



Town of Barnstable Zoning Board of Appeals



www.town.barnstable.ma.us/ZoningBoard

Board Members:

Brian Florence – Chair Alex Rodolakis – Vice Chair
David A. Hirsch –Regular Member Herbert Bodensiek – Regular 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, August 24, 2016

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

Brian Florence – Chair	Present
Alex Rodolakis - Vice Chair	Absent
David Hirsch	Present
Herbert Bodensiek	Absent
Robin Young	Present
Matthew Levesque	Present
Spencer Aaltonen	Present
Jacob Dewey	Absent

Also present were Anna Brigham – Principal Planner and Carol Puckett – Administrative Assistant.

As a quorum has been met, Brian Florence opens the hearing at 7:00 PM

Call to Order

Introduction of Board Members

All members present introduce themselves.

Brian 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

Election of Officers

Postponed to next hearing.

Old Business

7:00 PM Appeal No. 2016-028

E R & C Enterprises, Inc.

E R & C Enterprises, LLC has petitioned for a Special Permit in accordance with 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 pre-existing 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 pre-existing 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.

Owner of the operation is here requesting a continuance to September 14, 2016 as the peer traffic study is not complete.

Motion is made by David Hirsch and seconded by Robin Young to continue this to September 14, 2016 at 7:00 pm.

Vote:

All in favor

CONTINUED TO SEPTEMBER 14, 2016 AT 7:00 PM

New Business

7:01 PM Appeal No. 2016-031

Feinberg

Michael and Ena Feinberg have applied for a Special Permit pursuant to Section 240-91.H(3)– Developed Lot Protection. The applicants are proposing to demolish a pre-existing nonconforming, one-bedroom guest cottage and reconstruct a new, one-bedroom guest cottage within the existing footprint. The total of all structures on the lot is 4,335 square feet. The existing guest cottage consists of approximately 493 square feet and will be replaced by a new guest cottage consisting of approximately 493 square feet that has the same footprint and building envelope but the finish floor slab will be 12 inches higher to meet today's building code. The applicants are seeking relief from Section 240-91.H(3) as the proposed yard setbacks will not conform to current yard setbacks in the zoning district in which it is located but will be equal to or greater than what currently exists. The property is located at 100 Herring Run Drive, Centerville, MA as shown on Assessor's Map 229 as Parcel 045. It is located in the Residence D-1 zoning district.

*Members assigned tonight: Brian Florence, Robin Young, Matt Levesque, Spencer Aaltonen, Jake Dewey
Representative: Sarah Turano-Flores, Esq. Also with her tonight is Sean Reilly from Coastal Engineering.*

Attorney Turano-Flores states that she has been at the Conservation Commission and has met with the Building Commissioner to ascertain what section of the ordinance they needed relief from. She states that they believe the cottage was built in the 1950's. The proposed structure will be the same footprint and envelope but approximately 12 inches higher than the existing structure but will still be within the 30 foot height maximum. They are to elevate because of current building code requirements and because of that, will need to add wooden decks. They are keeping the Floor Area Ratio (FAR) which is under the 30% maximum and under the height requirement. They were cognitive of the environmental impact and therefore the project was designed thusly. They will be removing the concrete slab on which the existing structure exists and will be replacing with some decking and grass and will be replanting native vegetation.

Brian asks for public comment – no one speaks.

Board briefly deliberates.

David Hirsch makes findings

Special Permit 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.
- The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building. The setbacks are equal to the existing setbacks.
- The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The existing lot coverage is 11.8% and the proposed lot coverage 12.2%, below the threshold.
- 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 .15.
- The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories. 15 feet 11 inches to top of plate (30 feet maximum); 19 feet 11 inches to top of ridge. The proposed cottage is 1 story.
- The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

Vote:

All in favor

Based on the findings, David Hirsch makes a motion to grant the relief being sought with the following conditions:

Conditions

1. Special Permit No. 2016-031 is granted to Michael and Ena Feinberg for the demolition of an existing cottage and construction of a 493 square foot cottage at 100 Herring Run Drive, Centerville.
2. The site development shall be constructed in substantial conformance with the plan entitled "Michael and Ena Feinberg, 100 Herring Run Drive, Barnstable (Centerville) MA, Plan Showing Proposed Site Improvements" dated August 1, 2016, drawn and stamped by Coastal Engineering; and the floor plans and elevations dated June 16, 2016 by Nicholaeff Architecture-Design.
3. The total lot coverage of all structures on the lot shall not exceed 12.2% and the floor-area ratio shall not exceed 15%.
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.

Seconded by Matt Levesque

Attorney Turano-Flores states that she noticed the language at the end of Condition #4 being "without prior approval from the Board" and asks that it be added to Condition #3.

Brian Florence doesn't think any changes can occur without approval from the Board. He believes that they have a right to come back under the conditions listed here and the language is not necessary to be there. The purpose of the conditions intent is for them to come back under Special Permit conditions under the by law.

Vote:

All in favor

Minutes

Approval of minutes from June 22, 2016

Motion by Spencer Aaltonen and seconded by Matt Levesque to approve the minutes as submitted.

Vote:

All in favor

Correspondence

Chapter 91 Application – Charles & Nicole King, 273 Regency Drive, Marstons Mills, Map 064 Parcel 041– proposed walkover structure and pier with seasonal ramp and float in accordance with the Massachusetts Wetlands Protection Act and the Town of Barnstable Wetlands Protection Bylaw and as approved by the Conservation Commission.

Matters Not Reasonably Anticipated by the Chair

Upcoming Meetings

September 14, 2016 and September 28, 2016

Adjournment

Motion is made by David Hirsch and seconded by Matt Levesque to adjourn

Vote:

All in favor

Please Note: The list of matters are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if so votes, the Board may go into executive session. The Board may also act on items in an order other than they appear on this agenda.

* Public files are available for viewing during normal business hours at the Zoning Board of Appeals office located at 200 Main Street, Hyannis, MA