

**ZONING BOARD OF APPEALS**

**MINUTES**

24 SEP 21 10:12:00  
BARNSTABLE FILED CLERK

**Wednesday, September 8, 2021**

**Chair Jacob Dewey** 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/91610698888">https://zoom.us/j/91610698888</a>	888-475-4499 U.S. Toll Free
Meeting ID: 916 1069 8888	Meeting I.D. 916 1069 8888

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).

**Chair Jacob Dewey took roll call of members present:**

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

*Also present were Anna Brigham – Principal Planner and Rachael Toolas– Administrative Assistant*

**Chair Jacob Dewey noted that 5 members were present for a quorum.**

**Member Mark Hansen joined meeting after roll call @ 7:03PM.**

**Taping of meeting**

No one was taping meeting.

We have minutes from June 9, 2021 to be approved. Member Bodensiek moved to accept with Member Pinard 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	
Walantis T.		X
Webb, Aaron	X	

All in favor.

**OLD BUSINESS**

None

**NEW BUSINESS**

7:05 PM

Appeal No. 2021-037

Vengren

Daniel and Donna Vengren have applied for a Special Permit in accordance with Section 240-46(C) Home Occupation. The Applicants are proposing to establish a home business for auto detailing which will be based out of a mobile vehicle; home will used as an office and to store supplies. The subject property is located at 23 Goose Point Road, Centerville, MA as shown on Assessors Map 252 as Parcel 083- H00 and 083-T00. It is located in the Residence C-1 (RC-1) Zoning District.

Members Assigned: Dewey, Hirsch, Bodensiek, Hansen, Pinard

*Daniel and Donna Venegren will be operating an auto detailing business. They would like to use part of the home for office work to be done for the business. Appointments for detailing will be off site at the customer’s premise. No customers will be on site. They will have no signs on the property advertising the business. Chemicals to be stored will be limited to 5-10 gallon containers purchased from local auto stores and possibly online. No large containers will be delivered by tractor trailer trucks. Special Permit was needed because of the zoning regulations for this property.*

*Member Alves asked the size of the truck which the applicant Venegren would be using, response Nissan Frontier. Member Pinard asked if there will be a storage area on the property for the business. Response from Mr. Venegren has a portable canopy garage with a zipper door. Member Webb clarifies customers will not be going to the property. Member Webb asks why the Venegren’s are seeking a special permit for the Home Occupation when no customers will be on site. A Site Plan*

*review letter from the Building Commissioner, Brian Florence, states that home occupation is prohibited in the Zoning District RC-1, therefore, further permitting is needed through ZBA.*

***Chair Dewey asks for Public Comment***

*Audrey Dietel of 52 Goose Point Road, Centerville wanted clarification as to how many customers and vehicles would be at the property. After listening to the hearing it was made clear that customers would not be going to the house.*

***Chair Dewey makes a motion to close public comment.***

**Vote:**

**AYE: Hirsch, Bodensiek, Pinard , Alves, Webb, Hansen, Dewey**

**NAY: None**

*Member Bodensiek reads findings*

**Appeal Findings**

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. The proposed use is located within the Residence C-1 District and is allowed by Special Permit under Section 240-46 C. Home Occupation.
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 site plan has been reviewed by the Site Plan Review Committee and found to be of no significant detriment (see letter dated August 2, 2021).

Chair Dewey makes a motion to approve the findings, motion is seconded by Member Hirsch.

**Vote:**

**AYE: Jacob Dewey, David Hirsch, Herbert Bodensiek, Paul Pinard and Aaron Webb**

**NAY: None**

**Decision-Conditions**

Based on the findings of fact, a motion was duly made and seconded to grant Special Permit No. 2021-037 subject to the following conditions:

1. Special Permit No. 2021-037 is granted to Daniel and Donna Vengren to establish a home business for auto detailing to be based out of a mobile vehicle at 23 Goose Point Road, Centerville, MA.
2. The home occupation shall conform to all of the requirements of Section 240-46 B. (1) – (12) and Section 240-46 C. (1) - (7) of the Zoning Ordinance.
3. This permit is issued only to the applicants and is not transferable.

4. There shall be no customers on site.
5. All distribution of products will be done by the Applicants.
6. The Applicants must reside on the property.
7. All conditions set forth from Site Plan Review letter dated August 2, 2021 are incorporated in this Decision.
8. This permit is for an auto detailing home business to be based in a mobile vehicle with office and storage of supplies to be located in the dwelling only.
9. Not more than one employee who is not a member of the Applicants family shall be permitted.
10. The Applicant is responsible for receiving sign permit(s) and any other applicable permits from town departments.
11. 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 of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

The vote was:

**AYE: Jacob Dewey, David Hirsch, Herbert Bodensiek, Paul Pinard and Aaron Webb**

**NAY: None**

## **GRANTED WITH CONDITIONS**

**7: 24 PM**

**Appeal No. 2021-038**

**Boschetti, Trustee**

Debra M. Boschetti, Trustee of the 32 Hawes Avenue Realty Trust, has applied for a Special Permit pursuant to Section 240-92(B) to permit alteration of a preexisting nonconforming building used as a single-family residence, which building is currently nonconforming due to its location within the front yard setbacks. The Applicant proposes to renovate and expand the preexisting nonconforming single family dwelling and relocate the structure thereby making the dwelling less nonconforming. The subject property is located at 32 Hawes Avenue, Hyannis, MA as shown on Assessor's Map 324 as Parcel 073. It is located in the Residence B (RB) Zoning District.

Members Assigned: Dewey, Hirsch, Bodensiek, Hansen, Pinard

***Attorney Jennifer E. Carey representing Boschetti, Trustee of 32 Hawes Avenue Realty Trust. Requesting a special permit to re-locate the single-family residence on the lot as part of the renovation. It currently sits in the front yard setback and will continue to be in the setback once it's relocated. There is work being performed on the foundation which is requires the house be lifted and moved slightly. It will make the house less non-conforming.***

*Member Pinard confirms it is a single structure located on two lots, 28 and 29. Member Bodensiek confirms that the building is being lifted and the foundation moved which is changing the location of the front yard setback. Looking at the plans, discusses why the house is still being positioned in the front yard setback rather than moved farther back in the lot. Plan indicates a conservation buffer in the back area of the lot which the homeowner needs to comply with as well. Member Bodensiek states it's a pre-existing condition, Member Hansen reiterates the hardship of the lot having two front yard setbacks. Chairman Dewey confirms the structure is being built to meet the current flood standards.*

**Public Comment:**

*Chad Hill Designer in support*

*John Kwartunas of 61 Whidden Ave., Centerville an abutter is concerned the project will impact his water view*

*Chair Dewey motions to close the public comments*

*Vote:*

*Aye: Dewey, Hirsch, Bodensiek, Pinard, Hansen*

*NAY: None*

*Member Bodensiek notes that the findings in the staff reported dated 8/25/21 #5 and# 6 should be removed. Attorney Carey agrees.*

*Member Pinard makes findings.*

**Appeal Findings**

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-92 (B) Nonconforming buildings or structures used as a single- and two- family residences allows for alterations.
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. It does affect the view of neighbors.
4. Pursuant to Section 240-92 (B), the proposed alteration or expansion will not be substantially more detrimental to the neighborhood than the existing building or structure.

***Pinard motions to accept the findings, Hirsch seconds the motion.***

**Vote:**

**AYE: Jacob Dewey, David Hirsch, Herbert Bodensiek, Paul Pinard, and Mark Hansen**

**NAY: None**

**Decision-Conditions**

Based upon the findings a motion was duly made and seconded to grant the Applicants the relief being sought with the following conditions:

1. Special Permit No. 2021-038 is granted to Debra M. Boschetti, Trustee of the 32 Hawes Avenue Realty Trust, to alter an existing nonconforming dwelling and relocate thereby resulting in a less nonconforming dwelling at 32 Hawes Avenue, Hyannis, MA.

2. The site development shall be constructed in substantial conformance with the plan entitled "Plan of Land 32 Hawes Avenue in Hyannis, Mass" prepared by BSC Group, dated June 21, 2021.
3. The proposed redevelopment shall represent full build-out of the lot. Further alteration or expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
4. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
5. 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.

*Pinard makes a motion to accept the conditions, Dewey seconds the motion.*

**Vote:**

**YAY:** Jacob Dewey, David Hirsch, Herbert Bodensiek, Paul Pinard, and Mark Hansen

**NAY:** None

## **GRANTED WITH CONDITIONS**

**7:43PM**

**Appeal No. 2021-039**

**Phipps**

Bradley Phipps has applied for a Special Permit pursuant to Section 240-91.H (3) – Demolition and Rebuilding on a Nonconforming lot. The Applicant is seeking to demolish the existing 3-bedroom dwelling and construct a 3,175 square foot 3-bedroom dwelling that has a 21.9 foot front yard setback, where a 30 foot setback is required. The existing dwelling has a 21.4 foot front yard setback. The subject property is located at 29 Tillage Lane, West Barnstable, MA as shown on Assessor's Map 136 as Parcel 003. It is located in the Residence F (RF) Zoning District.

*Member Herb Bodensiek states for the record that he is employing Attorney Schulz on a separate matter. It shouldn't impair his judgement in the case and doesn't think it is necessary to recuse himself from the discussion if board members have no objections. Attorney Schulz finds no conflict, Chair Dewey agrees.*

*Attorney Albert Schulz representing Bradley Phipps, outlines the demolition of the existing dwelling which currently is in the front yard setback located 21.4' off of Tillage Lane . The proposed new structure, a 3 bedroom, 4,175 sq. ft. dwelling will also being in the front yard setback but located at 21.9' from the road. This will make the property less non-conforming. The increase in square footage of the dwelling is within the maximum allowable lot coverage under the Zoning Ordinance. Old King's Highway gave approval 8/25/21.*

*Member Hirsch asks what is the reason the house is in the setback if it's being demolished. Attorney Schulz explains the house has frontage on two sides of Tillage Lane and the lot is narrow. With the proposed dwelling it will make it less non-conforming.*

**Public Comment:**

*Paul White 44 Tillage Lane, West Barnstable – Concerned about the safety of the road and condition with additional vehicle usage.*

*Joel and Katy Bess 12 Briar Lane, West Barnstable concerned regarding safety of the road.*

*Arlene Antonicelli 19 Tillage Lane– Road safety concern*

*Attorney Schulz responds to public comments stating these comments are in regard to road safety and not the house location on the lot. The homeowner has no plan to make road improvements. This is a Private Way. Paul White disagrees with Attorney Schulz. Member Hansen confirms that the zoning board doesn't have jurisdiction over Private Way issues.*

*Manny Alves addresses the additional detriment to the neighborhood, although there is concern, zoning can only speak to the existing dwelling and the changes on the lot. Member Pinard suggests the neighbors need to discuss the safety concerns of the road and what would be best as a collaborative effort.*

*Member Hansen reads findings*

**Appeal Findings**

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 nonconforming dwelling 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 9.3%.
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 13.3%.
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 1 inches to plate (30 feet maximum) and the proposed dwelling is 1.5 stories.
8. The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

Chair Dewey makes a motion to accept findings.

**Vote:**

**YAY: Jacob Dewey, David Hirsch, Herbert Bodensiek, Paul Pinard and Mark Hansen**

**NAY: None**

**Decision-Conditions**

Based on the findings of fact, a motion was duly made and seconded to grant Special Permit No. 2021-039 subject to the following conditions:

12. Special Permit No. 2021-039 is granted to Bradley Phipps to demolish an existing dwelling and construct a new, three-bedroom dwelling with a 21.9 foot front yard setback where 30 feet is required. The subject property is located at 29 Tillage Lane, West Barnstable, MA. The site development shall be constructed in substantial conformance with the plan entitled "Certified Location Plan showing existing and proposed house, 29 Tillage Lane, West Barnstable, MA" drawn and stamped by Stenbeck & Taylor, Inc, dated April 7, 2021 with a last revision date of May 26, 2021.
13. The total lot coverage of all structures on the lot shall not exceed 9.3% and the floor-area ratio shall not exceed 13.3%.
14. 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.
15. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
16. 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.

***Attorney Schulz accepts conditions on behalf of his client.***

***Chair Dewey makes a motion to accept conditions.***

**Vote:**

**YAY: Jacob Dewey, David Hirsch, Herbert Bodensiek, Paul Pinard and Mark Hansen**

**NAY: None**

**GRANTED WITH CONDITIONS**



Cotuit Federated Church Trust has applied for a Modification Permit in accordance with Section 240-8(3)(b)-Exempt Uses. The Applicant proposes to create an 11-space off-street parking area to serve the proposed 17,686 sq.ft expansion of the church. The existing garage is proposed to be demolished and two additions to the existing building are proposed, including installation of an elevator to bring the building into compliance with the Americans with Disabilities Act (ADA). The new parking lot will incorporate handicapped parking to replace the existing on-street handicap space which is non-compliant. The parking lot landscape setback will be reduced from 30 feet to 6 feet. The property is located at 40 School Street, Cotuit, MA as shown on Assessor's Map 035 as Parcels 049 and 050. It is located in the Residence F (RF) Zoning District.

*Mike Helsinger of Conserve Group Inc. architect and builder of proposed project presents information regarding the new addition in the back of the existing building as well as the front of the building which will include an elevator. A landscape plan was shared via zoom to show proposed parking area on the church property. The church has not had onsite parking in the past and has used the Cotuit Post Office, Cotuit Library, Municipal lot and street parking. The church proposes to add 11 spaces of off street parking with two handicap spaces. This would reduce the landscape setback from 30' to 6'. The permitted occupancy of the building will go from 150 to 200 persons once the additions are complete. This will require additional parking to be available. Mr. Helsinger explains through documentation how there will be enough parking available using the current parking options and adding the spaces at the church.*

*Member Hansen asked if there was an agreement allowing church attenders to park at the Post Office. The church owns the property and leases it to the Post Office and it is in the lease agreement. Member Bodensiek refers to the plan regarding the handicap walkway and ease of access to the handicap parking spot into the church, is it sufficient. Member Pinard refers to a letter of concern from Frances Parks that was sent to the Board regarding handicap parking on the street. Member Hansen states the church is not able to designate street parking, but could possibly petition for it.*

**Public Comment:**

*Angela Menke Ballou, Pastor of the Cotuit Federated Church – Supports – Held many meetings with the community and abutters, and have taken them into consideration so this expansion is favorable among the residents and members.*

*John Murray 1281 Main Street, Cotuit – Supports*

*Amy Fish 159 Captains Rd. Mashpee – Church Member Supports*

*Tim Wakefield- Church Member – Supports*

*Meredith Leveroni 845 Main St. Cotuit – Abutter*

*Jennifer Loughran 9 Eagle Lane Cotuit – Church Member – Supports*

*Dick Hamilton – Church Member – Supports*

*Frances Parks-67 Eaglestone Way, Cotuit – concerned about location of handicap parking would propose adding a spot on High Street.*

Chair Dewey makes a motion to close public comment.

**Vote:**

**AYE: Dewey, Bodenesiek, Hirsch, Pinard, Hansen**

**NAY: None**

*Member Bodensiek reads findings*

**Appeal Findings**

1. The application falls within a category specifically excepted in the ordinance for a grant of a Modification Permit. Section 240-8 (3) allows for alterations for Exempt Uses.
2. Site Plan Review Committee found the project approvable in a letter dated August 23, 2021.
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. Pursuant to Section 240-92 (B), the proposed alteration or expansion will not be substantially more detrimental to the neighborhood than the existing building or structure.

**Vote to accept**

**AYE: Jacob Dewey, David Hirsch, Herbert Bodensiek, Paul Pinard, and Mark Hansen**

**NAY: None**

**Decision-Conditions**

Based on the findings of fact, a motion was duly made and seconded to grant Modification Permit No. 2021-041 subject to the following conditions:

1. Modification Permit No. 2021-041 is granted to Cotuit Federated Church Trust to renovate and expand the existing church and reduces the off-street parking landscape buffer from 30 feet to 6 feet at 40 School Street and 18 High Street, Cotuit.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Layout Plan for Cotuit Federated Church" prepared by Atlantic Design Engineers dated July 28, 2021.
3. The proposed redevelopment shall represent full build-out of the lot. Further alteration or expansion of the structure or construction of additional accessory structures is prohibited without prior approval from the Board.
4. All mechanical equipment associated with the dwellings (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
5. All Site Plan Review conditions set forth in letter August 23, 2021 are hereby incorporated in this Decision.
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 modification permit must be exercised within two years, unless extended.

**Vote to accept**

**AYE:** Jacob Dewey, David Hirsch, Herbert Bodensiek, Paul Pinard, and Mark Hansen

**NAY:** None

## **GRANTED WITH CONDITIONS**

### **Correspondence**

None

### **Matters Not Reasonably Anticipated by the Chair**

Board welcomed Rachael Toolas as the new Administrative Assistant to ZBA.

### **Upcoming Meetings**

September 22, 2021, 7 Items on the Agenda

### **Adjournment**

Member Bodensiek moves to adjourn and Member Pinard seconds @ 8:50PM.

All in favor.

Respectfully Submitted

Rachael Toolas,  
Administrative Assistant