



**Town of Barnstable
Planning Board
Minutes
July 11, 2011**

Raymond Lang - Chairman	Present
Matthew Teague – Vice Chairman	Present
Paul Curley – Clerk	Present
Felicia Penn	Present
Patrick Princi	Present
Cheryl Bartlett	Present

Also present were JoAnne Miller Buntich - Director, Growth Management, Art Traczyk – Regulatory Review Planner and Ellen Swinarski- Regulatory Review Coordinator. A quorum being met, Chairman Ray Lang opened the meeting at 7:00 PM.

Approval Not Required Plans

Coombs Division - The following was read into the record by Clerk, Paul Curley:

A plan entitled “Plan of Land in Barnstable, MA (Osterville) prepared for Donald H. & Candice W. Coombs”, dated April 1, 2011, as prepared by Down Cape Engineering, Inc., has been submitted to the Planning Board for endorsement as an Approval Not Required Plan. The plan shows the division of an 18.16 acre parcel of land addressed 595 Old Mill Road, Osterville, MA into 2 new lots. Lot No. 1A is shown as 9.31 acres consisting mostly of cranberry bogs and fronting on Bumps River Road and Lot 2A is shown as an 8.85 acre parcel developed with an existing dwelling and garage/ barn that fronts on Old Mill Road. The parcel is shown on Assessor’s Map 144 as parcel 10, and is in the Residence C Zoning District and the Resource Protection Overlay District.

Dan Ojala from Down Cape Engineering represented the application which is a division of a cranberry bog off of the homestead property and referred to the Town staff report of June 30, 2011. He stated this is a straight forward ANR plan with adequate frontage, size and shape.

Motion was duly made by Felicia Penn and seconded by Patrick Princi to endorse the plan as an Approval Not Required Plan. So voted unanimously.

Election of Planning Board Officers

Nominations for Chairman, Vice Chairman and Clerk were made at the June 27, 2011. They were: Matthew K. Teague for Chairman, Paul R. Curley for Vice Chairman and Patrick Princi for Clerk. Additional nominations were requested by the Chairman and none were offered.

Motion was duly made by Cheryl Bartlett and 2nd by Felicia Penn to elect Planning Board Officers as nominated. So voted unanimously.

Appointment of Planning Board Representative for CPC

Paul Curley was nominated by Patrick Princi and seconded by Felicia Penn as Planning Board liaison for the Community Preservation Committee (CPC). Unanimous vote.

7:00 PM Zoning Amendment Public Hearing - West Barnstable Village Business Zoning

Proposed Zoning Amendment - TC No. 2011-138

The following was read into the record by Patrick Princi, Clerk:

The Planning Board of the Town of Barnstable, acting under Chapter 40A, Section 5 of the General Laws of the Commonwealth of Massachusetts, will hold a public hearing on Monday, July 11, 2011 at 7:00 p.m. in the Hearing Room of Barnstable Town Hall, 367 Main Street, Hyannis, MA. The purpose of this hearing is to take comment upon the following proposed amendment to the Code of the Town of Barnstable, Chapter 240, The Zoning Ordinance.

Section 1 proposes to amend the Zoning Ordinance, Article III, District Regulations, Section 240-20 by adding a new zoning district to be known as the "West Barnstable Village Business Zoning District". The regulation proposes a list of Principal, Accessory and Special Permitted Uses for the district including specifying Special Permit Performance Standards and providing definitions for select uses to be applied within the district. The regulation proposes to: eliminate the change of one nonconforming use to another nonconforming use; place limits on corporate branding within the district; and, impose certain site development standards to be applied within the district. The Bulk Regulations remain those now applicable to the VB-B Village Business B Zoning District.

Section 2 proposes to amend The Zoning Map by re-labeling the existing "VB-B" – Village Business B Zoning District, located in West Barnstable at the intersection of Meetinghouse Way (Route 149) and Main Street (Route 6A), to "WBVB" – West Barnstable Village Business Zoning District.

Section 3 proposes to amend Article II, General Provisions, Section 240-5, Establishment of Districts by deleting the "VB-B – Village Business B District" and inserting therein "WBVB - West Barnstable Village Business District".

Section 4 proposes to amend Article VII, Sign Regulations, Section 240-67 by replacing the "VB-B" reference with "WBVB".

Section 5 proposes to amend Article XI, Off Street Parking, Section 240-53, Landscape requirements for parking lots, by replacing within the table of "Landscape Buffer Setbacks (in feet) to Parking Lots and Drives", the "VB-B" reference with "WBVB".

Section 6 proposes to amend Article XII, Administration and Enforcement, Section 240-125.B(1)(e) Use Variances to limit the granting of use variances within and 300 feet of the West Barnstable Village Business Zoning District.

Section 7 proposes to correct certain references within the Zoning Ordinance, Article III, District Regulations, specifically; Section 240-24. E(2), Corporate branding prohibition by replacing "Barnstable Village VB-B" with "Barnstable Village VB-A" and Section 240-23.E(2) Corporate branding prohibition within the MB-B – Marina Business B District, by replacing "Barnstable Village VB-B" with "Barnstable Village VB-A".

Section 8 proposes to amend Article III, District Regulations, Section 240-24, VB-A and VB-B Business Districts to remove from the district regulations all reference to the VB-B Zoning District and all regulations

therein and applicable only to the VB-B Zoning District as the adoption of the above sections has eliminated the VB-B – Village Business B Zoning District and the reference within the Zoning Ordinance is no longer needed.

Motion was made, seconded and voted to open the public hearing.

Councilor Farnham addressed the Planning Board:

- Had a good committee involved with this
- Introduces West Barnstable Committee Chair, Nancy Trafton

Nancy Trafton explained the purpose of the Zoning Amendment:

- Cleaned up ambiguities regarding allowed uses in VB-A versus VB-B
- Residence and business can be contained in one building
- Reduced setbacks to 30 ft
- 1 acre zoning for residences
- Allow artisans and crafts persons to return as of right
- Corporate branding put into place
- Personal service will require a special permit due to high water usage

Questions from the Planning Board:

- Ray Lang – asked if 2 acre zoning was considered however Nancy responded that this would create too many non-conformities.
- Felicia Penn requested clarification that with corporate branding a formula business (national chain) would be allowed as long as it does not look like one. Nancy responded that this is correct. Additionally, ATM machines will not be allowed on the outside of buildings.
- Matt Teague inquired why personal service and medical uses are being divided and commented that perhaps a 20 ft setback would allow for parking in the back. Nancy responded that personal service will require a special permit due to high water usage associated with that use.

Public Comment:

- Audrey Lockney – 30 ft setback would allow for extra landscaping in front.
- Jim Kinscella, Marstons Mills inquired why West Barnstable was interested in making changes to the business district. Nancy Trafton responded: corporate branding, allow artisans back in the district, residence and business in same building, eliminate use variances and changes from one non conforming use to another non conforming use; and clarify and set apart VB-B District from VB-A as present ordinance is confusing.

Motion was duly made by Patrick Princi and seconded by Cheryl Bartlett to close the public hearing. So voted unanimously.

Motion was duly made by Patrick Princi and seconded by Paul Curley to recommended West Barnstable Village Business Zoning District Amendment to Town Council for further action. So voted unanimously.

7:15 PM Regulatory Agreement 2011- 03 - Beech Tree Alley, LLC

The Clerk, Patrick Princi read the following into the record:

Beech Tree Alley, LLC is seeking a Regulatory Agreement to develop the properties located at 434 and 438 South Street, Hyannis MA as a parking lot to be used as an accessory parking for the development at 599 Main Street, Hyannis MA. Included in the proposal is a pedestrian walkway connecting South Street with 599 Main Street. The 434 and 438 South Street lots are the lots to be regulated through this proposed Agreement. Those lots are located in the SF - Single Family Residential District of the Hyannis Village Zoning District and are shown on Assessor's Map 308 as parcels 280 and 123. The 599 Main Street lot is commonly known as the Beech Tree and is shown on Assessor's Map 308 as parcel 118 and is zoned Hyannis Village Business.

The Regulatory Agreement seeks waivers from the Barnstable Zoning Ordinances specifically:

§ 240-24.1.5.A - Permitted Uses to allow for the property to be used for a parking lot accessory to the Beach Tree lot on Main Street;

§ 240-24.1.5.B - Minimum Lot Area to allow the lot of less than 20,000 sq.ft. to be developed;

§ 240-24.1.5.B(1) - Minimum Green Space to allow development with less than the 10 foot perimeter planting area;

§ 240-24.1.5.C(2) - Site Development Standards to allow lighting that does not provided total cutoff at the property lines;

§240-24.1.10.A(4)(a)[1] - Reduction of on-site parking requirements listed in 240-56;

§240-24.1.10.A(4)(b)[1] - Location of Off-Street Parking to allow parking on a different lot than the business lot;

§240-24.1.10.A(4)(c)(2) - to allow parking spaces with reduced dimensions;

§240-24.1.10.A(4)(d)(2) and (3) - to develop the lot with less than the required 6 foot landscape buffer;

§240-24.1.10.A(5)(c) - to eliminate or reduce the required 20-foot landscaped setback from all residential property lines;

§240-51 and 52 - Location of parking spaces (not located on same lot as use for which spaces are required) and to provide parking spaces that are less than 9 by 20 feet;

§ 240-53 - Landscape Requirements for Parking Lots to allow for a reduction in the requirements;

§240-63 - Commercial Signs in a Residential District to allow for a sign to be posted at the lot's entrance on South Street;

§240-125.B(1)(c) – Variance-Provisions as may be needed,

§801-12.F(1) – Waiver to allow access not over road frontage , and

in addition, the applicant is seeking waivers from compliance with Chapter 240, Article IX – Site Plan Review. The Applicant is requesting the Planning Board act on the behalf of the Site Plan Review Committee in approving this Regulatory Agreement.

Motion to open the public hearing was made, seconded and voted unanimously.

Attorney Steven Pizutti and Dan Ojala of Down Cape Engineering represented the applicants.

Atty Pizutti:

- Area has a history of problems and would like to make improvement

- What is proposed is not a bar contrary to rumor – This is to be a Mexican restaurant with total # of seats 268 with coffee shop area for kids to make sundaes.
- Want to revitalize the area, connect South Street to Main, install security cameras
- The walkway will provide public access to view the historic Beech Tree
- Regulatory agreement will improve infrastructure – arbor, walkway & parking lot, area will be planted with landscaping and \$5,000 to maintain with power washing. Bicycle rack to be provided for alternative means of transportation.
- Operators of restaurant are well-known and have managed other high end successful establishments in town.
- Alleyway would provide rear emergency vehicle access to buildings on Main Street.
- To appease neighbor to the west a fence will be placed on the property line to avoid people going into their yard.
- An office could be constructed on South Street for which a parking lot would be needed. The parking lot itself is not nonconforming.
- Would like a 4 ft x 5 ft sign at the entrance on South Street.

Felicia Penn inquired about the requested list of waivers included in the Regulatory Agreement and if there could be a problem with visibility with the new curb cut, capacity, safety issues, FD access.

Dan Ojala:

- Most of the waivers are for landscape buffer and parking lot design because the numbers are a few feet short here and there. Walkways are allowed within buffers.
- Working with abutter to the northeast and will provide fencing, hedges and lighting will point downward.
- Need to purchase a 5 foot buffer from Mr. White to the west.
- Existing fence between building and parking area will be removed.
- Curb cut is an extension of the curb cut next door. The pole is 15 ft away from the light should be alright.
- Overall capacity with employees is 300
- What is proposed will be much better than what exists, will contact Hyannis FD regarding access issues. HC accessibility will be provided.

Patrick Princi stated that he has lived off Oak Neck Road which was very peaceful at night. South Street protects the residential districts from Main Street noise. He stated that although business will be started by reputable owners now, there is no guarantee for future owners.

Paul Curley inquired why the lighting waiver was needed and Dan Ojala stated that the panhandled area is difficult to retain all lighting on site. Bollard lighting will be used where possible.

Ray Lang inquired about the tiki bar in the courtyard and if this will continue to be used. Dan Ojala stated that

this area must be secured and is included in Licensing Authority approval. Dan Ojala further explained that the building is presently under construction and the proposed design of the parking area. Ray Lang stated that site plan review will be needed and inquired how this regulatory agreement will benefit the Town. Atty Pizutti stated that a parking lot is being provided for a Main Street property that does not require it's own parking. The area will be revitalized, abutters are happy that this lot will be improved and lit, the Beech Tree will become a draw for visitors to the Town.

Matt Teague inquired if there is an agreement for the 5 foot strip needed. Also wanted to know if there were any comments from the Hyannis Fire Department and Police Dept. Expressed concern that the proposed signage may not be safe or effective, suggested a long, low lying sign not placed on an arbor. He further stated that the shell driveway and parking lot will get disorganized and that the amount of cobblestones proposed are not necessary. The sidewalk being at the same grade as the shell driveway is not a good idea. Stated that from engineering, safety, zoning perspective the proposal needs work.

Each member of the Planning Board had expressed in their comments that they want the project to be reviewed by the Site Plan Review Committee.

Public Comment was invited and the following spoke:

Bill Cronin of South Street, Hyannis cited the elements of a Regulatory Agreement particularly the benefits to the Town. He stated that the project destroys natural resources and offers no benefits to the Town: burdens police; 230 patrons on a 1/3 acre parcel with no rear access; increase to 289 seats with 107 seats in rear area; does not appear to be fine dining facility given the size of the kitchen; access is for emergency only; driveway will necessitate cutting down of an old tree; provides a new way to 3 bars on Main Street; there are other streets that cut from Main to South, not needed; minimum lot area for office use is 20,000, this lot is 10,000 s.f.; entertainment will be in the coffee shop area.

Attorney Steven Pizutti responded that Mr. Cronin's comments are all negative and not accurate, some abutters are in favor of this. This is to be a restaurant not a bar, a bar is offensive. Unless the Town is dry, you would expect to be able to get a drink with dinner. This is to be an authentic Mexican restaurant not Sophie and Goodfellows. A healthy lifestyle is the pitch; family oriented with jugglers in the alley to attract family.

Mike Corcoran of Hyannis stated that he takes offense to negative comments. Main Street is in bad shape. Change to Columbus was good. Want a year round establishment. His opinion is that the old tree that may need to be removed for the driveway is partially diseased – he is an arborist. Asphalt is not a bad way to go. What is the harm of creating this new, easy access? He stated that he brings his family to Main Street 2 nights a week. A good project that will improve Main Street should not be shot down.

Chip Pollack of Captain House stated that he loves the look of South Street and applauds effort, but if parking lots are allowed on South Street, it could turn into area of parking lots near Pleasant Street.

Steve Donolan – Hyannis resident for years stated that he is opposed. Has watched bars come and go at this location. He cannot see 264 people going there to eat. Don't need another bar on Main Street.

Motion was duly made by Felicia Penn and seconded by Paul Curley to continue the public hearing to August 8, 2011 at 7:00 p.m.

Discussion: Request a draft agreement at that time demonstrating the satisfaction of elements of the Regulatory Agreement; include ongoing maintenance of this area in draft with dollar amount \$2,000-\$5,000.

So voted unanimously.

7:30PM

Modification of PIAHD Special Permit - Schooner Village - Subdivision 813

The following was read into the record by Clerk, Patrick Princi:

Jacques N. Morin, Trustee of Schooner Village Realty Trust, has requested a clarification and a modification of the Private-Initiated Affordable Housing Development (PIAHD) Special Permit issued for the development of Schooner Village (Subdivision No. 813). The requested clarification is for Condition No. 11 to reflect the renumbering of the lots within the subdivision as record on the revised May 4, 2006 subdivision plan. The modification being requested is to allow for the change in the location of one of the required affordable units. The subject property of the special permit is Subdivision No. 813 as shown on Assessor's Map 273 parcel 204; Map 273 parcels 204-001 through 204-017; Map 273 parcels 272-202 through 272-211; and Map 272, parcel 056-006.

The subject properties are addressed 5, 9, 19, 20, 29, 30, 39, 40, 49, 50, 59, 60, 69, 70, 79, 80, 89, 90, 99, 100, 109, 110, 119, 120, 129, 130, 140, 141 and 150 Schooner Lane, Hyannis, MA in a Residential C-1 Zoning District.

Motion was duly made seconded and voted unanimously to open the Public Hearing

Jacques Morin addressed the Planning Board regarding the clarification portion of the application and explained that the original numbering of Schooner Village on the approved plan had been reversed. As a condition of the Special Permit decision, the filing of a revised plan was required. The filing of the revised plan reversed the numbering on that plan accidentally from the original approved plan, thus changing the numbering, not the location, of the affordable lots within the PIAHD. The designated affordable lots in the original subdivision are 2, 5, 14, 17, 20 and 29. The correcting of the lot numbers will bring the permit into consistence with the recorded Regulatory Agreement and what has been built up to this date.

The second part of the application before the board is the changing of the location of one of the affordable units. Mr. Morin explains that a current resident in Schooner Village, Mr. Mussleman, would like to purchase the adjacent lot for his disabled mother-in-law, however this lot, lot 6, is designated as an affordable lot. The application is to modify the special permit to relocate the affordable lot to lot 10 so that the adjacent lot would then be a market rate lot. Mr. Morin stated that other regulations in place for accessibility should be considered. Housing Committee voted in favor of the relocation of the affordable lot as the redesignation would allow the subdivision to continue to meet state guidelines as to distinguishing affordable/market units.

Mr. Musselman of 79 Schooner Lane, Hyannis addressed the Planning Board and explained that his wife is partially disabled and he wants to purchase the next door lot for mother-in-law who is also wheelchair bound.

Felicia Penn asks staff if this is fair and open market for this lot, it can't be guaranteed that the mother-in-law would get this adjacent affordable lot even if she qualified as it is open to all. The exchange would not trigger the applicant to have to build another.

Paul Curley read the June 9, 2011 letter in the file from the Housing Committee into the record.

Nikolai Pavlova of 59 Schooner Lane, Hyannis spoke in opposition to the exchange of lots due to a distribution issue.

Al Bonnano – Schooner Lane stated that the petition in opposition was not signed under duress. He is opposed to distribution of affordable lots. Mr. Musselman is pursuing personal need and asking the entire Town to shoulder it.

The owner of 9 Beth Lane, Hyannis stated that she is tired of hearing from abutters in Schooner Village. Her

tenant at 9 Beth Lane is experiencing a problem of black soot from abutter behind home.

Jeremy Cadrin, 150 Schooner Lane, Hyannis stated that he is a work force resident and is opposed to the application. He stated that no one in Schooner Village notified him about the change. Covenants apply to all, too late to change affordable lots.

Cindy Dunham – Schooner Lane, Hyannis spoke in favor and stated that she was one of the first owners in the subdivision. She had her choice and chose lot 5 and knew it was beside an affordable. Jacques is reacting to market conditions and should be able to adjust.

Natalie Faino, 9 Schooner Lane, Hyannis spoke in opposition. Mr. Musselman's proposal is not pressing enough.

Al Bonnano stated that the distribution of affordable lots effects those who are against the application and signed the petition. The way the development was approved, every market house had either an affordable across the street or next to it. What is proposed results in a block of 6 houses that do not have an affordable across the street or next to them.

Ray Lang expressed his disappointment that it had gotten this far. It is not unusual to purchase the lot next to you. This is a new problem.

Jacques Morin stated that regarding the blockage at the end of Buckwood Drive, there were two 16 foot horses installed because people were passing from Buckwood Drive through the neighborhood at a high rate of speed. These have both been removed per Hyannis FD and Planning staff and will remain removed.

Staff recommended that traffic calming measures be discussed with the Fire Department and Planning staff. If a gate is to be proposed, a public hearing would be necessary.

Mr. Morin stated that it was his impression that his initial e-mail had included everyone in the subdivision. At no time did anyone of the purchasers ask where the market rate units were in the subdivision. Mr. Morin stated that the Housing Committee commented that work force residents may not feel welcomed in the community, mobility and handicap is covered under Fair Housing; and, if decisions were left to abutters, affordable housing would not be approved anywhere.

Informal poll of the board: Cheryl Bartlett stated that a home purchase is a large purchase, people should know what is going on around them. Patrick Princi stated that he could see where there was an unequal distribution. Paul Curley stated that he was not in favor of a change of designation. Felicia Penn stated that she would like to see the public hearing continued to July 25, 2011 meeting. Ray Lang was also in favor of continuing to next meeting. Matt Teague stated that although it may meet State guidelines, it may not be good business.

Motion was duly made by Cheryl Bartlett and 2nd by Felicia Penn to continue the public hearing to July 25, 2011 at 7:00 p.m. So voted unanimously.

Motion was duly made and seconded, and unanimously voted to adjourn.

Respectfully submitted,

Ellen M. Swiniarski

Regulatory Review Coordinator