jenkins clarifies that this does not affect the relief being sought. Attorney Cox gives a history of the existing structure. She points out the wetland and coastal dune and notes that most of the property is in three floor zones with most of it being in the AE flood zone. The property is subject to two easements the Guarco's gave to the Barnstable Land Trust who now own Circo Pond which she points out. The existing house is on municipal sewer and water. There is a single curb cut onto Estey Avenue. No drainage on the property currently but will be improved with this project. Initially, the applicants were contemplating remodeling and adding an addition. However, because of structural problems and flood requirements, it would've been very costly. Instead they will demolish and reconstruct. Attorney Cox states that the proposed dwelling will maintain FAR and lot coverage and refers to the memo sheet handed in tonight regarding the setback comparisons. The new house will have two habitable floors, 4 bedrooms and have a gross floor area of 2216 sf. Height from average grade will be 25 feet and will comply with zoning ordinance requirements. Dry wells are proposed and a longer driveway. This has been before the historical board and ConComm who issued an Order of Conditions requiring mitigation plantings. She describes the criteria needed for a special permit. She gives figures of existing and proposed gross floor area and how calculated according to the ordinance. She speaks to the three prong test one being for the unique soil and structure condition that currently exists. She also states that if her clients were to remodel, which would be very costly, they would not have to adhere to floor area ratio according to the ordinance. However, because of the condition of the existing structure and cost of remodeling, this would be a financial hardship. She speaks to the third prong regarding that this house is consistent with other houses in the neighborhood. She also has letters of support which she hands it (EXHIBIT B). She would ask for the board's approval for the special permit and variance and would withdraw one of the requests should the other request be granted.

Brian Florence asks Elizabeth Jenkins for past practices about floor area ratio calculations. Ms. Jenkins states that although the definition of FAR is not contained in the definition section, it is in §240-7 of the ordinance which has provisions that clarify that both that upland area should be used in calculations and that gross floor area is the calculation that should be used when meeting these criteria.

Questions from the board

Alex asks about the elevation above the plate. Mr. Avery, the builder, states that he had worked with the architect and both considered other elevations and the ceiling height of each floor. As they compared the structures and appearance of structures, they felt more comfortable because of functionality. First floor is 9 foot, second is 8 foot ceiling and only 8 feet in the garage area. They would be willing to reconsider if this is the main point of concern. They could be looking at the roof structure but isn't sure they could change the first or second floor height. Alex is concerned about the roof peak. Avery says they met with Tom Perry, Building Commissioner, and he suggested not putting in dormers. Mr. Avery would be willing to take the concern back to the owner. He also states that the utilities will be in the attic because of the flood zone. Alex suggests softening of the pitch of the roof peak. Mr. Avery asks for an opportunity to come up with a couple of comparative drawings at a follow-up meeting.

Brian Florence asks Kieran Healey about the catch basin, patio and the garage. Mr. Healey explains the catch basin placement. Brian asks about the garage. Mr. Healey states that the garage doors are wider than usual with a small turning radius to accommodate small collectible cars. The whole area will allow for off-street parking.

Brian asks for public comment.

Greg Lapsley is here with his wife Donna who live at 181 Breakwater Shores Drive. He states that they are concerned about having another house built with excessive height which will block others ocean views.

Donna Lapsley is concerned about the Town's Way to Water is it is very small and that there are boats and jet skis parked in the way making it more congested. There are two parking spaces that the public can use and isn't sure what kind of impact there

will be for the general public and parking. She is concerned about the height of the structure and about the location of the driveway. Brian Florence points out that the driveway is moving further to the right.

Attorney Cox rebuts and thinks the driveway, as proposed, will be better than the existing location. She reiterates that there are letters of support for the project and based on the comments tonight, she asks for a continuance to address the height issue of the dwelling.

Brian Florence notes the letters of support handed in by Attorney Cox (EXHIBIT B).

Attorney Cox asks for a quick recess in order to confer with her clients regarding a continuance.

Brian Florence calls a 5 minute recess.

Back in session:

Attorney Cox asks to continue this matter to July 8, 2015.

Motion is made by Alex Rodolakis and seconded by George Zevitas to continue to July 8, 2015 at 7:00 pm.

Vote:

All in favor

CONTINUED TO JULY 8, 2015 at 7:00 PM

Brian Florence reads the following into the record:

7:02 PM Appeal No. 2015-032

Zimmer

Joan Zimmer has petitioned for a Special Permit pursuant to §240-94(B) Expansion of a Preexisting Nonconforming Use, where there are two single-family dwellings on a single lot. The petitioner seeks to expand one dwelling via the construction of an entryway addition and reconfigured access to the rear deck. The property is located at 139 Point of Pines Avenue, Centerville, MA as shown on Assessor's Map 230 as Parcel 073. It is located in the Residence D-1 Zoning District

Members assigned: Alex Rodolakis, George Zevitas, David Hirsch, Herbert Bodensiek, Brian Florence

Representative: James Norcross, Esq.. gives summary of relief. New entryway which will be closer to the street which will afford more living space to the interior. Also, they are proposing expansion of the deck and access stairs for the deck. There are two principal structures on the property and the use is considered nonconforming according to the ordinance. He gives the four criteria for the special permit and how he believes this project meets those criteria.

Brian Florence asks for public comment. No one speaks.

Herbert Bodensiek makes findings:

- *The application falls within a category specifically excepted in the ordinance for a grant of a special permit:
Section 240-94 allows for the expansion a preexisting nonconforming use with a Special Permit. The multiple single-family dwellings on the lot predate the adoption of the applicable zoning.*
- *Site Plan Review is not required for single-family residential uses.*
- *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.*
- *The expansion will conform to all setback requirements of the RD-1 District.*
- *The proposed use and expansion is located on a lot shown in Plan Book 104 on Page 21; the lot was created in 1952 and has not been modified since the development of the nonconforming dwellings on the property in 1953.*
- *There is no new use of the property proposed, but an expansion of an existing residential dwelling within the boundaries of the residential zoning district.*

- *The expansion of the preexisting nonconforming use will be no more detrimental to the neighborhood than the use as it exists today.*

Vote:

All in favor

Herb Bodensiek makes a motion to grant the relief being requested with the following conditions:

Conditions

1. *Special Permit No. 2015-032 is granted Joan Zimmer to allow the expansion of a preexisting nonconforming use at 139 Point of Pines Avenue in Centerville to construct an addition to the dwelling closest to the road.*
2. *The expansion shall be in substantial conformance with the site plan entitled "Proposed Site Plan – 139 Point of Pines, Centerville, Ma" dated March 31, 2015 drawn by JM O'Reilly & Associates, Inc. and the elevations and floor plans entitled "Proposed elevations/proposed plans: Zimmer Residence" dated April 9, 2015, drawn by Skyline Design.*
3. *This decision shall be recorded at the Barnstable County Registry of Deeds and copies filed with the Zoning Board of Appeals and Building Division. The rights authorized by this special permit must be exercised within two years, unless extended.*

Seconded by David Hirsch.

Vote:

All in favor

GRANTED WITH CONDITIONS

Other Business

Next regularly scheduled hearings are June 24th, July 8, 2015, July 22, 2015.

Correspondence

Adjourn

Motion is made by Herbert Bodensiek and seconded by Brian Florence to adjourn.

Vote:

All in favor