



# Town of Barnstable Planning Board



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### Board Members

Raymond B. Lang – Chair    Mary Barry – Vice Chair    David Munsell - Clerk    Paul R. Curley    Stephen Helman    Mark R. Ferro    Steven Costello  
John Norman – Town Council Liaison

### Staff Support

Elizabeth Jenkins, AICP, Director  
Anna Brigham, Principal Planner  
Karen Herrand – Principal Assistant - [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us)

BARNSTABLE TOWN CLERK

## Town of Barnstable PLANNING BOARD Minutes May 8, 2017

2021 JAN 13 PM 2:57

Raymond B. Lang – Chairman	Present
Mary Barry – Vice Chairman	Present
David Munsell, Clerk	Present
Paul Curley	Present
Stephen Helman	Absent
Mark Ferro	Present
Steven Costello	Present

Also in attendance were Karen Herrand, Principal Assistant, Growth Management Dept.

**Notice of Recording:** This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

### **Approval Not Required Plans:**

Thomas E. Driscoll - 900 Phinneys Lane, Centerville – Map 251 Parcel 104-H00 and T00 has submitted a plan entitled “Proposed 3 Lot Subdivision (Form A – Approval Not Required), 900 Phinney’s Lane in Hyannis, (Barnstable) Massachusetts, dated October 22, 2016” drawn by Matthew C. Costa, P.L.S., Cape & Islands Engineering, Inc. *Request to Continue to May 22, 2017 and Request to Extend Time Limit for ANR Plan received from Attorney Peter Freeman enclosed. Continued from April 24, 2017.*

**Chair Ray Lang entertains a motion, moved by Mark Ferro to continue to May 22, 2017, seconded by Paul Curley, so voted unanimously.**

Peninsula Realty Trust, William S. Abbott & G.W. Blakeley Trustees – Map 052 Parcel 002, 186 Windswept Way, Osterville has submitted a plan entitled “Plan of Land at 186 Windswept Way in Barnstable, (Oyster Harbors) Massachusetts, prepared for: Peninsula Realty Trust, Wm. S. Abbott & G.W. Blakeley Trs dated April 14, 2017” stamped by Richard R. L’Heureux, P.L.S., CapeSurv, for an Approval Not Required. *ANR Plan and associated documents enclosed*

Attorney William Abbott, Trustee of this application. He Refers to his letter, Exhibit A. Explains the letter and history of the land and subdivision of the lots. Dividing lot 2 into lots 3 and 4. Refers to the plan, Exhibit B. 40 ft. way as shown on plan is owned by the applicant. Formerly owned by Oyster Harbors.

Frontage, and meets requirements for an ANR. Two structures have been there for many decades, pre subdivision control law. Lot 4 incorporates the way, this is acceptable per zoning.

Rich L'euveux in attendance, he explains the it is Land Court and Land Court will make it a reference to be lot 3. They were created in 1965. Confirms that there are two plans, one for Land Court and one for Registry of Deeds.

Mary Barry asks about the pool and stockade fence that abuts the property.

Rich L'euveux confirms all family and they didn't want to deal with at the time. It will be moved

Mark Ferro clarifies that he has seen the property and confirms access and frontage there.

Ray Lang confirms lot 3 goes into lot 1, the family owns the way. Road is open to public.

Attorney Abbott confirms this, the way will now become part of Lot 4.

Rich L'euveux confirms 95% of roads are private in Oyster Harbors.

**Chair Ray Lang entertains a motion to approve/endorse this ANR, moved by Paul Curley, seconded by Mary Barry, so voted unanimously.**

**Subdivisions:**

**Subdivision 367 – 53, 71, 87, & 99 Hi River Road, Marstons Mills – Map 060 Parcels 033, 034, 035, 036**  
Rescind Planning Board Vote of November 28, 2016 – Release of covenant for Lots 5, 6, 7, and 8, on a plan recorded at Book 305 Page 79-81 – *Memorandum dated May 2, 2017, enclosed*

Elizabeth Jenkins explains/gives history – reason for rescind. There was a procedural issue that did not happen re the surety.

**Chair Ray Lang entertains a motion, moved by David Munsell to rescind the vote made by the Planning Board on November 28, 2016, for subdivision 367, Hi River Road, Marstons Mills, to release covenant for lots 5,6,7, and 8, due to the lack of substitution of surety as required by Massachusetts General Law, Chapter 41, Section 81, seconded by Paul Curley, so voted unanimously to rescind.**

**Request for review of proposed relocation of Way - 109 and 117 Eel River Rd, Osterville**

Request received from Attorney Albert Schulz, dated March 31, 2017 and Response to Request received from Attorney Sarah A. Turano-Flores, dated April 18, 2017 – *Materials previously sent to Board. Request to continue to May 8, 2017, received from Attorney Albert Schulz on April 24, 2017.*

Attorney Albert Schulz in attendance. He represents the owners at 109. He gives an explanation, they are requesting that the proposed Land Ct Plan - The relocation is at present in Land Court, they are requesting that the Planning Board review this instead of Land Court. He refers to the plan with green, yellow and blue markings, Exhibit C. Relocation of an easement. Explains the land elevations. Change in flood zone. Retaining wall to be constructed. The existing present way, refers to David Houghton's letter, Exhibit D.

Attorney Sarah Turano- Flores, attorney for the Randon's. They have filed with Land Court for a relocation of land. They do not think the Planning Board will have to review this issue. If the Land Court states yes, they will come to Planning Board, if no, then they will not come. Doesn't constitute a way is because it was created by Land Court Plan and Deed, easement from 1949, This is a driveway easement. It has never been reviewed by this Planning Board or by the predecessors Board. Never been

considered for a way. Does not trigger any other ANR or Subdivision, no jurisdiction for this Planning Board to be involved, ultimately will be decided by Land Court. There will be a trail if Land Court deems necessary.

Paul Curley confirms that if they are going to Land Court, he recommends to defer until such time that the court determines.

Mark Ferro agrees.

Steven Costello asks if the land has the ability to change location.

Attorney Schulz states that the court has this jurisdiction. It separates the house in the middle, moves the existing if it is relocated. Relocate the way in a way that provides equivalent access. If the easement cannot be agreed to than Land Court has to be involved.

David Munsell also agrees to see what Land Court has to say first.

Chair Ray Lang would like to defer to a later date, after it goes to Land Court.

Elizabeth Jenkins explains that these are DRI projects and the Planning Board has no jurisdiction. This is just to notify of the public hearing.

David Munsell asks if they have seen this property before?

Elizabeth Jenkins, correct this was part of a zoning amendment that came before the Board previously.

**End for this discussion.**

Chair Ray Lang asks about the involvement with the Route 132 project.

Elizabeth Jenkins explains the process at Cape Cod Commission.

Paul Curley asks about the change in the name from Growth Management to Planning and Development.

Elizabeth Jenkins confirms yes, this will be our new name.

Chair Ray Lang looking for clarification re Draft Regulatory Agreement for the Dockside Project.

Elizabeth Jenkins replies yes, working on comprehensive draft.

**Correspondence:**

Cape Cod Commission Notice of Public Hearing re DRI project – 10 Attucks Lane, Hyannis – Greenside Office Park

**Matters Not Reasonably Anticipated by the Chair:**

**Future Meetings:** Regularly Scheduled Meetings: May 22 and June 12, 2017 @ 7:00 PM.

**Chair Ray Lang entertains a motion to adjourn, moved by Paul Curley, seconded by David Munsell, so voted unanimously.**

The meeting adjourned at 8:00 p.m.

Respectfully Submitted  
Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on January 11, 2021

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

**List of Exhibit Documents**

- Exhibit A** – ANR - Plan of Land at 186 Windswept Way in Barnstable, (Oyster Harbors) Massachusetts - Lt Attorney William Abbott
- Exhibit B** - ANR - Plan of Land at 186 Windswept Way in Barnstable, (Oyster Harbors) Massachusetts
- Exhibit C** – Review of proposed relocation of Way - 109 and 117 Eel River Rd, Osterville - plan with green, yellow and blue markings
- Exhibit D** - Review of proposed relocation of Way - 109 and 117 Eel River Rd, Osterville - refers to Assistant Town Attorney David Houghton's letter, Exhibit D.