

**Zoning Board of Appeals
MINUTES
Wednesday, September 25, 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, September 25, 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 |
|---|---------------------------|
| https://townofbarnstable-us.zoom.us/j/84896165452 | US Toll-free 888 475 4499 |
| Meeting ID: 848 9616 5452 | Meeting ID: 848 9616 5452 |

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 Dewey calls the meeting to order at 7 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 |
| Webb, Aaron | X | |

Also present is Anna Brigham, Senior 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

July 24, 2024; August 14, 2024; and August 28, 2024. Paul Pinard moves to approve the minutes.

Vote:

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

Nay: None

Abstain: Jake Dewey (was not present at July 24 meeting)

Old Business

7:00 PM

Appeal No. 2024-031

Sullivan

Lawrence and Elizabeth Sullivan, as Trustees of the King Kat Trust, have applied for a Special Permit pursuant to Section 240-91H.(3) Developed Lot Protection; Demolition and Rebuilding on Nonconforming Lots. The Applicants propose to demolish the existing 2-bedroom dwelling and construct a new 2-bedroom dwelling. The lot is less than the required 10,000 sq. ft. and the new dwelling proposes to maintain the existing nonconforming side yard setback of 8.5 ft. (where 15 ft. is required). The existing lot coverage is 14.5% and the proposed lot coverage is 15.3%, and the existing gross floor area is 9% and the proposed gross floor area ratio is 10.7%. The subject property is located at 91 Craigville Beach Road, Hyannis, MA as shown on Assessor's Map 267 as Parcel 115. It is located in the Residence F-1 (RF-1) Zoning District. Continued from September 11, 2024.

Chair Dewey assigns himself, Herb Bodensiek, Paul Pinard, Aaron Webb, and Mark Hansen.

Attorney Patrick Nickerson is representing the applicants and is joined by the applicants. They are looking to tear down and rebuild the existing structure. It's a nonconforming property that's only 9,412 sq. ft. Their proposed rebuild is similar to what's existing, 2 bedrooms and 1 bathroom. They are proposing a 65 sq. ft. increase of gross floor area. It will not increase the nonconformity of the 8.5-ft. nonconforming setback, and the 3 other setbacks and the height will comply.

Chair Dewey opens for public comment. The Chairman says the Board received one letter from Paul Stewart of 23 Haven Lane in support of the project. Chair Dewey moves to close public comment. Mark Hansen seconds.

Vote:

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

Nay: None

Chair Dewey moves to close the public hearing. Herb Bodensiek seconds.

Vote:

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

Nay: None

The Board deliberates. Mark Hansen asks about the foundation. Attorney Nickerson says the current foundation is not habitable. The new foundation will be on concrete footings with concrete crawlspace with floodgates per building code.

Mark Hansen makes 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 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 side yard setback will remain at 8.5 feet, and all other setbacks will conform to the Ordinance.
5. The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The existing lot coverage is 14.7% and proposed lot coverage is 15.3%, which does not exceed the threshold.
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 existing FAR is 9% and the proposed FAR is 10.7%, which does not exceed the threshold.
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 for the principal dwelling is 20 feet.
8. The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

Paul Pinard seconds.

Vote:

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

Nay: None

Mark Hansen moves to grant Special Permit No. 2024-031 with conditions 1-6 from Staff Report dated August 29, 2024.

Vote:

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

Nay: None

Special Permit No. 2024-031 Sullivan is granted with conditions.

New Business

7:01 PM

Appeal No. 2024-033

6M Development/Caulder

6M Development/William Caulder has applied for a Special Permit pursuant to Section 240-47.2(C) (4) Accessory Dwelling Units (ADUs). The Applicant seeks to construct an ADU that is 647 square feet larger than the allowed 900 square feet, for a total of 1,547 square feet. The subject property is located at 1045 Main Street, Cotuit, MA as shown on Assessor's Map 034 as Parcel 017. It is located in the Residence F (RF) Zoning District.

Chair Dewey assigns himself, Herb Bodensiek, Paul Pinard, Aaron Webb, and Mark Hansen. The Chairman moves to open the public hearing. Paul Pinard seconds.

Vote:

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

Nay: None

William Caulder, the applicant, provides background information on his request. He purchased the property in July 2023 and has gone through Barnstable Historic for the current changes. He is working on installing a pool, constructing a pool house, and constructing a barn with a 2-stall garage and an ADU. He shares before and after images of the work he's done already and of the view from the most impacted neighbors' (the Knight's) yard. Betty Knight submitted public comment asking for screening, which he's in favor of doing. He shares elevations of the proposed construction and says creating a 900 sq. ft. version of the current proposal would not change the massing of the barn; it would just make for more storage space.

Back to the Board for questions. The Board discusses the proposed size and what could be eliminated to make this conform to the 900 sq. ft. limit. Chair Dewey asks Mr. Caulder what the intent for this structure is. Mr. Caulder says his extended family is large and is not local, so it's for them to stay when they visit. As his children get older, he would like to have rental income from the unit.

Chair Dewey opens for public comment. The Chairman reads the public comment submitted by Betty Knight, who has concerns about the size of the ADU and the loss of privacy, and requests a tall, live buffer along the property line. Chair Dewey moves to close public comment. Aaron Webb seconds.

Vote:

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

Nay: None

Chair Dewey moves to close the public hearing. Aaron Webb seconds.

Vote:

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

Nay: None

The Board deliberates. They feel that this is a proposal for a guest house rather than an ADU as Town Council intended them to be.

Mr. Caulder requests to withdraw without prejudice. Paul Pinard moves to withdraw without prejudice. Mark Hansen seconds.

Vote:

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

Nay: None

Special Permit No. 2024-033 6M Development/Caulder is withdrawn without prejudice.

Correspondence

Cape Cod Commission Subcommittee Hearing notice for various meetings on the Regional Policy Plan update

Matters Not Reasonably Anticipated by the Chair

Discussion

Board discussion about proposed 2025 meeting schedule – The Board discusses if they want to continue with half Zoom meetings and half in person. The members are in favor of keeping both options, and the proposed dates work.

Upcoming Hearings

October 9, 2024, October 23, 2024, November 13, 2024 – Mark Hansen asks if the Board should invite their Town Council Liaison to an upcoming meeting to discuss some of the issues that are coming before the Board repeatedly (signs, lights, ADUs, etc.). Chair Dewey says he can reach out to Councilor Ludtke and also suggest inviting a member of the Committee to Review and Assess Zoning. The group discusses that there are upcoming changes from the state expected regarding housing and ADUs that may affect the town ordinance.

Adjournment

Herb Bodensiek moves to adjourn. Mark Hansen seconds.

Vote:

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

Nay: None

Documents Used at this Meeting

- July 24, 2024; August 14, 2024; and August 28, 2024 minutes
- 2024-031 Sullivan application packet
- Staff Report dated August 29, 2024 for 2024-031 Sullivan
- Appeal No. 2024-033 6M Development/Caulder application packet
- Correspondence: Cape Cod Commission Subcommittee Hearing notice for various meetings on the Regional Policy Plan update
- Proposed 2025 meeting schedule

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>