



Town of Barnstable

Zoning Board of Appeals



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 Anna Brigham – Principal Planner – anna.brigham@town.barnstable.ma.us
 Carol Puckett – Administrative Assistant – carol.puckett@town.barnstable.ma.us

Minutes

Wednesday, June 14, 2017

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

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

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

As a quorum has been met, Chair – Brian Florence, opens the hearing.

Call to Order

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

Brian reads the following into the record 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.

Election of Officers

Continued to the next hearing

Old Business

7:03 PM Appeal No. 2017-014

Centerville Village Apartments Realty Trust

Adam J. Hostetter and Kristen Williams Haseotes, Trustees of the Centerville Village Apartments Realty Trust have applied for Special Permits pursuant to §240-93(B) Nonconforming Buildings or Structures not used as single or two-family dwellings and §240-94(B) Expansion of a Preexisting Nonconforming Use. The Applicant seeks to expand the preexisting nonconforming multi-family residential use on the property. The proposal is to relocate and preserve the existing filling station building on the property; demolish the remainder of the structures; and construct nine single-family dwellings (four two-bedroom units and five one-bedroom units). The property is located at 981 Main Street, Osterville, MA as shown on Assessor’s Map 117 as Parcels 026 and 178. It is located in the Residence C and Wellhead Protection Overlay Zoning Districts

Time Extension signed 05-24-17. New Decision Due: 08-05-17

Continued from March 8th, March 22, 2017, April 12, 2017, May 10, 2017 and May 24, 2017. No members assigned. No testimony taken.

7:01 PM Appeal No. 2017-038

Centerville Village Apartments Realty Trust

Adam J. Hostetter and Kristen Williams Haseotes, Trustees of the Centerville Village Apartments Realty Trust, have applied for a Special Permit pursuant to Section 240-94.A – Change of a Nonconforming Use to another Nonconforming Use as an alternative form of relief to that as set

forth in Appeal 2017-014. The applicant is proposing to relinquish use of the property for a gasoline filling and service station, relocate and preserve the filling station structure, demolish the remaining buildings on site and construct nine (4, two-bedroom and 5, one-bedroom) single family dwellings. The property is located at 981 Main Street, Osterville, MA as shown on Assessor's Map 117 as Parcels 026 and 178. The property is located in the Residence C (RC) and Wellhead Protection (WP) Overlay Zoning Districts.

[Continued from May 24, 2017.](#) No members assigned. No testimony taken.

Members assigned 06-14-17: Brian Florence, David Hirsch, Herb Bodensiek, Robin Young, Spencer Aaltonen

Members assigned tonight: Brian Florence, David Hirsch, Herb Bodensiek, Robin Young, Spencer Aaltonen

Representative: Attorney Michael Schulz

Attorney Schulz gives summary of history of what was on the property previously. He states that they also met with town staff, abutters and the Osterville Village Association (OVA) on several occasions. At those meetings it was brought up that the target audience for these types of units would be people who were in other locations other times of the year, people looking to downsize and to be in approximate location to the village for walking. The issue of how many bedrooms the complex would contain was also brought up. They represented that no units would be for rental purposes during the year. Those restrictions would be contained in the condominium documents. The septic flow will be decreased from what is currently there, the natural landscaped area will be increased from what is currently there; traffic to the site will be decreased and underground fuel tanks will be removed. All commercial activity will cease. The applicants have received the following:

- **Determination from the current Building Commissioner, Paul Roma, of the pre-existing, nonconforming multifamily use of the property**
- **Site Plan Review Approval letter dated September 6, 2016 with conditions**
- **Barnstable Historical Approval on October 5, 2016**
- **Board of Health construction permit for the septic system on the property January 31, 2017**
- **Order of Conditions from Conservation Commission dated March 22, 2017 and recorded in April**

With Attorney Schulz tonight is John O'Day from Sullivan Engineering. Mr. O'Day shows the proposed site plan with a final revision date of February 28, 2017. He points out and states that they are proposing to close the road on the north side of the property. The filling station will be relocated. He points out the common facility and pool area. He explains the units, number of bedrooms and septic. They are also working on restoring the vegetated buffer per the Conservation Commission.

Brian Florence opens it up for public comment:

Attorney David Lawler, an abutter at 962 Main Street, Osterville is here representing his wife and Maureen Crowley. His abutters to the left of him are also in opposition but can't be here tonight. He purchased his home in 1999 and gives history of what was on the subject property at that time. He gives history of what transpired on the subject property since Mr. Hostetter purchased in 2000 and states that he has not been good stewards of the property as shown by neglect. Mr. Lawler also notes that the traffic study was done in January is an unrealistic comparison as most of the businesses are closed during the winter. Mr. Lawler also thinks there are substantial issues of standing. As for the proposed pool, he doesn't think there is any communal pool located on and main streets in any of the villages in Barnstable in keeping with the zoning of Osterville. His own personal home was built in 1880 and prior to any renovations, he obtained photos of the house with the intent that the renovation would be in tune and respect of the community. To suggest having a swimming pool in the front of the complex is not conforming with the intent of the bylaw or zoning and is in a neighborhood which has historic homes. Attorney Lawler agrees to submit research to the board if this is to be continued.

Mr. Lawler believes that ConComm only had purview over two small sections of the parcel. He reminds the board that this parcel doesn't even meet the 2 acres of upland for a single family house in the residential zone in which it is located. He notes impact on the estuary. The water from this site will flow into North Bay. The oyster bed is in the line with where the water from this site will flow. He notes that OVA is opposed and doesn't think that they have ever been opposed to any development before. He doesn't have a problem with the development of the property but is opposed to the scope and massing on this lot. The detriment will be the overdevelopment, traffic and strain on the resources. He notes that the applicant Mr. Hostetter is not present.

Brian Florence notes that there are 2 letters in opposition, one from OVA dated June 7, 2017 and one from A.D. Whittemore dated February 21, 2017.

Bruce Cole, one of the directors of the Osterville Village Association (OVA) and direct abutter is here with concerns. He knows the property, notes that this has been continued numerous times which has created a problem since he travels a lot for work and had plans to be here every time. In doing so, he has had to hire people to cover events only to find out that within 2 hours of the planned hearing that it was continued. He has also received most of the 113 page memo only today pertaining to this case and asks that this should be continued for public comment.

Gail Nightingale, a resident of Osterville and also a member of the Osterville Village Association (OVA), notes that OVA's president, John Crow, and vice-president, Chuck Sabatt, could not be here tonight and reads the letter of concern from Mr. Crow ([Exhibit A](#)). Mrs. Nightingale comments that the last plan showed nine (9) units and believes that the applicant alluded to eight (8) units. Attorney Schulz clarifies that it is nine units. She then notes that she believes that the lot coverage exceeds both the floor area ratio and the gross floor area required in the

ordinance and that she has concerns about approval from the Board of Health. She asks about the lot merger. Brian Florence informs her that that is a forthcoming matter to be discussed and is asked about conditioning this proposal with full build out of the property.

Attorney Schulz rebuts regarding standing and is okay with a continuance. He notes for the record that Mr. Hostetter did arrive. As for the traffic report, this was done by a professional company from Norwell.

Attorney Schulz, the applicant and the board discuss a continuance.

Everyone agrees with July 12th.

Robin Young asks if the town attorney should be here to talk about some of these issues and about lot merger.

Motion is made by Spencer Aaltonen and seconded by David Hirsch to continue this to July 12, 2017 at 7:00 pm.

Vote:
All in favor

CONTINUED TO JULY 12, 2017 AT 7:00 PM

New Business

7:01 PM Appeal No. 2017-044

Crac, Inc.

Crac, Inc. d/b/a Chart Room at Crosby's have requested a modification of Special Permit Nos. 2017-010, 2003-60, 2007-44 and 2009-22 issued for the expansion of a pre-existing nonconforming use. The Applicant currently seeks to modify the permits to allow for a decrease in hours of operation to be April 1 st to October 15th, Monday through Sunday from 11:00 am to 11:30 pm; October 15th to January 15th, Thursday through Saturday from 8:00 am to 11:30 pm and Sunday 8:00 am to 5:30 pm. The subject property is located at 330 West Bay Road, Osterville, MA as shown on Assessor's Map 116 as Parcel 013. It is zoned MB-A2 Marine Business A-2.

Members assigned tonight: Brian Florence, David Hirsch, Herb Bodensiek, Robin Young, Jake Dewey

Representative: David Lawler, Esq.

Attorney Lawler explains that Attorney Mark Boudreau has handled the licensing matter regarding the subject property before the Licensing Board. At that hearing there was an agreement reached having last call at 11:00 pm on Friday and Saturday nights and 5:00 pm during the week. According to the ordinance (Chapter 502), drinks must be taken off the table within 15 minutes and then the customers have another 15 minutes to leave the premises. Attorney Lawler had filed with the hours of 11:30 pm to allow the time period. Attorney Lawler had spoken with opposing Attorney Albert Schulz, who represented an abutter, who had concerns about the language. Therefore, he proposes language that the establishment would close subject to provisions of Chapter 502. He asks the board to amend the Special Permit regarding the closing operating hours.

Motion is made by Brian Florence to amend the Special Permit in order to allow for the operating hours from 11:00 to 11:00 subject to Chapter 502.

Vote:
All in favor

Correspondence

Matters Not Reasonably Anticipated by the Chair

Upcoming Meetings

Adjournment

Motion is made by Jake Dewey and seconded by Robin Young to adjourn

Vote:
All in favor