

# Zoning Board of Appeals

## MINUTES

**Wednesday, September 27, 2023 at 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, September 27, 2023, 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/82435230061">https://townofbarnstable-us.zoom.us/j/82435230061</a>	US Toll-free 888 475 4499
Meeting ID: 824 3523 0061	Meeting ID: 824 3523 0061

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](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 Jacob Dewey calls the meeting to order at 7:05 PM with an introduction of Board Members:

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

Also in attendance 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

August 23, 2023 and September 13, 2023 – Mark Hansen makes a motion to approve both sets of minutes. Denise Johnson seconds.

**Vote:**

**Aye:** Jake Dewey, Herb Bodensiek, Mark Hansen, Larry Hurwitz, Denise Johnson, Aaron Webb

**Nay:**

**Abstain:** Paul Pinard (was not present at the September 13 meeting), Manny Alves (was not present at either meeting)

**Old Business**

**7:01 PM**

**Appeal No. 2023-019**

**Vilsaint**

Kevin Y. and Corrie L. Vilsaint have applied for a Special Permit in accordance with Section 240-47.2 Accessory Dwelling Units (ADUs). The Applicants seek to remove and replace an existing accessory structure with a new accessory dwelling unit (ADU). The Applicants also seek to modify Special Permit No. 2020-038 to allow further build out of the property for the accessory dwelling unit and additions to the principal dwelling. The subject property is located at 358 Flint Street, Marstons Mills, MA as shown on Assessor's Map 101 as Parcel 121. It is located in the Residence F (RF) Zoning District. Members assigned: Dewey, Webb, Bodensiek, Pinard and Johnson. Continued from August 23, 2023.

The Board received a request to continue this item to October 25, 2023. Paul Pinard makes a motion to continue Appeal No. 2023-019 to October 25, 2023. Denise Johnson seconds.

**Vote:**

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

**Nay:**

**Appeal No. 2023-019 Vilsaint is continued to October 25, 2023.**

**7:02 PM**

**Appeal No. 2023-021**

**Capetown Plaza LLC**

Capetown Plaza LLC has applied for a Special Permit pursuant to Section 240-57 A. and C. Circumstances Warranting Reduction of Requirements. The Applicant seeks to establish an overall shopping center ratio for the property of 3.5 parking spaces per 1,000 square feet of shopping center gross floor area. The subject property is located at 790 Iyannough Road, Hyannis, MA, as shown on Assessor's Map 311 as Parcel 092. It is located in the Business (B) and Highway Business (HB) Zoning Districts. Continued from September 13, 2023.

Chair Dewey assigns himself, Herb Bodensiek, Paul Pinard, Mark Hansen, and Aaron Webb to Appeal No. 2023-021 and 2023-022. The Chairman also reads into the record 2023-022 so Attorney Eliza Cox can present for both at the same time:

**7:03 PM**

**Appeal No. 2023-022**

**Capetown Plaza LLC**

Capetown Plaza LLC has petitioned for a Variance pursuant to Section 240-65 A. through E. and H. Signs in B, UB, HB, HO, S&D, and SD-1 Districts. The Petitioner seeks to establish a comprehensive site-wide tenant building and pylon signage criteria to regulate total allowable signage area, location, and illumination for "The Landing at Hyannis". The subject property is located at 790 Iyannough Road, Hyannis, MA as shown on Assessor's Map 311 as Parcel 092. It is located in the Business (B) and Highway Business (HB) Zoning Districts. Continued from September 13, 2023.

Attorney Eliza Cox is representing the applicant and is joined by Amanda Chisholm of Capetown Plaza LLC, who is co-presenting. They first walk the Board through the special permit request.

Amanda Chisholm, Development Director at WS Development provides background: the site is actively under renovation and redevelopment. She walks the Board through aerial views and renderings and explains that they first took over the lease of this site in 2011 and recently participated in the Town's RFP process to enter into a longer-term lease to allow for more development of the property. As part of the RFP process, they are committed to renovating and reconstructing the property. The property is controlled by the Town and the airport. They are currently modernizing the site: adding landscaping, reorienting the drive aisles, redoing the lighting, updating facades, improving drainage, and adding sidewalks. They have worked closely with the airport for this project.

For the overall shopping center parking ratio, they are trying to establish 3.5 parking spaces per 1,000 sq. ft. of gross floor area. She explains that it is in their best interest to ensure they have adequate parking that is easy to access. Based on the Institution of Transportation Engineers' (ITE) parking generation report, the industry standard for a shopping center is from 3.16 to 3.40 vehicles per 1,000 sq. ft. on a Saturday. She shares the effective parking ratios from WS Development's other comparable shopping centers on Black Friday, which is the peak shopping day of the year. None exceed 3.5 vehicles.

Attorney Cox walks the Board through the relief being requested. This is a multi-tenant, multi-use shopping center. Currently, there is no shopping center use category for determining parking; every tenant has to calculate their own number of required spaces depending on use. That process is cumbersome because tenants change, and it also frequently results in significant excess parking. With this variance they are trying to establish a parking ratio that would apply across the entire shopping center based on square footage rather than on each individual tenant use.

**Chair Dewey brings it back to the Board for questions.** Chair Dewey asks for the total number of spaces. Ms. Chisholm says before redevelopment, there were 1,200 spaces. After redevelopment there will be 1,300. To meet zoning, they would need 1,500 spaces. In response to questions, Attorney Cox says that this parking lot is preexisting nonconforming; that this standard takes into account employee parking; that the plan for this is commercial and not housing; and that regarding traffic flow, space for trucking, trailers, etc., those details will be evaluated thoroughly at Site Plan Review. The Board discusses concerns about allowing a universal ratio when tenants could vary hugely. Ms. Chisholm explains that shopping centers are unique in that the mix of sizes and uses essentially makes standard parking requirements irrelevant because users are parking at one store and walking to others. Aaron Webb asks if the Cape Cod Mall has this standard. Attorney Cox says yes, the town created a zoning overlay district specifically for that to create their own parking ratio. Attorney Cox adds that this is establishing a minimum, and a tenant may choose to put more spaces in.

**Chair Dewey opens for public comment.** There is none. The Chairman leaves public comment open to include the next appeal.

Amanda Chisholm walks the Board through the proposed signage package. Historically, tenants have managed their building's signage individually, so they are trying to create a set of criteria of what's allowed in this shopping center. They currently have a tenant design manual and a design team that works with each tenant, so if this signage package is approved, it will become part of that process. They are proposing that tenants less than 8,000 sq. ft. be allowed 100 sq. ft. of signage including one primary sign and one blade sign, with a max sign height of 3 ft. and depth of 3 in. They are also proposing an offset from the lease line and the top and bottom of where the sign is. For multi-façade tenants of this size, they are proposing to allow 150 sq. ft. of signage to allow an additional sign on a different façade. They are proposing that tenants 8,000-40,000 sq. ft. are allowed 225 sq. ft. of signage including one wall sign as the primary sign per entrance, with a max of two primary signs, and one blade sign, with a max sign height of 6 ft. and depth 6 in. They are proposing that tenants 40,000+ sq. ft. are allowed 350 sq. ft. including one wall sign per architectural entrance with a max of two and also one blade sign, with a max sign height of 10.5 ft. and depth of 6 in.

Ms. Chisholm walks through the blade sign design criteria. They want to mount them slightly higher than zoning allows, to align them with the top of awnings and sconces. They are proposing a max of 6 sq. ft. She walks through the proposed pylon signs. They are proposing a total of 3 pylon signs: one primary and two secondary signs. They're trying to give visibility to their tenants and to combine many of the freestanding signs that exist on the property. They have a significant amount of frontage on Route 132, with entrances 500-600 ft. apart so they are trying to flag the entrances to the center. They are proposing white panels with black writing but will be using tenants' own fonts and logos. The illumination is similar to Cape Cod Mall's. The proposed primary pylon height is 35 ft. by 14.5 ft. The proposed secondary pylon height is 25.3 ft. by 11.9 ft. They would like to put up the main pylon right away.

Attorney Cox adds that this approach of having a cohesive signage package is something that this Board has requested for this property in prior decisions. She points out that the Board has found the requisite variance criteria in past signage decisions: the topography on this site is unique being 6-10 ft. higher than the roadways, which obstructs visibility; the shape is unique as a large center with significant roadway frontage and frontage on multiple roads with curb cuts; and the shape and location is unique because of the main structure being set so far back from Rte. 132. The Board also found in prior decisions that a literal enforcement of the ordinance would result in substantial financial hardship as compliant signs do not provide visibility. There will also be no substantial detriment: this proposal results in fewer pylon and monument signs on the property without increasing the overall square footage of that signage. The new design will be a significant aesthetic improvement with a new, coordinated design. It will also result in predictability for the tenants, the town, and this Board.

Chair Dewey thinks this proposal is well thought out. He asks whether directional signs were considered. Ms. Chisholm says in the future it may be considered as they see how the property functions, but at this point they're not proposing directional signs.

**Chair Dewey opens for public comment.** There is none. He makes a motion to close public comment on both 2023-021 and 2023-022. Mark Hansen seconds.

**Vote:**

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

**Nay:** None

**Chair Dewey makes findings for Appeal No. 2023-021:**

Capetown Plaza LLC has applied for a Special Permit pursuant to Section 240-57 A. and C. Circumstances Warranting Reduction of Requirements. The Applicant seeks to establish an overall shopping center ratio for the property of 3.5 parking spaces per 1,000 square feet of shopping center gross floor area. The subject property is located at 790 Iyannough Road, Hyannis, MA, as shown on Assessor's Map 311 as Parcel 092. It is located in the Business (B) and Highway Business (HB) Zoning Districts.

1. The application falls within a category specifically excepted in the ordinance for a grant of a Special Permit.
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. He finds that this works within the lot and the proposed uses of the lot.
3. A Site Plan has been reviewed and found approvable with conditions (*see letter dated February 7, 2023*). There will be additional Site Plan Review for Phase 2.
4. Such uses do not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community. He finds that they are just changing parking so there are no traffic flow changes made here.
5. The building and site design are consistent with Section 240-25.E, District-wide design and performance standards applicable within the Highway Business District.
6. The proposed repairs, alterations and/or expansion are not substantially more detrimental to the surrounding neighborhood. He finds that it manages the parking to contribute to the aesthetics.

Paul Pinard adds that the applicant was guided by ITE's data for this type of shopping center and WS Development's historical data. Mark Hansen seconds the findings.

**Vote:**

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

**Nay: None**

Attorney Cox requests edits to the conditions suggested in Staff Report dated August 29, 2023. The Board is amenable.

**Chair Dewey says the appeal is subject to the following conditions:**

1. Special Permit No. 2023-021 is granted to Capetown Plaza LLC pursuant to Section 240-57 A. and C. Circumstances Warranting Reduction of Requirements. The overall shopping center parking ratio for the property shall not be less than 3.5 parking spaces per 1,000 square feet of shopping center gross floor area.
2. All Site Plan Review conditions of approval are hereby incorporated into this Decision. Redevelopment Phase 2 will have additional Site Plan Review conditions.
3. Underground parking is prohibited unless approved by the Board. All proposed parking shall be surface parking.
4. 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 Special Permit must be exercised within two years, unless extended. The Decision shall be deemed exercised and vested upon the recording of the Decision.

Chair Dewey asks if there is a maximum square footage for Phase 2. Ms. Chisholm says it's undetermined as of now, but they will be required to meet zoning requirements.

Herb Bodensiek seconds.

**Vote:**

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

**Nay: None**

**Special Permit No. 2023-021 Capetown Plaza LLC is granted with conditions.**

**Mark Hansen makes findings for Appeal No. 2023-022:**

Capetown Plaza LLC has petitioned for a Variance pursuant to Section 240-65 A. through E. and H. Signs in B, UB, HB, HO, S&D, and SD-1 Districts. The Petitioner seeks to establish a comprehensive site-wide tenant building and pylon signage criteria to regulate total allowable signage area, location, and illumination for "The Landing at Hyannis". The subject property is located at 790 Iyannough Road, Hyannis, MA as shown on Assessor's Map 311 as Parcel 092. It is located in the Business (B) and Highway Business (HB) Zoning Districts.

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 topography is such that the elevation hinders ability to see signage from the street.
2. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner. He finds that because of the elevation and distance from the street, the lack of visible signage would pose a financial hardship to potential tenants by limiting exposure.
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. He finds that there will be no detriment to the public good, only improvement in a cohesive, aesthetic look.

Paul Pinard seconds.

**Vote:**

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

**Nay: None**

Attorney Cox requests edits to the conditions suggested in Staff Report dated August 29, 2023. The Board is amenable.

**Mark Hansen says the appeal is subject to the following conditions:**

1. Variance No. 2023-022 is granted to Capetown Plaza LLC pursuant to Section 240-65 A. through E. and H. Signs in B, UB, HB, HO, S&D, and SD-1 Districts to establish a comprehensive site-wide tenant building and pylon signage criteria to regulate total allowable signage area, location, and illumination for "The Landing at Hyannis" located at 790 Iyannough Road, Hyannis, MA.
2. The site signage shall be constructed in substantial accordance with the following materials submitted to the Zoning Board of Appeals:
  - i. "The Landing at Hyannis Barnstable, MA – Proposed Pylon Signs, dated 7/31/23," consisting of
    - i. 11 pages.
  - ii. "The Landing at Hyannis Tenant Building Signage Criteria" dated July 2023, consisting of 7 pages.
3. This Variance grants the Petitioner the following:

**Location A**

- Total signage area per tenant: 100 square feet except that multi-facade tenant spaces that have more than one facade fronting on a primary vehicular roadway or major interior drive may have up to 150 sq. ft.
- Internally illuminated face lit, halo lit, exposed LED source lit, or externally lit signs are required.
- Max sign height: 3 feet
- Max width: Varies
- Sign shall be a min of 12 inches offset from Tenants lease line and min of 6 inches offset from top and bottom.
- Max depth: 3 inches.

**Location B**

- Total signage area per tenant: 225 square feet.
- Internally illuminated face lit, halo lit, exposed LED source lit, or externally lit signs are required.
- Max Sign Height: 6 feet.
- Max width: Varies.
- Centered horizontally and vertically over architectural entrance.
- Max Depth: 6 inches.

**Location C**

- Total signage area per tenant: 350 square feet.
- Internally illuminated face lit, halo lit, exposed LED source lit, or externally lit signs are required.
- Max Sign height: 10 foot 6 Inches.
- Max Width: Varies.
- Centered horizontally and vertically over architectural entrance.
- Max. Depth: 6 inches.

**Pylon Signs**

In addition to the total tenant signage areas listed in Locations A, B & C above, the following free- standing signs are permitted.

Primary Pylon sign

- 507.5 sf of sign area
- Height not to exceed 35 feet
- Width not to exceed 14.5 feet

Secondary Pylon sign #1

- 296.7 sf of sign area
- Height not to exceed 25'-3"
- Width not to exceed 11'-9"

Secondary Pylon Sign #2

- 296.7 sf of sign area
- Height not to exceed 25'-3"
- Width not to exceed 11'-9"

4. 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. The Decision shall be deemed exercised and vested for the entire property upon the issuance of the first signage permit in accordance with the relief authorized herein.

**Vote:**

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

**Nay:**

Variance No. 2023-022 Capetown Plaza LLC is granted with conditions.

**New Business**

Chair Dewey recuses himself from Appeal No. 2023-023 Doud and 2023-024 Sawyer Realty Holdings, LLC. He leaves the meeting and Herb Bodensiek becomes Acting Chair.

**7:04 PM**

**Appeal No. 2023-023**

**Doud**

Michael and Florence Doud have applied for a Special Permit in accordance with Section 240-92 B., Nonconforming buildings or structures used as single- and two-family residences. The Applicants seek to renovate the preexisting nonconforming structure by adding 1,940 sq. ft. for a total proposed gross floor area of 4,435 sq. ft. The lot contains 9,600 square feet where 1 acre is required. The existing structure is nonconforming to setback requirements with 12.4 feet front setback where 30 feet is required, 0 feet side and 0 rear setbacks where 15 feet is required, and the proposed expansion will maintain the existing nonconforming setbacks. The subject property is located at 29 Lafayette Ave, Hyannis, MA as shown on Assessor's Map 287 as Parcel 045. It is located in the Residence F-1 (RF-1) Zoning District.

Chair Bodensiek assigns himself, Paul Pinard, Mark Hansen, Aaron Webb, and Manny Alves. The Chairman reads that the Staff Report dated September 14, 2023 had a note of correction: There are two structures on the property and the principal dwelling is the only structure proposed for alteration. The principal dwelling has existing setbacks of 12.4 front, 13.8 rear, and 22.5 side setback. The total proposed increase is 1,940 gross square feet.

Attorney Lawler is representing the applicant. He explains that they are not proposing to alter the garage that's on the lot line. Last week they received approval from the Barnstable Historic Commission. What they're seeking to do is remain within the existing footprint with respect to setbacks, so the property will not become more nonconforming. It is in keeping with the neighborhood.

**Herb Bodensiek brings it back to the Board for questions.** Manny Alves points out that currently, only a portion of the structure is in the setback so they are asking to make the whole structure in the setback. Attorney Lawler confirms. Mark Hansen asks if it's one floor. Attorney Lawler answers that they are expanding to 2.5 floors to utilize the attic space. Because of the historic value, they will not be changing the front at all except the roofline. The addition is off the back and the roof.

**Herb Bodensiek opens for public comment.** There is none. Manny Alves asks if the applicant spoke to the neighbor this is affecting the most. Mike Doud, the homeowner, says the neighbors are all aware and approve. Herb Bodensiek moves to close public comment. Mark Hansen seconds.

**Vote:**

**Aye:** Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard, and Manny Alves

**Nay:** None

**The Board deliberates.** They feel that this is straightforward: the applicant is squaring off and they're not becoming more non-conforming.

**Paul Pinard makes findings:**

Michael and Florence Doud have applied for a Special Permit in accordance with Section 240-92 B., Nonconforming buildings or structures used as single- and two-family residences. The Applicants seek to renovate the preexisting nonconforming structure by adding 1,940 sq. ft. for a total proposed gross floor area of 4,435 sq. ft. The lot contains 9,600 square feet where 1 acre is required. The existing structure is nonconforming to setback requirements with 12.4 feet front setback where 30 feet is required, 0 feet side and 0 rear setbacks where 15 feet is required, and the proposed expansion will maintain the existing nonconforming setbacks. The subject property is located at 29 Lafayette Ave, Hyannis, MA as shown on Assessor's Map 287 as Parcel 045. It is located in the Residence F-1 (RF-1) Zoning District. The principal dwelling has existing setbacks of 12.4 front where 30 ft. is required, 13.8 rear and 22.5 side where 15 ft. is required.

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-92 B. allows for the alteration 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. He finds that Barnstable Historic Commission has approved this proposal and it does not increase any nonconformities.
4. The proposed alteration would not be substantially more detrimental to the neighborhood than the existing dwelling.

Mark Hansen seconds.

**Vote:**

**Aye:** Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard, Manny Alves

**Nay:** None

Paul Pinard reads that the appeal is subject to conditions 1-5 from Staff Report dated September 14, 2023. Mark Hansen seconds.

**Vote:**

**Aye:** Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard, Manny Alves

**Nay:** None

**Special Permit No. 2023-023 Doud is granted with conditions.**

**7:05PM**

**Appeal No. 2023-024**

**Sawyer Realty Holdings, LLC**

Sawyer Realty Holdings, LLC has petitioned for a Variance pursuant to Section 240-24.1.4 B (1)(K) Nonconforming Use and 240-24.1.7.D.(1)(C) Multi-Unit Dwelling. The Petitioner seeks to convert 20 existing motel rooms into 20 studio apartments. The requested use and use density is not permitted in the DN District. The subject property is located at 473 Main Street, Hyannis, MA as shown on Assessor's Map 308 as parcel 084. The parcel is located in the Downtown Main Street (DMS) and the Downtown Neighborhood (DN) Zoning Districts. The existing structure seeking relief is in the Downtown Neighborhood (DN) Zoning District.

Chair Bodensiek assigns himself, Paul Pinard, Mark Hansen, Aaron Webb, and Denise Johnson.

Attorney Lawler is representing the applicant and is joined by developer Jessica Rosenberg; Zach Silvia and Deven Riley-Marini from their architecture team; and Matt Eddy from Down Cape Engineering. Attorney Lawler explains that it's the intent of the applicant to develop the entire lot within the next year. There will be a proposal to tear down some of the buildings and replace them with a new building that will hopefully be a mixed use of residential apartments and motel use.

He explains that when the deal for this property was made, the zoning would have allowed this change by right but in the meantime, the zoning was updated and the project now requires relief. It is his belief that in the new zoning, this entire lot should have been included in the DMS Zone rather than a small part being split into the DN Zone, in which case this project could have proceeded by right. He suggests this is a hardship for his client. They are proposing virtually no changes to the structure itself, aside from adding a

water line and some minor cosmetic changes. The relief they are seeking is a change of use from one type of residence (motel) to another type of residence (apartment). They are seeking to take motel units and make them studio apartments. They will be meeting the 10% affordable requirement. They are looking to change the internal structure of the building to accommodate the units. In terms of density, less parking is required for apartments than for motels. There is ample parking on the lot for this proposal. This will be a benefit rather than a detriment, as this type of housing is needed.

**Herb Bodensiek brings it back to the Board for questions.** Paul Pinard asks if this has gone through Site Plan Review. Attorney Lawler says they were approved by Site Plan Review provided that they put in a water line. Paul Pinard feels it is important to have parking defined in the conditions, given the plan to develop the entire lot. Matt Eddy explains that the requirement for 20 residential units is 20 parking spaces. There are 44 parking spaces in this lot. Aaron Webb asks why they aren't waiting until the entire project plan is completed before coming before the Board. Attorney Lawler explains that this is just for a change of use—when the entire project is ready, the entire thing will come back before the Board. His client wants to get these apartments available for spring.

Aaron Webb asks what the units are going to look like internally. Zach Silvia says they're about 500 sq. ft. and can be either a one-bedroom or a studio. He walks the Board through two potential layouts. Mark Hansen asks if they're applying for any town funding for the affordable units. Jessica Rosenberg says this project is not contingent on getting town funding. She explains that the intent for this is year-round housing for people in Hyannis. 10% will be affordable and deeded as year-round housing. A 12-month lease is their standard lease, and they don't do shorter leases than that or allow subletting. The Board expresses concerns about parking and the possibility of short-term rentals. Attorney Lawler says the Board is free to put a restriction on short-term rentals in the conditions. The Board asks for more information about Phase 2 of the development. Attorney Lawler answers that they want to have a mixed use of motel and residential apartments, and potentially a small retail proponent on the main building. The Board discusses why this lot wasn't zoned as one lot in the new rezoning. Attorney Lawler is not sure, but he has involved the Planning Department in this process—he believes it was an oversight.

**Herb Bodensiek opens for public comment.** There is none. Mark Hansen moves to close public comment. Denise Johnson seconds.

**Vote:**

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

**Nay: None**

**Denise Johnson makes findings:**

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.

Mark Hansen adds that in this instance, the shape of this lot binds it to two different zoning districts and those affect the property and make it unique. He also adds that if the Board were to deny the petitioner the ability to rent the units as apartments while they plan for Phase 2 of the development, that would be a financial hardship. Paul Pinard adds that the intent of the town is to expand housing, and this proposal is doing that. Mark Hansen seconds.

**Vote:**

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

**Nay: None**

**Denise Johnson reads the conditions:**

1. Variance No. 2023-024 is granted pursuant to Section 240-24.1.5.B.1.(b).(v) allowing a nonconforming use to be changed to a different nonconforming use that is from a different use category than the existing nonconforming use and 240-24.1.7.D.(1)(C) Multi-Unit Dwelling to allow multiunit dwellings in the DN District greater than four dwelling units in any one building per lot for the conversion of 20 existing motel rooms into 20 studio and one-bedroom apartments at 473 Main Street, Hyannis, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Change of Use Plan" Sheet C1.0, by Baxter Nye Engineering & Surveying dated August 14, 2023 and plan A1.01 by DJS Architects dated August 14, 2023.



3. The above-described development shall represent full build-out of the lot. No further changes to the lot shall be permitted without approval from the Board.
4. 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.
5. The developer will provide 20 parking places allocated to this building and these spaces shall be designated to the corresponding unit. This may be altered by special permit.

Aaron Webb seconds.

**Vote:**

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

**Nay:** None

Variance No. 2023-024 Sawyer Realty Holdings, LLC is granted with conditions.

**Correspondence**

**Matters Not Reasonably Anticipated by the Chair**

**Upcoming Hearings**

October 11, 2023, October 25, 2023, November 8, 2023

**Adjournment**

Herb Bodensiek moves to adjourn. Aaron Webb seconds.

**Vote:**

**Aye:** Herb Bodensiek, Aaron Webb, Paul Pinard, Mark Hansen, Denise Johnson, Larry Hurwitz, Manny Alves

**Nay:** None

**Documents Used at This Meeting**

- August 23, 2023 and September 13, 2023 minutes
- Attorney Kirrane's request to continue Appeal No. 2023-019 Vilsaint
- Appeal No. 2023-021 Capetown Plaza LLC and Appeal No. 2023-022 Capetown Plaza LLC application packets
- Staff Report dated August 29, 2023 for Appeal No. 2023-021
- Staff Report dated August 29, 2023 for Appeal No. 2023-022
- Appeal No. 2023-023 Doud application packet
- Staff Report dated September 14, 2023 for Appeal No. 2023-023
- Appeal No. 2023-024 Sawyer Realty Holdings, LLC application packet
- Staff Report dated September 14, 2023 for Appeal No. 2023-024

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>