

Town of Barnstable

Zoning Board of Appeals

www.town.barnstable.ma.us/ZoningBoard

Board Members:

Brian Florence –Chair Alex Rodolakis – Vice Chair George Zevitas - Clerk
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, August 12, 2015

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

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

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

As a quorum has been met, George Zevitas opens the hearing at 7:10 pm.

Call to Order

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

George reads the following with no response:

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 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

Minutes of June 10, 2015 and July 8, 2015

Motion is made by Herbert Bodensiek and seconded by Matt Levesque to approve the June 10th minutes as submitted.

Vote:

All in favor

Motion is made by Herbert Bodensiek and seconded by Robin Young to approve the July 8th minutes as submitted.

Vote:

All in favor

George Zevitas reads the following into the record:

Requests for Extensions

7:00 PM Appeal No. 2013-035

Ruggiero

By a letter dated July 27, 2015, Brian R. Grady, R.S., as representative for Daniel and Mindi Ruggiero, has requested a one year extension of Appeal No. 2013-050, a special permit for the demolition and rebuilding of a structure on a nonconforming lot. The property is located at 93 Circuit Avenue, Hyannis, MA as shown on Assessor's Map 324 as Parcel 052. Granting the request would extend the validity of the permit from September 10, 2015 to September 10, 2016.

Representative: Brian Grady of GAF Engineering, Inc., is representing the applicants and states that he is here to answer any questions the board may have.

Robin Young asks for the reason for the extension. Mr. Grady responds stating that when the Ruggiero's first contracted with the modular home company, there were significant problems with non-performance and therefore are no longer contracted with that company. He states that the Ruggiero's recently contracted with another company and will begin demolition in the fall.

Motion is made by Herbert Bodensiek and seconded by Matthew Levesque to grant the one year extension.

Vote:

All in favor

CONTINUED TO AUGUST 26, 2015 AT 7:00 PM

Old Business

7:00 PM Appeal No. 2015-038

Atlantic Development

Atlantic Development has petitioned for a variance to Section 240-25(E) – Front Yard Setback Requirements and to amend the conditions of Variance No. 1995-21. The petitioner seeks to demolish the existing building and site features (pavement, landscaping, fuel storage tanks, utilities, etc) and construct a new self-service BJ's fueling station with canopy, attendant's kiosk and associated driveways, fuel storage tanks, landscaping, utilities, etc. Variance relief is sought to decrease the required front yard setback from Hinckley Road and modify conditions regarding the number of curb cuts on Iyannough Road and Hinckley Road set forth in Variance No. 1995-21. The property is located at 590 Iyannough Road/Route 132, Hyannis, MA as shown on Assessor's Map 311 as Parcel 017. It is in the Highway Business Zoning District.

Continued from July 8, 2015 and July 22, 2015. Members assigned: Alex Rodolakis, George Zevitas, David Hirsch, Matthew Levesque, Brian Florence

7:00 PM Appeal No. 2015-039

Atlantic Development

Atlantic Development has applied for a Special Permit for extension of a preexisting nonconforming site dimension per Section 240-93 and expansion of a preexisting nonconforming use per Section 240-94. The applicant seeks to demolish the existing building and site features (pavement, landscaping, fuel storage tanks, utilities, etc) and construct a new self-service BJ's fueling station with canopy, attendant's kiosk and associated driveways, fuel storage tanks, landscaping, utilities, etc. Special Permits are sought to extend existing nonconformities regarding impervious area (increase impervious area from 73.2% to 84.8% of the lot) and fuel storage (replace 30,000 gallons of fuel storage with three new 64,000 gallon underground fuel storage tanks, plus 200 gallons of diesel fuel for emergency generator). The property is located at 590 Iyannough Road/Route 132, Hyannis, MA as shown on Assessor's Map 311 as Parcel 017. It is in the Highway Business Zoning District.

Continued from July 8, 2015 and July 22, 2015. Members assigned: Alex Rodolakis, George Zevitas, David Hirsch, Matthew Levesque, Brian Florence

At 7:15, George Zevitas states that there is a letter submitted to the board from Atlantic Development's attorney, Michael Scott, asking to continue this to August 26th in order to meet with Growth Management and the peer review consultant.

Motion is made by Matthew Levesque and seconded by Herbert Bodensiek to continue this appeal to August 26, 2015 at 7:00 PM.

Vote:

All in favor

CONTINUED TO AUGUST 26, 2015 AT 7:00 PM

George Zevitas states that an email sent today, August 12, 2015, Attorney Michael Schulz has requested a continuance to August 26th.

7:00 PM Appeal No. 2015-035

Cwynar

Elaine R. Cwynar has applied to modify Conditions No. 1 & 2 of Variance No. 2007-072. The applicant seeks to amend the conditions to allow for the construction of a 219 sq.ft second floor loft. Under Variance No. 2007-072 the "dwelling shall not be increased in area, limited to "one story" and "the gross area of the building shall not be expanded." The property is located at 29 Norris Street, Hyannis, MA as shown on Assessor's Map 306 as Parcel 033. It is in the Residence B Zoning District.

Continued from July 8, 2015 – No members assigned.

Robin Young questions the number of times an appeal can be continued. Elizabeth Jenkins explains that these applicants are good through September without an agreement to extend the time limits.

Motion to continue this appeal is made by Herbert Bodensiek and seconded by Matthew Levesque

Vote:

All in favor

CONTINUED TO AUGUST 26, 2015 AT 7:00 PM

New Business

7:00 PM Appeal No. 2015-040

Thompson

Jane McC. Thompson, Trustee of 205 Scudder Realty Trust, has applied for a modification of the conditions of Variance Nos. 1995-052 and 2011-023. The applicant is requesting to eliminate Condition #3 of 1995-052 and Condition #3 of 2011-023 restricting the further division of the land. The applicant seeks to allow approval of a further division of the land from one nonconforming lot into two conforming lots. The property is located at 205 Scudder Lane, Barnstable, MA as shown on Assessor's Map 259 as Parcel 007-001. It is located in the Residence 2-C Zoning District.

George Zevitas states that there is a request from the applicant's representative asking for a continuance because of a quorum/voting issue.

Motion is made by Matthew Levesque and seconded by Robin Young to continue this to August 26th at 7:00 PM.

Vote:

All in favor

CONTINUED TO AUGUST 26, 2015 AT 7:00 PM

At 7:22, George reads the following into the record:

Cynthia Parrella, as prospective owner, has petitioned for a Special Permit pursuant to Section 240-91 Nonconforming lot H.Developed Lot Protection (3) Special Permit. The petitioner requests relief to demolish the existing dwelling and to construct a new dwelling on a lot consisting of less than 10,000 square feet. The property is located at 82 Blandid Road, Osterville, MA as shown on Assessor's Map 140 as Parcel 065. It is in the Residence C zoning district.

Representative: Phil Boudreau, Esq.

Members assigned: Matthew Levesque, Herbert Bodensiek, Robin Young, George Zevitas

Also with Attorney Boudreau tonight are the applicant: Cynthia Parrella and her husband, David Parrella who will be building and developing the site.

Attorney Boudreau states that the applicant recently has taken title to the property and submits the deed to the board (EXHIBIT A). Attorney Boudreau summarizes the relief being sought and the reason for this application is because of the undersized lot size. He states that the proposed home will be of a more traditional Cape style house.

Robin Young asks to when the survey plan was done. Mr. Parrella states it was done within the last 60 days.

George Zevitas asks for public comment. No one speaks. George then notes that there are three letters submitted to the file from abutters: one from John Ganey of 66 Blandid Road giving his support, David Grafton of 81 Blandid Road questioning dust control, adequacy of the septic system and adherence to state and federal laws, and Doug Fish of 74 Blandid Road concerned about dust control and the adequacy and positioning of the septic system. .

Attorney Boudreau assures the board that Mr. Parrella, who is also the builder, is experienced in the demolition and rebuild process and that the house and septic system will comply with the setbacks. He also notes that the septic system is not in a wellhead protection or recharge area of concern. He states that the bonus room to be built above the garage will be an open area.

George Zevitas asks how many other projects Mr. Parrella has been involved in. Mr. Parrella speaks and states that he is a civil engineer and has done approximately 130 projects of this kind, one recently being on Warren Avenue. George asks Mr. Parrella how he would address the fears of the dust. Mr. Parrella states that the project will commence sometime in late September and that they will use water to keep the dust down during demolition. Robin Young confirms with Mr. Parrella that the septic system will be upgraded to Title V.

George Zevitas does findings:

Cynthia Parrella, as prospective owner, has petitioned for a Special Permit pursuant to Section 240-91 Nonconforming lot H.Developed Lot Protection (3) Special Permit. The petitioner requests relief to demolish the existing dwelling and to construct a new dwelling on a lot consisting of less than 10,000 square feet. The property is located at 82 Blandid Road, Osterville, MA as shown on Assessor's Map 140 as parcel 065. It is in the Residence C zoning district

Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit:
Section 240-91(H)(3) allows for the complete demolition and rebuilding of a residence on a nonconforming lot containing less than 10,000 square feet of contiguous upland by Special Permit.
- Site Plan Review is not required for single-family residential dwellings.
- 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, Section 240-91(H)(3) requires the Board to find that the proposed dwelling is in compliance with standards for setback, lot coverage, floor area, and height, as follows:

- The dwelling is proposed in compliance with all setback requirements of the RC District.
- The proposed lot coverage is 20%; the maximum permissible lot coverage is 20%.
- The proposed floor-area ratio is .297; the maximum permissible FAR is 0.30.
- The proposed building height is approximately 18' to the highest plate and two stories; the maximum permissible building height, is 30 feet to the highest plate and 2 ½ stories.
- The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

Seconded by Herbert Bodensiek

Vote:

All in favor

Motion is made by George Zevitas to grant the relief being sought with the following conditions:

Conditions

1. Special Permit No. 2015-041 is granted to Cynthia Parrella for the demolition of an existing dwelling and rebuilding of a 1,965 gross square foot dwelling plus one car garage at 82 Blomid Road, Osterville.
2. The dwelling shall be constructed in substantial conformance with the plan entitled "Plot Plan for 82 Blomid Road" dated June 24, 2015, drawn and stamped by Falmouth Engineering, Inc.; and the floor plans and elevations entitled "Proposed two-story Cape with attached one car garage" dated (last revision) July 20, 2015, drawn by Barnstable Harbor Builders.
3. The total lot coverage of all structures on the lot shall not exceed 20% and the floor-area ratio shall not exceed 0.30.
4. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling, either the footprint or gross square footage, or construction of additional accessory structures is prohibited without prior approval from the Board.
5. The basement and garage areas shall remain unfinished.
6. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
7. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Seconded by Robin Young.

Vote:

All in favor

GRANTED WITH CONDITIONS

Announcements

Next regularly scheduled hearings are August 26, 2015, September 9, September 30

Adjourn

Motion is made by George Zevitas and seconded by Robin Young to adjourn.

Vote:

All in favor