

# Zoning Board of Appeals MINUTES Wednesday, April 24, 2024 7:00 PM

To all persons interested in or affected by the actions of the Zoning Board of Appeals, you are hereby notified, pursuant to Section 11 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, and all amendments thereto, that a public hearing on the following appeals will be held on Wednesday, April 24, 2024, at the time indicated:

The Zoning Board of Appeals Public Hearing will be held by remote participation methods. Public access to this meeting shall be provided in the following manner:

1. The meeting will be televised live via Xfinity Channel 8 or high definition Channel 1072. It may also be accessed via the Government Access Channel live stream on the Town of Barnstable’s website:  
<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>
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:

Join Zoom Meeting Option	Telephone Number Option
<a href="https://townofbarnstable-us.zoom.us/j/81135394519">https://townofbarnstable-us.zoom.us/j/81135394519</a>	US Toll-free 888 475 4499
Meeting ID: 811 3539 4519	Meeting ID: 811 3539 4519

Applicants, their representatives and individuals required or entitled to appear before the Zoning Board of Appeals may appear remotely, 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).

## Call to Order

Chair Dewey calls the meeting to order at 7:02 PM with an introduction of Board members:

Member	Present	Absent
Dewey, Jacob – Chair	X	
Bodensiek, Herbert – Vice Chair	X	
Pinard, Paul – Clerk		X
Alves, Manny	X	
Hansen, Mark	X	
Hurwitz, Larry	X	
Johnson, Denise		X
Webb, Aaron	X	

Also present is Anna Brigham, Principal Planner and Genna Ziino, Administrative Assistant.

## Notice of Recording

This meeting of the Zoning Board of Appeals is being recorded and broadcast on the Town of Barnstable’s Government Access Channel. In accordance with MGL Chapter 30A §20, I must inquire whether anyone is recording this meeting and if so, to please make their presence known.

## Minutes

None

## Old Business

None

## New Business

7:00 PM

Appeal No. 2024-012

Sawayanagi

Junichi Sawayanagi has applied for a Special Permit in accordance with Section 240-47.2 C. (4) Accessory Dwelling Units (ADUs). The Applicant proposes to change the use of the front accessory structure from commercial use (previously a framing business) to residential use as a 1,671 square foot 1-bedroom Accessory Dwelling Unit which exceeds the 900 square foot as-of-right limit. The subject property is located at 1085 Main Street, West Barnstable, MA as shown on Assessor's Map 178 as Parcel 004-002. It is located in the West Barnstable Village Business District (WBVBD) Zoning District.

Chair Dewey assigns himself, Mark Hansen, Aaron Webb, Herb Bodensiek, and Manny Alves.

Junichi Sawayanagi provides some personal background information and then information on the property: he bought the property (consisting only of what is now the accessory structure) in 2002 and went through Site Plan Review to use it commercially as a framing business. The building had fire damage and so needed to be gutted and redone. His family then wanted to move to West Barnstable, so he made the second floor of the structure into a living area with a kitchen. He wanted to build an addition but the town would not allow it because it's a commercial building so he built another house in the back in 2007. That's how there came to be two buildings on the lot. There are a lot of parking spaces because of the commercial use requirements. His family is moving so he listed this house 2 years ago but they've had trouble selling it as commercial use because commercial loan interests are higher than residential, so he wants to change the use to residential. The Building Department advised him to apply for an ADU. If he has an ADU, he can also rent it out until he's able to sell.

**Chair Dewey brings it back to the Board for questions.** The Chairman asks why the request is for 1 bedroom rather than 2. Mr. Sawayanagi says the Health Department only allows 4 bedrooms total for this lot, and the back house has 3 already. Manny Alves expresses concern that the main entrance of the ADU is more prominent from the street than that of the primary dwelling, which is not in line with the bylaw. Mr. Sawayanagi explains that there is another entrance through the sunroom that would be used as the main entrance for the ADU. The size also exceeds 50% of the main house size (the accessory structure is 1,671 sq. ft. and the primary structure is 2,600 sq. ft.). The allowed size would be 1,300 sq.ft but this is an existing structure so would be difficult to make conforming. He suggests that it's an option for him to exclude the living room (390 sq.ft.) from the rental portion, which would make the square footage just under half of the main house. The Board prefers to consider it as a whole, rather than portion it off. The Board discusses the square footage allowance. Aaron Webb asks Mr. Sawayanagi if the Building Commissioner offered any other options for this. Mr. Sawayanagi answers no, the Building Department suggested an ADU because it's an existing structure.

**Chair Dewey opens for public comment.** There is none. The Chairman moves to close public comment. Mark Hansen seconds.

### Vote:

**Aye: Jake Dewey, Mark Hansen, Aaron Webb, Herb Bodensiek, Manny Alves**

**Nay: None**

**The Board deliberates.** They discuss that this is an existing structure that's oversized, and it would not make sense to ask the applicant to make alterations to downsize it, especially with it being on historic Old Kings Highway. That would create a financial hardship. Mark Hansen thinks when you exclude staircases and storage, the habitable space is below 1,500 sq. ft. They discuss whether to condition it as 1 bedroom.

Chair Dewey moves to close the public hearing. Mark Hansen seconds.

### Vote:

**Aye: Jake Dewey, Mark Hansen, Aaron Webb, Herb Bodensiek, Manny Alves**

**Nay: None**

### Manny Alves makes findings:

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-47.2. C. (4) allows a Special Permit for an Accessory Dwelling Unit that exceeds the allowable size.
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. He also finds that it will create more housing.

Herb Bodensiek seconds.

**Vote:**

**Aye: Jake Dewey, Mark Hansen, Aaron Webb, Herb Bodensiek, Manny Alves**

**Nay: None**

The Chairman takes a vote on approving the application with the presented findings.

**Vote:**

**Aye: Jake Dewey, Mark Hansen, Aaron Webb, Herb Bodensiek, Manny Alves**

**Nay: None**

**Manny Alves reads conditions from Staff Report dated April 9, 2024 with the modification of removing the 1-bedroom limitation:**

1. Special Permit No. 2024-012 is granted to Junichi Sawayanagi in accordance with Section 240-47.2 C. (4) Accessory Dwelling Units (ADUs) to change the use of the front accessory structure from commercial use (previously a framing business) to residential use as a 1,671 square foot Accessory Dwelling Unit which exceeds the 900 square foot as-of-right limit at 1085 Main Street, West Barnstable, MA.
2. The site development shall be operated in substantial conformance with the plan entitled "Plan showing the design of a subsurface sewage disposal system at 1085 Route 6A in Barnstable West Barnstable Mass" by CapeSurv dated August 10, 2006. There are no site changes being proposed with this application.
3. The proposed use shall represent full build-out of the lot. Further development of the lot or construction of additional accessory structures is prohibited without prior approval from the Board.
4. The Applicant must comply with the restrictions in Section 240-47.2 C. Accessory Dwelling Units Procedural Requirements 1-3 of the Ordinance as follows:
  - (1) An ADU that conforms to the requirements contained herein shall be permitted as an accessory use to a lawful single-family dwelling use, except that no ADU shall be permitted on a lot at the same time either an affordable accessory apartment exists on that lot pursuant to Chapter 9, Article II, §§ 9-12 through 9-16, of the General Ordinances of the Code of the Town of Barnstable or as a family apartment exists on that lot pursuant to § 240-47.1.
  - (2) Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new buildings and improvements on a lot associated with a proposed ADU.
  - (3) The construction of any accessory dwelling unit must be in conformity with the federal, state, and local laws and regulations, including all historic, and Old King's Highway requirements if applicable.
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:**

**Aye: Jake Dewey, Mark Hansen, Aaron Webb, Herb Bodensiek, Manny Alves**

**Nay: None**

**Special Permit No. 2024-012 Sawayanagi is granted with conditions.**

**Correspondence**

The Board received a letter from Mary Lynch regarding 900 Old Stage Road and a Notification Transmittal of Preliminary Subdivision Application for 401 Main Street, Hyannis.

**Matters Not Reasonably Anticipated by the Chair**

**Upcoming Hearings**

May 8, 2024, May 22, 2024, June 12, 2024

Mark Hansen notes that he won't be present on May 8<sup>th</sup>.

## Adjournment

Jakes Dewey moves to adjourn. Aaron Webb seconds.

### Vote:

**Aye:** Jake Dewey, Mark Hansen, Aaron Webb, Herb Bodensiek, Manny Alves, Larry Hurwitz

**Nay:** None

## Documents Used at this Meeting

- Appeal No. 2024-012 Sawayanagi application packet
- Staff Report dated April 9, 2024 for Appeal No. 2024-012
- Letter from Mary Lynch regarding 900 Old Stage Road
- Notification Transmittal of Preliminary Subdivision Application for 401 Main Street, Hyannis

Respectfully submitted,  
Genna Ziino, Administrative Assistant

Further detail may be obtained by viewing the video via Channel 18 on demand at <http://www.town.barnstable.ma.us>

APPROVED