



# Town of Barnstable Zoning Board of Appeals



**Board Members:**

Alex Rodolakis – Chair    David Hirsch – Vice Chair    Herbert Bodensiek - Clerk  
 Jacob Dewey – Regular Member    Paul Pinard – Regular Member  
 Todd Walantis – Associate Member    Mark Hansen – Associate Member  
 James Tinsley – Town Council Liaison

**Staff Support**

Elizabeth Jenkins – Director - [elizabeth.jenkins@town.barnstable.ma.us](mailto:elizabeth.jenkins@town.barnstable.ma.us)  
 Anna Brigham – Principal Planner – [anna.brigham@town.barnstable.ma.us](mailto:anna.brigham@town.barnstable.ma.us)  
 Carol Puckett – Administrative Assistant – [carol.puckett@town.barnstable.ma.us](mailto:carol.puckett@town.barnstable.ma.us)

19 JUL 25 MT 14  
 BARNSTABLE TOWN CLERK

## Minutes

**Wednesday, April 24, 2019**

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

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

**Also present were Elizabeth Jenkins – Director of Planning & Development, Anna Brigham – Principal Planner, and 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 and in accordance with MGL Chapter 30A §20. I must inquire whether anyone is taping this meeting and to please make their presence known.

**Alex reads the Head/Lanciani appeal into the record:**

**New Business**

**7:00 PM**

**Appeal No. 2019-020**

**Head/Lanciani**

Kevin C. Head and Frank Lanciani have applied for a Special Permit in accordance with Section 240-92.B – Nonconforming Building or Structures used as Single or Two-Family Residences. The applicants are proposing to expand and convert the existing accessory structure (garage) by adding a second floor for a recreation room and by constructing a 6’X24’ addition to the first floor to be used as a laundry room and office. The subject property is located at 132 Bacon Road, Hyannis, MA as shown on Assessor’s Map 309 as parcel 038. It is located in the Residence B (RB) Zoning District.

**Alex reads a letter dated April 18, 2019 from Attorney John Kenney asking to withdraw without prejudice.**

**Motion to withdraw without prejudice is made by Paul Pinard and seconded by David Hirsch**

**Vote:**

*All in favor*

## WITHDRAWN WITHOUT PREJUDICE

*Alex reads the following into the record:*

### Old Business

7:03 PM

Appeal No. 2019-009

Zullo

John Zullo has petitioned for a Modification of Variance 1996-114 in order to remove Conditions No. 3 and No. 9 which required one of the four permitted units to be owner-occupied. The subject property is located at 54 Main Street, Hyannis, MA as shown on Assessor's Map 342 as Parcel 025. It is located in the Medical Services (MS) Zoning District.

Hearing opened and continued from March 13, 2019. Members assigned: Alex Rodolakis, Jacob Dewey, Herbert Bodensiek, Paul Pinard, Mark Hansen. Other members present: Todd Walantis.

**Members assigned tonight: Alex Rodolakis, Jacob Dewey, Herbert Bodensiek, Paul Pinard, Mark Hansen**

**Attorney Michael Murphy notes that at the last hearing there were questions which he responded to in a letter recently to the board (Exhibit A). The first was a mortgage letter. Attorney Murphy explains that Mr. Zullo was in the process of refinancing the property with the bank and was denied because of that condition in the previously granted relief by the Zoning Board of Appeals which required him to live on the property. He states that the bank felt that it would negatively impact their ability should the loan go into default and get the value they thought the property was worth. Also, Attorney Murphy states that in his letter he also:**

- **forwarded the ordinance in affect in 1996 back when the relief was granted and which is no longer in place**
- **attached a rental registration for each of the four apartments which has been inspected and is in full compliance**

**Jake Dewey comments that he doesn't fully understand why the mortgage company has a problem with this as a residential mortgage. Alex has the similar concern. Alex also has a problem with the increase of occupants more than what the zoning district allows and thought the most they could have was 10 people. Attorney Murphy states they currently have 8 bedrooms which is less than the current provision for 12 in the current zoning district. Alex refers to the MS zoning ordinance. They discuss the lot size versus the number of occupants/bedrooms.**

**Alex asks for public comment. No one speaks.**

**Jake has a hard time with the hardship aspect and thinks that they could also turn this into a medical office after getting a mortgage. The board discusses.**

**Mark Hansen makes findings:**

### **Proposal & Relief Requested**

**John Zullo has petitioned for a Modification of Variance 1996-114 in order to remove Conditions No. 3 and No. 9 which required one of the four permitted units to be owner-occupied and a restriction on the total number of occupants. The Petitioner cannot refinance his mortgage with the restriction that one unit be owner occupied.**

### **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:**

1. **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;**
2. **a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and**
3. **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.**

**Alex would like Mark to add specific facts after each finding. Mark adds the following:**

- a. **such land is a very small lot consisting of only .22 acres with existing structure**
- b. **it would hardship financial since they attempting to refinance and the mortgage company has an inherent problem with subject property with the way it is permitted**
- c. **it does not appear that it would be derogation from the intent of the ordinance**

**Vote:****AYE:** Paul Pinard, Alex Rodolakis, Mark Hansen, Herbert Bodensiek**NAY:** Jacob Dewey**Variance Conditions**

1. Variance No. 2019-009 is granted to John Zullo to modify Variance 1996-114 at 54 Main Street, Hyannis.
2. In Variance No. 1996-114, Condition No. 3 is deleted.
3. In Variance No. 1996-114, Condition No. 9 will now read: Total occupancy of the four apartments shall not exceed twelve (12) occupants.
4. All other conditions in Variance No. 1996-114 remain in full force and effect.
5. The site development shall be in substantial conformance with the plan entitled "Plan of Land in Hyannis, Mass" dated October 22, 1992 by All Cape Engineering.
6. The above-described addition shall represent full build-out of the lot. No further additions or alterations shall be permitted without approval from the Board.
7. 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:****AYE:** Paul Pinard, Alex Rodolakis, Mark Hansen, Herbert Bodensiek**NAY:** Jacob Dewey**GRANTED WITH CONDITIONS**

*Alex reads the following into the record and then recuses himself and leaves the dais. David Hirsch takes over as chair.*

**7:04 PM****Appeal No. 2019-024****Cotter**

Elizabeth K. Cotter Trust has applied for a Special Permit in accordance with Section 240-47.1 – Family Apartments. The Applicant is proposing to add kitchen facilities in order to use the pool house as a detached family apartment. The property is located at 219 Green Dunes Drive, Centerville, MA as shown on Assessors Map 245 as Parcel 024. It is located in the Residence D-1 (RD-1) Zoning District.

**Members assigned tonight:** David Hirsch, Jake Dewey, Herb Bodensiek, Paul Pinard, Mark Hansen

**Representative:** Michael Ford, Esq. states that they are in the process of constructing and now want to do family apartment for Lee's parents who are in their early 80's, come down in the summer. It will be approximately 1900 square feet, far less than 50% of the square footage of the main house, and will be detached. Attorney Ford has been through the regulations with the family, showed them the agreement and the yearly affidavit, etc., and has advised them that they cannot rent it and has to remain accessory to the main structure.

**Board members don't have any questions**

**David asks for public comment. No one speaks.**

**The board discusses briefly. Jake Dewey makes findings:**

**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.

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-47.1. B. allows a Special Permit for a Family Apartment in a detached structure.
2. Site Plan Review is not required for single-family residential dwellings.
3. 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 Board is also asked to find that:

4. The proposed family apartment above the detached garage would not be substantially more detrimental to the neighborhood than the existing dwelling.
5. The single-family nature of the property and of the accessory nature of the detached structure are preserved.

**Vote:****All in favor**

**Jake Dewey makes a motion to grant with the following conditions:**

**Conditions**

1. Special Permit No. 2019-024 is granted to Elizabeth K. Cotter Trust, to create a Family Apartment in a detached structure at 219 Green Dunes Drive, Centerville, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan of #219 Green Dunes Drive West Hyannisport, MA" by Down Cape Engineering, Inc., dated March 13, 2019 and design plans by Nicholaeff Architecture dated September 27, 2018.
3. The proposed development 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.
4. The Applicant must comply with the restrictions in Section 240-47.1 Family Apartments C. Conditions and Procedural Requirements 1-4 of the Ordinance (see above).
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 the issuance of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

**Vote:**

**All in favor**

## GRANTED WITH CONDITIONS

**Alex returns to the dais and takes over as chair and reads 2019-021 and 2019-022 into the record:**

**7:01 PM**

**Appeal No. 2019-021**

**Keller Company, Inc.**

Keller Company, Inc., has petitioned for a Use Variance in accordance with Section 240-32.A – Principal Permitted Uses in the IND Limited Industrial Zoning District in order to allow for a multi-family residential (apartment) building. The Petitioner is proposing to demolish the existing structure and construct an approximate 39,000 square foot, three (3) story building with twenty-nine (29), two (2) bedroom residential apartment units with associated site improvements including parking, drainage and stormwater management facilities, underground utilities, site lighting and landscaping. The property is located at 206 Breed's Hill Road, Barnstable, MA as shown on Assessor's Map 314 as Parcel 025-000. It is located in the Industrial-Limited (IND-Ltd) Zoning District.

**7:02 PM**

**Appeal No. 2019-022**

**Keller Company, Inc.**

Keller Company, Inc., has petitioned for a Variance in accordance with Section 240-32.E – Bulk Regulations in the IND Limited Industrial Zoning District – Maximum Building Height in order to allow maximum height of three (3) stories and 36 feet in height and a Variance pursuant to Section 240-32.F – Special Screening Standards in order to permit a forty-five (45) foot buffer along Breed's Hill Road frontage. The Petitioner is proposing to demolish the existing structure and construct an approximate 39,000 square foot, three (3) story, 36 feet in height, building with twenty-nine (29), two (2) bedroom residential apartment units with associated site improvements including parking, drainage and stormwater management facilities, underground utilities, site lighting and landscaping. The property is located at 206 Breed's Hill Road, Barnstable, MA as shown on Assessor's Map 314 as Parcel 025-000. It is located in the Industrial-Limited (IND-Ltd) Zoning District.

**Members assigned tonight: Alex Rodolakis, David Hirsch, Jake Dewey, Herb Bodensiek, Paul Pinard**

**Representative: Eliza Cox, Esq. also with her is Matt Eddy from Baxter Nye Engineering and Joe Keller, principal of Keller, Inc. Attorney Cox states that Mr. Keller has the property under agreement to purchase from the Massachusetts Society to Prevent Cruelty to Children. She does PowerPoint presentation (Exhibit A). She points out the property on the slide showing that it is in an area with mixed development, industry and residential structures. She also notes that Everleigh at Cape Cod is in the approximate area and consists of approximately 225 units. Also in the area are the Village Green apartments. She notes that the Carriage House complex apartments, which is in the same area also, is basically on the same idea, is owned by Mr. Keller and has been a successful venture for her client. She gives summary of the acreage, frontage and topography. They will remove the existing structure and construct a three-story, multi-family complex with associated improvement. The complex will have an approximate gross floor area of 39,000 square feet with lot coverage of 13.3%. Will meet all the bulk requirement for this area. Forty-eight parking spaces are proposed and required. Will be connected to Town Water and Sewer and have adequate capacity in this area for this project. She shows the Carriage House apartments which will mirror this architecturally. She points out the need in this community and particularly rental housing. (TOB Housing Production Plan Executive Summary (2016)). The Cape Cod Commission (CCC) also did a study and looked at the region as a whole and concluded that there is an immediate need. She goes over Section 240-125(B)(1)(e) lists the powers and the granting of use variances as it applies to this project and the variance criteria.**

Alex states that he has asked Elizabeth Jenkins to come tonight to comment. Ms. Jenkins states that the Everleigh complex was endorsed by the Planning Board and Town Council. She points out the former Cape Cod Times building and the Nstar substation. She also explains that there will be a connection for the Vineyard Wind project that will be leasing in this area and will connect into the electric grid. That proposal is currently with the CCC pursuing the DRI permitting and the Town has also entered into a host community agreement with Vineyard Wind. She points out that the Village Green is a 40B and all 120 units of affordable housing, is complete and occupied. She notes that this is the area where the Rail Trail will come into the Town of Barnstable, there will be a parking facility here also. The Town of Barnstable was the recipient of the 2017 MassWorks Infrastructure Grant which was in response to that investment and as a result, sidewalks will be installed from Mary Dunn Road all the way to Route 132. She points out the parcel on the south side of the Village Green which was purchased by the Town of Barnstable with Community Preservation Act (CPA) funds for potential housing and additional facilities for the Rail Trail.

Mark Hansen asks what the occupancy is of the Carriage House is and is told by Attorney Cox that it is currently 100%.

Alex is still concerned about the use variance change gives him pause especially when turning this into residential. He feels turning this from light industrial to residential should be done as a zoning amendment. He notes that variances are tricky and that a lot of towns do not allow for use variances.

Attorney Cox responds and states that the legislative arm did give this board the power to grant a use variance.

Alex asks for public comment. No one speaks.

Board deliberates. Elizabeth Jenkins goes over options:

- a zoning change (legislative permitting pathway) but the most logical would be to extend the industrial district south which would include perhaps also needing dimensional relief
- Comprehensive Permit (40B), however, changes the affordability requirement

Attorney Cox comments that when first presented, there were discussions about whether a zoning amendment is the right approach. However, there isn't time for her client to do so since he is under a Purchase and Sales Agreement (P&S).

Joseph Keller speaks and explains that he only has a few more months to purchase the property as the P&S will run out. If he has to go for a zoning change he will drop the project. Two most important things are water quality and rental housing. Manufacturing in this area could have the potential of using hazardous waste materials.

Elizabeth Jenkins comments to Mr. Keller that as for water issues, the Industrial Limited prohibits any uses that uses hazardous materials.

Jakes agrees with Alex, thinks it is a good project but has a hard time with the hardship and suggests that perhaps they could get a regulatory agreement. Attorney Cox explains that this is not one of those districts in which you can get a regulatory agreement.

Paul Pinard would give favor to housing and thinks it is a difficult lot for industrial use.

Mr. Keller talks again about what the structure will look like and that his other Carriage House apartment building was the first market rate apartment building in 25 years. He believes there is a need for one more.

Pinard makes findings:

#### **Proposal & Relief Requested**

The relief requested is for a 39,000 square foot, three (3) story, 36 feet in height, building with twenty-nine (29), two (2) bedroom residential apartment units with associated site improvements including parking, drainage and stormwater management facilities, underground utilities, site lighting and landscaping.

Forty-eight on-site parking spaces are proposed to serve the 29 apartments, in compliance with the parking regulations for multi-family residential units. Two access driveways are provided: one right-in only access on Independence Drive, and a full access on Breeds Hill Road. The development will be connected to Town sewer.

The proposed project is subject to the inclusionary zoning requirements of Chapter 9, Article I – Inclusionary Affordable Housing Requirements. Under the ordinance, the developer is responsible for the provision of three deed-restricted affordable units. This ordinance requires 10% of the units constructed to be restricted in perpetuity, available to qualifying rental tenants with a household income that does not exceed 65% of the Area Median Income, at a cost that does not exceed 30% of their annual household income, including utilities.

This Petition is being heard in conjunction with Variance No. 2019-022 which seeks variances from bulk regulations in the Industrial Limited Zoning District.

#### **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:

1. 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;
2. a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and
3. 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.

An application for a variance that has met all three requirements "does not confer ... any legal right to a variance." The Board still has the discretionary power to grant or not to grant the variance.

**Alex wants the findings to be expanded.**

**Paul Pinard expands on #1 and adds: because of the shape of the lot, it has 3 sides and the soil conditions relate to the Wellhead Protection Overlay District, #2: there is a need for housing and this project seems to fit well in this area but that this area might not be successful for industrial; and #3: there is certainly a need and it would be for the public good**

**Vote:**

**AYE: Jake Dewey, Herb Bodensiek, Paul Pinard, David Hirsch**

**NAY: Alex Rodolakis**

**Paul Pinard makes motion to grant with the following conditions:**

**Conditions**

1. Use Variance No. 2019-021 is granted to Keller Company, Inc., to allow for a multi-family residential development at 206 Breeds Hill Road, Barnstable, MA.
2. The site development shall be constructed in substantial conformance with the following plans submitted to the Board:
  - a. The site plans entitled "Preliminary Layout Plan – 206 Breeds Hill Road, Hyannis MA" dated February 25, 2019, drawn and stamped by Baxter Nye Engineering & Surveying;
  - b. The elevations entitled "Keller Company, Inc. - Carriage House Apartment" dated June 8, 2017 drawn by RA Schaeffer & DM White Architects.
3. The Petitioner must file final engineered site plans with the Site Plan Review Committee for final approval by the Site Plan Review Committee. In the event that the Building Commissioner determines that the final plans approved by the Site Plan Review Committee are not in substantial conformance with the plans filed with this application, the Petitioner shall be required to seek a modification of this decision. Fully engineered plans shall include, but are not limited to, a landscape plan, photometric plan, and all required drainage calculations.
4. The project shall comply with the Preliminary Site Plan Review approval dated March 12, 2019, the conditions of which shall be incorporated as conditions of this decision.
5. The Developer shall fulfill the obligation set out by Chapter 9, Article 1 and shall meet all requirements of the Local Initiative Program for the provision of three affordable housing units.
  - c. The affordable units created to fulfill the obligations of said Chapter shall comply with the following:
    - i. Units shall be qualified affordable units to tenants with qualifying incomes as defined by the U.S. Department of Housing and Urban Development, as defined by Chapter 9, Article 1.
    - ii. Such residential dwelling units shall remain affordable in perpetuity and shall provide a deed restriction, regulatory agreement and monitoring agreement and similar documentation as may be required by and approved by the Barnstable Town Attorney.
    - iii. The Developer shall record a deed restriction, in form and content approved by the Town Attorney, assuring that the affordable units will remain dedicated as such in perpetuity and that they are protected in the event of a foreclosure from loss of their affordable status.
    - iv. The Applicant shall prepare a Regulatory Agreement and Monitoring Services Agreement in a form and content as approved by the Town Attorney. Said Agreements shall be recorded at the Barnstable County Registry of Deeds prior to the issuance of any building permits, if required.
    - v. The Developer shall retain a monitoring agent for this development. The monitoring agent shall provide an annual report to the Zoning Board demonstrating the development is in compliance with the affordable housing restrictions of this decision and of Chapter 9, Article 1.
    - vi. All costs associated with monitoring for consistency with the Regulatory Agreement shall be borne by the Applicant.
    - vii. Developer shall prepare and implement an Affirmative Fair Housing Marketing and Tenant Selection Plan that satisfies Local Initiative Program requirements.
6. The rental units on the property shall be registered with the Building and Health Divisions as required.

7. *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.*

**Attorney Cox notes that she has seen the conditions and is okay with them.**

**Vote:**

**AYE: Jake Dewey, Herb Bodensiek, Paul Pinard, David Hirsch**

**NAY: Alex Rodolakis**

**Paul Pinard makes findings for 2019-022:**

**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:*

1. *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;*
2. *a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and*
3. *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.*

*An application for a variance that has met all three requirements "does not confer ... any legal right to a variance." The Board still has the discretionary power to grant or not to grant the variance.*

**Pinard elaborates:**

- a. *as for hardship, it would revert back to an empty lot for light commercial and this project would die*
- b. *housing is necessary and variance is necessary*
- c. *as for topography, it would be difficult for industrial use and this is a good use of the land and not detrimental to public good*

**Vote:**

**AYE: Jake Dewey, Herb Bodensiek, Paul Pinard, David Hirsch**

**NAY: Alex Rodolakis**

**Pinard makes a motion to grant with following conditions:**

**Conditions**

1. *Variance No. 2019-022 is granted to Keller Company, Inc., to allow relief from 240-32(E) IND Bulk Regulations – Height and §240-32(F) - Special Screening Standards for a 3 story, 36 foot in height, multi-family residential development with a 45 foot front buffer at 206 Breeds Hill Road, Barnstable, MA.*
2. *The site development shall be constructed in substantial conformance with the following plans submitted to the Board:*
  - d. *The site plans entitled "Preliminary Layout Plan – 206 Breeds Hill Road, Hyannis MA" dated February 25, 2019, drawn and stamped by Baxter Nye Engineering & Surveying;*
  - e. *The elevations entitled "Keller Company, Inc. - Carriage House Apartment" dated June 8, 2017 drawn by RA Schaeffer & DM White Architects.*
3. *The Petitioner must file final engineered site plans with the Site Plan Review Committee for final approval by the Site Plan Review Committee. In the event that the Building Commissioner determines that the final plans approved by the Site Plan Review Committee are not in substantial conformance with the plans filed with this application, the Petitioner shall be required to seek a modification of this decision. Fully engineered plans shall include, but are not limited to, a landscape plan, photometric plan, and all required drainage calculations.*
4. *The project shall comply with the Preliminary Site Plan Review approval dated March 12, 2019, the conditions of which shall be incorporated as conditions of this decision.*
5. *Dumpsters shall be fenced and screened in accordance with all Health Division regulations.*
6. *The development shall be connected to Town sewer.*
7. *Landscaping shall be required to be continually maintained with the required buffer areas, in addition to maintaining the required site visibility triangles as shown on the above-referenced site plan.*

8. *All conditions of Use Variance 2019-021 shall be incorporated as conditions of this decision.*
9. *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:**

**AYE:** *Jake Dewey, Herb Bodensiek, Paul Pinard, David Hirsch*

**NAY:** *Alex Rodolakis*

## GRANTED WITH CONDITIONS

*David Hirsch leaves.*

**Alex reads the following into the record:**

**7:03 PM**

**Appeal No. 2019-023**

**Zaino**

Scott J. and Nadine A. Zaino have petitioned for a Variance in accordance with Section 240-14 E – Bulk Regulations in the RF Zoning District – Minimum side yard setbacks. The Petitioner is proposing to construct a 10 foot by 12 foot pool shed approximately 1 foot from the northerly lot line. The property is located at 68 Indian Spring Road, West Barnstable, MA as shown on Assessors Map 133 as Parcel 036. It is located in the *Residence F (R-F) Zoning District.*

**Members assigned tonight:** *Alex Rodolakis, Jake Dewey, Herb Bodensiek, Paul Pinard, Mark Hansen*

**Representative:** *Scott and Nadine Zaino*

*Mrs. Zaino explains that there are wetlands, a septic system and a limited area in which to put the shed. They will also put up a fence to block the view of the shed from the neighbors.*

*Alex asks the petitioners to point out on the plan where the shed will be placed. Mr. Zaino clarifies that the shed dimensions will be 10' X 12' and that the mechanical equipment & filter for the pool will be placed in the shed but the heat pump with the blow down tank will be placed behind the shed and all behind the fence they will install. If they have to put the shed 15' from the lot line it would end up being on top of the septic.*

*Paul Pinard asks if the shed can be placed to the west. Mr. Zaino explains that he would not prefer that the shed be placed next to the house and the other corner would be near to wetlands.*

*Mark Hansen clarifies with Mr. Zaino that the pool will be salt water and asks if they could put the mechanicals in the basement. Mr. Zaino explains that he hasn't looked into that option yet.*

*Alex asks about placing the shed behind the deck. Mr. Zaino explains that the area behind the deck is sloped.*

*Alex has concerns about where the shed will be placed. Alex doesn't think Mr. Zaino has variance conditions for hardship.*

*They discuss how far from the leaching field the shed could be. They think they would have to ask the Board of Health (BOH).*

*Alex suggests continuing this in order to get an opinion from the BOH as to how far they can put the shed from the septic system leaching field, etc. Jake Dewey asks the applicants to reach out to the direct abutter.*

**Motion to continue to May 8, 2019 at 7:00 PM by Jake Dewey and seconded by Mark Hansen.**

**Vote:**

**All in favor**

## CONTINUED TO MAY 8, 2019 AT 7:00 pm

### Correspondence

#### Matters Not Reasonably Anticipated by the Chair

*Elizabeth Jenkins talks about short term rentals in regards to the room tax and that the Baker Administration passed legislation at the beginning of the year that would tax short term rentals in communities to 6% tax that hotels and motels are subject to and an additional 2.75% that goes into a water resource protection fund on Cape Cod. It also gives municipalities the ability to regulate and inspect short term*



*rentals. One of the challenges the town and the ZBA has had is that the regulations are not modernized. There are 14 residential zoning districts. Planning & Development has been tasked with helping the Board of Health and the Building Commissioner to come up with a regulatory structure for short term rentals. They have been working with the Town Council and Zoning and Regulatory Committee and would like to put a Steering Committee together consisting of members the Zoning and Regulatory Committee, a Planning Board member and a Zoning Board of Appeals member and ask if anyone on this board is interested in being on this Steering Committee. She is hoping to have regulations in place because they will start collecting taxes as of July 1<sup>st</sup>. She asks if anyone is interested to please contact Alex Rodolakis.*

**Upcoming Meetings**

May 8, 2019; May 22, 2019; June 12, 2019

**Adjournment**

*Motion is made by Paul Pinard and seconded by Jake Dewey to adjourn*

*Vote:*

*All in favor*

APPROVED

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 it 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