



# Town of Barnstable Zoning Board of Appeals

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Alex Rodolakis – Chair   David Hirsch – Vice Chair   Herbert Bodensiek – Clerk  
Jacob Dewey – Regular Member   Paul Pinard – Associate Member   Kyle Evancoe – Associate Member  
Todd Walantis – Associate Member   Mark Hansen – Associate Member  
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Carol Puckett – Administrative Assistant – [carol.puckett@town.barnstable.ma.us](mailto:carol.puckett@town.barnstable.ma.us)

## Minutes

**Wednesday, June 13, 2018**

Hearing Room – 2<sup>nd</sup> Floor – 367 Main Street, Hyannis, MA

Alex Rodolakis - Chair	Present
David Hirsch – Vice Chair	Absent
Herbert Bodensiek - Clerk	Present
Jacob Dewey – Regular Member	Present
Regular Member	Vacant
Paul Pinard – Associate Member	Present
Kyle Evancoe – Associate Member	Present
Todd Walantis – Associate Member	Absent
Mark Hansen – Associate Member	Absent

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

*As a quorum has been met, Alex opens the hearing at 7:01 pm*

**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 and in accordance with MGL Chapter 30A §20. I must inquire whether anyone is taping this meeting and to please make their presence known.

**Minutes**

January 10, 2018, January 24, 2018, February 14, 2018, February 28, 2018, March 14, 2018

*Motion is made by Paul Pinard and seconded by Jake Dewey to approve the January 10<sup>th</sup> minutes as submitted*

**Vote:**

*All in favor*

*Motion is made by Paul Pinard and seconded by Kyle Evancoe to approve the January 24<sup>th</sup> minutes as submitted*

**Vote:**

*All in favor*

*Motion is made by Paul Pinard seconded by Jake Dewey to approve the February 28<sup>th</sup> minutes as submitted*

**Vote:**

*All in favor*

*March 14, 2018 are notes.*

*Alex reads the following into the record:*

**New Business**

**7:00 PM**

**Appeal No. 2018-032**

**Cote**

Stephen Cote, as Appellant, is appealing the issuance of a Building Permit for the reconstruction of an accessory structure not in compliance with the current Zoning Ordinance: Chapter 240 §94 A. Nonconforming Use. The subject property is located at 174 Bay Shore Road, Hyannis MA as shown on Assessor's Map 325 as Parcel 084. It is located in the Residence B (RB) Zoning District.

*Alex states that a letter has been received from Attorney Paul Revere asking to withdraw without prejudice.*

*Motion is made by Paul Pinard and seconded by Herb Bodensiek to withdraw without prejudice*

**Vote:**

*All in favor*

## **WITHDRAWN WITHOUT PREJUDICE**

*Alex reads the following into the record:*

**7:01 PM**

**Appeal No. 2018-034**

**Soares/Gilmore**

Leigh Soares and Scott Gilmore have petitioned for a Variance pursuant to Section 240-14.E. - RC-1 and RF Residential Districts Bulk Regulations. The Petitioners are proposing to construct a 12 x 24.3 foot addition that would encroach into the required thirty (30) foot front yard setback by 8 feet 3 inches. The subject property is located at 68 McGee Drive, Hyannis, MA as shown on Assessor's Map 271 Parcel 006-005. It is located in the Residence C-1 (RC-1) Zoning District.

*Members assigned tonight: Alex Rodolakis, Herb Bodensiek, Jake Dewey, Paul Pinard, Kyle Evancoe*

*Representation: David Lawler, Esq. Also with him tonight are the applicants. Attorney Lawler explains that the applicants have a growing family and are running out of room. This property is on town sewer, and where the lot is located pertains to variance conditions.*

*James Walker, an abutter, sent a letter in support which Attorney Lawler reads (Exhibit A)<sup>1</sup>*

*Attorney Lawler then states that the addition is modest and will encroach into the setback but thinks it meets the first of the three-prong test for the granting of a variance. He then refers to a similar case which the board granted (2016-020) for the similar reasons. He suggests that as for the second of the three-prong test suggesting it would be a financial hardship if they wouldn't be able to do this, as for the third of the three-prong test, he suggests that it could be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.*

*Jake Dewey asks if there is a reason why this addition couldn't go in another direction on the lot. Attorney Lawler explains that the architect felt that this would be the least expensive alternative for the applicants and less expensive than buying a home with another bedroom.*

*Alex asks if that dirt path leads to anything. The applicants explain that it leads to a barn. Alex asks for a landscape plan and about the screening facing the road. Attorney Lawler states that the applicants will landscape it themselves and will be putting up a fence in consultation with the neighbors.*

*Alex asks for public comment. Dave Wiseman of 29 McGee Drive is here in support of the renovation. Alex notes that the neighbor who is most impacted by it was in support although this is a variance.*

*Jake Dewey thinks it makes sense and makes findings:*

### **Proposal & Relief Requested**

The Petitioners seek to construct an approximately 12 foot by 24 foot 3 inch addition to their single-family dwelling. The addition would encroach into the required front yard setback along Straightway North, a partially completed road. The addition would be located 23.9 feet and 21.7 feet from the layout of Straightway North where 30 feet is required.

### **Variance Findings**

The statutory requirement of MGL Chapter 40A, Section 10 for granting a variance is a three-prong test. The Board is required to find that each of the following three requirements has been met in order to consider granting the variance:

**owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located;**

<sup>1</sup> Exhibits are located in corresponding ZBA file

1. a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner. *Based on the topography of the lot and not being able to place the addition on any other place on the lot and with housing costs as they are, would be a financial hardship*
2. desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance. *We have heard from two abutters and sounds like this will not be affecting anyone.*

**Vote:**  
*All in favor*

**Based on those findings, Jake Dewey makes a motion to grant the relief being sought with the following conditions:**

**Variance Conditions**

1. Variance No. 2018-034 is granted to Leigh Soares and Scott Gilmore to allow the construction of an addition to the single-family dwelling at 68 McGee Drive, Hyannis MA.
2. The addition on the east side of the dwelling shall not exceed a footprint of 12 feet by 24 feet 3 inches, shall be two-story, and shall not be located closer than 23 feet 9 inches to Straightway North.
3. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan (for Addition) located at 68 McGee Drive, Hyannis MA" prepared for Scott B. Gilmore & Leigh A. Soares dated April 25, 2018 drawn and stamped by MacDougall Surveying & Associates.
4. The above-described addition shall represent full build-out of the lot. No further additions shall be permitted without approval from the Board.
5. This 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 of a building permit. The rights authorized by this variance must be exercised within one year, unless extended.

**Vote:**  
*All in favor*

## **GRANTED WITH CONDITIONS**

**Correspondence**

- May 13, 2018 Letter from Karen Gonyea regarding JNJ Holdings, LLC
- Letter Received June 6, 2018 from Town of Barnstable – Planning Board regarding Notice of Public Hearing on Proposed Zoning Amendment TC Item No. 2018-163 Amending the code of the Town of Barnstable, PART I General Ordinances, Chapter 240 Zoning to create a Cannabis Overlay District-A And Cannabis Overlay District-B and District Regulations for establishing and operating registered Recreational Marijuana Dispensaries
- Letter Received June 6, 2018 from Town of Barnstable – Planning Board regarding Notice of Public Hearing on Proposed Zoning Amendment TC Item No. 2018-159 Petition to Amend the Zoning Ordinance to Prohibit Non-Medical Marijuana in All Zoning Districts within the Town of Barnstable

**Matters Not Reasonably Anticipated by the Chair**

**Upcoming Meetings**

June 27, 2018, July 11 & 25, 2018

**Adjournment**

*Motion is made by Paul Pinard and seconded by Herb Bodensiek*

**Vote:**  
*All in favor*

