

Zoning Board of Appeals MINUTES

Wednesday, June 22, 2022 - 7:00 PM

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 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:

Join Zoom Meeting Option	Telephone Number Option
https://townofbarnstable-us.zoom.us/j/81623488181	888 475 4499 US Toll-free
Meeting ID: 816 2348 8181	Meeting ID: 816 2348 8181

3. 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 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.

Call to Order

Chair Jacob Dewey calls the meeting to order and takes roll call:

Member	Present	Absent
Dewey, Jacob – Chair	X	
Hirsch, David	X	
Bodensiek, Herbert	X	
Hansen, Mark	X	
Pinard, Paul	X	
Walantis, Todd		X
Johnson, Denise	X	
Webb, Aaron	X	

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. No response.

Minutes

None.

Time Extension Request

7:00 PM

Appeal No. 2020-031

Garvey

Request by Attorney Kenney, on behalf of Joshua Garvey, for a six (6) month extension of time in which to exercise Appeal No. 2020-031 granted for a Special Permit. The Special Permit was granted in order to demolish an existing 2,408 square foot single-family dwelling and construct a new, 2,503 square foot, single-family dwelling on a lot containing less than the required 10,000 square feet and is currently scheduled to lapse on September 9, 2022. The subject property is located at 111 George Street, Barnstable, MA as shown on Assessor's Map 319 as Parcel 052. It is located in the Residence B (RB) Zoning District.

Sitting on this will be Jake Dewey, David Hirsch, Paul Pinard, Herb Bodensiek, and Mark Hansen.

Attorney John Kenney is representing the applicant and requests an extension because lumber prices skyrocketed as a result of COVID-19, and the applicant is also planning his wedding. They anticipate starting the project in late summer or early fall. Jake Dewey makes a motion that the request satisfies the condition that the relief authorized by the 2020-031 Decision must be exercised within two years unless extended. The relief authorized by Appeal No. 2020-031 is extended for 6 months and must be exercised by March 9, 2023. Paul Pinard seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Paul Pinard, Herb Bodensiek, Mark Hansen

Nay:

Appeal No. 2020-031 Garvey is extended for 6 months.

Old Business

7:01 PM

Appeal No. 2022-018

Holian Family Realty Trust

Janet Holian, Trustee, Holian Family Realty Trust, has petitioned for a Variance from Section 240-7 D. Lot Shape Factor for Parcel B on a plan showing Lot Division. The Petitioner is seeking to divide the existing lot into two lots. The subject property is located at 250 Windswept Way Osterville, MA as shown on Assessor's Map 051 Parcel 012. It is located in the Residence F-1 (RF-1) Zoning District and Resource Protection Overlay District (RPOD). Continued from April 27, 2022 and May 25, 2022

The Board received a request from Attorney Ford to withdraw the application. Jake Dewey makes a motion to withdraw the appeal without prejudice. Paul Pinard seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Paul Pinard, Herb Bodensiek, Mark Hansen

Nay:

Appeal No. 2022-018 Holian Family Realty Trust is withdrawn without prejudice.

New Business

7:02 PM

Appeal No. 2022-030

Bisbano/Bank of America

Bruce W. Bisbano has petitioned for a Variance from Section 240-103 E. (3) Site Development Standards. The Petitioner, who is representing Bank of America, seeks a variance to allow the proposed lighting to trespass beyond the property boundary exceeding the 0.1 foot candle. The subject property is located at 3840 Falmouth Road, Marstons Mills, MA as shown on Assessor's Map 058 as Parcel 039-002. It is located in the Service and Distribution (S&D) Zoning District.

Sitting on this will be Jake Dewey, David Hirsch, Paul Pinard, Herb Bodensiek, and Mark Hansen.

Mr. Bisbano addresses the Board to explain that this project is part of an overall Bank of America security program that's happening across the country. The bank has a condition to provide adequate lighting and security, which they've determined to have at least 2-foot candles of light within 50 feet of any ATM or entrance. This would require the addition of some light fixtures and replacement of others. Everything will be LED, 4,000 kelvin light temperatures so it's not white light. The light will be encroaching into the sidewalk and the street.

Chair Dewey brings it back to the Board for questions. Herb Bodensiek asks for a frame of reference for a 2-foot candle of light. Mr. Bisbano explains that emergency lighting that leads to exits in commercial buildings when the lights go out is typically 1-foot candle of light, so it's double that. A typical office space would be between 20-30-foot candles. 2-foot candles are minimal.

Chair Dewey opens for public comment. There is none. He makes a motion to close public comment. Mark Hansen seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Paul Pinard, Herb Bodensiek, Mark Hansen

Nay:

Chair Dewey makes findings:

Bruce W. Bisbano has petitioned for a Variance from Section 240-103 E. (3) Site Development Standards. The Petitioner, who is representing Bank of America, seeks a variance to allow the proposed lighting to trespass beyond the property boundary exceeding the 0.1 foot candle. The subject property is located at 3840 Falmouth Road, Marstons Mills, MA as shown on Assessor's Map 058 as Parcel 039-002. It is located in the Service and Distribution (S&D) Zoning District.

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;

He finds that the way the structure is positioned on the lot differentiates it from other lots in the area and if it were built today, it could be positioned differently.

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

It would be a substantial hardship to move the building to meet their security needs.

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.

The intent here is to make the building and the area safer, and it's a busy road and business area so is well-lit anyway.

Mark Hansen seconds.

Vote:

Aye: Jake Dewey, David Hirsch, Paul Pinard, Herb Bodensiek, Mark Hansen

Nay:

Chair Dewey reads that the appeal is subject to conditions 1-4 from Staff Report dated June 9, 2022. The applicant is amenable.

Vote:

Aye: Jake Dewey, David Hirsch, Paul Pinard, Herb Bodensiek, Mark Hansen

Nay:

Appeal No. 2022-030 Bisbano/Bank of America is granted with conditions.

Correspondence

The Board received four letters from the Cape Cod Commission: the 35 Scudder Ave hearing was continued to 7/12/22 at 5:30 PM; the Wilkens Campus Development Agreement was 6/30/22 at 3 PM; the hearing for the Cancer & Cardiology Expansion was continued to 6/27/22 at 4:30 PM; and the Centerville Gardens Wireless Communications Tower hearing will be 6/29/22 at 5 PM.

Matters Not Reasonably Anticipated by the Chair**Upcoming Hearings**

July 13, 2022, July 27, 2022, August 10, 2022

Adjournment

Paul Pinard makes a motion to adjourn. Herb Bodensiek seconds.

Vote:

Aye: Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard, Denise Johnson, Jake Dewey

Nay: None

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>