

**ZONING BOARD OF APPEALS**

**MINUTES**

**Wednesday, May 26, 2021**

**Acting Chair David Hirsch** opened the meeting at 7:00 PM with following narrative:  
Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>
2. Real-time access to the Zoning Board of Appeals meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Zoning Board of Appeals by utilizing the Zoom link or telephone number and Meeting ID provided below:

<b>Join Zoom Meeting Option</b>	<b>Telephone Number Option</b>
<a href="https://zoom.us/j/96635887972">https://zoom.us/j/ 966 3588 7972</a>	888-475-4499 U.S. Toll Free
Meeting ID: 966 3588 7972	Meeting I.D. 966 3588 7972

3. Applicants, their representatives and individuals required or entitled to appear before the Zoning Board of appeals may appear remotely and are not permitted to be physically present at the meeting, and may participate through accessing the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to [anna.brigham@town.barnstable.ma.us](mailto:anna.brigham@town.barnstable.ma.us), so that they may be displayed for remote public access viewing.

Copies of the applications are available for review by calling (508) 862 4682 or emailing [anna.brigham@town.barnstable.ma.us](mailto:anna.brigham@town.barnstable.ma.us).

**Acting Chair David Hirsch took roll call of members present:**

<b>Member</b>	<b>Present via Zoom</b>	<b>Absent</b>
Alves E.		x
Bodensiek H.	x	
Dewey J.	x	
Hansen M.		x
Hirsch D.	x	
Pinard P.	x	
Rodolakis A.		x
Walantis T.		x
Webb, Aaron	x	

**Acting Chair David Hirsch noted that 5 members were present for a quorum.**

**Taping of meeting**

No one was taping meeting.

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We have minutes from March 10<sup>th</sup> and March 24<sup>th</sup>. to be approved. **Acting Chair Hirsch** moved to accept with **Member Dewey** seconding.

<b>Member</b>	<b>Acceptance of Minutes</b>	<b>Absent</b>
Alves E.		x
Bodensiek H.	x	
Dewey J.	x	
Hansen M.		x
Hirsch D.	x	
Pinard P.	x	
Rodolakis A.		x
Walantis T.		x
Webb, Aaron	x	

All in favor.

**OLD BUSINESS**

**Appeal No. 2021-018** William G. Crawford and Lynne A. Crawford have applied for a Special Permit pursuant to Section 240-91.H(3) – Demolition and Rebuilding on a Nonconforming lot. The Applicants are proposing to demolish an existing two-bedroom dwelling and construct a new, four-bedroom dwelling on a lot consisting of less than 10,000 square feet. The subject property is located at 181 Hollingsworth Road, Osterville, MA as shown on Assessor’s Map 140as Parcel 040. It is located in the Residence C Zoning District. Continued from April 28, 2021 and May 12, 2021. **This was continued from May 12<sup>th</sup>.**

Attorney Michael Schultz is representing the Crawfords. In the packet that was submitted, the applicants meet all of the performance criteria set forth in Section 240-91 H1 for the issuance of a building permit with the exception that the lot contains less then 10,000 square feet which requires relief from this board. All of the criteria of 240-91 H 1 A& B are met. The proposed dwelling is not a substantially more detriment to the neighborhood then the existing dwelling. I would suggest that the design and demolition is a significant esthetic improvement. It is in keeping with the rest of the neighborhood which has had a number of homes demolished and rebuilt over the recent years. I would respectfully submit that the request fulfills the spirit and intent of the ordinance and will turn over to the board for any questions you may have.

**Acting Chair Hirsch** – any questions from the Board? Hearing none – we will turn it over to the public.

**Acting Chair Hirsch** – opened up public comment. Questions raised by gentleman who did not identify himself but acting Chairman Hirsch appeared to recognize this person. Questions raised, “Is this lot on town water?” Attorney Schultz replied, “It is.” 2<sup>nd</sup> Question, “and the sewage system, will it fit a four bedroom home on 9,945 sq. ft lot? Attorney Schultz, “yes.” 3<sup>rd</sup> Question, “so this is not in a nitrogen sensitive area? Attorney Schultz, “it is not.” Does it go to the pond next door or does it go to Vineyard Sound?” Attorney Shultz, “doesn’t know which way ground water flows”. But it is outside any overlay

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district that has limitations so it is not located in a saltwater estuary overlay. It is the opinion of this member of the public that it is a lot of bedrooms for this lot and the nitrogen goes somewhere. Public Hearing is now closed.”

**Acting Chair Hirsch** turned to the board for more discussion. **Member Dewey** asked if it is a new septic system going in or are they using the existing one? **Member Dewey** noted he did not see plan in packet.

Attorney Schultz noted that all is being done by Sullivan Brothers in Osterville. Attorney Schultz thinks it is a new system but he can give them a quick call right now. **Member Pinard** asked how many bedrooms does the existing home have? Attorney Schultz replied, “according to Assessor’s office records, it has two. This is located in the triangle in Osterville which is outside the Salt Water Estuary Overlay. He would suggest that the 4 bedrooms are very much in keeping with the neighborhood. Even though public comment was closed...the unidentified speaker in the public comment section jumped in and asked if this has to go before the Board of Health?” Attorney Schultz replied, “Yes.” “I just received text from John Sullivan and it is a new system.” Member Dewey, “What phase of town sewer is this in...do you know?” Attorney Schultz is looking it up. He noted that on the Assessor’s property look up, it reads, “None planned at this time.” He also added that, “it must be in some sort of phase.”

Member Pinard read the findings into the record.

Findings of Fact

1. 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.
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.
4. The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building. The proposed setbacks comply with the District regulations.
5. The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The proposed lot coverage is 20%.
6. The floor area ratio shall not exceed 0.30 or 30% the existing floor area ratio of the structure being demolished, whichever is greater. The proposed FAR is 27%.
7. The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories. The proposed height is approx. 17 feet 3 inches to plate (24 feet to ridge) (30 feet maximum) and the proposed dwelling is 2 stories.

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8. The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

The vote to accept the findings was:

<b>Member</b>	<b>Appeal 2021-018 Findings</b>	
Alves E.		
Bodensiek H.	In favor	
Dewey J.		Not in favor
Hansen M.		
Hirsch D.	In favor	
Pinard P.	In favor	
Rodolakis A.		
Walantis T.		
Webb, Aaron	In favor	

**NAY VOTE:** Jacob Dewey who believed the dwelling was too large for the size lot

**CONDITIONS:**

1. Special Permit No. 2021-018 is granted to William G. Crawford and Lynne A. Crawford to demolish an existing two-bedroom dwelling and construct a new, four-bedroom dwelling on a lot consisting of less than 10,000 square feet. The subject property is located at 181 Hollingsworth Road, Osterville, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled “Site Plan Proposed Improvements at 181 Hollingsworth Road, Barnstable (Centerville) Mass” drawn and stamped by Sullivan Engineering & Consulting, Inc., dated May 17, 2021.
3. The total lot coverage of all structures on the lot shall not exceed 20% and the floor-area ratio shall not exceed 27%.
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/Land Court and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of the building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

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<b>Member</b>	<b>Appeal 2021-018 Findings</b>	
Alves E.		
Bodensiek H.	In favor	
Dewey J.		Not in favor
Hansen M.		
Hirsch D.	In favor	
Pinard P.	In favor	
Rodolakis A.		
Walantis T.		
Webb, Aaron	In favor	

NAY VOTE: Jacob Dewey who believed the dwelling was too large for the size lot.

**Appeal No. 2021-024** Julie P. Pinto and Gregory J. Pinto, Trustees of the JDC Ocean Avenue Realty Trust, have applied for a Special Permit in accordance with Section 240-131.4D (2) (a) Change, Expansion, Alteration of Structures by Special Permit and Section 240-131.4E Special Permit for Dimensional Relief under the Craigville Beach District Use Regulations. The Applicants are seeking to alter/expand an existing garage pursuant to the plans prepared by LDA Architecture & Interiors, LLP, and Sullivan Engineering & Consulting, Inc. and maintain the existing setback on Ocean Avenue. The property is located at 63 Ocean Avenue, Centerville (Craigville), MA as shown on Assessors Map 226 as parcel 149. It is located in the Craigville Beach District Craigville Village (CBDCV) District of Critical Planning Concern (DCPC).

Attorney Schultz representative for the Pintos speak: The property is improved with a single family dwelling on a lot in approximately 1906 (which is outside this appeal) with a detached garage with an unknown construction date but it was certainly in existence as of 1989 and 2009. A site plan was submitted to the board and Attorney Schultz reviewed it with them. Attorney Schultz also read into the record the evidence that was submitted to the board. Four letters of support were also submitted in favor of the Pinto’s renovation. Upon reading all of the presented evidence and facts submitted to the board, Attorney Schultz noted he would entertain any questions from the board.

**Acting Chairman Hirsch** asked if there were any questions or comments from the board. Hearing none, **Acting Chairman Hirsch** opened up comments from the general public. Gordon Starr, Town Councilor introduced himself. He asked to see the site plan. Site plan was displayed on the screen. They will lower the slab by 5 feet. Tref Laflesh, LDA Architecture in Cambridge. Working on this project with Pintos. The reason for lowering the slab is twofold; the incline from Ocean Ave up into the garage is rather steep and so by dropping the slab by 6” is a more functional entrance into the footprint of the garage and the foundations do descend down below the existing grade to the frostline so we do have the ability to slightly lower the slab that is currently in the garage in order to afford more head clearance in the existing garage up to the existing attic space. Mr. Starr: the purpose of this is to create more living space. Attorney Schultz: the existing attic space is more usable and we are trying to make it more fully usable. Under the DCPC attic space is considered habitable. It’s a different area with different regulations. Mr. Starr: there is a hardship because you can’t move the garage. Can you explain that? Mr. LaFlesh: Based on the slope of the lot, you can see the grading contours there. The topography rises

about 20 feet from the edge of Ocean Ave up to the garages effectively cut into that existing slope.

**Member Dewey** read

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into the record four letters in support of the Pintos. Mr. Alan Shoemaker, 12 Butler Ave in Centerville, Vice President of Christian Camp Association; Sue and Gary Conley, 24 Laurel Ave, Centerville; Barbara and Richard Ireland, 57 Ocean Ave., Centerville; Jim Lane, President of Christian Camp Association.

**Member Dewey:** The existing septic system was granted by a variance from the Board of Health. Wanted this noted in the record. **Member Webb:** Do we know definitively there are no added bedrooms? The attic is countable as habitable space.

Findings were read by **Member Bodensiek**.

**Findings of Fact**

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-131.4(D) (2) and 240-131.4 (E) allows for expansion of lawfully existing structures with a Special Permit from the Board.
2. 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.
3. The proposed alteration/expansions are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure.
4. Contributes to and respects the character and historic development patterns of the area and minimizes inconsistent redevelopment impacts to the historic and community character resources in this area.
5. Protects and preserves scenic views and vistas and ways to the water.
6. Protects and improves natural resources, including but not limited to the barrier beach and groundwater and coastal water quality and minimizes development and redevelopment impacts to the natural resources and ecosystems in this district.
7. Protects human life and property from the hazards of periodic flooding.
8. Preserves the natural flood control characteristics and the flood control function of the floodplain.
9. The development complies with the setbacks and lot coverage requirements set forth herein, and are in character with surrounding structures, particularly structures that predate it. Relief is being requested for expansion of the structure in accordance with § 240-131.4D.
10. The redevelopment complies with the height limitations set forth herein.
11. The addition is set back at least 50 feet from the top of the coastal bank resource area.
12. Existing natural vegetation within the fifty-foot buffer area to salt marsh and undisturbed buffer areas 50 feet landward of the mean high-water mark of coastal water bodies shall be preserved to the maximum extent feasible.

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- 13. The expansion does not exceed 25% of the gross floor area of structures in existence as of July 1, 1989, or do not exceed 10% of the gross floor area of structures in existence as of November 6, 2009.1
- 14. The expansion does not increase lot coverage over what is allowed under § 240-131.6, Coverage limitations, or by more than 10% over what was existing on November 6, 2009, whichever is greater.
- 15. The expansion does not increase flood hazards in the neighborhood.
- 16. The expansion maintains views to Nantucket Sound / Centerville River: a minimum 20 foot view shed is existing and maintained.

The vote to accept the findings was:

<b>Member</b>	<b>Appeal 2021-024 Findings</b>	
Alves E.		
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.		
Hirsch D.	In favor	
Pinard P.	In favor	
Rodolakis A.		
Walantis T.		
Webb, Aaron	In favor	

All in favor.

**CONDITIONS:**

- 1. Special Permit No. 2021-024 is granted to Julie P. Pinto and Gregory J. Pinto, Trustees of the JDC Ocean Avenue Realty Trust to allow the alteration/expansion of an existing garage while maintaining existing setback on Ocean Avenue at 63 Ocean Avenue, Centerville (Craigville), MA pursuant to Section 240-131.4 of the Craigville Beach District, District of Critical Planning Concern (DCPC).
- 2. The proposed alteration shall be constructed in substantial conformance with the site plan entitled "Site Plan Proposed Improvements at 63 Ocean Avenue Barnstable (Centerville) Mass" prepared by Sullivan Engineering and Consulting, Inc dated April 7, 2021.
- 3. There shall be no further expansion of the garage unless approved by the Zoning Board of Appeals.
- 4. The Applicant shall comply with decisions and conditions issued by the Board of Health and Conservation Commission.
- 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

6.

**ZONING BOARD OF APPEALS – MAY 26, 2021 MINUTES – CONTINUED**

7. Building Division prior to issuance of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

The vote was:

<b>Member</b>	<b>Appeal 2021-024 Findings</b>	
Alves E.		
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.		
Hirsch D.	In favor	
Pinard P.	In favor	
Rodolakis A.		
Walantis T.		
Webb, Aaron	In favor	

All in favor. Special permit granted..

**No matters** left before the board this evening.

**Adjournment**

**Member Pinard** moved to adjourn and **Member Bodensiek** seconded.

<b>Member</b>	<b>Adjournment</b>	
Alves E.		
Bodensiek H.	In favor	
Dewey J.	In favor	
Hansen M.		
Hirsch D.	In favor	
Pinard P.	In favor	
Rodolakis A.		
Walantis T.		
Webb, Aaron	In favor	

All in favor.

Respectfully Submitted

Elizabeth B. Silva, Temporary Scribe