



Town of Barnstable Zoning Board of Appeals



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Board Members:

Brian Florence – Chair Alex Rodolakis – Vice Chair George Zevitas - Clerk David A. Hirsch –Member Herbert Bodensiek – Member
Robin Young – Associate Member Matthew Levesque – Associate Member Spencer Aaltonen – Associate Member Jacob Dewey – Associate Member
James Tinsley – Town Council Liaison

Staff Support

Elizabeth Jenkins – Regulatory / Design Review Planner - elizabeth.jenkins@town.barnstable.ma.us
Anna Brigham – Principal Planner – anna.brigham@town.barnstable.ma.us
Carol Puckett – Administrative Assistant – carol.puckett@town.barnstable.ma.us

Minutes

Wednesday, May 11, 2016

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

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|-----------------------------|---------|
| Brian Florence - Chair | Absent |
| Alex Rodolakis - Vice Chair | Present |
| George Zevitas - Clerk | Absent |
| David Hirsch | Present |
| Herbert Bodensiek | Absent |
| Robin Young | Present |
| Matthew Levesque | Absent |
| Spencer Aaltonen, | Present |
| Jacob Dewey | Present |

Also present were Elizabeth Jenkins – Regularity Review/Design Planner, Anna Brigham – Principal Planner, Carol Puckett – Administrative Assistant

As a quorum has been met, Alex Rodolakis calls the hearing to order.

Call to Order

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

Alex 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.

Old Business

7:00 PM Appeal No. 2016-002

E R & C Enterprises, LLC

E R & C Enterprises, LLC has applied for a Special Permit pursuant to Section 240-25(C)(1) – Conditional Uses in the Highway Business District for a retail convenience store and food establishment with drive-through. The Applicant, who currently operates a preexisting nonconforming gas station with car wash and retail, intends to remove the existing drive-through car wash, including all equipment and underground tanks, and construct a 980 square foot addition with a relocated drive-through at the rear of building. The drive-through would be converted to a takeout beverage and food lane. The retail sale of gasoline, a preexisting nonconforming use, is proposed to continue. The property is located at 577 West Main Street, Hyannis, MA as shown on Assessor’s Map 269 as Parcel 003. It is located in the Highway Business (HB) Zoning District and the Wellhead and Groundwater Protection Overlay Districts.

Continued from January 13, 2016 and February 10, 2016.

Members assigned: Brian Florence, Alex Rodolakis, George Zevitas, Herbert Bodensiek, Robin Young

Members assigned 02-10-16: Brian Florence, Alex Rodolakis, George Zevitas, Robin Young.

Elizabeth Jenkins notes that David Hirsch has submitted the Mullin form and that the last members sitting on this were Brian Florence, Alex Rodolakis, George Zevitas and Robin Young.

Members assigned tonight: Alex Rodolakis, Robin Young, David Hirsch

By an email dated May 11, 2016, Attorney David Lawler requests to withdraw without prejudice and to reapply when there is a full complement of the board

Motion by is made by David Hirsch and seconded by Robin Young to withdraw without prejudice.

Vote:

All in favor

WITHDRAWN WITHOUT PREJUDICE

7:01 PM Appeal No. 2016-012

O'Connor

Adam O'Connor has petitioned for a variance to Section 240-14.E – Bulk Regulations. The petitioner is proposing to construct an addition to the existing dwelling located sixteen (16) feet from the property line, where a thirty (30) foot front yard setback is required from Gristmill Path. The property is located at 390 Jones Road, Marstons Mills, MA as shown on Assessor's Map 047 as Parcel 093. It is located in the Residence F Zoning District.

Continued from March 9, 2016.

Continued from March 23, 2016 - Members assigned: Brian Florence, Alex Rodolakis, George Zevitas, David Hirsch, Robin Young, (Matt Levesque present)

Alex Rodolakis asks applicant to move this case to the end pending the arrival of another board member.

Alex Rodolakis then reads the following into the record:

New Business

7:00 PM Appeal No. 2016-018

Alliegro

George and Debra Alliegro have applied for a Special Permit pursuant to Section 240-91H(3) Nonconforming Lots – Developed Lot Protection. The applicants are proposing to demolish an existing 5,084 gross square foot dwelling and accessory structures and rebuild a new 7,239 gross square foot dwelling and accessory structures on a nonconforming lot. The new detached accessory structure will not conform to current setback requirements, but it will be more conforming than what currently exists. An existing detached accessory structure is set back 10 feet from Washington Street; the proposed detached accessory structure will be set back 12.5 feet from Washington Street. The property is located at 202 Sea View Avenue, Osterville, MA as shown on Assessor's Map 138 as Parcel 014. It is located in the Residence F-1 Zoning District.

Members assigned tonight: Alex Rodolakis, David Hirsch, Robin Young, Spencer Aaltonen, Jake Dewey

Representative: Michael Schulz, Esq.

Attorney Schulz notes that he also submitted a memo on May 4th and proceeds to give a summary of relief. He notes that the property has frontage on both Sea View and Washington Avenues. The applicants purchased the house in 2015 and prepared plans with Tim Luft of Architect Associates and John O'Day of Sullivan Engineering who are both here tonight pending any questions from the board. The proposed structure does not comply with the setback requirements. The floor area ratio (FAR) is below the .30 maximum, the lot coverage is below 20%; and the height of the proposed structure is below 30 feet.

Jake Dewey asks if the pool distance will stay the same. John O'Day clarifies that the pool is closer to Washington Avenue than the existing pool but further away from Washington than the existing pool house structure. Jake ask if they will be removing trees, particularly the trees on the driveway side. John O'Day discusses the vegetation plans. Attorney Schulz refers to the aerial picture that the members have and clarifies that it will be cleared on the Sea View side, if not already and that they have hired a landscape architect that has a plan. However, they do not have that plan with them tonight.

Alex Rodolakis asks if the height is measured from the peak of the roof or the plate. Tim Luft explains that the plans are in the staff report. Alex asks how high the current structure is. Mr. Luft explains that they did not measure the current existing structure but that the proposed structure is shorter.

Alex Rodolakis asks if there is anyone from the public who would like to speak either in favor or in opposition.

Alex Rodolakis makes findings:

Proposed Special Permit Findings

The Petitioners are proposing to completely demolish the existing dwelling and rebuild a new 6,569 square foot five bedroom, two story, single-family dwelling. The Petitioners are also proposing a 670 square foot detached garage with one bedroom and bathroom, and a pool. The proposed garage will have a front yard setback of 12.5 feet where 30 feet is required thereby improving the encroachment into the required setback.

Section 240-91(H) (3) requires a special permit for all demolition and rebuilding projects if the proposed demolition and rebuilding cannot satisfy the criteria under Section 240-91 (H) (1) "As of Right" but the proposed yard setbacks must be equal or greater than the yard setbacks of the existing dwelling and that the following criteria are met:

- Floor-Area Ratio: .29 (.30 maximum) – 7,239 square feet (7248 allowed)
- Lot Coverage: 16.2% (20% maximum) – 3,923 (inclusive dwelling and garage)
- Building Height: 20 feet 11 inches to top of plate (30 feet maximum); 32 feet 8 inches to top of ridge

The dwelling has a full basement, accessible from an interior staircase and exterior bulkhead. There is also an attic containing a "Bonus Room" accessible from an interior staircase. All areas were included in the gross square footage figure used to calculate the floor-area ratio requirements.

The existing septic system will be removed and a new one will be installed

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 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 if the proposed demolition and rebuilding cannot satisfy the criteria established is H.(1) As-Of-Right, then the Board may allow the demolition and rebuilding by Special Permit provided the Board finds that:

- **The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building;**
- **The proposed lot coverage shall not exceed 20% of the existing lot coverage, whichever is greater. The proposed lot coverage, inclusive of the principal dwelling and accessory structure, is 16.2%.**
- **The floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished, whichever is greater. The proposed FAR is .29.**
- **The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories. The grade to the first plate is 11 feet 5 inches, the grade to the second floor plate is 20 feet 11 inches, and to the ridge is 32 feet 8 inches. The proposed dwelling is 2 ½ stories.**
- **The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.**

Seconded by David Hirsch

Vote:

All in favor

Based on those findings, move to grant the relief being sought by Alex Rodolakis subject to Conditions 1 through 6 as outlined in Staff Report dated April 29, 2016.

Conditions

1. Special Permit No. 2016-018 is granted to George and Debra Alliegro for the demolition of an existing dwelling and construction of a 6,569 square foot dwelling and a 670 square foot detached garage and pool at 202 Sea View Avenue, Osterville.

2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan Proposed Improvements at 202 Sea View Avenue" dated April 4, 2016, drawn and stamped by Sullivan Engineering and Consulting; and the floor plans and elevations dated April 5, 2016, drawn by Archi-Tech Associates.
3. The total lot coverage of all structures on the lot shall not exceed 16.2% and the floor-area ratio shall not exceed .29.
4. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
6. 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.

Attorney Schulz suggests that Condition #4 be worded to the effect that any additional further development be in accordance with Section 240-91.H.1 and not be required to come back to ZBA. Alex Rodolakis thinks it should be left in as it could alter the conditions.

Conditions, as stated in the Staff Report, seconded by David Hirsch

Vote:

All in favor

GRANTED WITH CONDITIONS

Staff notes that as of yet Mr. Zevitas has not arrived and that they do not have a quorum for the next appeal. Alex calls a 5 minute break.

Back in session.

Alex Rodolakis calls the O'Connor appeal explains that they do not have a quorum and confirms that it will be continued.

Motion is made by Robin Young and seconded by David Hirsch to continue to May 25, 2016 at 7:00 pm.

Vote:

All in favor

CONTINUED TO MAY 25, 2016 at 7:00 PM

Ms. Jenkins informs the board of the summer schedule and suggests canceling the June 8, July 13th and possibly the August 10th hearings.

Alex would like to keep the August hearing.

ADJOURNMENT

Motion is made by Spencer Aaltonen and seconded by Jake Dewey to adjourn.

Vote:

All in favor